

**Definitions and Interpretation:**

- 1.1 In the Contract, unless the context otherwise requires:
- Affiliate:** means any holding company or subsidiary company of the Supplier or any company which is a subsidiary company of a holding company of the Supplier and the expressions "holding company" and "subsidiary" shall have the meanings respectively ascribed to them by section 1159 Companies Act 2006;
- Authority:** means the Gas and Electricity Markets Authority as established under section 1 of the Utilities Act 2000;
- Averaging Period:** means the period as defined in section 20 of the Finance Act 2000;
- Charges:** means, as applicable, the Discounted Rate, the Supply Rate or the Variable Contract Rate together with any other amounts payable by the Customer to the Supplier under or in accordance with the Contract;
- CHP Electricity:** means a supply of electricity as defined in Paragraph 20A of Schedule 6 of the Finance Act 2000;
- Climate Change Levy or CCL:** means a charge levied at the rate from time to time imposed in accordance with the Finance Act 2000;
- Connection Point:** means, in respect of each Supply Premises, the point(s) at which the Energy flows between the Network and the Customer's installation, equipment, pipes or lines (as the case may be) at the Supply Premises (and any other connection point at that Supply Premises agreed upon from time to time by the parties);
- Contract:** means the supply contract between the Supplier and the Customer comprising the Front Sheet and these Terms and Conditions;
- Contract Start Date:** means the first date the Customer takes a supply of Energy at any Supply Premises pursuant to the Contract;
- Customer:** means the person named as such in the Front Sheet;
- Direct Debit:** means the instruction and collection of monies from the Customer's bank account under the Direct Debit scheme;
- Discounted Rate:** means the pence per unit tariff charge for the supply of Energy, as set out in the Front Sheet;
- Economic Loss:** means loss of profits, revenues, interest, business, goodwill or commercial, market or economic opportunity, whether direct or indirect and whether or not foreseeable;
- Electricity Act:** means the Electricity Act 1989;
- Energy:** means either gas or electricity, as specified in the Front Sheet;
- Fixed Term Period:** means, as the case may be, the Initial Fixed Term Period or any subsequent renewal period set according to Clause 2.2;
- Front Sheet:** means the cover sheet to which these Terms and Conditions are attached (or in which they are referred to) together with any schedule attached thereto, including any pricing and/or site schedule;
- Gas Act:** means the Gas Act 1986;
- Green Deal Plan:** means a 'green deal plan' as described in the Energy Act 2011, being an arrangement pursuant to which payments in instalments ("Green Deal Charges") are due to be paid to an authorised provider ("Green Deal Provider") and are collected by energy suppliers under energy supply contracts;
- Industry Agreements:** include the Uniform Network Code; the Supply Point Administration Agreement; the Balancing and Settlement Code; the Grid Code; the Distribution Code; the Master Registration Agreement, the Connection and Use of System Code; the Distribution Connection and Use of System Agreement; the Green Deal Arrangements Agreement; the Green Deal Central Charge Database Access Agreement; the meter operator, meter administration, teleswitch operator, data collection, data aggregation and data transfer agreements relating to the Metering and all service lines, agreed procedures and codes of practice made under or pursuant to any of the foregoing, in each case, as amended, varied, supplemented or replaced from time to time;
- Half Hourly Metering:** means Metering which measures the consumption of electricity for each half hour, as further defined by section L of the Balancing and Settlement Code;
- Initial Fixed Term Period:** means any fixed term period set out in the Front Sheet;
- Metering:** means the appropriate metering and related equipment used for measuring Energy consumption at each Connection Point and for the collection and transmission of such data;
- Network:** means, as the case may be, either the electricity distribution network or the gas distribution network, through which the Customer receives the supply of Energy;

**Network Operator:** means, in respect of each Supply Premises, the owner or operator of the Network;

**Month:** means a calendar month;

**Notice of Objection:** means the issuing of an objection as defined, in relation to electricity, in the Master Registration Agreement, and in relation to gas, in the Relevant Licence;

**Pass Through Amounts:** means charges levied on the Supplier which are outside the Supplier's control and which concern or relate to the supply of Energy, including the charges made for the provision of meter operation services, Climate Change Levy, Green Deal Charges, charges made for the transmission and/or distribution of Energy, charges made in respect of losses on the Network or any relevant transmission system, charges made for exceeding the capacity or volume allocated by the Network Operator, charges connected with the registration and metering of Supply Premises and the settlement, data collection and aggregation of energy consumption at the Supply Premises, charges made in respect of the disconnection or reconnection of the supply of Energy at any Supply Premises, and any taxes, levies or duties (including the renewables obligation, the small-scale low-carbon feed in tariff and the contracts for difference) imposed in relation to the supply of Energy or on the Supplier (or variations of any of the forgoing);

**Payment Date:** means the day which is 10 days after the date of the relevant invoice or statement;

**Reference Rate:** means the interest rate for the applicable month as published by the Bank of England or any successor;

**Relevant Licence:** means either, as the case may be, the electricity supply licence held by the Supplier under section 6 of the Electricity Act or the gas supply licence held by the Supplier under section 7A of the Gas Act;

**Renewable Source Electricity:** means a supply of electricity as defined in Paragraph 19 of Schedule 6 of the Finance Act 2000, or any source exempt from Climate Change Levy for any other reason (but excluding CHP Electricity);

**Smart Metering:** means Metering that meets (or is intended to meet) the requirements of the 'Smart Metering Technical Specification' as defined in the Relevant Licence;

**Supplier:** in relation to electricity means Opus Energy Ltd whose registered number is 04382246, and in relation to gas means Opus Gas Supply Limited whose registered number is 06874709, in both cases having their registered office at Lambourne House, 311-321 Banbury Road, Oxford, OX2 7JH;

**Supply Period:** means, in respect of each Supply Premises, the period starting from the Supply Start Date and ending on the date the Supplier no longer supplies those premises under the Contract;

**Supply Premises:** means each of the premises listed in the Front Sheet, as amended from time to time;

**Supply Rate:** means the pence per unit tariff charge for the supply of Energy, being the Discounted Rate plus an additional 7.5% per unit;

**Supply Start Date:** means, in respect of each Supply Premises, the first date that Energy is supplied to those premises by the Supplier under the Contract;

**Uneconomic:** means that the cost of supply to the Customer's Connection Point is greater than the Discounted Rate;

**Variable Contract Rate:** means the Supplier's variable tariff rates for the supply of Energy (as varied and notified from time to time);  
and

**VAT:** means value added tax levied at the rate from time to time imposed in accordance with the Value Added Tax Regulations 1995.

1.2 Any references to:

- (i) the Supplier include, where the reference permits, references to the Supplier's officers, employees, agents and contractors, as defined by the Supplier, which may vary from time to time;
- (ii) legislation include references to legislation as modified, amended, extended or re-enacted from time to time;
- (iii) clauses are, unless the context admits otherwise, references to clauses of these Terms and Conditions;
- (iv) the singular term include references to plural (and vice versa);
- (v) the terms 'include' and 'including' are without limitation to any other matters being included in or covered by the relevant provision; and
- (vi) person or persons are references to any legal or natural person including individuals, companies, sole traders, partnerships etc.

2 **Duration and Renewal**

- 2.1 The Contract shall take effect from the Contract Start Date and shall, subject to the termination provisions set out in Clause 10 and to the provisions of Clause 2.2, remain in force until at least the expiry of the Initial Fixed Term Period.
- 2.2 Unless the Contract is terminated in accordance with Clause 2.3,
- (i) the Contract shall, following the expiry of the Fixed Term Period, be renewed automatically and shall continue to remain in force for a further Fixed Term Period of no more than 12 months as notified by the Supplier to the Customer; and
  - (ii) the Supplier reserves the right to increase the Discounted Rate from the expiry of the Initial Fixed Term Period or from any anniversary of such date and shall give notice to the Customer of such increases.

Where giving such notice (a "Renewal Notice"), the Supplier undertakes, where possible, to do so, at least 60 days prior to the end of the relevant Fixed Term Period.

- 2.3 The Customer may terminate the Contract:
- (i) by giving at least 90 days' notice before the expiry of any Fixed Term Period, in which case termination shall take effect on the expiry of the relevant Fixed Term Period; or
  - (ii) by giving notice to the Supplier, within 30 days of receipt of a Renewal Notice issued by the Supplier under Clause 2.2, in which case the Contract will not be renewed and termination shall take effect at the end of the relevant Fixed Term Period.

- 2.4 Notices provided pursuant to in Clause 2.3 should be sent in writing to: Royal Pavilion, 2 Summerhouse Road, Moulton Park, Northampton, NN3 6BJ or by fax to: 0845 2235445 or by email to: contactus@opusenergy.com.

- 2.5 In the event that either party purports to terminate the Contract in respect of any Supply Premises (whether under this Clause 2 or Clause 10), but the Customer continues to take a supply of Energy at those Supply Premises, then the Fixed Term Period shall end in respect of those Supply Premises, but the Contract shall continue in respect of those Supply Premises until the Customer ceases to take such a supply. In such circumstances:

- (i) the Customer shall be charged, in respect of those premises, at the Variable Contract Rate, which shall be effective from the date of purported termination; and
- (ii) the Customer shall pay all other costs reasonably incurred by the Supplier from the date on which the relevant party purports to terminate this Contract until either the registration of an alternative supplier or disconnection of the Supply Premises from the Network has occurred.

- 2.6 Subject to Clause 2.7, the Supplier undertakes to become the supplier responsible for the supply of Energy to the Supply Premises under the Industry Agreements within 21 days after the Contract becomes effective (or by such later date as the Customer has agreed in the Front Sheet or may subsequently agree).

- 2.7 The Supplier shall not be obliged to become the supplier responsible for the supply of Energy to the Supply Premises under the Industry Agreements within the period referred to in Clause 2.6 where the Supplier reasonably considers that any of the relevant conditions outlined in condition 14A of the Relevant Licence apply.

### **3 Energy Supply**

- 3.1 Subject to these Terms and Conditions, the Supplier shall supply the Energy to each Supply Premises during the Supply Period, and the Customer shall pay the Charges in respect of the Supply Period.

- 3.2 The Customer shall notify the Supplier (i) before it changes its load, capacity or consumption requirements in relation to the Energy supply and (ii) before it installs generation equipment at the Supply Premises which is likely to cause a change in the volume of electricity it requires from the Supplier and, (iii) in relation to electricity, before it changes the voltage at which it requires or takes the electricity supply.

- 3.3 The Energy is delivered to each Connection Point by the Network Operator on behalf of the Supplier and the entitlement to, and the risk in relation to, the Energy supplied shall transfer from the Supplier to the Customer at the Connection Point.

- 3.4 Any Energy losses incurred on the Customer's side of each Connection Point shall be borne by the Customer.

- 3.5 The Supplier shall, in respect of gas, only be obliged to supply to Supply Premises that are not subject (under the Industry Agreements) to daily meter reading.

- 3.6 In relation to electricity, the Supplier is acting on behalf of the Network Operator to make an agreement with the Customer. The agreement is that the Customer and the Network Operator both accept the National Terms of Connection (NTC) and agree to keep to its conditions. This will happen from the time the Customer enters into the Contract and it affects the Customer's legal rights. The NTC is a legal agreement. It sets out rights and duties in relation to the connection at which the Network Operator

delivers electricity to, or accepts electricity from, the Supply Premises. If the Customer wants a copy of the NTC or has any questions about it he should write to: Energy Networks Association, 6th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF, phone 0207 706 5137 or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk)

#### **4 Disconnection or Suspension of Supply**

4.1 The Customer acknowledges that the supply of Energy to any Supply Premises may be disconnected or suspended (and agrees to give access to the Supply Premises to the Supplier or its agents for the purposes of disconnecting or suspending the supply) if:

- (i) the Customer fails to make payment when due under the Contract (or under any agreement for the supply of electricity or gas between the Customer and the Supplier or its Affiliates);
- (ii) the Supplier believes that unauthorised use has been made of the Energy supplied under the Contract or the Energy intended to be so supplied has been stolen or redirected or that there has been interference with the Network or with the Metering;
- (iii) the Supplier believes that a disconnection or suspension of the Energy supply is required to avoid danger, to avoid a potential illegality or a breach of an Industry Agreement or to undertake essential maintenance or replacement of the Network or of the Metering;
- (iv) the Supplier is so obliged under or pursuant to any relevant law, the Relevant Licence or other Industry Agreement;
- (v) the Customer has materially breached the Contract (or any other agreement for the supply of electricity or gas between the Customer and the Supplier or its Affiliates) and such breach is continuing.

4.2 Where the Energy supply to any Supply Premises is (or arrangements are made for it to be) disconnected or suspended due to the action or omission of the Customer, the Customer shall indemnify the Supplier in full for any loss, liability or cost which the Supplier has incurred as a consequence of such disconnection or suspension and, if relevant, shall also pay any costs of reconnection and, if requested by the Supplier, shall provide a performance bond in an amount which has a value of not less than three months supply of Energy. In the event the Energy supply is disconnected or suspended due to the action or omission of the Customer, such disconnection or suspension shall be without prejudice to the Supplier's other rights or remedies under this Contract. The Supplier shall provide the Customer with its charges for disconnection and suspension upon request.

4.3 Without prejudice to any statutory provisions, the Supplier shall, where practicable, give reasonable prior notice of such suspension or disconnection to the Customer.

4.4 The Customer acknowledges that any disconnection, suspension or reconnection of the supply of Energy to the Supply Premises may be carried out by direct access to the Supply Premises or remotely.

4.5 The Network Operator will maintain, and may interrupt and shall be entitled to cut off each Connection Point, in accordance with and subject to the provisions of the Electricity Act or the Gas Act (as the case may be) and any other legal requirements or rights that apply from time to time.

#### **5 Obligations of the Customer**

5.1 The Customer agrees to (i) provide to the Supplier all assistance and information reasonably required by the Supplier to enable the Supplier to comply with its obligations under the Contract, any applicable Industry Agreement, the Relevant Licence, or any other code, authorisation or consent necessary to permit the supply of Energy to the Supply Premises; and (ii) to update, as and when necessary, the information to reflect any relevant changes.

5.2 The Customer acknowledges and accepts that the Supplier may be required by any applicable law, regulatory authority or Industry Agreement to pass information provided by the Customer to a third party. The Customer shall indemnify the Supplier against all losses, liabilities or costs suffered or incurred by the Supplier arising from or as a consequence of, any information provided by the Customer being incorrect, incomplete, insufficient or from required information not being provided.

5.3 The Customer agrees to maintain at each Supply Premises the Customer's installations, equipment, pipes and wires (as the case may be) which are on the Customer's side of the Connection Point in good and safe working order and in compliance with law. The Customer shall indemnify the Supplier against all losses, liabilities or costs suffered or incurred by the Supplier arising from or as a consequence of, the Customer failing to maintain such installations, equipment, pipes and wires at all times during the relevant Supply Period.

5.4 The Customer agrees to ensure the maintenance of the connection of each Connection Point at the Supply Premises to the Network and to obtain and maintain all necessary agreements and consents for such connection. The Customer shall indemnify the Supplier against all losses, liabilities and costs

suffered or incurred by the Supplier arising from, or as a consequence of, any such connection not being obtained or maintained at all times during the relevant Supply Period.

- 5.5 The Customer grants the Supplier authority to obtain any information it reasonably requires, in order to supply or continue to supply the Energy to any Supply Premises, from relevant industry parties.
- 5.6 In relation to the supply of electricity, the Customer agrees to have Meter Operator agreements, in respect of each Connection Point at a Supply Premises which has or requires Half Hourly Metering, in full force and effect 20 days prior to the relevant Supply Start Date.
- 5.7 Where the Customer believes that there is, has been or may be an escape of gas, the Customer must immediately call the Network Operator on 0800 111 999 and they will provide any emergency services for which the Customer must allow them access.
- 5.8 Without limitation, the Customer grants the Supplier permission to contact it via email or text using any contact details it has provided to the Supplier for the purposes of enabling the Supplier to carry out its obligations under this Contract or under Industry Agreements.
- 5.9 The Customer warrants that the Supply Premises is not a premises at which a supply of electricity or gas is taken wholly or mainly for a domestic purpose.

## **6 Metering and Estimates**

- 6.1 The Supplier agrees to enter into all agreements, subject to Clause 5.6 above, with accredited operators, administrators, data collectors and data aggregators in respect of the Metering as necessary to facilitate the supply of Energy to each Connection Point.
- 6.2 For the purposes of the Contract, only meter readings taken by the appointed meter operator, the Supplier or its authorised agent will be considered as valid meter reads.
- 6.3 The Customer shall allow any representative of the Supplier, any meter operator, Network Operator or any other person authorised by the Supplier in connection with the supply of Energy, reasonable access to read, install, remove, inspect, check, replace, reset, maintain and de-energise Metering and otherwise to carry out its functions under or pursuant to any Industry Agreement.
- 6.4 The Customer shall not interfere with any Metering. The Customer shall indemnify the Supplier for any loss, liability or cost suffered or incurred by the Supplier arising from or as a consequence of, damage to the Metering during the relevant Supply Period.
- 6.5 If either the Supplier or the Customer reasonably believes the Metering is registering inaccurately, it may require a test of the Metering by giving the other party at least 14 days' notice. The test shall be carried out by a competent person. If the Customer requests a test and the accuracy of the relevant Metering is found to be within the limits of error prescribed by the Industry Agreements, the Customer shall be responsible for paying for the costs of the test, otherwise the costs shall be borne by the Supplier. If the accuracy of the relevant Metering is found to be outside the limits of error prescribed by the Industry Agreements, the Metering or any defective part shall be replaced or recalibrated as soon as reasonably practicable and the amounts payable by the Customer thereafter shall be varied accordingly and based, so far as can be reasonably ascertained, on the amounts the Customer would have been charged had the Metering not been defective.
- 6.6 The parties agree in accordance with paragraph 2(2) of Schedule 7 to the Electricity Act that the requirements of paragraph 2(1)(b) of that Schedule may be dispensed with and, accordingly, that the Metering need not be certified under paragraph 5 of that Schedule.
- 6.7 If a meter reading is not available or is, in the reasonable belief of the Supplier, inaccurate, the Supplier has the right to estimate reasonably the amount of Energy used by the Customer and to charge the Customer accordingly and, save in the case of manifest error, such estimate shall be deemed to be effective and agreed between the parties.
- 6.8 The Supplier reserves the right to replace the Metering from time to time, including to replace it with equipment with greater functionality in terms of remote meter reading and/or the ability to be disconnected remotely.
- 6.9 Where the Supplier agrees to replace the Metering at the Customer's request, the Customer shall indemnify the Supplier for any costs and expenses incurred by the Supplier (including abortive visit charges) in connection with such change other than those arising due to a failure of the Supplier to meet its obligations.
- 6.10 Where the Metering is Smart Metering the parties agree that the Supplier may obtain, store and use consumption data from the Smart Metering relating to periods of less than one month in duration. The Supplier shall only use such data for the purposes of optimising settlement and forecasting; identifying energy efficient savings and products; and the monitoring and control of potential energy theft. The Customer may opt out, and instead restrict the Supplier to obtaining, storing and using consumption data in respect of periods of one month or more by writing to the Supplier at Royal Pavilion, 2 Summerhouse Road, Moulton Park, Northampton, NN3 6BJ.

## **7 Charges and Payment**

- 7.1 The Supplier shall, each month or at such other intervals as shall be agreed, send to the Customer either by prepaid post, or if agreed through e-billing facilities, an invoice or a statement in respect of all Charges due by the Customer in respect of that month or the applicable billing period. Where e-billing facilities are agreed:
- (a) The Supplier will decide and notify the Customer whether the e-billing facilities are to be provided by way of the invoice/statement being sent to an e-mail address maintained by the Customer or uploaded onto the Customer's e-billing account as set up on the Supplier's internet web-site (which shall be notified to the Customer).
  - (b) The Customer shall:
    - (i) maintain an e-mail address for e-billing purposes and ensure that the Supplier is informed of the relevant address;
    - (ii) keep secure and confidential any password used by the Customer for e-billing purposes including any such password used to access the Customer's e-billing account; and
    - (iii) be responsible for any reasonable costs or losses suffered or incurred by the Supplier as a result of any act or omission by the Customer which results in unauthorised access to or use of the Customer's e-billing account.
  - (c) The Supplier shall be entitled to close the Customer's e-billing account at any time without notice if it has reason to believe that the account is being accessed or used in an unauthorised manner.
- 7.2 The Customer shall pay the Charges shown in each invoice in full to the Supplier by Direct Debit on or before the Payment Date in each month or, in the case where it has been agreed by the Supplier that the Customer is not required to pay by Direct Debit, the Customer shall pay the invoiced amounts to the Supplier in full within 10 days of the date of the invoice.
- 7.3 Amounts payable by the Customer under the Contract are stated exclusive of VAT, CCL and Green Deal Charges which shall be payable at the applicable rates, as shown on the invoice from time to time.
- 7.4 The Charges may comprise of (i) actual or estimated charges for the Energy supplied at each Supply Premises at the applicable rate, (ii) actual or estimated Pass Through Amounts attributable to the Energy supply, (iii) any one off connection charge payable by the Customer and shown on the Front Sheet, (iv) any reconciliation amount(s) due under the Contract; and (v) any other charges due pursuant to the Contract. The Customer acknowledges that in order for a Supply Premises to be supplied or continue to be supplied under the Contract, the Charges applicable to that Supply Premises shall be a minimum amount of £250 in each year of the Supply Period.
- 7.5 For the avoidance of doubt where the Customer uses a third party agent to provide services to the Customer (including invoice validation services), the Customer's liability to meet its obligations under this Clause 7 is unaffected.
- 7.6 Where the Supplier has consented to payment terms other than by Direct Debit or where reconciliation takes place following the termination of the Contract:
- (i) any additional amount due to the Supplier shall be paid by the Customer by bank transfer within 10 days of the date of the reconciliation invoice; and
  - (ii) any credit amount due to the Customer shall be attributed to an account operated by the Supplier for that purpose (the "Customer's Account") and shall, subject to Clauses 7.8 and 7.14, be paid to the Customer on request.
- 7.7 The Supplier shall send the reconciliation notice or credit note to the Customer's address as held by the Supplier but shall not be obliged to send a credit note where it is aware that the Customer is no longer in occupation of the premises and the Customer has not provided the Supplier with a forwarding address.
- 7.8 The Supplier (i) shall not be obliged to pay any credit amount that remains attributed to the Customer's Account for longer than 12 months; and (ii) may at any time following the end of the 12 months retain the attributed amount for its own benefit.
- 7.9 The Charges under the Contract have been calculated based on the information provided by the Customer in relation to its historic and expected pattern and quantity of use of Energy at the Supply Premises. In the event that such information proves to be inaccurate or incorrect, the Supplier reserves the right to vary the Charges to take into account revised, new or accurate information it has obtained or received. Where the quantity of electricity supplied under the Contract is materially reduced following the installation of generation equipment the Customer shall indemnify the Supplier in full for any loss, liability or cost which the Supplier has incurred as a consequence of such reduction.
- 7.10 In the event that a Direct Debit request is returned unpaid by the Customer's bank twice in succession or twice in any 12 month period, or the Customer fails to pay any invoice in accordance with this Clause 7 then, without prejudice to the Supplier's other rights or remedies, the Supplier may, from the date notified

to the Customer, charge for Energy supplied under this Contract at the Supply Rate until such time as the Customer rectifies the non-payment.

- 7.11 In the event the Customer cancels a Direct Debit mandate without the consent of the Supplier or where any amount is returned as unpaid, the Supplier shall be entitled to charge an administration fee, which shall be calculated by the Supplier and notified to the Customer, for each month or part month where the supplier is unable to collect the debt by Direct Debit. In addition, the Supplier shall be entitled to charge for Energy supplied under this Contract at the Supply Rate from the date of the relevant event until such time as the Customer makes a subsequent Direct Debit payment.
- 7.12 Interest shall be due and accrue on a daily basis on late payments at the rate of eight percent above the Reference Rate, applicable for the month in which the payment became due, from the Payment Date until the date payment is received in full.
- 7.13 Subject to Clause 7.14, all payments due under the Contract shall be made free from any restriction or condition and without any deduction or withholding (for tax or any other amount), whether by way of set-off or otherwise, unless this is required by law. If any deduction or withholding is so required by law, then the payer shall account for the relevant deduction or withholding in full to the relevant authority and pay such additional amount to the other party as ensures that the other party receives the same net amount that it would have done had the relevant deduction or withholding not been made.
- 7.14 Where, in accordance with Clause 7.6(i), the Customer's Account is to be attributed with a credit amount, the Supplier may set-off, in whole or in part, from the credit amount any payments that are due from the Customer under the Contract (or under any other agreement for the supply of gas or electricity between the Customer and the Supplier or between the Customer and any Affiliate of the Supplier).
- 7.15 Where electricity supplied to any Supply Premises is Renewable Source Electricity, the Supplier shall have the right to charge a CCL Exempt Charge of up to the value of the Climate Change Levy at the rate that would be applicable to the Customer as if the electricity were non-Renewable Source Electricity. Where electricity supplied to any Supply Premises is Renewable Source Electricity, in each Averaging Period, the amount of electricity supplied by exempt renewable supplies made by the Supplier in the period will not exceed the difference between (a) the total amount of Renewable Source Electricity that during that period is either acquired or generated by the Supplier, and (b) so much of that total amount as is allocated by the Supplier otherwise than to exempt renewable supplies made by it during the period.
- 7.16 Where the electricity supplied to any Supply Premises is CHP Electricity, the Supplier shall have the right to charge a CCL Exempt Charge of up to the value of the Climate Change Levy at the rate that would be applicable to the Customer as if the electricity were non-CHP Electricity. Where electricity supplied to any Supply Premises is CHP Electricity, in each Averaging Period, the amount of electricity supplied by exempt CHP supplies made by the Supplier in the period will not exceed the difference between (a) the total amount of CHP Electricity that during that period is either acquired or generated by the Supplier, and (b) so much of that total amount as is allocated by the Supplier otherwise than to exempt CHP supplies made by it during the period.
- 7.17 In the event that any debt remains unpaid, contrary to Clause 7.2 of this Contract, all Charges which have not been paid under this Contract shall be deemed to be unpaid and immediately due and payable and the Supplier shall be entitled:
- (a) each month to invoice the Customer in advance for (and the Customer shall pay in accordance with Clause 7.2) the Charges in respect of the following month based on the Supplier's estimate of consumption in that month. At least once in every 12 month period thereafter, the Supplier shall issue a reconciliation, detailing any additional amount due to the Supplier or any credit amount due to the Customer to reflect the difference between actual and estimated consumption;
  - or
  - (b) to require the Customer to post a cash deposit with the Supplier as security against any future defaults in payment in an amount necessary to cover the Supplier's exposure under the Contract. The Customer agrees that the Supplier shall be entitled to deduct from such deposit any sums due and unpaid under the Contract. The Customer shall be entitled to a refund of the deposit (subject to any deductions that may have been made) on the earlier of:
    - (i) the termination of the Contract and payment in full of all invoices issued under it; or
    - (ii) the Customer and Supplier agreeing that the deposit can be refunded.
- 7.18 The Customer agrees that, in the event that payment due to be paid by the Customer under the Contract remains unpaid contrary to Clause 7.2, the Supplier can pass the relevant information relating to the Customer, onto a credit reference agency.
- 7.19 Where the Customer has entered into any other agreement with the Supplier or its Affiliates, in the event that the Customer sends a payment to the Supplier's premises and does not specify which agreement

such payment relates to, the Supplier may choose to allocate such payment to this Contract or to the other agreement at its sole discretion.

7.20 In the case of electricity supply, where a Supply Premises is (or becomes) subject to a Green Deal Plan, the Supplier will collect Green Deal Charges from the Customer and remit these to Green Deal Providers (or their nominees or assignees). The Supplier will only collect Green Deal Charges under the Contract that become payable after the Supply Start Date. Once the Supply Period has ended, the Customer remains liable under the Contract for the Green Deal Charges incurred during the Supply Period. Despite the Contract ending, while the Customer is the green deal bill payer under the Green Deal Plan, the Customer will remain liable for the Green Deal Charges.

## **8 Variation**

8.1 Not Used.

8.2 The Supplier reserves the right to increase the Charges at any time if, due to circumstances beyond the control of the Supplier, it becomes Uneconomic and shall give notice to the Customer of the proposed increase.

8.3 Where the Supplier gives notice under Clause 8.2 to vary the Contract, the Customer may terminate the Contract in accordance with Clause 10.2 respectively.

8.4 Unless the Customer terminates the Contract in accordance with either Clause 10.2, the notice of increase of Discounted Rate given by the Supplier shall take effect on the date stated in the notice.

8.5 The Supplier may vary the Contract, other than as to price and duration of any Fixed Term Period at any time by notifying the Customer in writing with not less than 30 (thirty) days written notice of the new terms before they take effect.

8.6 The Supplier may vary the Charges at any time on written notice to the Customer in order to reflect any change (howsoever arising) in the Pass Through Amounts.

8.7 During a Fixed Term Period, the Supplier shall not vary the Contract solely on the grounds that the Customer no longer satisfies the definition of Micro Business Consumer as defined under the Relevant Licence.

## **9 Force Majeure**

9.1 If either party suffers delays in performing, or is unable to perform, any or all of its obligations under the Contract (other than payment obligations) because of some event or circumstance beyond its reasonable control, the Contract shall remain in full effect but the affected party shall have no liability for such delay or failure to perform such obligations for so long as such performance remains impracticable.

## **10 Termination**

10.1 The Contract shall terminate automatically and with immediate effect if the Relevant Licence is revoked or if a Last Resort Supply Direction (as defined in the Relevant Licence) is given to a supplier other than the Supplier in respect of the supply of Energy to the Supply Premises.

10.2 The Customer may terminate the Contract by giving notice to the Supplier, within 30 days of receipt of a notice issued by the Supplier under Clause 8.2, in which case termination shall take effect on the thirtieth day from the date of the Customer's notice and the proposed increase shall not take effect.

10.3 Where, in respect of any Supply Premises, the Customer is no longer the owner or occupier of those premises, the Contract shall, in respect of those Supply Premises, terminate from the date the Supplier enters into a supply contract (including a deemed contract) with another person in respect of those Supply Premises.

10.4 The Supplier may terminate the Contract at any time for all or any Supply Premises if:

- (i) the Customer fails to pay when due any amount payable by it under the Contract and does not pay such amount in full within five days after notice of such failure is given to the Customer;
- (ii) without prejudice to Clause 10.4(i), the Customer fails to comply in any material respect with, or fails to perform in any respect, any of its material obligations under the Contract and where it is capable of remedy such failure is not remedied to the reasonable satisfaction of the Supplier within 2 days after notice of such failure is given to the Customer;
- (iii) the Customer agrees, or takes steps to agree, to take a supply of Energy at any Supply Premises from another supplier without the Supplier's prior written consent;
- (iv) the Supply Premises are not of a type that the Supplier is obliged to supply in accordance with Clause 3.5;
- (v) the Customer passes a resolution for its winding up which shall include amalgamation, reconstruction, reorganisation, administration, dissolution, liquidation, merger or consolidation (other than a solvent amalgamation, reorganisation, merger or consolidation approved in advance by the Supplier) or a petition is presented for, or a court of competent jurisdiction makes an order for, its winding up or dissolution, or an administration order is made in relation to it or a receiver is appointed over, or an encumbrancer takes possession of or sells, one or more of its assets or the

- Customer makes an arrangement or composition with its creditors generally or ceases to carry on business;
- (vi) it becomes unlawful for the Customer or the Supplier to comply with or perform any material provision of the Contract;
  - (vii) where any Supply Premises are subject to lease and the landlord's consent is required to the Supplier becoming a supplier of Energy to those Supply Premises and such consent has not been obtained by the Customer; or
  - (viii) where the Supplier has not, under a relevant industry agreement, been able to register as the registered supplier for the relevant Supply Premises within 30 days of the Supply Premises being subject to the Contract.
- 10.5 Where the Supplier terminates the Contract in respect of any or all of the Supply Premises in accordance with Clause 10.4, it (a) shall give notice to the Customer of the date of termination; and (b) may discontinue the supply of Energy to such Supply Premises or arrange for its discontinuation without further notice (save as may be required by law).
- 10.6 Where, in relation to any Supply Premises, the Contract is terminated in accordance with Clause 10.3 or in accordance with Clauses 10.4 (i) to (v), the Customer shall pay to the Supplier an amount of: (i) £350; or (ii) fifteen percent of the remaining value of the Contract in respect of the relevant Supply Premises (which shall be calculated by reference to the expected level of consumption and the applicable charges that would have applied for the remainder of the Contract in respect of the relevant Supply Premises), whichever is greater.
- 10.7 The Customer shall, on demand, pay to the Supplier, on an indemnity basis, all costs incurred by the Supplier in the enforcement of this Contract.
- 10.8 Each Party acknowledges that the payment obligations in Clauses 7 and 10 (including any payments arising as a consequence of early termination of the Contract) are reasonable in light of the anticipated harm and represent a genuine and reasonable pre-estimate of the losses, costs and expenses the Supplier may incur and do not constitute penalty provisions.
- 10.9 The termination or expiry of the Contract for whatever reason shall be without prejudice to the rights and remedies of either party, which have accrued prior to the date of termination or expiry. Such termination or expiry shall also be without prejudice to the continuing validity of any provision of the Contract which expressly or by implication is intended to come into or remain in force on or after termination or expiry.
- 10.10 The Supplier may arrange for the delivery of the Energy supply by instalments in such quantities as it may reasonably decide; such instalments shall be deemed to be separate contracts and no failure in respect of one or more of them shall entitle the Customer to cancel any subsequent instalments or repudiate the Contract as a whole.
- 11 Limitation of Liability**
- 11.1 The Supplier has no obligation in respect of the Energy supply if the supply is shut-down, interrupted, reduced or impaired as a result of the energisation, de-energisation or disconnection of any Connection Point (unless it is the direct result of an act or omission by the Supplier) or the exercise of load management or demand control by a Network Operator or the occurrence of an event of force majeure referred to in Clause 9. The Supplier shall not be liable if the supply is delayed or prevented by reason of failure or delay on the part of a Network Operator in the creation or necessary registration of any new Connection Point.
- 11.2 The Supplier shall be liable to the Customer in respect of physical damage to the Customer's property which results directly from a breach of the Contract by the Supplier and which was at the Contract Start Date reasonably foreseeable as likely to result in the ordinary course of events from such breach (subject always to Clause 11.5).
- 11.3 The Supplier shall not be liable to the Customer for any Economic Loss or any indirect or consequential loss arising from or in connection with the Contract or the supply of Energy made pursuant to the Contract.
- 11.4 The Supplier shall not be liable to the Customer in respect of any damage to equipment installed or stored at any of the Supply Premises by third parties.
- 11.5 The total aggregate liability of the Supplier to the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise arising directly or indirectly under or in connection with the Contract and the supply of Energy shall in no circumstances exceed 10 percent of the total Charges payable to the Supplier each year, as calculated from time to time by the Supplier.
- 11.6 The Supplier shall not be liable either to the Customer or to any third party for any charges incurred by the Customer as a result of the Customer entering into an agreement with a third party.
- 11.7 The exclusions from and limitations of liability under this Clause 11 shall not apply to death or personal injury caused by the negligence of the Supplier.

## **12 Notices**

- 12.1 Any notice, or other communication to be given by one party to the other party shall be in writing and addressed and sent to the recipient's address as shown in the Front Sheet by hand or prepaid post, email or facsimile transmission and will be deemed to have been received, in the case of delivery by hand, when delivered, in the case of prepaid post, on the third day following the day of posting and, in the case of facsimile or email on acknowledgement by the addressee's facsimile receiving equipment or email server, unless such acknowledgement occurs after 1700 hours on any day, in which case receipt shall be deemed to have occurred at 0900 hours on the next business day following the day of acknowledgement. Either party may, by notice to the other party, change the address, email address or facsimile number at which notices, accounts or other communications under the Contract are to be given to it.

## **13 Miscellaneous**

- 13.1 No delay or omission by either party in exercising any right, power or remedy under the Contract shall be construed as a waiver of such right, power or remedy and any single or partial exercise shall not prevent any other or further exercise of the same or the exercise of any other right, power or remedy.
- 13.2 The Contract constitutes the whole and only agreement between the parties relating to its subject matter and, except to the extent repeated in the Contract, supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing, relating thereto. Each party acknowledges that in entering into the Contract on the terms and conditions set out in the Contract it is not relying upon any representation, warranty, promise or assurance made or given by the other party or any other person, whether or not in writing, at any time prior to the execution of the Contract which is not expressly set out herein. Neither of the parties shall have any right of action against the other party arising out of or in connection with any agreement, undertaking, representation, warranty, promise, assurance or arrangement referred to above (except in the case of fraud).
- 13.3 The Customer shall not assign or otherwise transfer any of its obligations under the Contract without the prior written consent of the Supplier. The Supplier may assign any of its rights or transfer any of its obligations under the Contract to any person providing that, if it is transferring its obligation to supply Energy, it may only do so to a person authorised to supply such Energy to the Supply Premises.
- 13.4 The Customer agrees that, from the date it is notified of such an assignee or transferor, it will accept such person in substitution for the Supplier. By taking a supply of Energy at any Supply Premises the Customer will be deemed to be acceptance of such transfer or assignment. The Supplier may also sub-contract any of its obligations under the Contract.
- 13.5 If any of the arrangements in, or provisions of, any Industry Agreement relevant to the supply of Energy are amended or varied or cease to apply during any Supply Period, the parties shall, at the Supplier's request from time to time, amend the Contract to accommodate any such amendment, variation or cessation in such manner as the Supplier shall reasonably require.
- 13.6 If a term or provision of this Contract is declared invalid or unenforceable in whole or part that term or provision shall be deemed not to be part of the Contract to that extent and all the other provisions of this Contract shall remain in force and effect.
- 13.7 Subject to any provision of the Master Registration Agreement for electricity and the provisions of the Gas Act for gas, the Supplier reserves the right to raise a Notice of Objection, in respect of any Supply Premises, at any time during a Fixed Term Period, or at any time where the Customer has failed to make a payment contrary to Clause 7.2.
- 13.8 The Contract shall in all respects be governed by and construed in accordance with the laws of England and subject to jurisdiction of England and Wales.
- 13.9 The Customer and the Supplier agree that the provisions of this contract are not intended to confer any rights on any third party and accordingly the provisions of the Contract (Rights of Third Parties) Act 1999 are excluded.

## **TERMS AND CONDITIONS FOR THE SUPPLY OF ELECTRICITY OR GAS.**