

# DEEMED TERMS & CONDITIONS - ELECTRICITY

Deemed Terms and Conditions for Major Business Customers

Version 4.2 effective from 31 October 2024

# CONSOLIDATED DEEMED TERMS AND CONDITIONS

## For Major Business Customers from 31 October 2024

Made by EDF Energy Customers Ltd (“previously named EDF Energy Customers Plc”) pursuant to Schedule 6 to the Electricity Act 1989, for the purpose of determining the terms and conditions which are to be incorporated into contracts which, by virtue of that schedule, are to be deemed to have been made.

### In force with effect from 31 October 2024

- Deemed Contract Scheme introduced on 1 January 2002
- Amended 1 December 2004 to introduce different contract terms for Major Business Customers
- Amended 30 March 2005 to remove the main ability to object and minor purposes
- Amended 1 October 2005 to introduce different contract terms for Un-metered Customers
- Amended 1 May 2008 to introduce different contract terms for Un-metered and Major Business Customers (variation of Payment Terms and Interest Rates)
- Amended 31 March 2009 to clarify the definition of the Connection Agreement and to introduce “continue in force until brought to an end in accordance with its terms” (the “Term”) statutory provision
- Amended March 2013 to introduce Green Deal terms and to clarify the provision of the Deemed Contract Schedule of Charges
- Amended September 2015 to incorporate Extra High Voltage and Insolvency Administrator provisions
- Amended January 2017 to clarify the effect of a customer failing to use an agreed payment method
- Amended April 2020 to include a complaints provision and contact details for the Ombudsman.
- Amended March 2023 to include removal of the Green Deal provisions, insertion of new provisions to cover the honouring of a customer’s credit balance where EDF takes on that customer following a Supplier of Last Resort event and updating the provisions for EDF’s objection rights when the Customer’s transfers to a new supplier.
- Amended September 2024 to clarify procedure relating to billing of previously unbilled units and to remove provisions on objecting to transfers to the Deemed Contract for Unmetered Supply

## RECITALS

- A. Paragraph 3 of Schedule 6 to the Electricity Act 1989 (the “Electricity Act Schedule” provides for contracts to be deemed to have been made between electricity suppliers and owners or occupiers of premises in circumstances described at paragraphs 3(1) and (2) of the Electricity Act Schedule;
- B. Paragraph 3(6) of the Electricity Act Schedule requires the express terms and conditions of such a contract (a “Deemed Contract”) to be provided for in a scheme made under paragraph 3 (a “Deemed Contract Scheme”); and
- C. Paragraph 3(9) of the Electricity Act Schedule provides for a Deemed Contract Scheme to make different provision for different cases or classes of cases, or for different areas, determined by or in accordance with the provisions of the Deemed Contract Scheme.

- D. In December 2001 London Energy plc (then called London Electricity plc) registered company number 2228297 (“London”) made a Deemed Contract Scheme which commenced on 1 January 2002 and which was subsequently amended on 1 December 2004, 30 March 2005, 1 October 2005, 1 May 2008 and 31 March 2009 (the “Existing Scheme”).
- E. In June 2006 London Energy Plc changed its name to EDF Energy Customers Plc (“EDF Energy”).
- F. In January 2018 EDF Energy Customers Plc changed its name to EDF Energy Customers Limited (“EDF Energy”).

EDF ENERGY MAKES THE FOLLOWING REVISION:

## 1 REVISION OF THE EXISTING SCHEME

EDF Energy, pursuant to and in accordance with paragraph 3(7) of the Electricity Act Schedule, hereby amends the Existing Scheme creating a revised Deemed Contract Scheme (the “Scheme”) for determining the terms and conditions which are to be incorporated in Deemed Contracts with Major Business Customers and Un-metered Customers.

PART 1: GENERAL PROVISIONS OF THE DEEMED CONTRACT SCHEME

## 2 REVISION DATE AND CONTINUATION

- 2.1 The terms and conditions set out in this document shall take effect on and from 31 October 2024 (the “Revision Date”).
- 2.2 The terms and conditions which applied to Major Business Customers and Un metered Customers under the Existing Scheme are amended on and from the Revision Date, to read as provided in this document.
- 2.3 Any Major Business Customer or Un-metered Customer under the Existing Scheme shall, by force of this paragraph continue to be a Major Business Customer or Un-metered Customer on the terms and conditions of the Scheme on and from the Revision Date.
- 2.4 Nothing in this Scheme shall be construed to affect any cause of action arising, proceeding begun or remedy sought in relation to electricity supplied under the Existing Scheme before the Revision Date.

## 3 SCOPE AND APPLICATION

- 3.1 The Scheme applies in circumstances where electricity is supplied to premises in any part of Great Britain otherwise than in pursuance of a contract and EDF Energy is the Appropriate Supplier at those premises (the “Relevant Premises”).
- 3.2 This Scheme forms the entire agreement between EDF Energy and the Customer for the supply of electricity to the Relevant Premises so:
  - 3.2.1 Any other representations or warranties are excluded from this Scheme; and
  - 3.2.2 No collateral or other agreement will be regarded as modifying this Scheme unless it is expressly referred to in, or is contemplated by, these terms.
- 3.3 Paragraphs 3(9) and 3(10), of the Electricity Act Schedule contemplate revisions to this Scheme or particular provisions of this Scheme to the extent that they apply to different cases or classes of cases or to different areas. From time to time EDF Energy may make such revisions by a document expressly referring to this paragraph 3.3 (a “Revision”). Once such a document has been sent to the Authority and

the Council under paragraph 3(10) of the Electricity Act Schedule then, unless the Revision states differently:

- 3.3.1 the provisions of any Deemed Contract created after such date will be made on the basis of this Scheme so revised; and
- 3.3.2 each Revision will have the effect of varying the provisions of any or all of the Deemed Contracts in force at the date upon which the Revision is made.

## 4 EFFECT OF THE SCHEME

- 4.1 Where this Scheme applies, it determines the terms and conditions of the Deemed Contract which has been made between EDF Energy and the Customer for the supply of electricity at the Relevant Premises.
- 4.2 Conclusive evidence of this Scheme and any Revisions thereto and of the Deemed Contract Schedule of Charges as set or changed by EDF Energy may be given in all courts of justice and in all legal proceedings whatsoever by the production of a copy of any document we have sent to the Authority and the Council under paragraph 3(10) of the Electricity Act Schedule and which sets out this Scheme, the Deemed Contract Schedule of Charges and any Revision or changes thereto.

### PART 2: DEEMED TERMS AND CONDITIONS

## 5 DETERMINATION

- 5.1 For the purposes of paragraph 3.1 of this Scheme, the deemed terms and conditions are to be determined for
  - 5.1.1 Major Business Customers, in accordance with the terms and conditions set out in Schedule 1; and
  - 5.1.2 Un-metered Customers, in accordance with the terms and conditions set out in Schedule 2

## 6 UNDERTAKING

- 6.1 EDF Energy undertakes to comply with all obligations placed on it by virtue of paragraph 5.1 of this Scheme and, in particular, will not terminate any Deemed Contract under this Scheme save in accordance with the relevant terms of the Deemed Contract.

### PART 3: DEFINITIONS AND INTERPRETATION

## 7 DEFINITIONS

- 7.1 In this Scheme:

**“Appropriate Supplier”** means the supplier determined in accordance with the provisions of the document published and from time to time revised by the Authority pursuant to paragraphs 3(4) and (5) of the Electricity Act Schedule;

**“Customer”** means, in relation to a Major Business Customer or Un-metered Customer or (as the case requires), the owner or occupier (as the case may be) of the Relevant Premises;

**“Former Tariff Customer Scheme”** means the scheme made by EDF Energy pursuant to Schedule 7 of the Utilities Act 2000, as approved by the Authority, and having effect on and after 1 October 2001 (as amended) a copy of which can be obtained from EDF Energy’s registered office.

**“Licence”** means a licence to supply electricity granted to EDF Energy under Section 6 of the Electricity Act 1989;

**“Major Business Customer”** means a non-domestic customer :

- (a) who has more than 20 quarterly billed sites supplied by EDF Energy metered on non-half hourly basis (MPAN Profiles 01-04);
- (b) who has a single monthly billed site (MPAN Profiles 05 - 08) with EDF Energy metered on a non-half-hourly basis regardless of whether or not they have any quarterly billed sites;
- (c) who is metered on a half hourly basis (MPAN Profile 00); or
- (d) occupying the Relevant Premises where the previous owner or occupier of the Relevant Premises came to us either as part of a portfolio, which matched any of the above criteria, irrespective of whether they have remained with this consultant or individually where they met the criteria outlined in (a), (b) or (c) above;

**“Meter”** means a meter and its equipment (including any telecommunications link) installed at or associated with a Supply Point, for recording the amount of electricity consumption;

**“MPAN Profile”** means the profile number determined from the supplementary data held on the Metering Point Administrator’s database in relation to the metering point of the Relevant Premises;

**“Supply Point”** means a system exit point at which electricity is metered prior to supplying the Major Business Customer;

**“Un-metered Customer”** means any customer of EDF Energy taking on a Supply other than through a Meter.

## SCHEDULE 1: MAJOR BUSINESS DEEMED CONTRACT TERMS

### 1 SUPPLY AND PERIOD

- 1.1 Your Deemed Contract will be regarded as coming into effect at the earliest of the following times (the “Start Date”):
- 1.1.1 from the time when we began to supply electricity to you at the Relevant Premises in the circumstances referred to in paragraph 3(1) of the Electricity Act Schedule; or
  - 1.1.2 from the time when you began to take supply of electricity in the circumstances referred to in paragraph 3(2) of the Electricity Act Schedule. Notwithstanding the foregoing, if you enter into a Contract (other than a Deemed Contract) with us to supply electricity to you at the Relevant Premises and such Contract is stated to have taken effect from a date during which the circumstances set out in this clause 1.1 applied, this Deemed Contract shall be deemed to be superseded and replaced in all respects by such Contract from such date.
- 1.2 Our obligation to provide the Supply is conditional at all times upon the following conditions being satisfied:
- 1.2.1 there being a Connection Agreement, a Meter Operator Agreement, a Data Aggregator Agreement and a Data Collector Agreement in force in relation to those premises;
  - 1.2.2 there being a Meter installed at those Premises and such Meter meeting the requirements of sub-clause 5.1;
  - 1.2.3 there being a Use of System Agreement in force in relation to those premises; and
  - 1.2.4 our being registered as your supplier.
- 1.3 If you are an Administrator, in addition to Clause 1.2 our obligation to provide the Supply is conditional upon you giving a personal guarantee to pay all charges due in connection with the supply of electricity to the Premises from the Start Date, or, if earlier, the “effective date” (as that term is defined by section 233 of the Insolvency Act 1986). By taking a Supply you confirm a personal guarantee is provided, so if you do not wish to give a personal guarantee then you must not take a Supply at the Premises.
- 1.4 You will use all reasonable efforts to ensure that conditions 1.2.1 and 1.2.2 in sub-clause 1.2 are satisfied before the Start Date and that they remain satisfied until this agreement ends and we will have the same obligation in respect of conditions 1.2.3 and 1.2.4 in subclause 1.2. In the case of condition 1.2.1, 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. In the case of condition 1.2.4 we reserve the right to determine which Registration System will apply from time to time, and you will co-operate with us in securing any relevant registration or change of registration.
- 1.5 We are not obliged to supply electricity to you in excess of the Maximum Capacity.
- 1.6 This agreement will continue in force until brought to an end under clause 8.

### 2 LIMITATION OF DEMAND

You must not take electricity in excess of the Maximum Capacity. If you do so, you will be in material breach of this agreement and we may take action under clause 7 and / or clause 8. Whether or not we take such action, you will pay us for the additional electricity consumed, the capacity provided, and all other costs we may incur (including the cost of providing the additional electricity).

### 3 OUR CHARGES

- 3.1 Electricity supplied by us to you will be charged:
- 3.1.1 according to the number of kilowatt hours supplied to you; and
  - 3.1.2 on the basis of the relevant Electricity Charges applicable to you which can be identified from the relevant Deemed Contract Schedule of Charges in force at the time of supply. Electricity Charges either apply generally or to any case or class of cases or to different areas or any combination of these as set out in the Deemed Contract Schedule of Charges. As soon as practicable after the end of each Charging Period we will send you an account showing the amount due from you for electricity we have supplied to the premises during that charging period and (where applicable) any Availability Charge.
- 3.2 If you do not pay the sum due under each account within the Payment Period, you will be in material breach of this Deemed Contract and we may take action under clause 7 and / or clause 8. Whether or not we take such action, we may also require you to pay interest to us on the sum overdue, such interest to accrue at the Interest Rate, as compounded annually from the date such sum became due until the date payment is received in cleared funds. You should also pay us any debt recovery costs we incur as a result of your late payment.
- 3.3 You will pay any Value Added Tax applicable to any account and to any other sums which you may have to pay under this Deemed Contract.
- 3.4 We will prepare each of our accounts using the consumption data recorded by the Meter. If:
- 3.4.1 we do not have an up to date meter reading; or
  - 3.4.2 the Meter fails to record correctly; or
  - 3.4.3 data is lost in transmission,
- we will prepare an account using our reasonable estimate of the electricity supplied. If we receive revised data regarding the Supply, we may recalculate amounts due under this Deemed Contract (by billing for any previously unbilled units at the prevailing rate at the time we bill for those unbilled units or through refunding any charges we have applied for any incorrectly billed units) and send an invoice at any time indicating any payments to be made by you as a result.
- 3.5 If we are not able to recover the consumption data, we will do our best to agree a reconciliation with you and if no reconciliation is agreed it shall be determined by such independent arbitrator as the parties shall agree to appoint or, if they cannot agree, either party may refer the matter to the Electricity Arbitration Association for arbitration. Except in the case of manifest error, the arbitrator's decision on the amount of electricity consumed will be final.
- 3.6 In addition to our right to vary our charges under sub-clause 3.7, we will be entitled to vary, all or any of our charges by giving notice in writing to you as follows:
- 3.6.1 If your supply number changes, we may vary our prices to reflect that change;
  - 3.6.2 If any direction is given by the Secretary of State under Section 34 of the Act, by such amount(s) as may be necessary to 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;
  - 3.6.3 If any change is made after the date of this agreement in any of the following (as the same may be varied or replaced at any time):
    - (a) the rate of the fossil fuel levy referred to in Section 33 of the Act;

- (c) settlement charges under the BSC;
  - (d) costs relating to any communications link, meter operator services; data collector services; or data aggregator services associated with the supply in each case by such amount(s) as may be necessary to enable us to recover from you an appropriate amount of money in respect of such change; and
  - (e) the introduction of any new statutory levy or similar.
- 3.6.4 Where our charges are based on your using your own Agent(s) and you cease to have such Agent(s), by such amount as enables us to recover from you the cost to us of having consumption data for the premises 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 Deemed Contract;
- 3.6.5 If after the Start Date any of our electricity purchase agreements (as defined in the Licence) are suspended in whole or in part as a result of any circumstances beyond our control by such amount as may be necessary to 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; and
- 3.6.6 If any information you or your representative have provided to us and which we have relied upon to set our charges, (and / or our interpretation of that information) proves to be incorrect.
- 3.7 The Deemed Contract Schedule of Charges set by us from time to time will remain in force until we change it. Electricity Charges which fall to be calculated on or after the date of a change will be calculated in accordance with the Deemed Contract Schedule of Charges so changed.
- 3.8 We may vary our charges under sub-clauses 3.6 and 3.7 at any time and from time to time and:
- 3.8.1 such variations may include changes in the rates chargeable and /or the charging structure; but
  - 3.8.2 they shall not operate retrospectively.
- 3.9 The capacity of your Supply, as agreed between you and your Local Network Operator, is required for quoting and billing purposes. Where the supply capacity has not been provided it will be estimated at 80Kva. This estimate does not reflect any agreement in place between yourself and the network operator, nor does it imply this is the supply capacity for the Premises supplied under this Deemed Contract.
- 3.10 Our charges for your Supply relate to the meter reading and billing frequencies as set out in this Deemed Contract. 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 will be entitled to pass them on to you by adding these charges to your normal bill(s) or by sending you a separate bill.

## 4 SECURITY FOR COSTS

- 4.1 In some circumstances, we may ask you to pay a security deposit. If we ask you to pay this, we will explain the procedure when we contact you. We may request a security deposit if we are concerned about your ability to pay our bills, or if the bills that we send you are not paid in accordance with sub-clause 3.1.
- 4.2 However, unless it is reasonable for us to keep a security deposit for a longer period, we will repay it to you after a year, along with 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. This repayment will be made:

- 4.2.1 within 14 days if, during the previous full year, you have paid all our bills within the Payment Period, or
- 4.2.2 within a month, if the arrangements to supply you with electricity under this Deemed Contract are ended and you have paid all our Electricity Charges.
- 4.3 When we repay a security deposit, we will deduct from it any money that you owe us for the Supply.
- 4.4 If you have agreed to pay any Charges or other sum due to us in connection with the Supply by Direct Debit, but fail to make payment by that method (whether or not you pay the relevant sum by any other method) we may apply an **“Incorrect Payment Method Uplift”** of up to 2% of the total Charges or other sums due. We may apply the Incorrect Payment Method Uplift even where this Deemed Contract provides for alternative uplifts for payment methods other than Direct Debit (e.g. BACS or CHAPS) and you have used one of these alternatives.

## 5 METERING AND OTHER EQUIPMENT

- 5.1 The Supply will be measured by the Meter, which must be:
  - 5.1.1 installed in the Premises (unless we agree for it to be installed elsewhere);
  - 5.1.2 operated and maintained by an Authorised Meter Operator;
  - 5.1.3 in proper working order and suitable for measuring the Supply; and
  - 5.1.4 suitable for use in connection with the charging structure applicable to the Supply.
- 5.2 For the purposes of sub-clause 5.1, you agree that non-certified metering equipment may be installed and used.
- 5.3 Where 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.
- 5.4 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.
- 5.5 After we are registered:
  - 5.5.1 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 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
  - 5.5.2 we will arrange for the Meter to be read at appropriate intervals (if we do not have an up to date reading, you may send us your own reading if you wish).
- 5.6 If we arrange for the Meter to be read outside the normal meter reading cycle applicable to the Premises 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 Deemed Contract, you shall pay us any reasonable costs we incur.
- 5.7 Normally, we will appoint Agents for the purpose of this Deemed Contract 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.

- 5.8 Subject to clause 6, we and our agents or representatives shall have the right to enter the premises (or where the Meter is installed in any other premises, those premises) for any purpose connected with this agreement, including inspecting, reading, testing, (and, where we agree to do so, maintaining, repairing and replacing) the Meter.
- 5.9 If required to do so by the BSC at any time, we will require you to have half hourly metering (and the associated communications links) installed at the premises at your cost to measure the Supply.
- 5.10 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 5.10.

## 6 RIGHTS OF ACCESS

- 6.1 You will at all reasonable times allow us and our agents or representatives to enter the Premises and to have access to the Meter for the purpose of exercising any of our rights under this Deemed Contract, including our rights under sub-clauses 5.8, 7.1 and 8.5. In exercising our rights of entry under this sub-clause 6.1, 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 this sub-clause 6.1 shall apply to any premises which we may have to enter for the purpose of exercising our rights under this Deemed Contract even if we are not supplying electricity to those premises under this Deemed Contract.
- 6.2 If our agents or representatives visit the premises specified in subclause 6.1 by prior appointment and they are unable to gain access, or if they visit the Premises 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.

## 7 DE-ENERGISATION AND DISCONNECTION

- 7.1 We may arrange for the Supply to be de-energised or disconnected and we shall not be liable for any such de-energisation or disconnection if:
- 7.1.1 you do not pay the amount due under any account for electricity we have supplied to you at the Premises (or at any other premises where we supply you with electricity) within the Payment Period; or
- 7.1.2 you fail to pay any other amount which may become due to us under the terms of this Deemed Contract; or
- 7.1.3 you materially breach this Deemed Contract and do not remedy the breach within a reasonable time after receiving written notice from us requiring you to do so; or
- 7.1.4 we consider it necessary:
- (a) to avoid danger;
  - (b) to avoid a breach of any electricity regulations applicable to the electricity industry;
  - (c) to avoid failure of, or interference with, the supply of electricity to someone else to whom we supply electricity; or
  - (d) so that we or your Local Network Operator can inspect, alter, maintain, repair or add to any part of your Local Network Operator's Distribution System;

- 7.1.5 you have in our reasonable belief made unauthorised use of electricity or committed theft of electricity at the Premises (or at any other premises at which we supply you with electricity); or
- 7.1.6 you are unable to pay your debts (within the meaning of the Insolvency Act 1986) or make a proposal for a voluntary arrangement under Part 1 of that Act.
- 7.2 We may also arrange for the Supply to be de-energised or disconnected if any of the conditions set out in sub-clause 1.2 cease to be satisfied.
- 7.3 We may arrange to disconnect the Supply from the Distribution System if we have deenergised under sub-clauses 7.1 or 7.2 and the Supply has remained de-energised for a period of not less than three calendar months.
- 7.4 Before arranging de-energisation or disconnection under subclauses 7.1, 7.2 or 7.3 we will give you written notice.
- 7.5 If the Supply has been de-energised or disconnected under this clause 7, we will not arrange re-energisation or re-connection until:
- 7.5.1 the circumstances giving rise to de-energisation or disconnection have been remedied to our reasonable satisfaction; and
- 7.5.2 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); and
- 7.5.3 given such security as we may require for the Electricity Charges which may become due in future from you under this Deemed Contract.
- 7.6 If you do not satisfy the requirements of sub-clause 7.5 within the time specified in the relevant notice of de-energisation or disconnection we may end this Deemed Contract and you will still have to pay any reasonable costs we incurred in relation to that de-energisation and disconnection.

## 8 ENDING THIS DEEMED CONTRACT

- 8.1 Except as stated in clauses 8.2 and 8.3 this Deemed Contract will continue to apply in respect of the Supply until the earlier of:
- 8.1.1 the circumstances referred to in paragraphs 3(1) or 3(2) of the Electricity Act Schedule cease to apply;
- 8.1.2 your Deemed Contract is validly ended under these terms or you commit a breach of these terms and we elect to discontinue the Supply and/or your Deemed Contract (subject to our compliance with the Licence and the Act); or
- 8.1.3 the Licence or any authorisation or consent granted to us under the Act terminates or is withdrawn or is changed in a manner which materially affects our ability to supply electricity to the Premises.
- 8.2 Subject to clause 10, where you intend to be supplied with electricity at the Premises under a contract with us or under a request made to some other Electricity Supplier, this Deemed Contract does not end but continues to have effect until we or such other Electricity Supplier begins to supply electricity to the Premises as aforesaid, at which time this Deemed Contract ceases to have effect.
- 8.3 Where you cease to own or occupy the Premises (or intend to do so) you may end this Deemed Contract with effect from the time you cease to own and/or occupy the Premises, subject to clause 11 and giving us not less than 2 working days notice. If you do not give such notice, then the Deemed Contract will not end and you will not cease to be liable to pay for the Supply to the Premises until the earlier of:

- 8.3.1 the third working day after you give us notice that you have ceased to own and/or occupy the Premises;
  - 8.3.2 the time at which the register of the Meter is next due to be read after you have ceased to own or occupy the Premises; or
  - 8.3.3 the time from which electricity is supplied to the Premises by us or some other Electricity Supplier, in pursuance of a request made by a person other than you. You will not be responsible for paying any charges for electricity supplied which are paid by your successor or by another person owning or in occupation of the Premises.
- 8.4 Subject to clause 10 any notice given for the purposes of subclauses 8.1 or 8.2 shall only take effect so as to end this Deemed Contract when:
- 8.4.1 someone else has entered into an agreement with us for a supply of electricity at the Premises; or
  - 8.4.2 another supplier has registered and started supplying electricity to the Premises; or
  - 8.4.3 the Premises are disconnected from the Distribution System because no supply of electricity is required at the Premises.
- 8.5 Once this Deemed Contract ends the Supply will end and, unless we have agreed otherwise with you, you will allow our representatives or agents to enter the relevant premises to remove any of our equipment (including, where applicable, the Meter) 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 and, where applicable, removing the Meter.
- 8.6 Any rights or obligations which accrue to either party before this Deemed Contract ends and each party's rights and obligations under clause 8.5 shall continue after this Deemed Contract ends.

## 9 LIABILITY

- 9.1 We will not be liable for any breach of this Deemed Contract directly or indirectly caused by circumstances beyond our control, and you will not be liable for such a breach when it is caused directly or indirectly by circumstances beyond your control.
- 9.2 Subject to sub-clauses 9.3, 9.4, 9.6, 9.7 and 9.9, each party will only be liable to compensate the other party for breach of this Deemed Contract when that breach directly results in physical damage to the property of the other party, its officers, employees or agents; and that loss or damage was reasonably foreseeable (at the date of this agreement) as likely to result, in the ordinary course of events, from such breach, provided that any compensation payable under this sub-clause 9.2 for loss or damage arising in any one calendar year will not exceed £1 million.
- 9.3 If you become entitled to recover compensation under any Connection Agreement for the Premises in respect of a particular incident, we will deduct a sum equal to the amount of that compensation from any sum we have to pay under sub-clause 9.2 in respect of that incident.
- 9.4 Subject to sub-clause 9.6 and 9.7, neither party, its officers, employees or agents will be liable to the other party for:
- 9.4.1 any loss of profit, revenue, use, agreement or goodwill;
  - 9.4.2 any indirect or consequential loss;
  - 9.4.3 any loss resulting from loss or corruption of, or damage to any data stored electronically and/or computer software; or

- 9.4.4 loss resulting from the liability of such other party to any other person.
- 9.5 To the extent that our liability to you is not altogether excluded by this clause 9, we will be liable to you only up to a maximum of £100,000 in respect of:
- 9.5.1 each incident giving rise to a breach of this Deemed Contract; or
- 9.5.2 damage for which we are otherwise liable.
- 9.6 Nothing in this Deemed Contract 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.
- 9.7 Sub-clauses 9.2 and 9.4 shall not apply to any claim brought under any of the following provisions of this Deemed Contract namely, clauses 2, 3.2, 5.3 to 5.7 (inclusive), 5.10, 6.2, 7.2, 7.5, 7.6 and 17.
- 9.8 The rights and remedies provided by this Deemed Contract 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 Deemed Contract, including any rights either party might otherwise have in tort, except for liability for death or personal injury.
- 9.9 So far as it excludes liability, this clause 9 over-rides any other provision in this Deemed Contract except where otherwise expressly provided.
- 9.10 Each sub-clause of this clause 9:
- 9.10.1 will survive termination of this Deemed Contract; and
- 9.10.2 is a separate limitation of liability and shall apply and survive if, for any reason, one or other of these provisions is held inapplicable or unreasonable.

## 10 OBJECTIONS

- 10.1 Where you arrange a transfer to another supplier, your new supplier will confirm to you the date for the completion of the Registration of a Supply to them. We will have no liability where Registration to another supplier is delayed due to circumstances beyond our control:
- 10.2 If another supplier requests to Register a Supply Point, **we may object if:**
- 10.2.1 You have entered into a new Supply contract with us after you agreed to transfer to another supplier;
- 10.2.2 We know or believe the request is erroneous;
- 10.2.3 We have any reasonable grounds to object; or
- 10.2.4 You have told us to object to a new supplier's application.
- 10.3 If we object in accordance with clause 10.2:
- 10.3.1 We will inform you that we have made the objection, the grounds for the objection and (if applicable) how you may resolve or dispute such grounds;
- 10.3.2 Unless we have agreed you may dispute our grounds for objection:
- (a) we may require you to write to the supplier within three (3) Working Days of our request, to ask them to withdraw any pending application to Register the Supply Point and to ask they only make a further request to Register it from a date we are happy for it to be removed from the Deemed Contract; and

- (b) you must take any other action we request to ensure the Supply Point remains Registered to us.

## 11 NOTICES AND COMPLAINTS

- 11.1 Any notice given under this Deemed Contract 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 11.1.

For notices to be given to us:

EDF Energy Customers Limited

EDF Business Solutions

Gadeon House

Grenadier Road

Exeter Business Park

Exeter EX1 3UT

For notices to be given to you:

The Premises

- 11.2 Unless the party to whom any notice is given under sub-clause 11.1 proves otherwise:

11.2.1 any notice sent by first class pre-paid post will be deemed to be delivered on the second working day after it was posted; and

11.2.2 any notice sent by recorded delivery or delivered during working hours by hand or facsimile will be deemed to have been served upon actual delivery or transmission (as the case may be) but when that occurs outside working hours, the notice will be deemed to be given at the start of the next period of working hours following such delivery or transmission.

- 11.3 If you are not satisfied with our service or you would like to make a complaint, we ask that you refer to and follow the complaint handling procedure published on our website. If you are a Micro Business and you are not satisfied with the outcome of a complaint you make to us, you can contact Ombudsman Services: Energy, and/or Citizens Advice for advice.

## 12 GOVERNING LAW

This Deemed Contract 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.

## 13 VARIATION

The terms and conditions of this Deemed Contract may be revised from time to time in accordance with the Scheme.

## 14 WAIVER

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.

## 15 ENTIRE AGREEMENT

These terms and conditions constitute the entire agreement between us and you and to the maximum extent permitted by law these terms and conditions shall prevail over any inconsistent statement, representation, rule, regulation or code of conduct.

## 16 ASSIGNMENT/NOVATION

- 16.1 We shall have the right to assign or novate the benefit or burden of this Deemed Contract without your prior consent.
- 16.2 You shall not assign the benefits of this Deemed Contract without our prior written consent, which shall not be unreasonably withheld.

## 17 COSTS INDEMNITY

If we have to take legal action to enforce our rights under this Deemed Contract, you agree that, if we are successful, the court may order you to pay our reasonable costs in bringing the case, which will not be limited to the fixed fees or costs recoverable under the court rules.

## 18 SEVERENCE

If any term or other part of this Deemed Contract is or becomes for any reason invalid or unenforceable at law, the remainder of this Deemed Contract shall continue to be valid and enforceable and such term or other part of this Deemed Contract shall be severed or modified without affecting the remainder of this Deemed Contract.

## 19 LAST RESORT DIRECTION

- 19.1 If the Authority gives a last resort direction under Standard Condition 29 of the Licence then:
- 19.1.1 the Start Date shall be the date and time that the direction given to us by the Authority takes effect;
- 19.1.2 we shall not terminate the Deemed Contract until the earlier of:
- (a) the expiry of the last resort direction of the Authority; or
  - (b) the provisions of any or all of clauses 8.1.2, 8.1.3, 8.2 or 8.3 of this Deemed Contract apply.

## 20 CREDIT BALANCES

If this Scheme is in place because we've been appointed by the industry regulator to take over from your previous supplier as a 'Supplier of Last Resort' and you had a credit balance with them, we'll honour it if we committed to do so before we were appointed. We may need to get in touch to check certain information before we do.

## 21 DEFINITIONS

In this Deemed Contract, the following expressions shall have the meanings set out below:

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

**"Administrator"** has the meaning given to that term in paragraph 1 of Schedule B1 of the Insolvency Act 1986;

**“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”** a person authorised under the terms of the BSC to act as a data aggregator;

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

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

**“Availability Charge”** any availability charge included in our charges, the monthly value of which will be the product of the availability charge per Chargeable Supply Capacity and the Chargeable Supply Capacity;

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

**“BSC”** the Balancing and Settlement code designated by the Secretary of State as from time to time amended with the approval of the Authority;

**“Chargeable Supply Capacity”** means, in respect of the Premises, the higher of:

- (a) the Maximum Capacity;
- (b) the highest value (expressed in kilovolt amperes) over the current and preceding 11 months of the recorded maximum demand in each month divided by either the average lagging power factor or 0.5, whichever is the higher; and
- (c) that charged to us by the Local Network Operator;

**“Charging Period”** means, the period over which we shall bill you for the Supply, which may be monthly, quarterly or some other period as determined in our absolute discretion;

**“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**);

**“Data Aggregator Agreement”** means, in respect of the Premises, an agreement between you and an Authorised Data Aggregator for the provision of data aggregation services;

**“Data Collector Agreement”** means, in respect of the Premises, an agreement between you and an Authorised Data Collector for the provision of data collection services;

**“Deemed Contract Schedule of Charges”** means the document of that name which sets out the Electricity Charges that you will be charged from time to time whilst you are being supplied under this Deemed Contract (subject always to any provisions to the contrary that are expressly set out in this Deemed Contract). The Deemed Schedule of Charges from time to time in force may be accessed via the document library on our <https://www.edfenergy.com/large-business/customers/documents-guides>;

**“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 premises; and the expressions **“de-energised”**, **“de-energisation”**, and **“reenergisation”** shall be construed accordingly;

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

**“Distribution System”** means the Local Network Operator’s system for distributing electricity;

**“Electricity Charges”** means the money due under clauses 3, 6 and/or the Deemed Contract Schedule of Charges;

You are an **“Extra High Voltage Customer”** if any Meter Point or any Premises which we Supply (wholly or partly) under this Deemed Contract receives such Supply at an Extra High Voltage. If you are unsure if the Premises receives an Extra High Voltage Supply you should check with your Local Network Operator, or with National Grid if the Premises is directly connected to the electricity transmission system.

**“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 to supply electricity granted to us under Section 6 of the Act;

**“Local Metering Point Administration Service”** means the service that maintains an electronic register of premises connected to your Local Network Operator’s Distribution Network and / or the suppliers responsible for supplying such premises;

**“Local Network Operator”** means the holder of a licence under Section 6(1)(c) of the Act to supply electricity in the area where the Premises are situated;

**“Maximum Capacity”** means, in respect of the Premises, the maximum capacity, where applicable, specified in the Connection Agreement, as the same may be varied from time to time under the terms of the Connection Agreement;

**“Meter”** means such meters and associated equipment, (including any telecommunications link) as we may reasonably require you to install or associated with a Supply Point for the purpose of recording the amount of electricity supplied under this Deemed Contract;

**“Meter Operator Agreement”** means, in respect of the Premises, 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 Grid”** means National Energy Electricity System Operator Limited, a company registered in England under number 11014226 and its successors;

**“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 5137, or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk);

**“Month”** means, if this Deemed Contract provides for you to be billed on a monthly basis, the period from the supply start date to the first normal meter reading thereafter, or the period of approximately one calendar month from one such reading to the next, or 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;

**“Notices Address”** means, in respect of each party, that address set out in clause 11.1 (as the case requires);

**“Ombudsman Services: Energy”** means the independent body approved by Ofgem (the Office of the Gas and Electricity Markets), under the Consumers, Estate Agents and Redress Act 2007 (visit: [www.ombudsman-services.org/complain-now](http://www.ombudsman-services.org/complain-now), or phone: 0330 440 1624);

**“party”** means any party to this Deemed Contract in relation to the Premises, and **“parties”** shall be construed accordingly;

**“Payment Period”** means:

- (a) If you are an Extra High Voltage Customer, 7 days; or
- (b) In all other cases, 14 days;

**“P&SA”** means the Pooling and Settlement Agreement, or any replacement thereof in accordance with the standard conditions of the electricity supply licence;

**“Premises”** means the premises at which you are supplied with electricity or at which you take a supply of electricity under a Deemed Contract ;

**“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 registration system commonly known at 1 November 2004 as the Electronic Registration System or the Public Registration System or any other registration system which may replace them;

**“Scheme”** means the deemed contract scheme made by EDF Energy Customers Limited pursuant to paragraph 3 of Schedule 6 to the Electricity Act 1989 of which these terms and conditions are a schedule;

**“Start Date”** has the meaning set out in clause 1.1;

**“Supply”** means the supply of electricity to be provided by us to you at the Premises under this Deemed Contract;

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

**“Supply Point”** means a system exit point at which electricity is metered prior to supplying the Premises;

**“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;

## 22 INTERPRETATION

22.1 In these terms of supply:

Any reference to:

22.1.1 a “clause” means a clause of this Schedule 1;

22.1.2 this “Deemed Contract” means the contract which includes these terms of supply which arises by virtue of the Scheme set in place by EDF Energy Customers Limited;

- 22.1.3 “we” and “us” and “our” in each case refers (regardless of any wording to the contrary) to EDF Energy Customers Limited and includes any of its employees, officers, or agents acting for the purpose of this Deemed Contract;
- 22.1.4 “you” means the customer who is supplied with electricity by us subject to the Deemed Contract and the expressions “you” and “your” will be construed accordingly;
- 22.1.5 “our agents” includes any Agent appointed by us or acting on our behalf;
- 22.1.6 the supply of electricity includes the making of a supply of electricity available at the Premises in cases where you do not actually take electricity at those premises;
- 22.1.7 “circumstances beyond our control” shall be construed as meaning circumstances which are beyond our reasonable control and which result in or cause us to fail to perform any of our obligations under this agreement, and “circumstances beyond your control” shall be construed accordingly;
- 22.1.8 “working day” any day other than a Saturday or a Sunday and which is not Christmas Day, Good Friday or a statutory Bank Holiday;
- 22.1.9 “working hours” the hours of 9.00am to 5.00pm on any working day;
- 22.2 The expression “including” is to be construed without limitation; and
- 22.3 All references in this Deemed Contract to a statutory provision shall be construed as including references to:
- 22.3.1 any statutory modification, consolidation or re-enactment (whether before or after the date of this Deemed Contract) for the time being in force;
- 22.3.2 all statutory instruments or orders made pursuant to a statutory provision.

## SCHEDULE 2: UNMETERED DEEMED CONTRACT TERMS

### 1 SUPPLY AND PERIOD

1.1 Your Deemed Contract will be regarded as coming into effect at the earliest of the following times (the "Start Date"):

1.1.1 from the time when we began to supply electricity to you at the Relevant Premises in the circumstances referred to in paragraph 3(1) of the Electricity Act Schedule; or

1.1.2 from the time when you began to take supply of electricity in the circumstances referred to in paragraph 3(2) of the Electricity Act Schedule.

Notwithstanding the foregoing, if you enter into a Contract (other than a Deemed Contract) with us to supply electricity to you at the Relevant Premises and such Contract is stated to have taken effect from a date during which the circumstances set out in this clause 1.1 applied, this Deemed Contract shall be deemed to be superseded and replaced in all respects by such Contract from such date.

1.2 In the case of each of the Installations, our obligation to provide the Supply is conditional at all times upon the following conditions being satisfied:-

1.2.1 there being a Connection Agreement, a UMS certificate has been issued by your Local Network Operator;

1.2.2 there being a Use of System Agreement in force in relation to those Installations; and

1.2.3 our being registered as your supplier.

1.3 You will use all reasonable efforts to ensure that clause 1.2.1 is satisfied by the Start Date and that it remains satisfied until this Agreement ends and we will have the same obligation in respect of clauses 1.2.2 and 1.2.3. In the case of clause 1.2.3, we reserve the right to determine which Registration System will apply from time to time, and you will co-operate with us in securing any relevant registration or change of registration.

1.4 We are responsible for ensuring that:

1.4.1 an accredited Meter Administrator; and

1.4.2 appropriate Accredited Party Agents for data collection and data aggregation, are appointed where an Equivalent Meter is being utilised to calculate consumption.

1.5 We are not obliged to supply electricity to you in excess of the Maximum Capacity.

1.6 This Agreement will continue in force until brought to an end under clause 8.

### 2 LIMITATION OF DEMAND

You must not take electricity in excess of the Maximum Capacity. If you do so, you will be in material breach of this Deemed Contract and we may take action under clause 7 and / or clause 8. Whether or not we take such action, you will pay us for the additional electricity consumed, the capacity provided, and all other costs we may incur (including the cost of providing the additional electricity).

### 3 OUR CHARGES

3.1 Electricity supplied by us to you will be charged:

3.1.1 according to the number of kilowatt hours supplied to you; and

- 3.1.2 on the basis of the relevant Electricity Charges applicable to you which can be identified from the relevant Deemed Contract Schedule of Charges in force at the time of supply. Electricity Charges either apply generally or to any case or class of cases or to different areas or any combination of these as set out in the Deemed Contract Schedule of Charges.
- 3.2 As soon as practicable after the end of each Charging Period we will send you an account showing the amount due from you for electricity we have supplied to the premises during that charging period and (where applicable) any Availability Charge.
- 3.3 If you do not pay the sum due under each account within the Payment Period, you will be in material breach of this Deemed Contract and we may take action under clause 7 and / or clause 8. Whether or not we take such action, we may also require you to pay interest to us on the sum overdue, such interest to accrue at the Interest Rate, as compounded annually from the date such sum first 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.
- 3.4 You will pay any Value Added Tax applicable to any account and to any other sums which you may have to pay under this Deemed Contract.
- 3.5 In addition to our right to vary our charges under clause 3.7, we will be entitled to vary, all or any of our charges on or after the Start Date by giving notice in writing to you as follows:-
- 3.5.1 If your Supply Number changes, we may vary our prices to reflect that change;
- 3.5.2 If any direction is given by the Secretary of State under section 34 of the Act, by such amount(s) as may be necessary to 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;
- 3.5.3 If any change is made after the date of this Deemed Contract in any of the following (as the same may be varied or replaced at any time):-
- (a) the rate of the fossil fuel levy referred to in section 33 of the Act;
  - (b) settlements charges under the BSC; and
  - (c) the introduction of any new statutory charge, levy or tax.
- 3.5.4 If after the date of this Agreement any of our electricity purchase agreements (as defined in our Licence) are suspended in whole or in part as a result of any circumstances beyond our control by such amount as may be necessary to 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; and
- 3.5.5 If any information you or your representative have provided to us and which we have relied upon to set our charges, (and/ or our interpretation of that information) proves to be incorrect.
- 3.6 The Deemed Contract Schedule of Charges set by us from time to time will remain in force until we change it. Electricity Charges which fall to be calculated on or after the date of a change will be calculated in accordance with the Deemed Contract Schedule of Charges so changed.
- 3.7 We may vary our charges under clauses 3.5 and 3.7 at any time and from time to time and:-
- 3.7.1 such variations may include changes in the rates chargeable and /or the charging structure; but
- 3.7.2 they shall not operate retrospectively.
- 3.8 If your Local Network Operator charges us for reactive power consumed by your Installations, you will have to reimburse us for those charges.

## 4 SECURITY FOR COSTS

- 4.1 In some circumstances, we may ask you to pay a security deposit. If we ask you to pay this, we will explain the procedure when we contact you. This may be either at the start of this contract if we are concerned about your ability to pay our bills, or later if the bills that we send you are not paid in accordance with clause 4.1.
- 4.2 However, unless it is reasonable for us to keep a security deposit for a longer period, we will repay it to you after a year, along with 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. This repayment will be made:
- 4.2.1 within 14 days if, during the previous full year, you have paid all our bills within the Payment Period, or
  - 4.2.2 within a month, if the arrangements to supply you with electricity under this Deemed Contract are ended and you have paid all our Electricity Charges.
- 4.3 When we repay a deposit, we will deduct from it any money that you owe us for the Supply.

## 5 CALCULATION OF ELECTRICITY CONSUMPTION

- 5.1 Clauses 5.2 to 5.4 apply to any SSC without a PECU Array and clauses 5.5 to 5.7 apply to any MSID covering one or more GSPs for inventory that is controlled with a PECU Array.
- 5.2 The charges set out in Deemed Contract Schedule of Charges apply separately to each SSC within your installation. The allocation of each item of your inventory to an SSC will be as determined by your Local Network Operator in accordance with Agreed Procedure 520.
- 5.3 The amount of electricity consumed for each SSC within your installation each month is deemed to be the EAC for that SSC divided by 12.
- 5.4 If:
- 5.4.1 your Local Network Operator fails to provide us with an EAC for any SSC; or
  - 5.4.2 the EAC or the amount of electricity calculated from it is obviously wrong or disputed; or
  - 5.4.3 for any other reason we are unable to calculate accurately the amount of electricity consumed by your installation from an EAC,
- we will make a reasonable estimate of the amount of electricity consumed and you must pay the charges for the estimated amounts, subject to any adjustment which may be necessary following the next calculation. If we receive revised data regarding the Supply, we may recalculate amounts due under this Deemed Contract (by billing for any previously unbilled units at the prevailing rate at the time we bill for those unbilled units or through refunding any charges we have applied for any incorrectly billed units) and send an invoice at any time indicating any payments to be made by you as a result.
- 5.5 The charges set out in the Deemed Contract Schedule of Charges apply separately to the consumption recorded for inventory allocated to each MSID controlled by one or more PECU Arrays.
- 5.6 The amount of electricity consumed by each MSID within your installation will be calculated by multiplying the total load for that MSID by the half-hourly operating data provided to your Data Collector by the Meter Administrator from the relevant Equivalent Meter.
- 5.7 If:

- 5.7.1 Your Data Collector or the Meter Administrator fails to provide us with the Equivalent Meter data for any MSID; or
  - 5.7.2 the PECU array operating data, the Equivalent Meter data or the amount of electricity calculated from it is obviously wrong or disputed; or
  - 5.7.3 for any other reason we are unable to calculate accurately the amount of electricity consumed by any particular MSID, we will make a reasonable estimate in accordance with BSC Procedure BSCP520 of the amount of electricity consumed by that MSID and you must pay the charges for the estimated amounts, subject to any adjustment which may be necessary following the next calculation or the receipt of accurate PECU array operating data or Equivalent Meter data (as the case requires).
- 5.8 You will notify us promptly of any dispute or query regarding the calculations of your consumption of electricity made by you or by your Local Network Operator under the Connection Agreement.

## 6 RIGHT OF ACCESS

- 6.1 You will at all reasonable times allow us and our agents or representatives to enter the Premises on which the Installations are located and to have access for the purpose of exercising any of our rights under this Agreement, including our rights under clauses 7.1 and 8.6. In exercising our rights of entry under this clause 6.1, 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 this clause 6.1 shall apply to any premises which we may have to enter for the purpose of exercising our rights under this Agreement even if we are not supplying electricity to those Premises under this Agreement. If our agents or representatives visit the Premises by prior appointment and they are unable to gain access, or if they visit the Premises 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.

## 7 DE-ENERGISATION AND DISCONNECTION

- 7.1 We may arrange for the Supply to be de-energised or disconnected if:-
- 7.1.1 you do not pay the amount due under any account for electricity we have supplied to you at any of the Premises (or at any other premises) within the Payment Period; or
  - 7.1.2 you fail to pay any other amount which may become due to us under the terms of this Deemed Contract; or
  - 7.1.3 you materially breach this Deemed Contract and do not remedy the breach within a reasonable time after receiving written notice from us requiring you to do so; or
  - 7.1.4 you have in our reasonable belief made unauthorised use of electricity or committed theft of electricity at any of the Premises (or at any other premises at which we supply you with electricity); or
  - 7.1.5 you are unable to pay your debts (within the meaning of the Insolvency Act 1986) or make a proposal for a voluntary arrangement under Part 1 of that act.
- 7.2 We may also arrange for the Supply to be de-energised or disconnected if any of the conditions set out in clause 1.1 cease to be satisfied.
- 7.3 We may arrange to disconnect the Supply from the Distribution System if we have de-energised under clauses 7.1 or 7.2 and the Supply has remained de-energised for a period of not less than three calendar months.

- 7.4 Before arranging de-energisation or disconnection under clauses 7.1, 7.2 or 7.3 we will give you written notice.
- 7.5 If the Supply has been de-energised or disconnected under this clause 7, we will not arrange re-energisation or re-connection until:-
- 7.5.1 the circumstances giving rise to de-energisation or disconnection have been remedied to our reasonable satisfaction; and
  - 7.5.2 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); and
  - 7.5.3 given such security as we may require for the charges which may become due in future from you under this Deemed Contract.
- 7.6 If you do not satisfy the requirements of clause 7.5 within the time specified in the relevant notice of de-energisation or disconnection we may end this Agreement and you will still have to pay any reasonable costs we incurred in relation to de-energisation and disconnection.

## 8 ENDING THIS DEEMED CONTRACT

- 8.1 Except as stated in clauses 8.2 and 8.3 this Deemed Contract will continue to apply in respect of the Supply until the earlier of:
- 8.1.1 the circumstances referred to in paragraphs 3(1) or 3(2) of the Electricity Act Schedule cease to apply;
  - 8.1.2 your Deemed Contract is validly ended under these terms or you commit a breach of these terms and we elect to discontinue the Supply and/or your Deemed Contract (subject to our compliance with the Licence and the Act); or
  - 8.1.3 the Licence or any authorisation or consent granted to us under the Act terminates or is withdrawn or is changed in a manner which materially affects our ability to supply electricity to the Premises.
- 8.2 If you intend to be supplied with electricity at the Premises under a contract with us or under a request made to some other Electricity Supplier, this Deemed Contract does not end but continues to have effect until we or such other Electricity Supplier begins to supply electricity to the Premises as aforesaid, at which time this Deemed Contract ceases to have effect.
- 8.3 Where you cease to own or occupy the Premises (or intend to do so) you may end this Deemed Contract with effect from the time you cease to own and/or occupy the Premises, subject to clause 10 and giving us not less than 2 working days notice. If you do not give such notice, then the Deemed Contract will not end and you will not cease to be liable to pay for the Supply to the Premises until the earlier of:
- 8.3.1 the third working day after you give us notice that you have ceased to own and/or occupy the Premises;
  - 8.3.2 the time at which the register of the Meter is next due to be read after you have ceased to own or occupy the Premises; or
  - 8.3.3 the time from which electricity is supplied to the Premises by us or some other Electricity Supplier, in pursuance of a request made by a person other than you.
- 8.4 You will not be responsible for paying any charges for electricity supplied which are paid by your successor or by another person owning or in occupation of the Premises.

- 8.5 In relation to each of the Installations (the “Relevant Installations”) any notice given under clauses 8.1 or 8.2 shall only take effect so as to end this Deemed Contract when:-
- 8.5.1 someone else has entered into a Deemed Contract with us for a Supply of electricity at the relevant Installations; or
  - 8.5.2 another supplier has registered and started supplying electricity to the relevant Installations; or
  - 8.5.3 the relevant Installations are disconnected from the Distribution System because no supply of electricity is required at the relevant Installations.
- 8.6 Once this Deemed Contract ends the supply will end and, unless we have agreed otherwise with you, you will allow our representatives or agents to enter the Relevant Premises 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.
- 8.7 Any rights or obligations which accrue to either Party before this Deemed Contract ends and each Party’s rights and obligations under clause 8.6 shall continue after this Deemed Contract ends.
- 8.8 For the purposes of clause 8.1, time shall be of the essence.

## 9 LIABILITY

- 9.1 We will not be liable for any breach of this Deemed Contract directly or indirectly caused by circumstances beyond our control, and you will not be liable for such a breach when it is caused directly or indirectly by circumstances beyond your control.
- 9.2 Subject to clauses 9.3, 9.4, 9.5, 9.6 and 9.8, each Party (the “party liable”) will only be liable to compensate the other Party for breach of this Deemed Contract when that breach directly results in physical damage to the property of the other Party, its officers, employees or agents; and that loss or damage was reasonably foreseeable (at the date of this Deemed Contract) as likely to result, in the ordinary course of events, from such breach, provided that any compensation payable under this clause 9.2 for loss or damage arising in any one calendar year will not exceed £1 million.
- 9.3 If you become entitled to recover compensation under any Connection Agreement for any of the Premises in respect of a particular incident, we will deduct a sum equal to the amount of that compensation from any sum we have to pay under clause 9.2 in respect of that incident.
- 9.4 Subject to clauses 9.5 and 9.6, neither Party, its officers, employees or agents will be liable to the other Party for:-
- 9.4.1 any loss of profit, revenue, use, agreement or goodwill; or
  - 9.4.2 any indirect or consequential loss; or
  - 9.4.3 loss resulting from the liability of such other Party to any other person.
- 9.5 Nothing in this Deemed Contract 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.
- 9.6 Clauses 9.2 and 9.4 shall not apply to any claim brought under any of the following provisions of these terms of supply namely, clauses 2, 3.3, 5.4, 5.7, 7.2, 7.5, 7.6 and 16.
- 9.7 The rights and remedies provided by this Deemed Contract 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 Deemed Contract, including any rights either Party might otherwise have in tort, except for liability for death or personal injury.

9.8 So far as it excludes liability, this clause 9 over-rides any other provision in this Deemed contract except where otherwise expressly provided.

9.9 Each clause of this clause 9 will survive termination of this Deemed Contract.

## 10 NOTICES AND COMPLAINTS

10.1 Any notice given under this Deemed Contract 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 clause 10.1.

10.2 Unless the Party to whom any notice is given under clause 10.1 proves otherwise:-

10.2.1 any notice sent by first class pre-paid post will be deemed to be delivered on the second working day after it was posted; and

10.2.2 any notice sent by recorded delivery or delivered during working hours by hand or facsimile will be deemed to have been served upon actual delivery or transmission (as the case may be) but when that occurs outside working hours, the notice will be deemed to be given at the start of the next period of working hours following such delivery or transmission.

10.3 If you are not satisfied with our service or you would like to make a complaint, we ask that you refer to and follow the complaint handling procedure published on our website. If you are a Micro Business and you are not satisfied with the outcome of a complaint you make to us, you can contact Ombudsman Services: Energy, and/or Citizens Advice for advice.

## 11 GOVERNING LAW

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

## 12 WAIVER

No waiver of any right of a Party under this Deemed Contract will prejudice that Party's entitlement to that (or any other) right in future.

## 13 VARIATION

The terms and conditions of this Deemed Contract may be revised from time to time in accordance with the Scheme.

## 14 ENTIRE AGREEMENT

This Deemed Contract replaces any previous agreement you may have with us for the Supply of electricity to the Premises (except where such previous agreement is in force at the date of this Deemed Contract and is capable of remaining in force until no later than the day before the Supply Start Date without creating any inconsistency between that agreement and this Deemed Contract, and in the event of such inconsistency, the terms of this Deemed Contract shall prevail) but does not affect any rights or obligations which have accrued to either Party under such agreement before the date of this Deemed Contract.

## 15 ASSIGNMENT / NOVATION

15.1 We shall have the right to assign or novate the benefit or burden of this Deemed Contract without your prior consent.

15.2 You shall not assign or novate the benefit or burden of this Deemed Contract without our prior written consent, which shall not be unreasonably withheld.

## 16 COSTS INDEMNITY

If we have to take legal action to enforce our rights under this Deemed Contract, you agree that, if we are successful, the court may order you to pay our reasonable costs in bringing the case, which will not be limited to the fixed fees or costs recoverable under the court rules.

## 17 MEDIA

Both Parties may wish to promote this Agreement. Any contact with the media or other organisations to promote this Agreement must be agreed in writing in advance with the respective communications or press office of both Parties.

## 18 RIGHTS OF THIRD PARTIES

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 SEVERANCE

If any term or other part of this Agreement is or becomes for any reason invalid or unenforceable at law, the remainder of this Agreement shall continue to be valid and enforceable and such term or other part of this Agreement shall be severed or modified without affecting the remainder of this Agreement.

## 20 LAST RESORT DIRECTION

20.1 If the Authority gives a last resort direction under Standard Condition 29 of the Licence then:

20.1.1 the Start Date shall be the date and time that the direction given to us by the Authority takes effect;

20.1.2 we shall not terminate the Deemed Contract until the earlier of:

(a) the expiry of the last resort direction of the Authority; or

(b) the provisions of any or all of clauses 8.1.2, 8.1.3, 8.2 or 8.3 of this Deemed Contract apply.

## 21 CREDIT BALANCES

If this Scheme is in place because we've been appointed by the industry regulator to take over from your previous supplier as a 'Supplier of Last Resort' and you had a credit balance with them, we'll honour it if we committed to do so before we were appointed. We may need to get in touch to check certain information before we do.

## 22 OBJECTIONS

22.1 Where you arrange a transfer to another supplier, your new supplier will confirm to you the date for the completion of the Registration of a Supply to them. We will have no liability where Registration to another supplier is delayed due to circumstances beyond our control:

22.2 If another supplier requests to Register a Supply Point, we may object if:

22.2.1 You have entered into a new Supply contract with us after you agreed to transfer to another supplier;

- 22.2.2 We know or believe the request is erroneous;
- 22.2.3 We have any reasonable grounds to object; or
- 22.2.4 You have told us to object to a new supplier's application.
- 22.3 If we object in accordance with clause 22.2:
- 22.3.1 We will inform you that we have made the objection, the grounds for the objection and (if applicable) how you may resolve or dispute such grounds;
- 22.3.2 Unless we have agreed you may dispute our grounds for objection:
- (a) we may require you to write to the supplier within three (3) Working Days of our request, to ask them to withdraw any pending application to Register the Supply Point and to ask they only make a further request to Register it from a date we are happy for it to be removed from the Deemed Contract; and
  - (b) you must take any other action we request to ensure the Supply Point remains Registered to us.

## 23 DEFINITIONS

In this Agreement, the following expressions shall have the meanings set opposite them below:-

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

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

**"Agreed Procedure"** means an agreed procedure contained within the Agreed Procedures Index prepared pursuant to the P&SA;

**"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;

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

**"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 from time to time amended with the approval of the Authority;

**"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);

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

**"Data Collector Agreement"** means in respect of each of the Premises, means 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;

**“Deemed Contract Schedule of Charges”** means the document of that name which sets out the Electricity Charges that you will be charged from time to time whilst you are being supplied under this Deemed Contract (subject always to any provisions to the contrary that are expressly set out in this Deemed Contract). The Deemed Schedule of Charges from time to time in force may be accessed via the document library on our website: <https://www.edfenergy.com/large-business/customers/documents-guides> ;

**“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 Premises; and the expressions **“de-energised”**, **“deenergisation”**, and **“re-energisation”** shall be construed accordingly;

**“disconnection”** means the removal of any cable or other equipment such that the Premises are no longer connected to the Distribution System; and the expressions **“disconnect(ed)”**, **“re-connection”** and **“reconnect(ed)”** shall be construed accordingly; **“Distribution System”** means the Local Network Operator’s system for distributing electricity;

**“EAC”** means the estimated annual consumption of a part of your Installations which comprises all those points of supply which have the same standard settlement configuration, as determined by your Local Network Operator and stated on the UMS certificate, and as varied from time to time by your Local Network Operator in accordance with any material changes to the inventory;

**“Equivalent Meter”** has the meaning given in the BSC;

**“GSP”** means the Grid Supply Point;

**“Installations”** means the street lighting, illuminated signs, street furniture, and other apparatus owned or operated by you, specified in the inventory contained in the Connection Agreement and identified by the stage 2 metering system number set out in the UMS certificate assigned to them, used or to be used by you for the purpose of taking a supply of electricity, and connected or to be connected to the Distribution System all as amended from time to time in accordance with the Connection Agreement with your Local Network Operator;

**“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 the licence which we hold under section 6 of the Act to supply electricity;

**“Local Network Operator”** means the holder of a licence under section 6 of the Act to distribute electricity in the area where the Installations are situated;

**“Maximum Capacity”** in respect of each of the Premises, means the Maximum Capacity, where applicable, specified in the Connection Agreement, as the same may be varied from time to time under the terms of the Connection Agreement;

**“Meter Administrator”** has the meaning given in BSC Procedure BSCP520;

**“month”** means the period of one calendar month starting on the first day and ending on the last day and the expressions **“monthly”** shall be construed accordingly;

**“MSID”** means the Metering System Identifier;

**“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 5137, or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk);

**“notices address”** means in the case of each Party, shall be as shown on the front page of this Agreement, as the same may be varied from time to time by the relevant Party giving notice under clause 12.1;

**“Ombudsman Services: Energy”** means the independent body approved by Ofgem (the Office of the Gas and Electricity Markets), under the Consumers, Estate Agents and Redress Act 2007 (visit: [www.ombudsman-services.org/complain-now](http://www.ombudsman-services.org/complain-now), or phone: 0330 440 1624);

**“our charges”** means the charges shown in the Deemed Contract Schedule of Charges;

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

**“Payment Period”** means 14 days;

**“PECU Array”** means the photo electric cell units arrays.

**“P&SA”** means the Pooling and Settlement Agreement, or any replacement thereof in accordance with the standard conditions of the Licence;

**“Premises”** means the premises shown on the front page of this Agreement or, where appropriate, in a schedule;

**“registered”** means in respect of any particular electricity supplier (which expression includes us) and in respect of any particular supply point, means the date on which that supplier is deemed to be the supplier for that supply 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 **“Electronic Registration System”**, or the **“Public Registration System”**, or any other Registration System which may replace them;

**“SSC”** means the standard settlement configuration as defined in the P&SA which describes a class of items within the inventory which have similar time switching regimes;

**“Supply”** means the supply of electricity to be provided by us to you at the Premises under this Agreement and, where this Agreement covers more than one Premises, the expression the “Supply” shall be construed separately in relation to each of them;

**“Supply Number”** means the discrete number attributed to a particular supply point (if any under whichever Registration System applies to the supply);

**“Start Date”** has the meaning set out in clause 1.1;

**“UMS certificate”** means a certificate issued to you by your Local Network Operator in accordance with Agreed Procedure 520 containing details of your inventory including EAC for each SSC;

**“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;

**“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;

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

## 24 INTERPRETATION

In these terms of supply:-

- 24.1 Any reference to:-
- 24.1.1 a “clause” means a clause within this Schedule 2;
  - 24.1.2 the “Deemed Contract” means the agreement which includes these terms of supply;
  - 24.1.3 “we” and “us” and “our” in each case refers (regardless of any wording to the contrary) to EDF Energy and includes any employees, officers, or agents of these companies acting for the purpose of this Deemed Contract;
  - 24.1.4 “you” means the customer who is supplied with electricity by us subject to the Deemed Contract and the expressions “you” and “your” will be construed accordingly;
  - 24.1.5 “our agents” includes any Agent appointed by us or acting on our behalf;
  - 24.1.6 “circumstances beyond our control” shall be construed as meaning circumstances which are beyond our reasonable control and which result in or cause us to fail to perform any of our obligations under this agreement, and “circumstances beyond your control” shall be construed accordingly; and the expression “including” is to be construed without limitation.

EDF Energy Customers Limited with registered number 2228297.

Registered offices at 90 Whitfield Street, London, W1T 4EZ Incorporated in England and Wales.

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