

# STANDARD ELECTRICITY TERMS AND CONDITIONS

For Major Business Customers from 31 March 2009

## 1 TERM

1.1 This Agreement will commence on the date that we receive written notification of your signed acceptance of a valid offer from us and will continue in force until brought to an end under clauses 6 or 7.

## 2 SUPPLY

2.1 We will provide the Supply to you from the Earliest Supply Start Date providing that all the Connection Conditions have been met.

## 3 CONNECTION CONDITIONS

3.1 Our obligation to provide the Supply is conditional upon the following conditions being satisfied at all times in relation to each Site:

- 3.1.1 there being a Connection Agreement, a Meter Operator Agreement, a Data Aggregator Agreement and a Data Collector Agreement in force in relation to that Site;
- 3.1.2 there being a Meter installed at that Site and such Meter meeting the requirements of sub-clause 13.1;
- 3.1.3 there being a Use of System Agreement in force in relation to that Site; and
- 3.1.4 our being Registered as your supplier.

3.2 You will use all reasonable efforts to ensure that clauses 3.1.1, 3.1.2 and 3.1.4 are satisfied by the Earliest Supply Start Date and remain satisfied until this Agreement ends.

3.3 In the case of clause 3.1.1 you will only be responsible for ensuring that a Meter Operator Agreement, a Data Aggregator Agreement and a Data Collector Agreement is in force where we require you to appoint the relevant Agent or where you have the option to appoint such Agents and we agree to you doing so.

## 4 OUR CHARGES

4.1 As soon as practicable after the end of each Charging Period, we will send you an invoice showing the amount (calculated in accordance with our Charges) due for electricity supplied during that Charging Period plus any Availability Charge and any other costs that we are entitled to pass through to you.

4.2 You must pay all invoices by cleared funds within the payment period set out in the relevant invoice. If you agree to pay by direct debit, but do not do so, then we may vary our Charges by a reasonable amount to reflect the associated cost of processing for the different payment method.

4.3 Any overdue amounts under this Agreement shall accrue interest at the Interest Rate as compounded annually from the date such sum became due until the date payment is received in cleared funds. You shall also pay us any debt recovery costs we incur as a result of your late payment.

4.4 You shall pay any Value Added Tax applicable to any amounts due under this Agreement.

4.5 We will prepare our invoices using consumption data recorded by the Meter. If we are unable to retrieve consumption data or if we reasonably believe the data to be wrong, we may prepare an invoice using our reasonable estimate of the electricity supplied. We shall reconcile this against actual consumption data once this is available, provided that if no reconciliation is agreed, either party may refer the matter to the Electricity Arbitration Association for arbitration. Except in the case of manifest error the decision of the arbitrator shall be final.

4.6 All invoices must be paid in full, even if part of an invoice is in dispute. Any disputed amounts must be notified to us within 14 days of the date of the invoice.

4.7 Our Charges relate to the meter reading and billing frequencies as set out in this Agreement. The appointed Agents may make additional charges if you request optional or additional services, for example, if you choose a different type of meter, or if your arrangements with the Agent(s) do not meet the requirements of the indicated meter reading and billing frequencies. If we incur such additional charges we may add these charges to the relevant invoice or send a separate invoice.

4.8 Your Available Capacity, as agreed between yourself and your Local Network Operator, is required for quoting and billing purposes. Where the supply capacity has not been provided, it will be estimated until such time as an actual capacity is provided. Once your actual Available Capacity has been provided then we may adjust our Charges retrospectively to reflect any differences between the estimated Available Capacity and the actual Available Capacity and you shall be liable to pay our Charges as adjusted.

4.9 You agree to pay a reasonable administration charge if you ask us to supply duplicate invoices where original invoices have already been sent to you.

4.10 You shall not deduct nor set off any payments due to us under this Agreement unless we have issued a credit note to you.

4.11 If you are liable for Triad Charges then we may charge you an estimated amount for these which we shall then reconcile on an annual basis.

4.12 We may set off any amounts received from you, or owing to you, against any other amounts due and owing by you under this Agreement or any other agreement between us.

4.13 Where we are entitled to do so, we may also recover any fee from you that has been charged to us by a third party agent or energy consultant in connection with the negotiation of, or entry into, this Agreement.

## 5 VARIATION OF CHARGES

5.1 After the Earliest Termination Date, you will be placed on Extended Supply Charges unless you have renewed this Agreement for a further term.

5.2 In addition to sub-clause 5.1, we can vary all or any of our Charges at any time by giving notice in writing to you if:

- 5.2.1 Any information you or your Agent has provided to us, or our interpretation of that information, is incorrect;
- 5.2.2 Your Supply Number or Supplementary Data changes;
- 5.2.3 Any direction is given by the Secretary of State under the Act, but only by such amount(s) as will enable us to recover from you a fair proportion of the additional costs suffered by us directly or indirectly as a result of such direction;
- 5.2.4 Any change is made after the date of this Agreement to:

- 5.2.4.1 settlements charges under the BSC;
- 5.2.4.2 any communications link, meter operator services, data collector services; or data aggregator services associated with the Supply, in each case by such amounts as will enable us to recover our costs relating to the change;

5.2.4.3 any statutory levy (including the rate of the fossil fuel levy referred to in Section 33 of the Act), charge, tax, tariff or similar or if any new statutory levy, charge, tax, tariff or similar is introduced.

5.2.5 You do not have or cease to use your own Agent(s). We have based our Charges on such use and we may vary them by such amount as enables us to recover from you the cost of having consumption data metered, collected and processed by our Agent(s) as required by the BSC and to meet the meter reading and billing frequencies as set out in this Agreement;

5.2.6 There is any change in the methodology your Local Network Operator uses to calculate its charges;

5.2.7 Any of our electricity purchase agreements are suspended or terminated in whole or in part as a result of any circumstances beyond our control, by such amount as will enable us to recover from you a fair proportion of the additional costs suffered by us directly or indirectly as a result of such total or partial suspension or termination;

5.2.8 The Earliest Supply Start Date is delayed due to any act or omission by yourself or as a result of circumstances beyond our control;

5.2.9 Your consumption patterns or required volumes change significantly during the course of this Agreement from those consumption patterns or required volumes upon which we have based our Charges;

5.2.10 You change your payment method.

5.3 If we give you notice under clause 5 amending our Charges, the amended Charges specified in that notice shall take effect on the date specified in that notice.

## 6 ENDING THIS AGREEMENT

6.1 Either party may end this Agreement with effect from the Earliest Termination Date (or if it has been renewed for a further term from the earliest termination date specified in the terms of the renewal) by giving not less than 28 days written notice to the other party.

6.2 In addition to sub-clause 6.1, we may end this Agreement at any time by giving you written notice if we have the right to do so under any other provision in this Agreement.

6.3 In relation to each Site (the "Relevant Site") any termination notice given by you shall only take effect in relation to the Relevant Site when

- 6.3.1 someone else has entered into an agreement with us for a supply of electricity at the Relevant Site; or
- 6.3.2 another supplier has Registered and started supplying electricity to the Relevant Site; or
- 6.3.3 the Relevant Site is disconnected from the Distribution System because no supply of electricity is required at the Relevant Site.

6.4 Once this Agreement ends, the Supply will end and we may enter the Relevant Site to remove any of our equipment and you will pay to us any reasonable costs we may incur in discontinuing the Supply, including any payments which we have to make to the Local Network Operator.

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- 6.5 Any rights or obligations which accrue to either you or us before this Agreement ends and the rights and obligations under sub-clause 6.4 and clause 8 shall continue after this Agreement ends.
- 6.6 For the purposes of this Agreement time shall be of the essence. If this Agreement ends because you breach any of its conditions you may be subject to an Early Termination Fee pursuant to sub clause 8.1.
- 7 DE-ENERGISATION AND DISCONNECTION**
- 7.1 In addition to our rights to terminate this Agreement, we may arrange for the Supply to be de-energised or disconnected if:
- 7.1.1 any of the Connection Conditions set out in sub-clause 3.1 cease to be satisfied;
- 7.1.2 any amount due and owing is not paid within the relevant Payment Period;
- 7.1.3 You materially breach this Agreement and such breach is not capable of remedy;
- 7.1.4 you materially breach this Agreement and if such breach is capable of remedy, you do not remedy the breach within a period of 14 days after receiving notice from us requiring you to do so;
- 7.1.5 you cease to occupy the Site or Sites being supplied under this Agreement;
- 7.1.6 an administrator, provisional administrator, receiver, administrative receiver, liquidator, bankruptcy trustee or supervisor is appointed in respect of all or part of your undertaking or assets;
- 7.1.7 you enter into, or propose to enter into, a voluntary arrangement or composition with your creditors or make a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986;
- 7.1.8 a moratorium order comes into force in relation to you;
- 7.1.9 you are unable to pay your debts (within the meaning of the Insolvency Act 1986) or you cease or threaten to cease to pay your debts as they fall due.
- 7.2 We may arrange to disconnect the Supply from the Distribution System if we have de-energised under sub-clause 7.1 and the Supply has remained de-energised for a period of three calendar months or longer.
- 7.3 Before arranging any de-energisation or disconnection we will give you written notice.
- 7.4 If the Supply has been de-energised or disconnected under this Agreement, we will not arrange re-energisation or re-connection until:
- 7.4.1 the circumstances giving rise to de-energisation or disconnection have been remedied to our reasonable satisfaction; and
- 7.4.2 you have paid such reasonable amount as we may require to cover the cost to us of the de-energisation and re-energisation and (where applicable) the disconnection and re-connection (including any payment we have to make to the Local Network Operator) together with any ongoing Charges incurred during the period of de-energisation or disconnection; and
- 7.4.3 you have paid such security deposit or advance payment as we may require for the Charges which may become due in future from you under this Agreement.
- 7.5 If you do not satisfy the requirements of sub-clause 7.4 within the time specified in the relevant notice of de-energisation or disconnection and we end this Agreement you will still have to pay any reasonable costs we incurred in relation to de-energisation and disconnection.
- 8 TERMINATION FEE**
- 8.1 If we accept that this Agreement has ended because you have breached any of its conditions, we shall be entitled to charge you a termination fee ("Early Termination Fee") to recover any energy costs, expenses or other reasonable losses we incur.
- 8.2 The energy cost component of the Early Termination Fee will be based on the following calculation, which you accept represents a reasonable and valid pre-estimate of costs that we would incur as a result of the early termination of this Agreement: Energy costs will be calculated based on your average invoice for the Supply (excluding VAT) for each Charging Period multiplied by the number of Charging Periods remaining until the Earliest Termination Date less the value of any unused energy that we recover either by entering into a transaction with a counterparty in respect of the unused energy, or acting in good faith determine to be the value of the unused energy as at the date of early termination.
- 8.3 For the purposes of sub-clause 8.2 "unused energy" shall mean any energy that we had forecast to supply to you until the Earliest Termination Date but due to the early termination of this Agreement did not supply, and may include energy purchased from a counterparty in order to supply to you.
- 9 MULTIPLE SITES**
- 9.1 If under this Agreement we supply you at more than one location, the Supply Start Date may be different at each location and for the purposes of interpreting these conditions each location at which there is a Meter shall be a Site for the purposes of this Agreement.
- 10 SECURITY DEPOSITS AND ADVANCE PAYMENTS**
- 10.1 A security deposit may be requested at any time during the Agreement if we have a concern about your ability to pay for the Supply, or you fail to make any payment within the required period. We shall explain the specific procedure when we contact you. You shall pay any security deposit that we request from you.
- 10.2 We will generally hold a security deposit for a minimum of one year, but may hold it for longer if we consider it reasonable. When we repay it to you, we will pay you:
- 10.2.1 the entire security deposit plus
- 10.2.2 interest calculated at an annual rate of the base lending rate of the Bank of England from time to time in force for the period we hold the security deposit less
- 10.2.3 any amounts due and owing to us under the Agreement less
- 10.2.4 any amounts withheld and paid to the HM Revenue and Customs in line with tax legislation in force whilst the security deposit is held.
- 10.3 We will generally repay you within a month, if the arrangements to supply you with electricity under this Agreement have ended and you have paid all our Charges.
- 10.4 If we apply part or all of a security deposit against any amounts due and owing, then you shall be required to pay a further security deposit.
- 10.5 In addition to our right to require payment of a security deposit and without prejudice to any other rights we may have under this Agreement, we may, upon written notice to you, vary your payment terms from those set out in the Price Schedule, if at any time we have a concern about your ability to pay, or if you fail to make any payment within the required period. In particular we may require you to pay our Charges in advance of the actual supply to which those Charges relate as opposed to in arrears of the actual supply. Unless agreed otherwise, all Charges that are required to be paid in advance shall become due and payable within a period of 14 days from the date of the relevant invoice. We will explain the specific procedure when we contact you. In the event that we do vary your payment terms in accordance with this provision, we will base our Charges on estimated forecasted consumption, which we will then reconcile against actual consumption data once available.
- 11 CLIMATE CHANGE LEVY**
- 11.1 Climate Change Levy
- In order for us to apply to your bill any reductions or exemptions from the Climate Change Levy (CCL) for which you may qualify other than in sub-clauses 11.2 and 11.4, you must supply us your completed relief or supplier certificate (PP11) available from HM Revenue and Customs. We must receive your PP11 at least 10 days before the date that any Supply under this Agreement commences. HM Revenue and Customs will not permit exemption from the CCL to be applied retrospectively.
- 11.2 Renewable Source Electricity
- 11.2.1 Contracts that provide for exemption from the CCL as sourced from Renewable Source Electricity will be backed by purchases from eligible CCL exempt sources.
- 11.2.2 We shall supply to you Renewable Source Electricity up to 100% of your Declared Contracted Volume subject to sub-clause 11.3.
- 11.2.3 Where any statutory provision allows us to, we may disapply sub-clause 11.3 and supply you with electricity which is not Renewable Source Electricity but benefits from a Levy Exemption Certificate (LEC). We shall not supply you with electricity which is neither Renewable Source Electricity nor benefits from a LEC.
- 11.3 Renewable Source Declaration
- 11.3.1 The amount of Renewable Source Electricity supplied by us in each Averaging Period shall not exceed the difference between:
- 11.3.2.1 the total amount of Renewable Source Electricity acquired or generated by us during that period; and
- 11.3.2.2 so much of that total amount as is allocated by us otherwise than to Renewable Source Electricity supplies made by us in that period.
- 11.4 Combined Heat and Power (CHP) Electricity
- 11.4.1 Contracts that provide for exemption from the CCL as sourced from Good Quality Confirmed Heat and Power Source Electricity will be backed by purchases from eligible CCL exempt sources.
- 11.4.2 We shall supply to you CHP Electricity up to 100% of your Declared Contracted Volume subject to sub-clause 11.5.

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- 11.4.3 Where any statutory provision allows us to, we may disapply sub-clause 11.5 and supply you with electricity which is not CHP Electricity but benefits from a LEC. We shall not supply you with electricity which is neither CHP Electricity nor benefits from a LEC.
- 11.5 CHP Source Declaration
- 11.5.1 The amount of CHP Electricity supplied by us in each Averaging Period shall not exceed the difference between:
- 11.5.1.1 the total amount of CHP Electricity acquired or generated by us during that period; and
- 11.5.1.2 so much of that total amount as is allocated by us otherwise than to CHP Electricity supplies made by us in that period.
- 11.6 Renewable and CHP Source declarations
- 11.6.1 This clause 11.6 is for your information only. The Renewable and CHP Source Declarations in sub-clauses 11.3 and 11.5 are declarations we are required to make in each contract for the supply of Renewable and CHP Electricity pursuant to paragraph 19(2) and 20A(3) of Schedule 6 of the Finance Act 2000 in order that the supply is exempt from the Climate Change Levy. The declarations state that in any Averaging Period (which is generally a period of 2 years) we will not supply Renewable or CHP Energy in an amount that exceeds the amount of Renewable or CHP Electricity we have generated or acquired during that period.
- 12 LIMITATION OF DEMAND**
- 12.1 You must not exceed your Available Capacity. If your demand does exceed the Available Capacity you must pay us for any costs we incur with the Local Network Operator as a result.
- 13 METERING AND OTHER EQUIPMENT**
- 13.1 The Supply will be measured by the Meter, which must be:
- 13.1.1 installed at the Site (unless we agree for it to be installed elsewhere);
- 13.1.2 operated and maintained by an Authorised Meter Operator;
- 13.1.3 in proper working order and suitable for measuring the Supply; and
- 13.1.4 suitable for use in connection with the charging structure applicable to the Supply.
- 13.2 For the purposes of sub-clause 13.1, you agree that noncertified metering equipment may be installed and used.
- 13.3 If either party disputes the accuracy of the Meter, we will arrange for it to be inspected and tested in accordance with any relevant statutory or electricity industry requirements (including the requirements of the BSC). If the Meter is found to be operating within the relevant limits of accuracy, the cost of inspection and testing will be borne by the party who disputed its accuracy. If the Meter is found to be operating outside the relevant limits of accuracy the costs of inspection and accuracy will be borne by the party whose Agent is the meter operator.
- 13.4 If the Meter has to be changed or modified (whether before we start the Supply or later) because it cannot provide the consumption data we need to apply our Charges, you will pay all reasonable costs or charges which we may incur in respect of the relevant changes or modifications.
- 13.5 After we are Registered:
- 13.5.1 we may ask you to read the Meter and send us the reading so that we have an up to date reading as close as possible to the Supply Start Date (if you do not send us that reading, or if that reading is disputed by your former supplier or his agent, we reserve the right to use a reasonable estimate of your consumption and / or arrange for the Meter to be read by our representative or agent, in which case we will be entitled to recover from you all reasonable costs we incur in doing so), and
- 13.5.2 we will arrange for the Meter to be read or you may send us your own readings at appropriate intervals.
- 13.6 If we arrange for the Meter to be read outside the normal meter reading cycle applicable to the Site because you ask us to do so or as a result of some fault or failure on the part of you or any of your Agents under this Agreement, you shall pay us any reasonable costs we incur.
- 13.7 Normally, we will appoint Agents for the purpose of this Agreement but under some circumstances you may have the right to do so if you wish. If you exercise that right, you will indemnify us against all costs, claims proceedings or demands we incur as a result of any fault of or failure in the Meter or any act or omission of you, or any of your Agents including any liquidated damages we have to pay under the BSC. If we agree to receive and pay any invoices on your behalf from Agents appointed by you then you shall reimburse us and we may charge you an administration fee.
- 13.8 Subject to clause 14, we and our Agents or representatives shall have the right to enter the Site (or where the Meter is installed in any other location, that location) for any purpose connected with this Agreement, including inspecting, reading, testing, (and, where we agree to do so, maintaining, repairing and replacing) the Meter.
- 13.9 If a maximum demand of 100kW is recorded at any time in relation to the Supply, we will require you to have half hourly metering (and the associated communications links) installed at the Site at your cost to measure the Supply.
- 13.10 You must not damage or interfere with the Meter or any other equipment belonging to us, any Agent or the Local Network Operator. You will indemnify us against any loss or damage we may incur as a result of any breach of this sub-clause 13.10.
- 14 RIGHTS OF ACCESS**
- 14.1 You will at all reasonable times during working hours allow us and our Agents or representatives to enter the Site and to have access to the Meter for the purpose of exercising any of our rights under this Agreement.
- 14.2 If we exercise our rights of entry under sub-clause 14.1, we and our agents or representatives shall comply with any reasonable requirements you may specify in relation to site security and health and safety. Your obligations under sub-clause 14.1 shall apply to any location which we may have to enter for the purpose of exercising our rights under this Agreement even if we are not supplying electricity to that location under this Agreement.
- 14.3 If our Agents or representatives visit the Site by prior appointment and they are unable to gain access, or if they visit the Site without prior appointment during working hours and they are unreasonably denied access, we reserve the right to recover from you all reasonable charges associated with that visit.
- 15 INFORMATION ABOUT THE SITE OWNER**
- 15.1 When you enter into this Agreement, you will confirm to us in writing the name and address of the owner and occupier of the Site.
- 15.2 If any details of the owner and / or occupier of the Site (including any change in the legal identity of the owner or occupier) change while this Agreement continues, you will confirm the changes to us in writing as soon as possible (and wherever possible before they occur) and in any event within 14 days of the change.
- 16 REMOVAL OF SITES**
- 16.1 If we have agreed that within stated parameters you may add or remove Sites from the schedule of Sites, then you must give us at least 14 days prior written notice of your intention to add or remove a Site. If you do not give us such notice that you wish to remove a Site, then without prejudice to any other rights we may have under this Agreement you will continue to be liable to us for the Charges in relation to that Site until such time as we:
- 16.1.1 are notified that you are not in occupation of that Site; and
- 16.1.2 can arrange to have a Meter reading taken.
- 17 LIABILITY**
- 17.1 Neither Party will be liable for any breach of this Agreement to the extent directly or indirectly caused by Circumstances Beyond Their Control.
- 17.2 In the event that a Party has breached this Agreement, that Party shall only be liable to compensate the non-breaching Party to the extent that such breach:
- 17.2.1 directly results in physical damage to the property of the other party, its officers, employees or agents; and
- 17.2.2 such physical damage was reasonably foreseeable (as at the date of this Agreement)
- provided that any compensation payable under this sub-clause 17.2 for damage arising in any twelve month period shall not exceed £1million.
- 17.3 If you become entitled to recover compensation under a Connection Agreement, we will deduct a sum equal to the amount of that compensation from any sum we have to pay under sub-clause 17.2 in respect of that incident.
- 17.4 Subject to sub-clause 17.5 and 17.6, neither Party, its officers, employees or agents will be liable to the other party for:
- 17.4.1 any loss of profit, revenue, use, agreement or goodwill; or
- 17.4.2 any indirect or consequential loss; or
- 17.4.3 loss resulting from the liability of such other Party to any other person.
- 17.5 Nothing in this Agreement shall exclude or limit the liability of either party for death or personal injury resulting from the negligence of that Party, its officers, employees or agents.
- 17.6 Sub-clauses 17.2 and 17.3 shall not apply to any claim brought under any of the following provisions of these terms of supply namely: clause 4, clause 7, clause 8, clause 12, sub-clauses 13.3 to 13.7 (inclusive), 13.10, 14.3 and 19.6, and shall in no way limit the obligation of the Customer to pay any Charges or other amounts due under this Agreement.

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17.7 The rights and remedies provided by this Agreement to each party replace all substantive rights or remedies, express or implied, and provided by common law or statute in respect of the subject matter of this Agreement, including any rights either Party might otherwise have in tort, except for liability for death or personal injury.

17.8 So far as it excludes liability, this clause 17 over-rides any other provision in this Agreement except where otherwise expressly provided, and each sub-clause of this clause 17 shall survive termination of this Agreement.

### 18 OBJECTIONS TO TRANSFER

18.1 Without prejudice to our other rights or remedies, if we receive notification that another supplier ("New Supplier") has applied to supply any of the Sites, and either :

- 18.1.1 you have an outstanding debt with us (which may include an Early Termination Fee);
- 18.1.2 the New Supplier's application only relates to one of the Supply Numbers and the New Supplier has not applied to register all other Supply Numbers on the same date for the same start date;
- 18.1.3 this Agreement has not been properly terminated;
- 18.1.4 you are otherwise in breach of any of your obligations under this Agreement;
- 18.1.5 the New Supplier's application is for the purpose of commencing a supply to any of the Sites prior to the expiry of a valid notice of termination given by you

then the provisions of clause 18.2 shall apply as follows:

18.2 You hereby:

- 18.2.1 irrevocably authorise us to raise an objection with the relevant Local Metering Point Administration Service to prevent the New Supplier taking over the Supply to your Site;
- 18.2.2. undertake not to dispute, challenge or take any steps to prevent any objection properly raised in accordance with this clause 18;
- 18.2.3 if we request you to do so, agree to provide to the New Supplier, within 3 working days of our request, written confirmation (in a format agreed by us) that you;
  - 18.2.3.1 do not wish them to proceed with their application to supply the supplied Site and require them to withdraw all existing or pending Registration applications for the Site; and / or
  - 18.2.3.2 Require them to confirm to us in writing that they will not make any further applications in respect of the Site until they have obtained confirmation from us that you have given us proper notice to terminate this Agreement with us and;
- 18.2.4 agree to take any other necessary action to ensure that we continue to remain Registered with the Local Metering Point Administration Service as the electricity supplier responsible for supplying the supplied Site.

18.3 If we have raised an objection because of an outstanding debt only, and within 5 days of raising such an objection we subsequently receive full payment of all outstanding debts and within 10 days of us confirming we have received payment, the New Supplier reapplies to supply the Site, we will not object to

the re-application. If the New Supplier has not re-applied within this period, this Agreement will remain in force in accordance with sub-clause 1.1 and any subsequent application by any New Supplier will once again be subject to sub-clause 18.1.

### 19 MISCELLANEOUS

19.1 Any notice given under this Agreement shall be properly given if sent by first class pre-paid post, recorded delivery post, by hand, or by facsimile transmission to the relevant party's Notices Address, or such other address as either party may specify by giving notice under this sub-clause 19.1

19.2 This Agreement will be interpreted in accordance with the laws of England and Wales and no legal proceedings in respect of this Agreement shall be brought or conducted outside England and Wales.

19.3 No waiver of any right of a party under this Agreement will prejudice that party's entitlement to that (or any other) right in future.

19.4 This Agreement unless where otherwise expressly specified contains the entire agreement between you and us and supersedes all prior negotiations, representations, proposals, understandings or agreements, whether written or oral, relating to the Supply. Neither you nor us shall have any liability in respect of warranties, representations or undertakings made prior to the date of this Agreement unless such warranty, representation or undertaking was made fraudulently.

19.5 We shall have the right to assign or novate the benefit or burden of this Agreement without your prior consent. You shall not assign or novate the benefit or burden of this Agreement without our prior written consent.

19.6 If we have to take legal action to enforce our rights under this Agreement, you agree to pay our reasonable costs as ordered by the court, which will not be limited to the fixed fees or costs recoverable under the court rules.

19.7 The Parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

19.8 Neither you nor us shall disclose information relating to this Agreement without the prior written consent of the other party, except as required in order to comply with any law, regulatory requirement upon us or court order. However we may disclose information relating to you in order for us to fulfil our obligations under this Agreement. We may also share information about your account with debt collection agencies and credit reference agencies who may use this information for credit scoring purposes.

### 20 DEFINITIONS

In this Agreement:

**"Act"** means the Electricity Act 1989;

**"Agent"** means an Authorised Data Collector and / or an Authorised Data Aggregator and / or an Authorised Meter Operator (as the case may be);

**"Authorised Data Aggregator"** means a person authorised under the terms of the BSC to act as a data aggregator;

**"Authorised Data Collector"** means a person authorised under the terms of the BSC to act as a data collector;

**"Authorised Meter Operator"** means a person authorised under the terms of the BSC to act as a meter operator;

**"Authority"** means the Gas and Electricity Markets Authority established under section 1 of the Utilities Act 2000;

**"Availability Charge"** means the charge for the Available Capacity;

**"Available Capacity"** means in respect of each Site the capacity notified to us by the Local Network Operator in the Distribution Use of System Charge;

**"Averaging Period"** has the meaning given to that term in paragraph 19 of Schedule 6 to the Finance Act 2000;

**"BSC"** means the Balancing and Settlement Code designated by the Secretary of State as amended from time to time with the approval of the Authority;

**"Circumstances Beyond Their Control"** means circumstances beyond either your or our reasonable control and which result in or cause us or you to fail to perform any of the obligations under this Agreement. For the avoidance of doubt, any inability to pay an amount due and owing under this Agreement shall not constitute circumstances beyond that party's reasonable control;

**"Charges"** means the charges shown in the Price Schedule attached to this Agreement, or the Extended Supply Charges if applicable;

**"Charging Period"** if this Agreement provides for you to be billed on a monthly basis, the charging period will normally be a period of approximately one month. If this Agreement provides for you to be billed on a quarterly basis, the charging period will normally be one Quarter;

**"CHP Electricity"** has the meaning given to that term in paragraph 20 of Schedule 6 to the Finance Act 2000;

**"Climate Change Levy"** means the tax referred to in Schedule 6 of the Finance Act 2000;

**"Connection Agreement"** means an agreement between you and the Local Network Operator allowing you to keep the Site in question connected to the Distribution System. This agreement may be in the form of a non-standard connection agreement (on such terms as you have agreed or will agree with the Local Network Operator). If you choose not to make a non-standard connection agreement then your agreement will be as specified in the National Terms of Connection (NTC);

**"Connection Conditions"** means the conditions set out in clause 3;

**"Data Aggregator Agreement"** means in respect of a Site an agreement between you and an Authorised Data Aggregator for the provision of data aggregation services;

**"Data Collector Agreement"** means in respect of a Site an agreement between you and an Authorised Data Collector for the provision of data collection services;

**"Declared Contracted Volume"** means the predicted annual site consumption agreed between us which may be based on forecast or indicative data as set out in the Price Schedule;

**"Distribution System"** means the Local Network Operator's system for distributing electricity to a Site;

**"Distribution Use of System Charges"** means the distribution charges levied by the Local Network Operator for the provision of distribution services and capacity but does not include connection charges;

**"Earliest Termination Date"** means the relevant earliest termination date set out in the Agreement;

For Major Business Customers from 31 March 2009

**“Earliest Supply Start Date”** means the relevant earliest supply start date set out in the Agreement;

**“Extended Supply Charges”** means our prevailing so named charges which are available upon request and which we are entitled to vary from time to time;

**“Interest Rate”** means the interest rate that the Supplier is statutorily entitled to charge according to the Late Payment of Commercial Debts (Interest) Act 1998;

**“Licence”** means a licence granted to us to supply electricity under section 6(1)(d) of the Act;

**“Local Metering Point Administration Service”** means the service that maintains an electronic register of Sites connected to the Distribution System and / or the suppliers responsible for supplying such Sites;

**“Local Network Operator”** means, in respect of a Site, the holder of a licence under section 6(1)(c) of the Act to distribute electricity in the area where the Site is situated;

**“Meter”** means such meters and associated equipment, (including any telecommunications link) installed at a Site for recording the amount of electricity supplied to it;

**“Meter Operator Agreement”** means in respect of a Site an agreement between you (or, if applicable, us) and an Authorised Meter Operator for the provision of meter operator services;

**“Meter Point”** means the meter point identified by a particular Supply Number;

**“National Terms of Connection”** Your supplier is acting on behalf of your network operator to make an agreement with you. The agreement is that you and your network operator both accept the National Terms of Connection (NTC) and agree to keep to its conditions. This will happen from the time that you enter into this contract and it affects your legal rights. The NTC is a legal agreement. It sets out rights and duties in relation to the connection at which your network operator delivers electricity to, or accepts electricity from your home or business. If you want a copy of the NTC or have any questions about it, please write to: Energy Networks Association, 6th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF: phone 0207 706 65137, or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk);

**“Notices Address”** means for:

- (a) you: as shown on the front of this Agreement; and
- (b) us:

EDF Energy Major Business  
Contract Administration  
Gadeon House  
Grenadier Road  
Exeter Business Park  
Exeter EX1 3UT

Facsimile: 0845 366 3667

as may be varied from time to time by the relevant Party giving notice under sub-clause 19.1;

**“Party”** any party to this Agreement, and **“Parties”** shall be construed accordingly;

**“Payment Period”** means the payment period shown in the Price Schedule, if no such period is shown, the period will be 14 days from the invoice date;

**“Price Schedule”** means the schedule forming part of this Agreement which sets out the Charges and your payment terms;

**“Registered”** means, in respect of any particular electricity supplier (which expression includes us) and in respect of any particular meter point, the date on which that supplier is deemed to be the supplier for that meter point under the rules of the relevant Registration System and the expression “register” shall mean to become registered;

**“Registration”** means registration as the supplier under the relevant Registration System;

**“Registration System”** means the “Public Registration System”, or any other registration system which may replace it;

**“Renewable LEC”** the levy exemption certificate issued pursuant to paragraph 48 of the Climate Change Levy (General) Regulations 2001;

**“Renewable Source Electricity”** has the meaning given to that term in paragraph 19 of Schedule 6 to the Finance Act 2000;

**“Site”** means the site or sites listed in the schedule attached to this Agreement;

**“Supplementary Data”** means profile class information, meter time switch details and the line loss factor details that are supplementary to your Supply Number;

**“Supply”** means the supply of electricity to be provided by us to you at a Site, if this Agreement covers more than one site, the supply shall be construed separately in relation to each site;

**“Supply Number”** means the discrete number attributed to a particular meter point under whichever Registration System applies to the Supply;

**“Supply Start Date”** means the supply start date for each of the Sites as specified in our Registration as your Supplier;

**“Triad Charges”** means the transmission use of system charges which may be payable by us to NGC and which we are entitled to pass through to you;

**“Use of System Agreement”** means an agreement or arrangement between us and the Local Network Operator governing our use of the Distribution System to provide the Supply.

## 21 INTERPRETATION

In this Agreement:

21.1 any reference to:

- 21.1.1 a “clause” means a clause of this Agreement;
- 21.1.2 “Agreement” means this agreement including these terms and the schedules;
- 21.1.3 a “schedule” means a schedule to this Agreement;
- 21.1.4 “we” and “us” and “our” in each case refers (regardless of any wording to the contrary) to EDF Energy Customers plc trading as EDF Energy;
- 21.1.5 “you” means the customer named in this Agreement and the expressions “you” and “your” will be construed accordingly;
- 21.1.6 “our agents” includes any agent appointed by us to act on our behalf;

21.1.7 “de-energise” means the movement of any switch or the removal of any fuse or the taking of any other step whereby no electrical current can flow from the Distribution System to your electrical installation in the Site; and the expressions “de-energised”, “de-energisation”, and “re-energisation” shall be construed accordingly;

21.1.8 “disconnection” means the removal of any cable or other equipment such that a Site is no longer connected to the Distribution System; and the expressions “disconnect(ed)”, “re-connection” and “re-connect(ed)” shall be construed accordingly;

21.1.9 “month” means:

21.1.9.1 if this Agreement provides for you to be billed on a monthly basis then in relation to the Charges “month” means:

21.1.9.1.1 the period from the Supply Start Date to the first normal meter reading thereafter; or

21.1.9.1.2 the period of approximately one calendar month from one such reading to the next; or

21.1.9.1.3 the period from one such reading to the ending of the Supply; (as the case may be) and the expressions “monthly” shall be construed accordingly; and

21.1.9.2 in circumstances other than as set out in clause 21.1.9.1, a calendar month;

21.1.10 “Quarter” means, if this Agreement provides for you to be billed on a “quarterly” basis:

21.1.10.1 the period from the Supply Start Date to the first normal meter reading thereafter; or

21.1.10.2 the period of approximately three calendar months from one such reading to the next; or

21.1.10.3 the period from one such reading to the ending of the Supply;

(as the case may be) and the expression “quarterly” shall be construed accordingly;

21.1.11 “working day” means any day other than a Saturday or a Sunday and which is not Christmas Day, Good Friday or a statutory Bank Holiday;

21.1.12 “working hours” means the hours of 9.00am to 5.00pm on any working day;

21.2 The expression “including” is to be construed without limitation; and

21.3 All references in this Agreement to a statutory provision shall be construed as including references to any statutory modification, consolidation or re-enactment (whether before or after the date of this Agreement) for the time being in force; and all statutory instruments or orders made pursuant to a statutory provision.

EDF Energy Customers plc,  
registered number 2228297,  
with registered office at  
40 Grosvenor Place, London,  
SW1X 7EN,  
incorporated in England and Wales.