

## Opus Energy Limited : Corporate Terms and Conditions V6.1

### 1 Definitions and Interpretation:

1.1 In the Contract, unless the context otherwise requires:

**Act:** means the Electricity Act 1989;

**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:** mean as applicable the Discounted Rate, the Supply Rate or the Deemed 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:** 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 connection point(s) at which the electricity flows between the Grid System and the Customer's installation, equipment or lines 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 electricity supply contract between the Supplier and the Customer, comprising the Front Sheet and these Terms and Conditions;

**Contract Start Date:** means first date the Customer takes a supply of electricity at any Supply Premises pursuant to the Contract;

**Customer:** means the person named as such in the Front Sheet;

**Deemed Contract Rate:** means the Supplier's published deemed tariff rates as applicable and as revised from time to time;

**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 kWh tariff charge for the supply of electricity 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;

**Fixed Term Period:** means, as the case may be, the Initial Fixed Term Period or any subsequent period fixed pursuant 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;

**Grid System:** means a system of electrical distribution lines, belonging to the Network Operator through which the Customer receives electricity;

**Industry Agreements:** include 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 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;

**Initial Fixed Term Period:** means any fixed term period set out in the Front Sheet;

**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;

**kWh:** means kilowatt hours;

**Licence:** means the electricity supply licence granted to the Supplier as modified or amended from time to time;

**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 Operator:** means, in respect of each Supply Premises, the owner or operator of the system of low voltage electrical lines (a distribution system) through which electricity is, or is to be, conveyed and delivered to the Connection Point at the Supply Premises;

**Non Half Hourly Metering:** means Metering other than Half Hourly Metering;

**Month:** means a calendar month;

**Non-Domestic Premises:** means premises which are not Domestic Premises (as defined from time to time in the Licence);

**Notice of Objection:** means the issuing of an objection as defined within the Master Registration Agreement.

**Pass Through Amounts:** means charges levied on the Supplier which are outside the Supplier's control and which relate to the supply of electricity, including the charges made for the provision of meter operation services, Climate Change Levy, charges made for the transmission and/or distribution of electricity, charges made in respect of energy losses on the Grid System or any transmission system, charges made for exceeding capacity, 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 electricity at any Supply Premises and any taxes, levies or duties imposed on the supply of electricity or the Supplier or variations thereof;

**Payment Date:** means the day which is 14 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;

**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);

**Supplier:** means Opus Energy Ltd whose registered office is 6 Newbury Street, Wantage, Oxfordshire, OX12 8BS and whose registered number is 4382246;

**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 kWh tariff charge for the supply of electricity, being the Discounted Rate plus an additional 7.5% per kWh;

**Supply Start Date:** means, in respect of each Supply Premises, the first date that electricity 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 ; 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 term 'including' is without limitation to any other matters not included in or covered by the relevant

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- 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 10, the Contract shall, following the expiry of each Fixed Term Period, be renewed automatically and shall continue to remain in force for such period (of no longer than 36 months) notified by the Supplier to the Customer (or, where no such notice is given, for a further period of 12 months). Where giving such notice, the Supplier undertakes, where possible, to do so, at least 14 days prior to the expiry of the Fixed Term Period.
- 2.3 Where the Contract is terminated in accordance with Clause 10 and the Customer's Supply Premises remain registered with the Supplier beyond 30 days of the expiry of the Fixed Term Period, the Supplier may (without prejudice to Clause 10.4) determine that the termination notice provided by the Customer shall be deemed to be withdrawn and the Contract shall be renewed in accordance with Clause 2.2 above, as if the termination notice had never been sent.

### **3** Electricity Supply

- 3.1 Subject to these Terms and Conditions, the Supplier shall provide electricity to each Supply Premises during the Supply Period.
- 3.2 The Customer shall notify the Supplier before it changes its load, capacity or consumption requirements and/or the voltage at which it takes electricity, or if the Customer becomes aware of any changes, or likely future changes, to the consumption pattern at any of the Supply Premises.
- 3.3 The electricity 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 electricity supplied shall transfer from the Supplier to the Customer at the Connection Point.
- 3.4 Any electrical losses incurred on the Customer's side of each Connection Point shall be borne by the Customer.

- 3.5 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, 18 Stanhope Place, London W2 2HH, 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 electricity to any Supply Premises may be disconnected or suspended (and the Customer 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,
  - (ii) the Supplier believes that unauthorised use has been made of the electricity supplied under the Contract or the electricity intended to be so supplied has been stolen or redirected or that there has been interference with the Grid System or the Metering;
  - (iii) the Supplier believes that a disconnection or suspension of supply is required to avoid danger, to avoid a potential illegality or a breach of the Industry Agreements or to undertake essential maintenance or replacement of the Grid System or the Metering;
  - (iv) the Supplier is so obliged under or pursuant to any relevant law, the Licence or other Industry Agreement;
  - (v) the Customer has materially breached the Contract and such breach is continuing.
- 4.2 Where the supply to any Supply Premises is 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 electricity. In the event the 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.
- 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.

### **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 or any Industry Agreement, Licence, code, authorisation or consent necessary to permit the supply of electricity to the Supply Premises; and (ii) to update, as and when necessary, information so provided to reflect any relevant changes as may occur from time to time.
- 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 any information provided by the Customer being incorrect, incomplete, insufficient or from required information not being provided. Where the Customer provides incorrect information to the Supplier which causes the Supplier to erroneously register (or apply to register) a premises belonging to a third party, the Customer shall, without prejudice to the Supplier's other rights and remedies, pay to the Supplier an amount of £35 for each such premises in respect of the Supplier's basic administrative costs.
- 5.3 The Customer agrees to maintain at each Supply Premises the Customer's installations, equipment and wires 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 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 Grid System 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 provide or continue to provide a supply of electricity to any Supply Premises, from relevant industry parties.
- 5.6 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.

### **6** Metering and Estimates

- 6.1 The Supplier agrees to enter into all agreements, notwithstanding Clause 5.6 above, with accredited operators, administrators,

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- data collectors and data aggregators in respect of the Metering necessary to facilitate electricity to be supplied to each Connection Point prior to the relevant Supply Start Date.
- 6.2 The Metering may only be read by the appointed meter operator, the Supplier or its authorised agent.
- 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 provision of electricity 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 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 electricity 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.
- 7 Charges and Payment**
- 7.1 Each month, or at such other intervals as shall be agreed, the Supplier shall send to the Customer, by prepaid post or email, an account (either by way of an invoice or a statement) in respect of all Charges due to the Supplier under the Contract in respect of that month or the applicable billing period.
- 7.2 The Customer shall pay the Charges shown in each invoice in full to the Supplier on or before the Payment Date. Unless otherwise agreed, payment shall be by Direct Debit.
- 7.3 Amounts payable by the Customer under the Contract are stated exclusive of VAT and CCL (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 electricity supplied at each Supply Premises at the applicable rate, (ii) actual or estimated Pass Through Amounts attributable to the Customer, (iii) any one off connection charge payable by the Customer and shown in 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 Clause 7.8, 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 electricity at the Supply Premises. In the event that such information proves to be inaccurate or incorrect, or if the pattern and quantity of use of electricity at the Supply Premises alters materially during the Supply Period, the Supplier reserves the right (in addition to its rights under Clause 8) to vary the Charges to take into account revised, new or accurate information it has obtained or received, and to re-invoice from the Supply Start Date accordingly.
- 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 electricity 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 electricity 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-

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- off, in whole or in part, from the credit amount any payments that are due to the Supplier from the Customer under the Contract or any other agreement between the Customer and the Supplier that relates to the supply of energy.
- 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 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 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 the Contract.
- 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 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 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 the Contract.
- 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.
- 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, Opus Energy can pass the relevant information relating to the Customer, onto a credit reference agency.
- 7.19 If the Customer experiences a material adverse change (including where credit insurance relating to the Customer is no longer generally available to the Supplier on reasonable terms or where the Customer publishes accounts that have materially deteriorated or the Supplier otherwise receives information that the financial position of the Customer is worsening), 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.
- 8** **Variation**
- 8.1 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, the Supplier undertakes, where possible, to do so at least 14 days prior to the expiry of the Initial Fixed Term Period or the relevant anniversary.
- 8.2 The Supplier reserves the right to increase the Discounted Rate 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 8.1 or under Clause 8.2 to vary the Contract, the Customer may terminate the Contract in accordance with Clause 10.2(ii) or Clause 10.2(iii) respectively.
- 8.4 Unless the Customer terminates the Contract in accordance with either Clause 10.2(ii) or Clause 10.2(iii), 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 prior written notice to the Customer in order to reflect any change (howsoever arising) in the Pass Through Amounts.
- 8.7 If, over any twelve-month period, the Customer closes, disposes of or otherwise leaves one or more Supply Premises which in total were expected by the Supplier (at the time of entering into the Contract) to make up 15% or more of the aggregate annual electricity consumption under the Contract, the Customer will be liable for (and shall pay on demand) any losses, liability or costs suffered or incurred by the Supplier in relation to the reduced supply under the Contract resulting there from.
- 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 Licence is revoked or if a Last Resort Supply Direction (as defined in the Licence) is given to an electricity supplier other than the Supplier in respect of the Supply Premises.
- 10.2 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;
  - (ii) by giving notice to the Supplier, within 10 days of receipt of a notice issued by the Supplier under Clause 2.2 or Clause 8.1, in which case termination shall take effect on and from the relevant anniversary of the Contract Start Date;
  - (iii) 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 If the Customer intends to close, dispose of or otherwise leave any of the Supply Premises, then the Customer shall give the Supplier notice of its intention at least 45 days in advance. Such notice shall set out the date the Customer intends to close, dispose of or otherwise leave the Supply Premises, the name and current address of any new owner or occupier of the Supply Premises and contain evidence, satisfactory to the Supplier, of the Customer's intended vacation. If such notice is not given by the Customer, the Customer shall remain liable for the Charges in respect of the period up to the earlier of the date (i) falling 45 days after receipt by the Supplier of the relevant notice, (ii) on which another electricity supplier becomes registered as the supplier of electricity for another customer at the premises. In any event, the Customer shall remain liable for those elements of the Charges that are calculated otherwise than by reference to consumption until the Supplier ceases to be registered as the

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- supplier in respect of the Supply Premises, or the Supplier has entered into a written electricity supply agreement with another customer in respect of the Supply Premises.
- 10.4 In the event that the Customer purports to terminate the Contract in respect of any Supply Premises but continues to take a supply of electricity at the relevant Supply Premises, the Contract shall not terminate in respect of those Supply Premises but shall continue until the Customer ceases to take a supply at the relevant Supply Premises and:
- (i) the Customer shall be charged, in respect of those premises, at the Deemed 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 Customer purports to terminate this Contract until either the registration of an alternative supplier or the disconnection of the Supply Premises from the Grid System has occurred.
- 10.5 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 10.5(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 electricity at any Supply Premises from another supplier without the Supplier's prior written consent;
  - (iv) 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;
  - (v) it becomes unlawful for the Customer or the Supplier to comply with or perform any material provision of the Contract;
  - (vi) any Supply Premises are subject to lease and the landlord's consent is required to the Supplier becoming a supplier of electricity to those Supply Premises and such consent has not been obtained by the Customer; or 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 (provided that the Supplier shall only be entitled to terminate in respect of the Supply Premises in question, unless the Supply Premises in question represent 15% or more of the estimated annual consumption of the Supply Premises as a whole, in which case the Supplier may terminate in respect of the Contract if it so wishes).
  - (vii) 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 (provided that the Supplier shall only be entitled to terminate in respect of the Supply Premises in question, unless the Supply Premises in question represent 15% or more of the estimated annual consumption of the Supply Premises as a whole, in which case the Supplier may terminate in respect of the Contract if it so wishes).
- 10.6 Where the Supplier terminates the Contract in respect of any or all of the Supply Premises in accordance with Clause 10.5, it (a) shall give notice to the Customer of the date of termination; and (b) may discontinue the supply of electricity to such Supply Premises or arrange for its discontinuation without further notice (save as may be required by law).
- 10.7 Where, in relation to any Supply Premises, the Contract is terminated in accordance with Clauses 10.5 (i) to (iii), 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); or (iii) the value of any losses or expenses incurred by the Supplier in selling back into the UK wholesale electricity market any electricity purchased by the Supplier to meet its obligations under this Contract that will not be consumed by the Customer due to the early termination of this Contract, whichever is greater.
- 10.8 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.
- 10.9 Each Party acknowledges that the payment obligations in Clauses 5.2, 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.
- 10.10 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.
- 10.11 Where the Supplier terminates the Contract in respect of any of the Supply Premises under 10.5(vii), it may charge the Customer any reasonable costs it has incurred in attempting to register the Supply Premises and the Customer shall indemnify the Supplier for any losses or expenses incurred by the Supplier in selling back into the UK wholesale electricity market any electricity purchased by the Supplier to meet its obligations under this Contract that will not be consumed by the Customer.
- 10.12 The Supplier may arrange for the delivery of the electricity 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 electricity 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 8. 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 electricity 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 electricity 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

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Supplier.

- 11.6 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 first class prepaid post or facsimile transmission or email and will be deemed to have been received, in the case of delivery by hand, when delivered, in the case of first class prepaid post, on the second day following the day of posting or in the case of email, on the day of sending, and, in the case of facsimile on acknowledgement by the addressee's facsimile receiving equipment, unless in the case of email such sending or in the case of facsimile 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 sending or 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 electricity, it may only do so to a person authorised to supply electricity 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 electricity 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 electricity 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, the Supplier reserves the right to raise a Notice of Objection, in respect of any Supply Premises, at any time during the Supply Period or 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.

**OPUS ENERGY LIMITED  
TERMS AND CONDITIONS OF ELECTRICITY SUPPLY.**