



**SmartestEnergy
Australia Pty Ltd
ACN: 632 313 029**

Prepared for:
Essential Services Commission
Level 2, 35 Spring Street
Melbourne 3000

Application for Victorian Retail Electricity Licence

Public Component
October 2019

SECTION 1 – GENERAL INFORMATION

a) Information on the Applicant

The applicant is SmartestEnergy Australia Pty Ltd ACN 632 313 029 of Level 16, 44 Market Street, Sydney, NSW (“Company” or “Smartest”). SmartestEnergy is a company registered under the Corporations Act 2001 and was registered in Australia on 30th July 2019. The Company’s ultimate parent is Marubeni Corporation of Japan.

The Company’s Certificate of Registration and Constitution are **Attachment 1 and 2**.

Key contact name: Robert Owens

Email: [REDACTED]

b) SmartestEnergy – Who are we?

Established in 2001, SmartestEnergy Limited, SmartestEnergy Australia’s immediate parent, is a wholly owned subsidiary of the Marubeni Corporation of Japan. SmartestEnergy operates in the SME and C&I spaces in the UK as well as providing services to renewable generators.

SmartestEnergy’s provides a range of different services to its retail customers, including independently verified renewable source contracts and a range of options to allow the customers the most cost-effective procurement of their energy needs. SmartestEnergy’s contracts and products have developed over a number of years to allow customers access to market leading tools for the effective and efficient procurement of energy.

SmartestEnergy prides itself on its industry leading levels of customer service and makes every effort to put the customer first in its operations.

SmartestEnergy Australia is a newly incorporated entity, which was set up for the sole purpose of obtaining a retail electricity licence in Australia and providing similar competitive and innovative arrangements to consumers in Australia.

c) Nature of the Application

SmartestEnergy seeks an electricity retail licence.

SmartestEnergy has been established with the sole purpose of selling retail electricity. It plans to sell electricity to select small to medium size businesses as well as into the commercial and industrial space. It seeks a licence to sell electricity as from 1 January 2020 or from the date when it has fulfilled all applicable regulatory obligations to conduct a retail electricity business whichever is the earlier.

SmartestEnergy has not made any previous unsuccessful licence applications in Australia or any other jurisdictions. SmartestEnergy and its associate entities do not hold and have not held any retail electricity licences in Victoria or elsewhere. SmartestEnergy is not seeking any non-standard licence conditions.

SmartestEnergy is not conducting any activities either within or external to the electricity industry.

SmartestEnergy’s participation in the electricity industry is to market retail electricity principally to small to medium size businesses (chiefly below 160MWh consumption per annum) and secondly to low level C&I businesses.

d) Accurate and Complete

SmartestEnergy has provided a Statutory Declaration attached from a Director, Robert Owens as **Attachment 3** confirms that the accuracy and completeness of all information provided in the application.

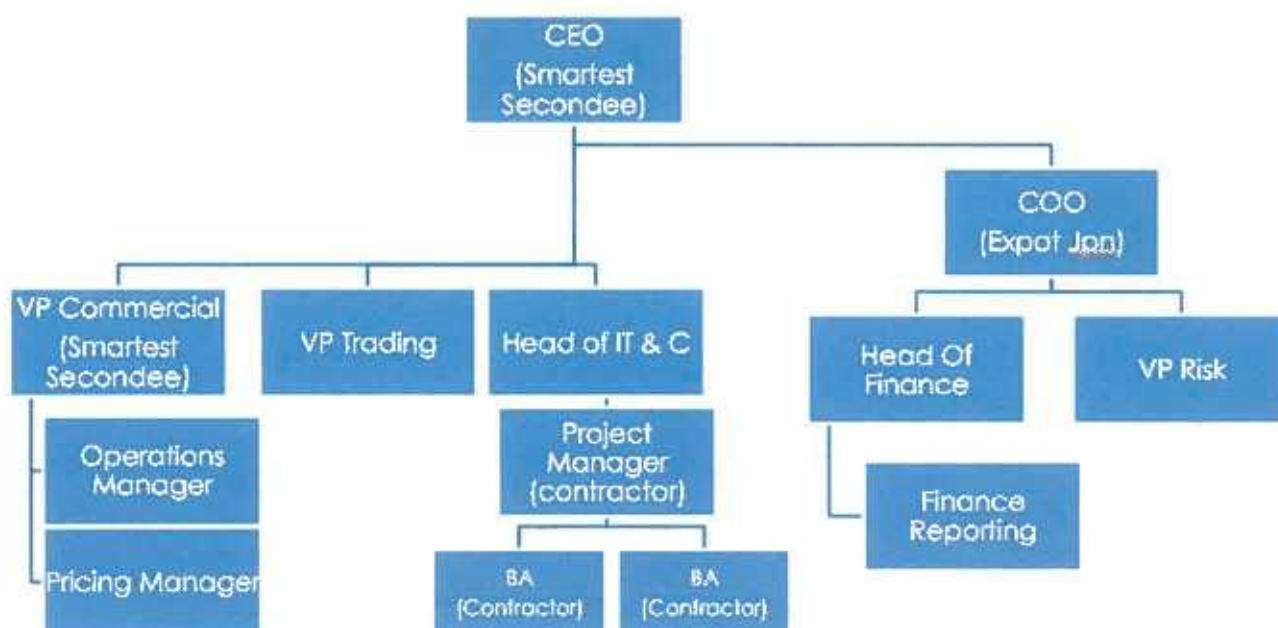
e) Corporate Structure

SmartestEnergy's corporate structure is attached as **Attachment 4** (including details of its parent company Marubeni Corporation). SmartestEnergy is not the trustee or a beneficiary of a trust.

A chart showing SmartestEnergy's organisational structure is also attached as **Attachment 5** as well as being shown below.

13 people

SmartestEnergy Australia Org Chart – end of Year 1 (March 2020)



f) Summary of Experience of Key Personnel

SmartestEnergy Pty Ltd has engaged a very strong and highly qualified management team comprising people who have broad experience in both the UK and Australian retail electricity industry.

Management and key personnel's experience is set out in our Business Plan as **Attachment 12**.

g) Primary Directors

Robert Owens – Chief Executive Officer

Having occupied numerous commercial roles at SmartestEnergy since he joined as a founding member in 2001, Rob Owens has held a number of commercial Vice President level positions. Rob was instrumental in the establishment of SmartestEnergy's business focused on new technology and asset flexibility, designed to support the transition to a renewable low-carbon future energy system. Rob



obtained his MBA from the University of Hertfordshire in 2011. Recently Rob has been leading SmartestEnergy's expansion efforts into the APAC region, and he will be relocating to Australia to take charge of SmartestEnergy's entry into the Australian market.

Daniel Smith – Vice President Commercial

Daniel has worked in the UK energy industry for 14 years, joining SmartestEnergy in 2008 as one of the first members in the newly established C&I Retail business. Daniel had a variety of responsibilities across sales, commercial and product development. In his time at SmartestEnergy he was instrumental in the growth of the C&I business, its strategy and development of innovative products.

More recently Daniel is Vice President C&I Retail with responsibility for the financial and operational delivery of that group. In that time, Daniel started a new route to market business supporting new retailer entrants

SECTION 2 - ESSENTIAL SERVICES COMMISSION'S OBJECTIVES

SmartestEnergy believes that granting an electricity licence to SmartestEnergy would be consistent with the objectives of the Commission under section 10 of the Electricity Industry Act 2000 and section 8 of the Essential Services Commission Act 2011.

SmartestEnergy's reasons are outlined below.

2.1 Section 10 Electricity Industry Act 2000

a) To promote a consistent regulatory approach within the electricity industry:

The granting of a retail authorisation to SmartestEnergy will have no impact either adverse or favourable in relation to this objective.

b) To promote the development of full retail competition:

The entry by SmartestEnergy as an electricity retailer into the Victorian electricity market will increase business choice and strengthen retail competition. Traditionally new entrants have focused on the Mass market customer segment. The SME and C&I market have not been as frequently targeted by new entrants. SmartestEnergy understands that the key drivers in a competitive retail market, where the product being offered (electricity) is identical regardless of who sells it, are price and customer service. These factors are cornerstone SmartestEnergy's Business Plan (see Attachment 12).

2.2 Section 8 Essential Services Commission Act 2001

a) To protect the long-term interests of Victorian consumers with regard to the price, quality and reliability of essential services:

The granting of a retail licence to SmartestEnergy will increase the number of licensed electricity retailers in Victoria. Given our proposed approach this will increase competition in the market, which can only benefit businesses. Additionally bringing with it a wealth of global retail energy experience, we believe this will potentially deliver new and exciting structured offerings and open up opportunities that have worked in other retail markets in Australia(UK?). SmartestEnergy's commitment to strict compliance with regulatory with applicable laws, codes and regulations, will assist in building consumer confidence in the industry. SmartestEnergy has the necessary retail electricity experience, regulatory experience and resources to operate a successful retail business.

SmartestEnergy will continue to lead by example by embedded and nurturing a culture of compliance.

b) To facilitate efficiency in regulated industries and the incentive for efficient long term investment:

Being a new entrant with experienced operators SmartestEnergy understands the importance of running a cost efficient business. To this end SmartestEnergy is committed to using tested and proven market systems and introducing the best technology available to manage its processes. This will provide SmartestEnergy the best possible opportunity to provide exemplary service to its clients and ensure that its long term view is always to grow at scale with the best technology and support available.

c) To facilitate the financial viability of regulated industries

SmartestEnergy believes that the Company's entry into the Victorian retail electricity market will benefit customers, with its strong focus on competitive pricing and superior customer service. The Company's pricing will be backed by professionally risk managed wholesale derivative positions. This will provide appropriately priced and risk balanced returns that will ensure a strong and viable retailer into the future.

d) To ensure that the misuse of monopoly or non-transitory market power is prevented:

Another entity such as SmartestEnergy participating in energy retailing in Victoria will tend to lead to increased competition and will help prevent misuse of market power, especially in the C&I space.

e) To facilitate effective competition and promote competitive market conduct:

The granting of a retail licence to SmartestEnergy will send a message that price and service competition in retail electricity is alive and well in a time of economic uncertainty, increased price regulation and volatile electricity prices. Especially in the commercial space which is largely dominated by fewer retailers it will also bring to the Victorian market the considerable knowledge and operational experience of SmartestEnergy's Management Team and its financial and management skills.

f) To ensure that users and consumers (including low income or vulnerable customers) benefit from the gains from competition and efficiency:

SmartestEnergy's customers will be provided with a very competitive energy rate and offered solutions relating to renewable wholesale and potentially diverse forward hedging products in the future utilising its UK experience.

g) To promote consistency in regulation between states and on a National basis:

SmartestEnergy is well advanced with its plans for complete entry across the NEM in 2020. The Company is setting up its processes and products with this consistency in mind.

SECTION 3 – FINANCIAL VIABILITY

a) Financials SECTION

SmartestEnergy can confirm that it is in a position to meet and address the financial viability requirement of a licence electricity retailer in the Victorian market. SmartestEnergy is not aware of any factor, which would affect the ability of SmartestEnergy to securely finance and fund the activities to be performed under the licence.

The following documents and information provide the evidence and support for SmartestEnergy's business plan that it has sufficient financial resources or access to such resources to sustain a viable business in the electricity industry:

- Current balance sheet and profit and loss (including those required from its parent company) - attached as **Attachment 6**;
- Shareholder Register - attached as **Attachment 7**;
- Certificate of Registration - attached as **Attachment 1**;
- Breakeven analysis and cash flow projections - attached as **Attachment 8**;

b) AEMO Prudentials

SmartestEnergy can confirm that it will have sufficient financial resources to support its operations including all prudential requirements set by AEMO including its MCL requirements and trading risk margin. SmartestEnergy is aware of the requirements of the Credit Limits Methodology.

c) Network company contact

Contact has been made by SmartestEnergy with Victorian distributors as well as Energy Safe Victoria. Evidence of this has been attached as Attachment 9. SmartestEnergy understands relevant credit support requirements set out in default Use of System Agreements with each network company. SmartestEnergy has also provided a dynamic risk score credit rating (**Attachment 10**) accordingly.

d) Australian Financial Services Licence

As SmartestEnergy will be dealing in financial products, an AFSL will be required. External firm Certainty Compliance has been engaged to assist SmartestEnergy with managing its application. Certainty Compliance has performed this service for many active NEM retailers.

e) Business Plan (Attachment 12)

This covers the initial five years of operation and provides the grounds for SmartestEnergy's claim that it has sufficient financial resources and/or access to such resources to sustain its operations.

3.5 Credit Rating

As indicated above, a Dynamic Risk Score credit rating has been obtained from a reputable credit agency and is attached as **Attachment 10**.

SECTION 4 – TECHNICAL CAPACITY

a) Key Personnel

As outlined in SmartestEnergy's business plan, SmartestEnergy has:

- Provisioned to send 2 of its most senior executives to Australia to manage its operation;
- Obtained specific industry advice from key specialists third parties (mentioned later in this document);
- Set up ongoing relationships with energy specialist third parties to guide it while setting up its internal structure;
- Tapped into local networks to begin recruitment of senior energy experienced personnel; and
- Started the process of recruitment to fill out its desired organisational structure.

b) Management and Compliance Systems

As a retail business engaged in a competitive retail industry, and marketing to businesses, SmartestEnergy is subject to a raft of legislation, regulation that specifically govern the energy industry, as well as codes and guidelines that regulate the retail sector of the industry.

SmartestEnergy has gained sufficient advice and is familiar with the operation and structure of the industry, including such key documentations, the Energy Retail Code, Customer Transfer Code, Marketing Code of Conduct and all relevant Guidelines that govern the performance of its duties as an on market retailer.

c) Intellectual Property

SmartestEnergy is a registered corporation under that name and has applied for trademark protection of its name and logo. Domain name registration has been obtained.

All of SmartestEnergy's employment contracts and agreements with external service providers will include irrevocable assignments of any relevant IP to SmartestEnergy. All dealings with external parties where confidential commercial information is or may be exchanged are covered by confidentiality agreements.

d) Compliance Framework

SmartestEnergy is committed to promoting a culture of compliance throughout its Business. A compliance policy has been created in accordance with AS/ISO 19600:2015 and is included with this Application as **Attachment 11**. A sound culture of compliance is at the heart of everything that SmartestEnergy does and the Compliance Policy defines this culture ensures that SmartestEnergy will be compliant with all applicable legislation, regulations, licence conditions, codes, guidelines, rules and standards.

The Compliance Policy is a framework and statement of SmartestEnergy's compliance philosophy, which is not intended to exist in isolation. It will be supported by the Company's operational policies,

compliance-monitoring tools, reporting tools, programs and processes.

SmartestEnergy's Compliance Policy has the active support of all levels of management.

e) Legal Services / Regulatory and Compliance

The basic roles of the Compliance Committee include legal risk management, and legal and regulatory compliance. The two areas overlap and cannot be viewed separately.

Regular reinforcement of the processes mandated in the process manual is necessary to mitigate against compliance breaches in contractual arrangements.

f) SmartestEnergy's Risk Policy

SmartestEnergy recognises that the most thorough risk management system will not completely eliminate the risk of compliance breaches occurring. Nevertheless, SmartestEnergy has prepared and adopted a Risk Assessment covering what it sees as the major compliance areas in the retail electricity market. The assessment provides details of the control mechanisms in place to ensure that staff and sales agents act in accordance with relevant legislation, Codes, Guidelines and Retail Licence conditions. These mechanisms include reporting, monitoring, supervision, training, service agreements, operational procedures and business systems

Compliance systems require regular testing and review. The need for continuous improvement is acknowledged in all internal compliance instruments.

A draft Risk Management policy is attached and marked as **Attachment 13**.

g) Sales

SmartestEnergy's draft mass-market (SME) retail terms and conditions have been prepared as **Attachment 14**. Explicit Informed Consent scripts, contract templates and consent audit scripting will be drafted and reviewed. This will ensure that the Sales and Marketing area, sales third parties and internal account managers adhere to current regulatory Codes and Guidelines.

SmartestEnergy will ensure that all sales collateral is reviewed by members of the Compliance Committee. Advertising material is and will continue to be legally reviewed. SmartestEnergy's sales staff, third party brokerages and sales agents will receive thorough compliance training to work under SmartestEnergy's brand. Central to this training is the principle that compliance and transparency must never be compromised for the sake of a sale.

h) Dispute Resolution

SmartestEnergy is finalising its Dispute Resolution Process. Its policy is attached as **Attachment 15**. It demonstrates SmartestEnergy's commitment to full legal and regulatory compliance in the area of complaints handling. SmartestEnergy commits that it will be fully operational before SmartestEnergy's entry into the Victorian retail market.

i) Internal Audits

The Compliance Officer's role includes a requirement for frequent internal compliance audits of all retail processes. These activities will be outlined in a Compliance calendar and in frequent Compliance Committee meetings that include meeting notes, saved audit results and breach register reporting.

These audits will be carried out on a regular basis (one retail process monthly) and will add a level of control and supervision to compliance risk areas arising out of SmartestEnergy's market entry.

j) Customer Consent

SmartestEnergy understands that it must not initiate the transfer of a mass market or large market customer without the explicit informed consent of that customer. SmartestEnergy recognises the potential risk of customers being misled by third party sales channels, internal account managers and even customer service staff and being transferred without their explicit informed consent.

To this end, the Compliance Officer will manage the contact of a regular customers to verify through a consent audit process that they have given their explicit informed consent to being transferred to SmartestEnergy and that they understand that they have entered into a retail supply contract with SmartestEnergy. The number of customers contacted will be sufficient to ensure a satisfactory confidence level and will form a part of the Compliance Committee items to review at its meetings.

Customers who indicate that they did not understand that they had entered into a contract will have their contract cancelled immediately without cost and will be transferred back to their previous retailer.

k) Training

No staff member or external third party may commence sales activities on behalf of SmartestEnergy until he or she has been trained by the Compliance Officer or their delegate. Training will take place prior to any customer facing commencing and frequent refresher training will be provided as well and recorded.

SmartestEnergy will conduct test assessments in which a suitable pass rate (100% for the compliance section) must be achieved, prior to any person 'going live' with a customer facing interaction. All staff must demonstrate a sound knowledge of relevant regulatory obligations on a base level as well as specific to any particular task of that staff member. Refreshers will take place on a regular basis.

SmartestEnergy's training register will contain results, staff progress and provides status updates and training gaps. This program will be reviewed frequently by the Compliance Committee to ensure processes are up to date and that all training documentation is inline with the latest version of codes and guidelines.

SECTION 5 – PROVISION OF INFORMATION TO CUSTOMERS

a) Customer Charter

Information on service offerings to small business customers are set out in SmartestEnergy's Draft Customer Charter (**Attachment 16**) and is in line with the Victorian Energy Retail Code. The Charter covers the following:

- Customer obligations
- Retailer obligations
- Pricing information and options
- Contract terms (terms and conditions of contract, termination provisions)
- Meter reading schedule and/or estimation arrangements
- Details of billing (billing period, how bills are issued, contents of bills, basis of bills)
- Bill error handling
- Payment (terms of payment, methods of payment, advance payment, late payment, instalments, concessions)
- Complaint handling and dispute resolution processes (retailer's obligations, customer's rights, procedure, access to the Energy and Water Ombudsman Scheme)
- Termination of supply (procedure)
- Reconnection of supply (supplier and customer obligations, time to reconnect, charges).

SECTION 6 INFORMATION TECHNOLOGY SYSTEMS

a) Customer Management & Billing System

As indicated below in Section 7 (**Contracts and Agreements for Outsourced Services**), a software solution is being sourced for SmartestEnergy and will interface and integrate with its existing proprietary systems such as Salesforce, SAP and its trading and pricing applications.

b) Website

SmartestEnergy intends to have a website that provides sufficient transparency and usability for its clients and consumers as well as ensuring all information as required by the regulator is displayed as instructed. To this end, a brief is currently being designed and is currently available for tender to website designer and developer businesses.

SmartestEnergy understands that a fully operational website is required to be completed before retail operations commence.

c) Telephony

SmartestEnergy will set up a fully operational call centre in Sydney. Currently the process of rolling this out is being mapped out and is planned to commence and be completed before retail operations begin.

SECTION 7 – OTHERS LICENCES, REGISTRATIONS AND AGREEMENTS

Contracts and Agreements for Outsourced Services

There are no contracts with related parties. None of the day-to-day operational aspects of the retail business will be carried out by a outsourced third party. However, following are details of all contracts that are or will be created for the provision of outsourced managed and advisory services that are either under negotiation, entered into or to be entered into by SmartestEnergy to facilitate the operation of the retail electricity business:

a) Sales channel agreement.

SmartestEnergy's is creating a standard agreement for the engagement of external brokerage sales agents when the decision is taken to engage such entities to provide marketing services. It imposes strict compliance obligations of the sales agent.

SmartestEnergy's Legal & Compliance group is responsible for ensuring that compliance capabilities and performance are factored into contracts with external suppliers. This includes overseeing outsourcing arrangements to ensure they take account of compliance obligations.

SmartestEnergy Pty Ltd recognises that it is responsible for the actions of its external sales agents. Service agreements with external sales agents will contain stringent performance criteria in the areas of code compliance and consumer protection laws.

b) Billing Services agreement

SmartestEnergy is currently negotiating a billing services and support agreement with a number of energy system providers. An RFP is underway in which experienced providers are providing relevant information that defines their system functionality and processes required to support a retail electricity business specific to the NEM. Discussions between SmartestEnergy and the providers are well advanced.

The energy management system provider will provide a suite of software applications for customer contract management, billing, customer records management, sales and marketing, customer transfer management, MSATs and B2B gateways, meter data management, AEMO settlements, distributor settlements and the like.

An implementation schedule is being negotiated with the provider. Implementation dates will be agreed by the date the retail licence application is submitted.

A proposal document from an energy management system provider is included as **Attachment 17**.

c) Software Hosting Agreement

SmartestEnergy will initially implement a hosted solution for its software. A tender process will be initiated and completed before retail operations commence.

d) AEMO Registration

SmartestEnergy is currently finalising documentation required for an application to AEMO for registration as a Market Participant. The processing and subsequent approval of the registration application cannot be completed until AEMO has evidence of the granting of the retail licence.

SmartestEnergy is familiar with to the rules and conditions governing market participation including settlement and reconciliation of electricity purchases and network service charges, prudential requirements, processes and interfaces.

e) Financial Markets

SmartestEnergy will enter into ISDAs with a number of generators, and negotiations with one or more generators for associated appropriate commercial hedges will be completed after the retail licence has been granted. SmartestEnergy has already been introduced to a number of potential generators and trading desks.

f) Distribution Use of System Agreements

SmartestEnergy is familiar with the default Use of System Agreements offered by the distribution companies. As previously mentioned contact has been made with each distribution business. The UoS Agreements will be executed once the retail licence is granted.

g) Energy and Water Ombudsman (Victoria) Scheme Membership

SmartestEnergy will enter into an agreement with the Energy & Water Ombudsman of Victoria and will apply for membership with EWOV as soon as the retail licence is issued and before marketing operations commence. Contact has already been made with EWOV and evidence can be found as Attachment 18.

h) Specialist Third parties

SmartestEnergy has engaged the following specialist energy consultancies to assist with its entry into the Australian energy market and fill any technical gaps where required. These consultancies are also assisting with the procurement of any relevant resourcing and the tender processes of any key support or technology that SmartestEnergy will require to retail effectively in the market (i.e. Billing or trading software). To this end the following firms have been engaged:

- Energy Global – To assist with the procurement of a suitable billing engine
- Certainty Compliance – To manage SmartestEnergy's AFSL process and procure an relevant RM
- Baringa – To project manage the Australian market entry
- Sonne Energy Australia – Assist with licence documentation and on boarding of key systems (such as Austraclear, Aemo, networks etc)

Capability statements have been provided as Attachment 19.

SECTION 8 – Additional policies and processes

Additional Policies

a) SmartestEnergy has provided the following additional draft documents for review to illustrate its understanding of its obligations as an on market retail business. These include:

- Privacy Policy
- Bill Template

These documents are found as **Attachment 20**.

SECTION 9 – Key Declarations

Fit and proper person

a) SmartestEnergy confirms that none of its directors or any entity that could exert control over SmartestEnergy or any person with significant managerial responsibility or influence on the applicant have been involved in any material breaches of obligations regulated by the Essential Services Commission.

b) SmartestEnergy confirms that none of its directors or any entity that could exert control over SmartestEnergy or any person with significant managerial responsibility or influence on the applicant have been prosecuted for any offences or had enforcement action taken under any state, territory, Commonwealth or foreign legislation (including, but not limited to, the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), or the Australian Securities and Investments Commission Act 2001 (Cth)).

c) SmartestEnergy confirms that none of its directors or any entity that could exert control over SmartestEnergy or any person with significant managerial responsibility or influence on the applicant have been refused a licence or authorisation, or had restricted, suspended or revoked any such licence.

SCHEDULE 1

STATUTORY DECLARATION

I, **Robert Owens of 18 Cedar Road, Hatfield, Hertfordshire, AL10 8NY, United Kingdom, CEO of SmartestEnergy Australia Pty Ltd** (name, address and occupation of person making the statutory declaration), make the following statutory declaration under the Oaths and Affirmations Act 2018:

The information contained in this application, and attachments thereto upon which I have placed my signature, for the grant of a Electricity licence under the Electricity Industry Act 2001 is true and correct

There are no likely changes in the structure, operation or financing of SmartestEnergy or the licensed activity that could materially affect its financial viability. I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.




.....

Signature of person making this statutory declaration in the presence of the authorised statutory declaration witness.

Declared at S MANTON PLACE SYDNEY in the State of New South Wales on 30/10/2019

Witness

I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration:

A handwritten signature in blue ink, appearing to be "S. Robson", written over a dotted line.

Signature of authorised statutory declaration witness on
Samantha Robson (full name and personal or professional address of
authorised statutory declaration witness in legible writing, typing or stamp)
ASHVEST AUSTRALIA, Lvl 11, 5 MARTIN PLACE, SYDNEY NSW 2000
(qualification as an authorised statutory declaration witness)

A person authorised under section 30(2) of the Oaths and Affirmations Act 2018 to witness the signing of a statutory declaration.

I confirm that reasonable modifications were used in preparing this statutory declaration and that the contents of this statutory declaration were read to the person making the statutory declaration in a way that was appropriate to the person's circumstances.

A handwritten signature in blue ink, appearing to be "S. Robson", written over a dotted line.

Signature of authorised statutory declaration witness