

# **Standard** Electricity Terms & Conditions for Industrial and Commercial Business Customers

EDF Energy (Fixed - Protect)

# Standard Electricity Terms & Conditions for Industrial and Commercial Business Customers

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## 1 TERM

The Agreement will commence on the date that we accept your signed Term Sheet and will continue in force until brought to an end in accordance with its terms (the "Term").

## 2 SUPPLY

- 2.1 We will provide the Supply to you from the Earliest Supply Start Date for the Term providing that all the Connection Conditions have been satisfied and continue to be satisfied, and none of the conditions in clause 2.3 apply.
- 2.2 If, on the day after the date that this Agreement commences in accordance with clause 1 (the "**Relevant Date**"), any of the Sites is being supplied by another electricity supplier (the "**Previous Supplier**"), your Earliest Supply Start will be within 21 days of the Relevant Date unless:
  - 2.2.1 you request that your Earliest Supply Start Date is a later date;
  - 2.2.2 you notify us that you do not wish the Supplier Transfer to take place (in which case you may be charged an Early Termination Fee in accordance with clause 9); or
  - 2.2.3 one or more of the conditions in clause 2.3 applies (in which case you may be charged an Early Termination Fee in accordance with clause 9).
- 2.3 The conditions in this clause are that, on or after the Relevant Date:
  - 2.3.1 the Previous Supplier has prevented us from completing the Supplier Transfer because it has raised an objection to the Supplier Transfer;
  - 2.3.2 we do not have all the information we require in order to complete the Supplier Transfer, despite having taken all reasonable steps to obtain the missing information from you; and we cannot readily obtain that information from another source; or
  - 2.3.3 you are taking a supply of electricity through an Exempt Distribution System and we are unable to start supplying the Sites because:
    - (a) a connection between the Sites and the Exempt Distribution System, or the Exempt Distribution System and another relevant distribution system has not yet been made; or
    - (b) a metering arrangement which is required in order for us to access the Exempt Distribution System is not in place; or
  - 2.3.4 we are prevented from completing the Supplier Transfer due to any other circumstance which is outside of our control and which we have taken all reasonable practicable steps to resolve.
- 2.4 Subject to clause 2.2, where a condition in clause 2.3 applies, we will complete the Supplier Transfer as soon as is reasonably practicable and in any event within 21 days following the date on which the relevant condition ceases to apply (or if more than one condition applies, when all relevant conditions cease to apply).
- 2.5 We undertake to you that throughout the Term we shall:
  - 2.5.1 have an appropriate licence to supply electricity to each Supply Point; and
  - 2.5.2 be a party to the DCUSA;and we shall notify you immediately should we become aware that the undertakings set out

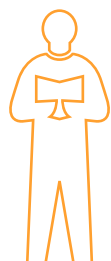
above have ceased to be complied with.

### 3 CONNECTION CONDITIONS

- 3.1 Our obligation to provide the Supply is conditional upon the following conditions being satisfied at all times in relation to each Site:
  - 3.1.1 there being a Connection Agreement, a Meter Operator Agreement, a Data Aggregator Agreement and a Data Collector Agreement in force in relation to each Supply Point at that Site;
  - 3.1.2 there being installed, satisfactorily commissioned, registered and operating a Meter at each Supply Point at that Site and such Meter meeting the requirements of clause 14.1;
  - 3.1.3 there being a Use of System Agreement in force in relation to that Site; and
  - 3.1.4 our being Registered as your supplier.
- 3.2 Subject to clause 3.3, you will ensure that clause 3.1.1 and the installation, commissioning and operating requirements of clause 3.1.2 are satisfied by the Earliest Supply Start Date and remain satisfied until the Agreement ends and you shall provide us with such information as we reasonably require to enable us to satisfy clauses 3.1.3 and 3.1.4 and the registration requirement in clause 3.1.2.
- 3.3 In the case of clause 3.1.1 you will only be responsible for ensuring that a Meter Operator Agreement, a Data Aggregator Agreement and a Data Collector Agreement is in force where we require you to contract with the relevant Agent or where you have the option to contract with such Agents and we agree to you doing so.
- 3.4 In addition to your obligations under clause 3.2, you represent and warrant and undertake to us as at the date of the Agreement and throughout the Term that:
  - 3.4.1 the Sites are only used for business purposes and you shall notify us as soon as you become aware that the Sites or, where there is more than one, any one of the Sites, shall be used as Domestic Premises (as defined in the Supply Licence);
  - 3.4.2 you will satisfy such other conditions as may, in our reasonable opinion, be necessary to permit us to provide the Supply at each Supply Point in accordance with the Supply Licence, the Act, the BSC, the DCUSA, the Regulations and any other relevant standard electricity supply industry documents or agreements as a result of changes to such documents after the date of the Agreement;
  - 3.4.3 you will comply with the relevant Distribution Code and the Grid Code to the extent that such codes are applicable to you;
  - 3.4.4 you have the right power and authority and you have taken all action necessary to execute and deliver, and to exercise your rights and perform your obligations under, the Agreement and the relevant Connection Agreements;
  - 3.4.5 you will at all times be a party to and duly comply with your obligations under the Connection Agreement and any other agreement required by the terms of the Agreement to be entered into by you with an Agent in respect of the Supply;
  - 3.4.6 if requested, you have provided us with a parent company guarantee, letter of credit, or such other Credit Support in form and substance reasonably acceptable to

us or you have agreed prepayment arrangements with us;

- 3.4.7 from the Supply Start Date you will not be a party to an existing agreement with a third party for the supply of electricity to the Sites; and
- 3.4.8 from the Supply Start Date you will not be party to an agreement with a third party for provision of Balancing Services at the Sites without our written agreement.
- 3.5 You shall notify us, as soon as reasonably practicable, if you become aware that any provision in clause 3.4 has ceased or is likely, in your reasonable opinion, to cease to be satisfied.
- 3.6 You shall indemnify us in respect of any loss, damage, costs and liability suffered or incurred by us as a result of breach by you of any representation, warranty or undertaking contained in clause 3.4.
- 3.7 All electricity discovered or reasonably and properly assessed to have been consumed (whether recorded or not recorded by a Meter for whatever reason) by you at a Supply Point during the Term shall be deemed to be supplied under the terms of the Agreement.
- 3.8 Without prejudice to our right under clause 16.1 to agree (or not agree) to add sites to the Agreement, where new Supply Point(s) are to be Registered in respect of any Site(s), or a new MPAN is to be allocated to a Supply Point at any Site(s), you shall notify us of such new Supply Point(s) or new MPAN (as applicable) as soon as practicable and, in any event, a minimum of twenty (20) working days prior to the date of such proposed Registration of such new Supply Point(s) or allocation of new MPAN. We shall Register new Supply Point(s) notified to us in accordance with this clause 3.8.
- 3.9 You will use all reasonable endeavours to notify us at least seven (7) working days in advance of (a) any material change in the patterns of consumption of electricity at the Site(s) and/or (b) any arrangements relevant to levels of consumption which you may have entered into, or are proposing to enter into from time to time (including shutdowns, holidays or changes to working patterns) and at least one (1) working day in advance of any such change provide, where appropriate, an additional notice setting out any further changes since the notification provided at least seven (7) working days in advance of such changes. Without prejudice to clause 4.19 and 4.21, you shall pay upon demand any reasonable costs or charges incurred by us as a result of any failure by you to comply with this clause 3.9.
- 3.10 Except where we have disconnected or de-energised any Supply Point under clause 8, you agree to notify us immediately upon the de-energisation or disconnection of any Supply Point.
- 3.11 We do not give any warranty or guarantee whatsoever as to the adequacy or safety of your electrical system and this shall be, and shall remain, at all times at your sole risk.
- 3.12 If, at 00:00 hours on the date set out in the Term Sheet as the Earliest Supply Start Date, you are a party to a supply agreement with another supplier which grants to the other supplier the right to enter an objection under the customer transfer processes contained or referred to in the MRA to our Registration of any Supply Point and if the other supplier raises an objection to you transferring supply to us, you shall indemnify us for all costs, losses or liabilities reasonably incurred by us as a result of the other supplier raising such objection.



## 4 OUR CHARGES

- 4.1 Unless the parties have agreed otherwise, we will, by the twelfth (12th) working day of each Charging Period (or as soon as practicable after that date) send you an invoice showing you the amount (calculated in accordance with our Charges) due for the Supply for the previous Charging Period plus any Availability Charge, and any other charges or costs that we are entitled to charge or pass through to you under the Agreement or otherwise.
- 4.2 You must pay all invoices in cleared funds within the Payment Period and using the Payment Method. Except where expressly provided otherwise, all payments made by you under the Agreement shall be made free of any restriction or condition and without deduction or withholding (except to the extent required by law) on account of any other amount, whether by way of set-off or otherwise.
- 4.3 All Charges and other amounts expressed to be payable by you to us under the Agreement are exclusive of value added tax. You shall pay any value added tax applicable to any amounts due under the Agreement. Any account rendered by us in respect of the Supply which includes value added tax shall be a value added tax invoice.
- 4.4 Any overdue sums properly due from you under the Agreement shall accrue interest at the Interest Rate as compounded annually from the date such sum became due until the date payment of such sum is received by us in cleared funds. You shall also pay us:
- 4.4.1 any debt recovery costs and expenses we incur as a result of your late payment;
- 4.4.2 any compensatory payment(s) we are entitled to recover from you under section 5A of the Late Payment of Commercial Debts (Interest) Act 1998 (the "Interest Act"); and
- 4.4.3 where we request you to do so, an administration fee of up to one hundred pounds (£100).
- 4.5 For the purposes of clause 4.4 and the Interest Act each amount of unpaid Charges for each month of the Agreement shall constitute a separate debt, and we shall be entitled to recover a compensatory payment in respect of each such debt.
- 4.6 We will prepare our invoices using consumption data recorded by the Meter unless:
- 4.6.1 we have not been provided with consumption data, or it has not been provided to us in the required timeframe in accordance with clause 14.12; and
- 4.6.2 having made reasonable efforts, we do not retrieve consumption data; or
- 4.6.3 we reasonably believe the consumption data to be wrong, in which case we may prepare an invoice using our reasonable estimate of the electricity supplied to you. We shall reconcile such estimate against actual consumption data once this is available and credit or debit you (as applicable) the amount of any underpayment or overpayment by you in the invoice for the Charging Period immediately following the Charging Period in which we conduct the reconciliation.
- 4.7 All invoices must be paid in full, even if part of an invoice is in dispute. You may dispute all or any part of an invoice within ninety (90) days of the date of the invoice. If it is subsequently agreed or determined that part or all of any disputed amount was not properly payable by you then you shall receive a credit in your next invoice issued in accordance with this clause 4.7 for the agreed amount.
- 4.8 Our Charges relate to the Meter reading and billing frequencies as set out in the Agreement. The appointed Agent(s) may make additional charges if you request optional or additional services, for example, if you choose a different type of meter, or if your arrangements with the Agent(s) do not meet the requirements of the indicated meter reading and billing frequencies. If we incur such additional charges we may add these charges to any relevant invoice or send a separate invoice.
- 4.9 Unless your Price Point is "Customer meter, all inclusive" and charges for Agent Services are expressly included in your Price Point, you will be subject to other charges which relate to your taking of the Supply, examples of which may include charges made by the appointed Agent(s), Transmission Network Use of System Charges and Distribution Use of System Charges. We may pay these charges to the relevant Agent(s), Local Network Operator, operator of any Transmission System or other third party on your behalf, but where we do so we shall be entitled to charge you an additional charge to recover these charges and our costs.
- 4.10 Your Available Capacity, as agreed between you and your Local Network Operator, is required for quoting and billing purposes. Where your Available Capacity has not been provided, it will be estimated until such time as your actual Available Capacity is provided. Once your actual Available Capacity has been provided then we may adjust our Charges retrospectively to reflect any differences between the estimated Available Capacity and the actual Available Capacity and you shall be liable to pay our Charges as adjusted.
- 4.11 You agree to pay us an administration charge if you ask us to supply duplicate invoices where original invoices have already been sent to you.
- 4.12 Notwithstanding the foregoing provisions of this clause 4, the following Charges shall be submitted in the invoice of Charges (in accordance with clause 4.1) for the month in which we are able to calculate the relevant Charge:
- 4.12.1 Triad Charges, which shall be calculated in accordance with clause 4.14;
- 4.12.2 AMR Tolerance Charge and/or HH Tolerance Charge, which shall be calculated in accordance with clauses 4.19 to 4.25; and
- 4.12.3 any other costs or charges which we are entitled to charge you from time to time under the Agreement.
- 4.13 If and to the extent that, for the purposes of calculating the Triad Charges referred to in clause 4.12.1, we prepare an invoice using estimated data, we shall reconcile such estimate against actual data once this is available and credit or debit you (as applicable) the amount of any underpayment or overpayment by you as soon as is reasonably practicable.
- 4.14 In respect of a twelve (12) month period from the Earliest Supply Start Date or any anniversary of such date, or where the Term duration set out in the Term Sheet is for a period of less than twelve (12) months, where a Triad Period falls within the Term duration, you shall make such prepayments in respect of a Triad Period falling in such twelve (12) month period or, where the Term duration is for a period of less than twelve (12) months in respect of a Triad Period falling in the Term duration, as may have been agreed with us in accordance with the Price Schedule in respect of our estimate of the sum of your actual average half hourly electricity demand during the relevant Triad Period (or, where you are not metered on a half hourly basis, our estimate of your average half hourly electricity demand) multiplied by the Triad Demand Tariff in respect of the relevant Zone Area.4.15



Any prepayment(s) of the Triad Charges made by you under clause 4.14 shall be repaid to you within forty five (45) working days of the later of:

4.15.1 the Agreement terminating in accordance with its terms; and

4.15.2 the end of any Transfer Period,

(“the long-stop date”) insofar as such long-stop date falls prior to the Triad Period to which the prepayment relates. Notwithstanding the foregoing provisions of this clause 4.15, if the long-stop date falls during a Triad Period, we shall repay you the prepayment of Triad Charges relating to the remainder of such Triad Period as soon as is reasonably practicable after the end of such Triad Period. We shall be entitled to set off any such repayment against any monies in respect of the Agreement not yet paid by you at that time.

- 4.16 We may set off any amounts received from you, or owing to you, against any other amounts due and owing by you or by us under the Agreement or any other agreement between us, or which you otherwise owe to us.
- 4.17 We shall not pay you or any other person any fees relating to any agent's or consultant's arrangement, organisation fees, costs or expenses unless prior written agreement is given by us. If you use a third party intermediary (including a consultant or broker) to negotiate our Charges, their fees may be built into the Charges we charge you under the Agreement. It is your responsibility to make enquiries with such third party intermediary to ensure that you fully understand the nature of such third party intermediary's fees. If you dispute any such third party intermediary's fees then you should seek to resolve such dispute with that third party intermediary, which may involve you seeking to recover any disputed fees from them. We shall not be obliged to reimburse any proportion of our Charges which you have paid us (whether or not such proportion relates to a third party intermediary's fees) in the event of any such dispute.
- 4.18 If we receive revised data from any Agent in respect of the Supply at any Site in any Charging Period, we reserve the right to recalculate amounts due under the Agreement and submit to you an invoice indicating any payments to be made by you to us as a result. You must pay any such revised invoice within the payment period set out on the revised invoice. For the avoidance of doubt, this clause 4.18 shall survive the termination of the Agreement and/or the expiry of the Transfer Period.
- 4.19 Notwithstanding any other provision in the Agreement, if your aggregate actual consumption in a Relevant Period at your HHSites (if any and subject to clauses 4.24.1 and 4.24.2) falls above or below the Estimated Annual Consumption for those HH Sites by the Tolerance or more you shall pay to us a charge (the “HH Tolerance Charge”) which shall be calculated as follows.
- 4.19.1 where your aggregate actual consumption in a Relevant Period at such HH Sites is less than or equal to the Estimated Annual Consumption for such HH Sites minus the Tolerance you shall pay to us the HH Tolerance Charge in relation to such HH Sites calculated in accordance with this clause 4.19.1 as follows:  
$$\text{HH Tolerance Charge} = ((\text{EC} - (\text{EC} \times \text{T})) - \text{AC}) \times (\text{ER} - \text{SSP})$$
- 4.19.2 where your aggregate actual consumption in a Relevant Period at such HH Sites is greater than or equal to the Estimated Annual Consumption for such HH Sites plus the Tolerance you shall pay to us the HH Tolerance Charge in relation to such HH Sites calculated in accordance with this clause 4.19.2 as follows:

$$\text{HH Tolerance Charge} = (\text{AC} - (\text{EC} + (\text{EC} \times \text{T}))) \times (\text{SBP} - \text{ER})$$

- 4.20 For the purposes of clause 4.19 the below terms have the following meanings:
- “AC” means the aggregate of your actual energy consumption in each half hourly period at such HH Sites for the Relevant Period (in kWh);
- “EC” means the Estimated Annual Consumption of all such HH Sites;
- “T” means the Tolerance;
- “SSP” the time weighted average of the System Sell Price (as defined in the BSC) for each half hourly period during the Relevant Period (in £/MWh), divided by 1000;
- “SBP” means the time weighted average of the System Buy Price (as defined in the BSC), for each half hourly period during the Relevant Period (in £/MWh), divided by 1000;
- “ER” means the time weighted average of the Energy Rate for such HH Sites for each half hourly period during the Relevant Period (in £/MWh), divided by 1000.
- 4.21 Notwithstanding any other provision in the Agreement, if your aggregate actual consumption in a Relevant Period at your AMR Sites (if any and subject to clauses 4.24.1 and 4.24.2) falls above or below the Estimated Annual Consumption for those AMR Sites by the Tolerance or more you shall pay to us a charge (the “AMR Tolerance Charge”) which shall be calculated as follows.
- 4.21.1 where your aggregate actual consumption in a Relevant Period at such AMR Sites is less than or equal to the Estimated Annual Consumption for such AMR Sites minus the Tolerance you shall pay to us the AMR Tolerance Charge in relation to such AMR Sites calculated in accordance with this clause 4.21.1 as follows:  
$$\text{AMR Tolerance Charge} = ((\text{EC} - (\text{EC} \times \text{T})) - \text{AC}) \times (\text{ER} - \text{SSP})$$
- 4.21.2 where your aggregate actual consumption in a Relevant Period at such AMR Sites is greater than or equal to the Estimated Annual Consumption for such AMR Sites plus the Tolerance you shall pay to us the AMR Tolerance Charge in relation to such AMR Sites calculated in accordance with this clause 4.21.2 as follows:  
$$\text{AMR Tolerance Charge} = (\text{AC} - (\text{EC} + (\text{EC} \times \text{T}))) \times (\text{SBP} - \text{ER})$$
- 4.22 For the purposes of clause 4.21 the below terms have the following meanings:
- “AC” means the aggregate of your actual energy consumption in each half hourly period at such AMR Sites for the Relevant Period (in kWh);
- “EC” means the Estimated Annual Consumption of all such AMR Sites;
- “T” means the Tolerance;
- “SSP” the time weighted average of the System Sell Price (as defined in the BSC) for each half hourly period during the Relevant Period (in £/MWh), divided by 1000;
- “SBP” means the time weighted average of the System Buy Price (as defined in the BSC), for each half hourly period during the Relevant Period (in £/MWh), divided by 1000;
- “ER” means the time weighted average of the Energy Rate for such AMR Sites for each half hourly period during the Relevant Period (in £/MWh), divided by 1000.
- 4.23 If the Term ends before a Relevant Period is completed then the provisions of clauses 4.19 to 4.22 shall be applied on a pro rata basis in calculating any HH Tolerance Charge and/or AMR Tolerance Charge payable for that proportion of the Relevant Period that has been



- completed.
- 4.24 If in any Relevant Period a Site becomes an HH Site or an AMR Site or an HH Site or an AMR Site is added to the Agreement then:
- 4.24.1 we may include such Site in the calculation of the HH Tolerance Charge or AMR Tolerance Charge in clauses 4.19 to 4.22 (as applicable) for that Relevant Period in which case the Estimated Annual Consumption and the aggregate actual for such Site shall be calculated on a pro rata basis from the date on which such Site becomes an HH Site or an AMR Site or on which the HH Site or AMR Site is added to the Agreement to the end of that Relevant Period; and
- 4.24.2 we may include such Site in the calculation of the HH Tolerance Charge or AMR Tolerance Charge in clauses 4.19 to 4.22 (as applicable) for any subsequent Relevant Period.
- 4.25 If in any Relevant Period we have agreed to supply multiple HH Sites and/or multiple AMR Sites, subsequently cease to supply any HH Site and/or AMR Site and impose a Site Removal Fee in relation to such HH Site and/or AMR Site then we may recalculate the Estimated Annual Consumption for that and any subsequent Relevant Period.
- 4.26 We shall be entitled to recover any HH Tolerance Charge and/or AMR Tolerance Charge by including it in any invoice issued to you.
- 4.27 You agree that the HH Tolerance Charge and the AMR Tolerance Charge represent, in each case, a genuine pre-estimate of the losses, costs and expenses that we would otherwise suffer.

## 5 VARIATION OF CHARGES

- 5.1 In addition to our right to apply Extended Supply Charges under clause 7, and without prejudice to any other rights we have under the Agreement or otherwise, we may vary or add to all or any of our Charges (including by adding a new charge) at any time by giving notice in writing to you if:
- 5.1.1 any information you or an Agent contracted by you has provided to us, or our interpretation of that information, is incorrect;
- 5.1.2 any direction is given by the Secretary of State under the Act, but only by such amount(s) as will enable us to recover from you a fair proportion of the additional costs directly or indirectly suffered by us as a result of such direction;
- 5.1.3 any change is made after the date of the Agreement to:
- 5.1.3.1 any communications link, Meter Operator services, Data Collector services, or Data Aggregator services associated with the Supply, in each case by such amounts as will enable us to recover our costs relating to change;
- 5.1.3.2 any statutory levy (including the rate of the fossil fuel levy referred to in Section 33 of the Act), charge, tax, tariff or similar or if any new statutory levy, charge, tax, tariff or similar is introduced;
- 5.1.3.3 any obligation or cost imposed on us which change directly affects our costs of complying with our obligations under the Agreement and which arises out of any change in law (including the introduction of new laws), our Supply Licence, the relevant Transmission Licence, the

Act, the BSC, the Regulations, the DCUSA, the Statement of the Use of System Methodology and/or any other relevant standard electricity supply industry documents or agreements or any change is made after the date of the Agreement in the methodology used for calculating any charges or amounts which are incurred by us in respect of and/or associated with the Supply or otherwise, howsoever incurred by or due from us;

- 5.1.3.4 (i) the voltage, measurement class or profile class of the Supply at any Supply Point, or (ii) the number or identity of the Supply Points or MPANs supplied under this Agreement.
- 5.1.4 there is any change in the methodology your Local Network Operator, or the operator of any Transmission System, uses to calculate its charges;
- 5.1.5 any of our electricity purchase agreements are suspended or terminated in whole or in part by reason of Circumstances Beyond Our Control, by such amount as will enable us to recover from you a fair proportion of the additional costs directly or indirectly suffered by us as a result of such total or partial suspension or termination;
- 5.1.6 the Earliest Supply Start Date is delayed due to any act or omission by you;
- 5.1.7 we re-energise or re-connect the Supply under clause 8.4;
- 5.1.8 any Supply Number that you have asked us to Register fails the Registration process;
- 5.1.9 we Register a new Supply Point and/or MPAN in accordance with clause 3.8; and/or
- 5.1.10 at any time during the Term:
- 5.1.10.1 we supply multiple Sites;
- 5.1.10.2 our Charges are determined on the basis of your Sites being part of a group of Sites to which the same price per unit of energy applies; and
- 5.1.10.3 we cease to supply any of your Sites.
- For the avoidance of doubt our right to vary our Charges under this clause 5.1.10 shall be without prejudice (and may be in addition to) our right to charge you any Site Removal Fee.
- 5.2 Where your Price Point is "Customer Meter" we will not increase the prices shown on your Price Schedule for the duration of the Term, subject always to the provisions of Clause 5.1, 5.3 and 20.
- 5.3 If we give you notice under this clause 5 amending our Charges, the amended Charges specified in that notice shall take effect on the date specified in that notice.

## 6 ENDING THE AGREEMENT

- 6.1 We may terminate the Agreement immediately at any time by giving you written notice if:
- 6.1.1 any of the Connection Conditions set out in clause 3.1 cease to be satisfied or are breached by you at any time;
- 6.1.2 any amount properly due and owing by you under the Agreement is not paid within the relevant Payment Period;



- 6.1.3 you materially breach the Agreement and such breach is not capable of remedy;
- 6.1.4 you materially breach the Agreement and if such breach is capable of remedy, you do not remedy the breach to our reasonable satisfaction within a period of fourteen (14) days after receiving notice from us requiring you to do so;
- 6.1.5 you cease to occupy all of the Sites being supplied under the Agreement;
- 6.1.6 you accept Supply at the Sites from a third party;
- 6.1.7 an administrator, provisional administrator, receiver, administrative receiver, liquidator, bankruptcy trustee or supervisor is appointed in respect of all or part of your undertaking or assets or a petition is filed, a notice is given, a resolution is passed or an order or application to Court is made or proposed in order to effect any of the same or to commence any process which could lead to the same;
- 6.1.8 you enter into an arrangement or composition with or for the benefit of your creditors generally or such arrangement or composition is proposed by you or in relation to you or you make a proposal for a voluntary arrangement under Part 1 of the Insolvency Act 1986;
- 6.1.9 a moratorium order comes into force in relation to you;
- 6.1.10 you are unable to pay your debts (within the meaning of the Insolvency Act 1986) or you cease or threaten to cease to pay your debts as they fall due;
- 6.1.11 you suspend or cease, or threaten to suspend or cease, to carry on all or a substantial part of your business;
- 6.1.12 a creditor or encumbrance attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within fourteen (14) days;
- 6.1.13 Circumstances Beyond Their Control interrupt Supply for a continuous period of twenty eight (28) days;
- 6.1.14 you are in material breach of the CUSC, the BSC, the MRA, the Grid Code or the Regulations or you cause the relevant Transmission Licence or Supply Licence to be revoked or withdrawn;
- 6.1.15 you persistently fail to comply with one or more of your obligations under the Agreement and such failure amounts to an intentional or reckless breach or disregard by you of your obligations under the Agreement;
- 6.1.16 you cease to be a party to, or are in material breach of, your obligations under the Connection Agreement for the Sites;
- 6.1.17 the parent company guarantee, letter of credit or such other credit support or prepayment arrangement you provide pursuant to the Agreement has terminated or been withdrawn, and you have failed to either provide a replacement parent company guarantee, letter of credit or such other credit support in form and substance reasonably acceptable to us or agree alternative prepayment arrangements with us; or
- 6.1.18 we have the right to do so under any other provision in the Agreement.
- 6.2 The Agreement shall terminate immediately:
- 6.2.1 if our Supply Licence is revoked; or
- 6.2.2 when a last resort supply direction comes into effect in relation to the Sites, being a last resort supply direction given to a supplier other than us in pursuance of standard condition 29 of the standard conditions of the Supply Licence incorporated into the licence granted under section 6(1)(d) of the Act.
- 6.3 If the Agreement terminates or ends in respect of any or all Site(s), and Supply to such Site(s) is not continuing, we may enter such Site(s) to remove any of our equipment.
- 6.4 Termination of the Agreement or expiry of the Transfer Period shall not affect the accrued rights, remedies, obligations or liabilities of either party existing at termination of the Agreement or at the expiry of the Transfer Period.
- 6.5 Notwithstanding the termination of the Agreement or the expiry of the Transfer Period any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement or the expiry of the Transfer Period including clauses 4, 6, 7, 9, 15, 16, 17, 19, 20 and 21 shall remain in full force and effect.
- 6.6 In the event of the termination of the Agreement in accordance with this clause 6, we shall issue an invoice to you showing all outstanding monies (including the Charges due from the date of the previous invoice up to and including the date termination takes effect under the Agreement, any HH Tolerance Charge, AMR Tolerance Charge and any amounts under the Agreement due and payable by you up to and including the date termination of the Agreement takes effect) and you shall pay such invoice in accordance with clause 4.2.
- ## 7 TERM EXTENSION
- 7.1 Subject to clause 7.3, if you continue to consume energy at the Supply Point(s) at the Site(s) after any date from which termination of the Agreement takes effect ("Termination Effective Date"), the Term Sheet (including these Conditions and any other document referred to in the Term Sheet as forming part of the Agreement) in force prior to the Termination Effective Date shall be deemed to:
- 7.1.1 be extended from the Termination Effective Date until the expiry of the Transfer Period; and
- 7.1.2 form a legally binding agreement between the parties until the expiry of the Transfer Period,
- and the parties hereby agree that such Term Sheet shall, subject to clauses 12.7 and 12.11, take effect as described in clauses 7.1.1 and 7.1.2, except that the Extended Supply Charges shall apply in place of the Charges as if the Extended Supply Charges were specified in such Term Sheet as the Charges and you shall pay for your consumption at the Extended Supply Charges in respect of the Transfer Period.
- 7.2 At any time prior to the Earliest Termination Date, we may submit one or more new Term Sheets proposed to be executed by you and us in each Offer Period.
- 7.3 A Term Sheet executed by us within the relevant Offer Period will, with effect from the Earliest Supply Start Date specified in such Term Sheet, supersede and replace any previous Term Sheet, except that nothing in this clause 7 shall operate so as to waive, release, diminish or discharge all or any of the payment obligations of a party accrued at the Earliest



Supply Start Date and specified in any previous Term Sheet, which shall remain in place until discharged in full in accordance with the terms of the Agreement which includes such previous Term Sheet.

- 7.4 If at the Earliest Termination Date a new Term Sheet has not been executed by both you and us in accordance with clause 7.2, the Agreement shall immediately terminate and the provisions of clauses 6.5 and 7.1 shall apply during the Transfer Period.

## 8 DE-ENERGISATION AND DISCONNECTION

- 8.1 We have the right to arrange for the Supply to be de-energised or disconnected at your Sites if any of the circumstances in clause 6.1 apply, or for Supply to be de-energised or disconnected at the relevant Site(s) if clause 16.2 or 16.4 applies, and the exercise of our rights under this clause 8.1 shall be without prejudice, and may be exercised in addition to, our exercising our rights under clauses 6.1, 16.2 and 16.4.
- 8.2 We may arrange to disconnect the Supply if we have de-energised under clause 8.1 and the Supply has remained de-energised for a period of at least three (3) months.
- 8.3 Before arranging any de-energisation or disconnection we will give you written notice.
- 8.4 If the Supply has been de-energised or disconnected under the Agreement, we will not arrange re-energisation or re-connection until:
- 8.4.1 the circumstances giving rise to such de-energisation or disconnection have been remedied to our satisfaction;
- 8.4.2 you have paid such reasonable amount as we may require to cover the cost to us of the de-energisation and re-energisation and (where applicable) the disconnection and reconnection (including any payment we have to make to the Local Network Operator) together with any ongoing Charges incurred during the period of de-energisation or disconnection; and
- 8.4.3 you have paid such performance bond, bank guarantee, security deposit or advance payment as we may require for the Charges which may become due in future from you under the Agreement.
- 8.5 For the avoidance of doubt, if you do not satisfy the requirements of clause 8.4 within the time specified in the relevant notice of de-energisation or disconnection and we terminate the Agreement in respect of the relevant Site or terminate the Agreement in its entirety you will still have to pay any costs we incurred in relation to de-energisation and disconnection including any fees, expenses, costs or charges incurred or committed to be incurred in respect of the Supply under any agreement entered into with an Agent, the DCUSA, the MRA or the BSC and any other costs in de-energising or disconnecting the Supply.

## 9 EARLY TERMINATION AND SITE REMOVAL FEES

- 9.1 If, prior to the Earliest Termination Date and other than during a Transfer Period, either you terminate the Agreement in respect of a Site under clause 16.3, or we terminate the Agreement in respect of a Site under clause 16.2 or 16.4 or we terminate the Agreement as a whole under clause 6.1, 11.5, 16.3 or 16.4 then, without prejudice to any other rights we have under the Agreement, we may:
- 9.1.1 if we terminate the Agreement as a whole, charge you a termination fee ("Early

Termination Fee"); or

- 9.1.2 if either you or we terminate the Agreement in respect of the relevant Site, charge you a fee for the removal of such Site ("Site Removal Fee").
- 9.2 If clause 9.1.1 applies, we shall be entitled to charge, and you shall pay, the Early Termination Fee. We shall calculate the Early Termination Fee in accordance with clauses 9.3, 9.4 and 9.9. For the avoidance of doubt the Agreement may be terminated only in accordance with its terms, and you cannot elect to terminate the Agreement by paying an Early Termination Fee otherwise than in accordance with the terms of the Agreement.
- 9.3 The Early Termination Fee shall be the sum of the following components as calculated by us at or after the date of termination:
- 9.3.1 the "Energy Component" (if any); plus
- 9.3.2 the "Seasonal Difference Component" (if any); plus
- 9.3.3 the "Termination Administration Charge Component".
- 9.4 For the purposes of clause 9.3:
- 9.4.1 the "Energy Component" is an amount (in £) determined as follows:  
Energy Component = (ER-MR) x USV  
where:  
"USV" or "Unsupplied Volume" means an amount (in kWh), which is the Total Forecasted Consumption applied on a pro rata basis for the Remainder Period;  
"ER" means the volume weighted average of the Energy Rate for all of your Sites for the Remainder Period (in £/MWh), divided by 1000;  
"MR" means the Market Rate for the Unsupplied Volume determined in accordance with clause 9.9,  
provided that where the result of the calculation in clause 9.4.1 is negative or zero there shall be no Energy Component.
- 9.4.2 the "Seasonal Difference Component" is an amount (in £) determined by subtracting:
- 9.4.2.1 the amount (in £) of the Charges you have actually paid for the Supply as invoiced to you under clause 4; from
- 9.4.2.2 the amount (in £) that you would have paid for the Supply had we calculated our Charges on the basis of a volume weighted price (in £/MWh) for each month of the Agreement for the period between the Earliest Supply Start Date and the Earliest Termination Date,  
provided that there shall be no Seasonal Difference Component if the result of the calculation in clause 9.4.2 is zero or negative.
- 9.4.3 the "Termination Administration Charge Component" is an amount (in £) determined by adding:
- 9.4.3.1 an amount (in £) which is equal to three and half per cent (3.5%) of the Charges which we would have charged you had we supplied to you the Total Forecasted Consumption applied on a pro rata basis for the





- Remainder Period; and
- 9.4.3.2 an administration charge of two hundred and twenty pounds (£220).
- 9.5 Where clause 9.1.2 applies then we may charge, and you shall pay, the Site Removal Fee in respect of the relevant Site. We shall calculate the Site Removal Fee in accordance with clauses 9.6 to 9.9 below.
- 9.6 The Site Removal Fee for each Site shall be the sum of the following components as calculated by us at or after the date we cease to supply the relevant Site:
- 9.6.1 the "Site Energy Component" (if any); plus
- 9.6.2 the "Site Seasonal Difference Component" (if any); plus
- 9.6.3 the "Site Removal Administration Charge Component"; plus
- 9.6.4 the "Group Average Price Revision Component" (if any).
- 9.7 For the purposes of clause 9.6:
- 9.7.1 the "Site Energy Component" is an amount (in £) determined as follows:  
Site Energy Component = (SER-SMR) x SUSV  
where:  
"SUSV" or "Site Unsupplied Volume" means an amount (in kWh), which is the Site Total Forecasted Consumption applied on a pro rata basis for the Site Remainder Period at the relevant Site;  
"SER" means the volume weighted average of the Energy Rate for the relevant Site for the Site Remainder Period (in £/MWh), divided by 1000;  
"SMR" means the Site Market Rate for the Site Unsupplied Volume determined in accordance with clause 9.9,  
provided that where the result of the calculation in clause 9.7.1 is negative or zero there shall be no Site Energy Component;
- 9.7.2 the "Site Seasonal Difference Component" is an amount (in £) determined by subtracting:
- 9.7.2.1 the amount (in £) of the Charges which you have actually paid for the Supply to the relevant Site under the Agreement as invoiced to you under clause 4; from
- 9.7.2.2 the amount (in £) that you would have paid for such Supply had we calculated the Charges on the basis of a volume weighted price (in £/MWh) for each month of the Agreement for the period between the Earliest Supply Start Date and the Earliest Termination Date,  
provided that there shall be no Site Seasonal Difference Component if the result of the calculation in clause 9.7.2 is zero or negative;
- 9.7.3 the "Site Removal Administration Charge Component" is an amount (in £) determined by adding:
- 9.7.3.1 an amount (in £) which is equal to three and half per cent (3.5%) of the Charges which we would have charged you had we supplied to you the Site Total Forecasted Consumption applied on a pro rata basis for the Site Remainder Period at the relevant Site; and
- 9.7.3.2 an administration charge of two hundred and twenty pounds (£220); and
- 9.7.4 the "Group Average Price Revision Component" is an amount (in £) determined as follows:  
Group Average Price Revision Component = (USV-SUSV) x (RC – OC)  
where:  
"SUSV" means the Site Unsupplied Volume (in kWh) as determined in accordance with clause 9.7.1;  
"USV" or "Unsupplied Volume" means the amount (in kWh) which is the result of subtracting the Total Forecasted Consumption applied on a pro rata basis for the period between the Earliest Supply Start Date and the date we cease to supply the relevant Site, from your Total Forecasted Consumption;  
"RC" or "Revised Charges" means the price per unit of energy (in £/kWh) which we would have charged you had we determined our Charges on the basis of the number of Sites remaining after the removal of the relevant Site, rather than the original number of Sites in respect of which we agreed to supply you at the start of the Agreement (but in all other respects, using the same calculation methodology as we used to determine the original Charges);  
"OC" or "Original Charges" means the price per unit of energy (in £/kWh) which we charged you for Supply immediately prior to the removal of the relevant Site,  
provided that there shall be no Group Average Price Revision Component if:
- 9.7.4.1 the sum of (RC – OC) is negative or zero; and/or
- 9.7.4.2 clause 9.8 does not apply.
- 9.8 The Site Removal Fee shall only include a Group Average Price Revision Component if:
- 9.8.1 we supply multiple Sites under the Agreement; and
- 9.8.2 the price per unit of energy applying to the Site being removed was determined on the basis of it being part of a group of Sites to which the same price per unit of energy applies.
- 9.9 For the purposes of clauses 9.4.1 and 9.7.1, the Market Rate and Site Market Rate shall be a rate per unit of energy (in £/kWh) determined as follows:
- 9.9.1 using information which we hold concerning current and expected market prices for the Unsupplied Volume or Site Unsupplied Volume (as appropriate);
- 9.9.2 taking into account any loss, costs, damages or expenses we may incur as a result of trading the Unsupplied Volume or Site Unsupplied Volume (as appropriate), or using the same volume to supply any other customer instead of purchasing energy on the market for such other customer; and
- 9.9.3 on the basis that:
- 9.9.3.1 the volume of energy we will be seeking to determine a price for shall be



- the Unsupplied Volume or Site Unsupplied Volume (as appropriate);
  - 9.9.3.2 we will seek to sell the Unsupplied Volume or Site Unsupplied Volume (as appropriate) over a period which is equal to the Remainder Period or Site Remainder Period (as appropriate);
  - 9.9.3.3 we may be exposed to greater risks (including, without limitation, the risk of not being able to sell the Unsupplied Volume or Site Unsupplied Volume (as appropriate) to any third party) as a result of your early termination or Site removal (as appropriate), which we shall not be obliged to take any steps to mitigate.
- 9.10 We shall be entitled to recover any Early Termination Fee or Site Removal Fee by including it within any invoice we issue to you.
- 9.11 You agree that the Early Termination Fee and Site Removal Fee represent, in each case, a genuine pre-estimate of the losses, costs and expenses that we would otherwise suffer.

## 10 MULTIPLE SITES

If under the Agreement we supply you at more than one Site, the Earliest Supply Start Date may be different at each Site.

## 11 CREDIT SUPPORT AND ADVANCE PAYMENTS

- 11.1 If at any time during the Term:
- 11.1.1 you fail to pay any amount due from you under the Agreement by the due date for such payment on two (2) or more consecutive occasions (except in relation to payments which we have agreed in writing are the subject of a bona fide dispute);
  - 11.1.2 your Payment Method is not direct debit and you fail to pay any amount due from you under the Agreement within fourteen (14) days of the due date for such payment on one (1) occasion (except in relation to payments which we have agreed in writing are the subject of a bona fide dispute); or
  - 11.1.3 your Payment Method is direct debit and you fail to pay any amount due from you under the Agreement on the due date for such payment on one (1) occasion and you subsequently fail to pay such amount by CHAPS within two (2) days of that due date (except in relation to payments which we have agreed in writing are the subject of a bona fide dispute); or
  - 11.1.4 a Material Adverse Change occurs, we may:
    - 11.1.5 vary your Payment Period; or
    - 11.1.6 require you to pay our Charges in advance of the actual Supply to which those Charges relate as opposed to in arrears of the actual Supply (“Advance Payments”); and/or
    - 11.1.7 request Credit Support from you.
- 11.2 For the avoidance of doubt, we shall not be entitled to exercise our rights under clause 11.1.5 or 11.1.6 if we have asked, and you have provided us with, Credit Support during the Term under clause 11.1.7, and such Credit Support has not been returned to you under

clause 11.7. However, we may request that you provide Credit Support during the Term under clause 11.1.7, and you shall be required to provide such Credit Support, even if we have already varied your Payment Period or required you to make Advance Payments under clauses 11.1.5 or 11.1.6.

- 11.3 The amount of any Credit Support that we may request and/or hold under clause 11.1 shall not exceed the sum of our Charges for any consecutive three (3) month period of the Term. We may use a reasonable estimate of your forecast monthly consumption for the purpose of this clause 11.3.
- 11.4 You must provide any Credit Support we request under clause 11.1.7 to us within seven (7) working days of the date of our request.
- 11.5 Any failure by you to provide Credit Support in accordance with this clause 11 shall be treated as a material breach of the Agreement and, without prejudice to any other rights we have, we may immediately terminate the Agreement. If we terminate the Agreement pursuant to this clause 11.5, we may require you to pay an Early Termination Fee under clause 9.
- 11.6 Subject to clause 11.7, any Credit Support we hold under the Agreement (including Credit Support we request that you provide to us as a condition of your entry into the Agreement) shall be returned to you as soon as is reasonably practicable after the date that all amounts owed by you under the Agreement have been paid to us following:
- 11.6.1 the date of termination of the Agreement;
  - 11.6.2 the Earliest Termination Date; or
  - 11.6.3 the end of the Transfer Period (if any),
- whichever is later.
- 11.7 We shall return the Credit Support to you as soon as is reasonably practicable and in any event prior to the time referred to in clause 11.6 if:
- 11.7.1 Credit Support (including Credit Support we request that you provide to us as a condition of your entry into the Agreement) has been provided by you solely as a result of a Material Adverse Change;
  - 11.7.2 such Material Adverse Change is no longer continuing; and
  - 11.7.3 in our reasonable opinion, a Material Adverse Change is unlikely to reoccur before the end of the Agreement.
- 11.8 If the Credit Support (including Credit Support we request that you provide to us as a condition of your entry into the Agreement) includes cash, when the Credit Support is repaid in accordance with clauses 11.6 or 11.7, the following shall be paid:
- 11.8.1 the amount of Credit Support that was provided as cash; plus
  - 11.8.2 interest on any Credit Support provided as cash calculated at the annual rate of the base lending rate of the Bank of England from time to time, to accrue daily from the date such Credit Support is provided to the date it is repaid; less
  - 11.8.3 any amounts you owe us under the Agreement; less
  - 11.8.4 any amounts required to be withheld and paid to the HM Revenue and Customs in relation to the Credit Support in accordance with any applicable tax law.



- 11.9 We may use all or part of any Credit Support (including Credit Support we request that you provide to us as a condition of your entry into the Agreement) as a credit towards amounts due and payable by you under the Agreement if payment of such amounts is overdue by fourteen (14) working days or more. If we do so, you must top-up the Credit Support by paying to us in cash the amount of the Credit Support that we used as a credit in accordance with this clause 11.9 and clause 11.5 will apply if you fail to do so.
- 11.10 If we require you to make Advance Payments in accordance with clause 11.1.6, we will base our Charges on our estimated forecast of your consumption, which we will then reconcile against your actual consumption once this data is available. We will explain the specific procedure (including payment terms and method) when we request you to make Advance Payments, and you must comply with such procedure when making Advance Payments.

## 12 CCL, CHP, RENEWABLE AND NUCLEAR SOURCE ELECTRICITY

### 12.1 Climate Change Levy

In order for us to apply to your invoice any reductions or exemptions from the Climate Change Levy ("CCL") for which you may qualify other than under clause 12.2, you must supply us with your completed relief or supplier certificate ("PP11") available from HM Revenue and Customs. We can only apply the PP11 retrospectively for a maximum of four years from the date of presentation to us.

### 12.2 Renewable and Good Quality Combined Heat and Power Source Electricity

If your Price Schedule specifies CCL exempt sources then (subject to clauses 12.7 and 12.8) we shall apply the Agreed CCL Exempt Percentage to either your Total Forecasted Consumption or Supplied Electricity (at our discretion). Unless we notify you otherwise we shall apply the Agreed CCL Exempt Percentage to your Supplied Electricity (subject to clauses 12.7 and 12.8). We shall be entitled to notify you at any time during the Term that we will apply the Agreed CCL Exempt Percentage to the Total Forecasted Consumption or Supplied Electricity (as relevant) and we shall apply the Agreed CCL Exempt Percentage accordingly from the date of such notification until the date of any further notification. Where we apply the Agreed CCL Exempt Percentage to the Total Forecasted Consumption, in each Charging Period, we will apply the Agreed CCL Exempt Percentage to our reasonable estimate of the proportion of the Total Forecasted Consumption attributable to that Charging Period.

- 12.2.1 If the energy mix set out in your Price Schedule specifies Pure Green then the specified percentage shall be supplied by CCL exempt power backed by Renewable Source Electricity exclusively from onshore wind, offshore wind and/or CCL exempt small hydro-electric generation.
- 12.2.2 If the energy mix set out in your Price Schedule specifies Renewable then the specified percentage shall be supplied by CCL exempt power backed by Renewable Source Electricity.
- 12.2.3 If the energy mix set out in your Price Schedule specifies Good Quality CHP then the specified percentage shall be supplied by CCL exempt power backed by Good Quality CHP Source Electricity.
- 12.2.4 If the energy mix set out in your Price Schedule specifies Any LEC then the specified percentage shall be supplied by CCL exempt power backed, at our discretion, by

either Good Quality CHP Source Electricity or Renewable Source Electricity or a combination of both.

- 12.3 We shall (at our sole discretion) be entitled to supply you with more CCL exempt power than the Agreed CCL Exempt Percentage or, if your Price Schedule does not specify CCL exempt sources, to supply you with any amount of CCL exempt power. That CCL exempt power shall be backed by either Renewable Source Electricity or Good Quality CHP Source Electricity, or a combination of both. Where we exercise our discretion to supply CCL exempt power under this clause 12.3, you will not be charged CCL on that CCL exempt power, however an amount forecast by us to be equal to the CCL which would have been charged had that power not been CCL exempt shall be applied.

### 12.4 Renewable Source Declaration

If clause 12.2.1 or clause 12.2.2 applies then, for the purposes of, and in accordance with, paragraph 19(2) of Schedule 6 to the Finance Act 2000, the amount of Renewable Source Electricity supplied by us in each Averaging Period shall not exceed the difference between:

- 12.4.1 the total amount of Renewable Source Electricity acquired or generated by us during that period; and
- 12.4.2 so much of that total amount as is allocated by us otherwise than to Renewable Source Electricity supplies made by us in that period.

### 12.5 Good Quality Combined Heat and Power Source Declaration

If clause 12.2.3 applies then, for the purposes of, and in accordance with, paragraph 20A of Schedule 6 to the Finance Act 2000, the amount of Good Quality CHP Source Electricity supplied by us in each Averaging Period shall not exceed the difference between:

- 12.5.1 the total amount of Good Quality CHP Source Electricity acquired or generated by us during that period; and
- 12.5.2 so much of that total amount as is allocated by us otherwise than to Good Quality CHP Source Electricity supplies made by us in that period.

### 12.6 Renewable or Good Quality Combined Heat and Power Source Declaration

If clause 12.2.4 or clause 12.3 applies then, for the purposes of, and in accordance with, paragraph 19(2) and 20A of Schedule 6 to the Finance Act 2000, the amount of Renewable Source Electricity or Good Quality CHP Source Electricity supplied by us in each Averaging Period shall not exceed the difference between:

- 12.6.1 the total amount of Renewable Source Electricity and Good Quality CHP Source Electricity acquired or generated by us during that period; and
- 12.6.2 so much of that total amount as is allocated by us otherwise than to Renewable Source Electricity and Good Quality CHP Source Electricity supplies made by us in that period.

- 12.7 We will not supply you with the Agreed CCL Exempt Percentage of your Supplied Electricity or Total Forecasted Consumption (as relevant) from Renewable Source Electricity or Good Quality CHP Source Electricity, as applicable, if continuation of such a supply would result in us being in breach of our obligations under the Finance Act 2000.

- 12.8 If clause 12.2 applies, any failure by us to supply you with the Agreed CCL Exempt Percentage of your Supplied Electricity or Total Forecasted Consumption (as relevant) from



- Renewable Source Electricity or Good Quality CHP Source Electricity as applicable shall not, in relation to Supply during the Transfer Period, constitute a breach by us of this Agreement.
- 12.9 Where any statutory provision allows us to, we may disapply clause 12.4, 12.5 and/or 12.6 and supply you with electricity which is not Renewable Source Electricity or Good Quality CHP Source Electricity but which benefits from being a CCL exempt source.
- 12.10 Nuclear Source Electricity
- If your Price Schedule specifies Pure Nuclear then (subject to clauses 12.11 and 12.12) we shall apply the Agreed Nuclear Percentage to either the Supplied Electricity or the Total Forecasted Consumption (at our discretion) and the Agreed Nuclear Percentage will be backed by Nuclear Source Electricity (subject to clauses 12.11 and 12.12). Unless we notify you otherwise we shall apply the Agreed Nuclear Percentage to your Supplied Electricity. We shall be entitled to notify you at any time during the Term that we will apply the Agreed Nuclear Percentage to the Total Forecasted Consumption or Supplied Electricity (as relevant) and we shall apply the Agreed Nuclear Percentage accordingly from the date of such notification until the date of any further notification. Where we apply the Agreed Nuclear Percentage to the Total Forecasted Consumption, in each Charging Period, we will apply the Agreed Nuclear Percentage to our reasonable estimate of the proportion of the Total Forecasted Consumption attributable to that Charging Period.
- 12.11 Pure Nuclear Declaration
- If clause 12.10 applies then for each disclosure period (as defined in the Electricity (Fuel Mix Disclosure) Regulations 2005) that corresponds (in part or in whole) with the period of the Supply under this Agreement the amount of electricity generated from a nuclear source supplied by us will not exceed the amount for which we hold or will hold Generator Declarations for electricity generated from a nuclear energy source for the relevant disclosure period.
- 12.12 If clause 12.10 applies, any failure by us to supply you with the Agreed Nuclear Percentage of your Supplied Electricity or Total Forecasted Consumption (as relevant) from Nuclear Source Electricity shall not, in relation to Supply during the Transfer Period, constitute a breach by us of this Agreement.

### 13 LIMITATION OF DEMAND

Your demand at a Supply Point must not at any time exceed your Available Capacity at such Supply Point. If your demand does exceed the Available Capacity you shall indemnify us for all costs, losses or liabilities incurred by us as a consequence, including any costs we incur from the Local Network Operator or, if your Site(s) are directly connected to a Transmission System, the operator of such Transmission System as a result.

### 14 METERING AND OTHER EQUIPMENT

- 14.1 You represent, warrant and undertake to us that the Supply at each Supply Point will be measured by a Meter, which must be:
- 14.1.1 installed at the Supply Point (unless we agree for it to be installed elsewhere);
  - 14.1.2 operated and maintained by a Meter Operator;
  - 14.1.3 in proper working order and suitable for measuring the Supply at the appropriate

Measurement Class;

- 14.1.4 suitable for use in connection with the charging structure applicable to the Supply; and
  - 14.1.5 subject to clause 14.2, compliant with all legislation, regulation and codes of practice applicable from time to time.
- You shall be responsible for all costs related to your compliance with this clause 14.1.
- 14.2 For the purposes of clause 14.1 and in accordance with paragraph 2(2) of Schedule 7 of the Act, the parties agree that a non-certified Meter may be installed and used.
- 14.3 Subject to clause 14.4, you shall nominate and contract directly with a Meter Operator, Data Collector and Data Aggregator (such Agents to be reasonably acceptable to us) in respect of each Supply Point and you shall notify us of such nomination in writing at least one (1) month before the Earliest Supply Start Date. If you fail to nominate and contract with any or all of the Agents reasonably acceptable to us, or fail to notify us of any or all of your nominated Agents within the required period, or having notified us of any or all of your nominated Agents your contract with any such Agent terminates then:
- 14.3.1 we may nominate and contract directly with any or all of the Agents (as applicable) on your behalf;
  - 14.3.2 you shall indemnify us upon demand for any costs or charges we incur as a result of (i) our contracting directly with an Agent under clause 14.3.1 above and (ii) any failure or delay by you to nominate and contract directly with all or any of the Agents or to notify us of such nomination;
  - 14.3.3 we shall not be liable to you in respect of any loss of your data or costs or charges incurred by you as a result of any failure or delay by you in nominating and contracting with any Agent in respect of a Supply Point or the failure by you to notify us of your nomination and contracting with any Agent within the required period.
- 14.4 If prior to the Earliest Supply Start Date or after the Earliest Supply Start Date, you wish to instruct us to contract with Agent(s) nominated by you on your behalf:
- 14.4.1 in the case of appointments of Agent(s) to take effect on the Earliest Supply Start Date, you shall notify us of the name and contact details for your nominated Agent(s) at least one (1) month before the Earliest Supply Start Date; or
  - 14.4.2 in the case of appointments of Agent(s) to take effect after the Earliest Supply Start Date, you shall notify us of the name and contact details of your nominated Agent(s) at least one (1) month prior to the proposed date of the appointment of the Agents,
- and, subject to our agreeing to contract with your nominated Agents (which we shall not be obliged to do) you shall:
- 14.4.3 pay to us any additional costs or charges we may incur as a result of such arrangement;
  - 14.4.4 procure the compliance by such Agent(s) with any standards, conditions and times required by us in respect of the provision of the Agent Services as may be notified by us to you in writing (including relevant terms of the Agreement);



- 14.4.5 indemnify us for all costs, losses and liabilities reasonably or directly incurred by us as a result of our contracting with your nominated Agent(s) and subsequent registration of your nominated Agent(s); and
- 14.4.6 undertake not to contract with any additional Meter Operator, Data Aggregator or Data Collector to perform such Agent Services.
- 14.5 If either party reasonably believes that a Meter is registering inaccurately, such party (the “notifying party”) shall notify the other party and 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) by a person who, in our opinion, is an appropriate person to test the Meter in question. We may request that you pay for the inspection of the Meter prior to such inspection occurring, however the final allocation of the cost of inspecting the Meter shall be determined as follows:
- 14.5.1 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 notifying party; or
- 14.5.2 if the Meter is found to be operating outside the relevant limits of accuracy, the Meter shall be replaced or recalibrated as soon as practicable and the costs of such testing, replacement or recalibration shall be borne by the party that contracted with the Meter Operator for the relevant Meter. For the purposes of the Agreement, the inaccuracy of the relevant Meter shall be deemed to have arisen after the date of the Meter reading included in the invoice for the month immediately prior to the month in which the notifying party gave notice of the inaccuracy.
- 14.6 Notwithstanding any right we have to terminate the Agreement, where, in respect of any Supply Point, you are in breach of a representation and warranty contained in clause 14.1, we shall estimate the amount of the Supply to the relevant Supply Point in accordance with clause 14.7.
- 14.7 For the period during which either a Meter is out of service or operating outside the limits of accuracy referred to in clauses 14.1 or 14.6, we shall estimate the amount of the Supply to the relevant Supply Point(s) after taking all relevant information into account, including historical data relating to you and any information available from any of the Meters, and we may revise such estimate from time to time (and adjust the account between us accordingly) to take into account the availability of additional or revised data which (in our reasonable opinion) is more accurate than the data on which the estimate was originally based.
- 14.8 If a Meter has to be changed or modified (whether before the Earliest Supply Start Date or later) because it cannot provide the consumption data we need to apply our Charges, you will pay us all reasonable costs or charges which we may incur in respect of the relevant changes or modifications.
- 14.9 After we are Registered, if a Meter is to be read on a non-half hourly basis, we may ask you to read such Meter and send us the reading so that we have an up to date reading as close as possible to the Earliest Supply Start Date (“Supply Start Reading”).
- 14.10 If clause 14.9 applies, the Supply Start Reading must be taken by you no later than seven (7) days after the Earliest Supply Start Date and must be provided to us no later than fourteen (14) days after the Earliest Supply Start Date.
- 14.11 If you do not send us the Supply Start Reading in accordance with clause 14.9 and 14.10, or if the Supply Start Reading taken by you is disputed by your former energy supplier or his/agent, we reserve the right to use a reasonable estimate of your consumption and/or arrange for the Meter(s) 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 so doing. You may dispute a Supply Start Reading prepared by us in accordance with this clause 14.11 by giving us notice at any time up to one (1) month after the date of the invoice which includes the Supply Start Reading or the date you are reasonably aware of the Supply Start Reading which we will use to prepare your invoices under the Agreement, whichever occurs earlier. If the Supply Start Reading submitted by you is validated by the relevant Agent(s), then we will recalculate your invoice and credit or debit you the amount of any overpayment or underpayment by you in the next invoice issued under the Agreement after the date we receive notice of the dispute.
- 14.12 If a Meter is to be read on a non-half hourly basis, we will arrange for such Meter to be read or, if you have contracted with your own Agents, they may send us readings at such timeframe as we notify them is necessary to allow us to prepare your invoices under clause 4. If they do not provide us with readings within the required timeframe, we reserve the right to prepare an invoice based on our reasonable estimate of the electricity supplied to you in accordance with clause 4.6.
- 14.13 If we arrange for a Meter to be read outside the normal meter reading cycle applicable to a Site because you ask us to do so or as a result of some fault or failure by you or any Agent contracted by you under the Agreement, you shall pay us any reasonable costs we incur.
- 14.14 If and to the extent that a Meter is owned or controlled by you, or by a third party contracted by you, you shall, or shall procure that the relevant third party shall, at all times during the Term maintain such Meter (including the surrounding location of such Meter) in good and substantial repair and in good working order and you shall indemnify us in respect of any loss of any nature incurred by us as a result of a breach of this clause 14.14.
- 14.15 We may agree to receive and pay invoices on your behalf from Agents nominated by you. If we agree to do so then, in addition to the Charges, you shall pay us the amount specified in the Price Schedule for such Agent(s) charges (or such charges as we otherwise notify you) which shall include:
- 14.15.1 where your Supply is metered on a non-half hourly or half hourly basis, the charges imposed on us by each Agent for Agent Services provided to the type of non-half hourly or half hourly Meter(s) you have; or
- 14.15.2 where your Supply is metered using AMR, the charges imposed on us by each Agent for Agent Services provided to the type of AMR Meter you have; plus
- 14.15.3 any administration fee we charge you.
- 14.16 Subject to clause 15, we, our invitees, contractors, agents or representatives shall have the right to enter the Site(s) (or where a Meter is installed in any other location, that location) for any purpose connected with the Agreement, including inspecting, reading, testing, (and, where we agree to do so, installing, maintaining, repairing and replacing) the Meter(s). You shall not unreasonably hinder or prevent the installation of a Meter at the Sites for the Supply Point(s) and you shall not damage or interfere with or cause or permit any damage or interference with all or any part of a Meter. You shall indemnify us for all



- costs, losses or liabilities reasonably or directly incurred by us as a result of your failure to comply with this clause 14.16.
- 14.17 If a maximum demand of 100kW is recorded at any time in relation to the Supply, you must have half hourly metering (and the associated communication links) installed at the Supply Point(s) at your cost to measure the Supply in accordance with clause 14.19.
- 14.18 If:
- 14.18.1 the profile of an MPAN is within Profile Class 5 to 8;
  - 14.18.2 a Meter needs to be re-certified; or
  - 14.18.3 a Meter needs to be replaced because it is registering inaccurately, or not functioning in accordance with the requirements specified in clause 14.1.3 to 14.1.5,
- then you must have AMR Meter(s) installed at the Supply Point(s) at your cost to measure the Supply in accordance with clause 14.19.
- 14.19 If clause 14.17 or 14.18 applies you must:
- 14.19.1 at your cost, arrange for half hourly Meters (and the associated communication links) or AMR capability (as applicable) to be installed at the relevant Supply Point(s) by your preferred Meter Operator (if possible), the identity of such Meter Operator to be notified to us; or
  - 14.19.2 at your cost, arrange for your preferred Meter Operator to replace the relevant Meter(s) with half hourly Meters (and the associated communication links) or AMR Meter(s) (as applicable), the identity of such Meter Operator to be notified to us; and
  - 14.19.3 at your cost, nominate and contract with your preferred Data Collector and Data Aggregator in relation to the relevant Supply Point(s) and notify us of your nomination and contracting with such Agents; and
  - 14.19.4 agree with us such variation of our Charges as is necessary to reflect half hourly metering or AMR (as applicable),
- within the period specified in clause 14.20.
- 14.20 We will tell you when you are required to have half hourly metering in accordance with clause 14.17 or AMR metering in accordance with clause 14.18 and you must comply with clauses 14.19.1 or 14.19.2 (as applicable) and clauses 14.19.3 and 14.19.4 as soon as possible and in any event within three (3) months of being so told by us.
- 14.21 If you do not comply with clause 14.19 in the period specified in clause 14.20, we may arrange for half hourly metering or AMR metering (as applicable) to be installed by our preferred Agents and for such preferred Agents to be appointed as the Agents in respect of the relevant Supply Point(s) and you shall pay us:
- 14.21.1 immediately upon receiving an invoice from us for the relevant amount, the capital cost of the half hourly Meter(s) or AMR Meter(s) installed (as applicable), the costs in each case of installing such Meter(s) and the cost of any and all associated telecommunication links; and
  - 14.21.2 for the remainder of the Term, the ongoing monthly or quarterly charges associated with the installation of such half hourly metering or AMR metering (as applicable),

including associated Meter Operator, Data Collector, Data Aggregator charges and the cost of any and all associated telecommunication links. We may pay these charges to the relevant Agent(s) or other third party on your behalf, but where we do so we shall be entitled to charge you an additional charge to recover these charges and our costs.

- 14.22 If at any time during the Term any of the Agents contracted by you cease to be Qualified or do not provide the Agent Services required of such Agent by the BSC to the standard and at the times required by the BSC and/or (where applicable) to the standard and at the times we require, then we shall contract with and register in accordance with the BSC a replacement Agent and you shall indemnify us in respect of any loss, damage, costs or liability we suffer or incur as a result of us contracting with and registering such replacement Agent.
- 14.23 Except as is otherwise provided in this clause 14, you shall be responsible for, and shall bear all costs associated with, all Meters and you shall indemnify us in respect of all costs, charges, expenses, claims, proceedings, losses, demands or liability of any nature (including any liquidated damages we have to pay under the BSC) which we may suffer or incur as a result of any fault or failure in a Meter, or any act or omission of you, your Agents or the Local Network Operator, or any delay in you, your Agents or the Local Network Operator performing any obligation under the BSC to the standard we reasonably require, or any Meter not complying with any relevant statutory or electricity industry requirements (including, without limitation, Schedule 7 of the Act, the BSC and/or the CUSC).
- 14.24 Where you have contracted with an Agent, then you shall provide or procure that such Agent shall provide to us any information regarding the Supply which we require to discharge our obligations under any relevant statutory or electricity industry requirements (including the BSC, the DCUSA and/or the MRA) within such timescales as we may require.
- 14.25 If your Meter is being read on a non-half hourly basis, as soon as possible after you give or receive notice of termination of the Agreement, you must provide, or procure that a third party provides, us with a closing Meter reading for each Meter. If you do not provide us with a closing Meter reading, or the closing Meter reading you provide to us is not validated by the Agents which either you or we have contracted with to provide the Agent Services, we may estimate your closing Meter reading in accordance with clause 4.6. We will use the closing Meter reading provided by you or estimated by us (and validated by the appointed Agents) to prepare the final invoice issued to you in accordance with clause 6.6.

## 15 RIGHTS OF ACCESS

- 15.1 You will at all reasonable times allow us and any of our invitees, contractors, agents or representatives to enter the Site(s) and to have safe and unrestricted access to the Meter(s) at such Site(s) for the purpose of exercising any of our rights under the Agreement.
- 15.2 If we exercise our rights of entry under clause 15.1, we and our invitees, contractors, agents or representatives shall comply with any reasonable requirements you may specify in relation to Site security and health and safety. Your obligations under clause 15.1 shall apply to any location which we may have to enter for the purpose of exercising our rights under the Agreement even if we are not supplying electricity to that location under



the Agreement.

- 15.3 If our agents, contractors or representatives visit a Site by prior appointment and they are unable to gain access, or if they visit a Site without prior appointment during working hours and they are unreasonably denied access, we reserve the right to recover from you all reasonable charges associated with that visit.

## 16 SITE REMOVAL, CHANGES OF TENANCY AND SITE ADDITIONS

- 16.1 Notwithstanding any other clause of the Agreement, you may only remove or add a Site, Supply Point and/or MPAN to the Agreement if we have agreed that within stated parameters you may do so.
- 16.2 If:
- 16.2.1 any changes are made to any Meter, Supply Point, or connection which you have to any Distribution System or Transmission System at any of your Sites, including any new or upgraded connection; or
  - 16.2.2 any Supply Number that you have asked us to Register fails the Registration process,
- we may terminate the Agreement and/or disconnect or de-energise Supply in respect of such Site.
- 16.3 If at any time you will cease to be the owner or occupier of any Site(s) and you wish to discontinue the Supply under the Agreement with respect to the relevant Site(s), then you must terminate the Agreement with respect to such Site(s) by giving at least twenty-eight (28) days prior written notice to us, such notice to specify the date of termination (being not earlier than the date of cessation of ownership or occupation) and the name and address of the new owner or occupier (if any). Without prejudice to any other rights we have under the Agreement, if, prior to the Earliest Termination Date, you give us notice that you will cease to be the owner or occupier of any Site under this clause 16.3, we may terminate the Agreement.
- 16.4 If you cease to own or occupy a Site and do not give us notice in accordance with clause 16.3, then, without prejudice to any other rights we have under the Agreement we may:
- 16.4.1 require you to continue to be liable to us for the Charges in relation to that Site until such time as we:
    - 16.4.1.1 are notified that you are not in occupation of (or do not own) that Site; and
    - 16.4.1.2 if such Site is metered on a non-half hourly basis, can arrange to have a Meter reading taken in relation to such Site;
  - 16.4.2 require you to procure that any new owner/occupier of the Site agrees to be liable to us for any Charges in relation to that Site until the events described in clause 16.4.1.1 and, if applicable, clause 16.4.1.2 occur; and/or
  - 16.4.3 terminate the Agreement as a whole or terminate the Agreement in respect of such Site(s), and/or disconnect or de-energise Supply to such Site(s) by immediate notice in writing to you.

- 16.5 If you do give us notice in accordance with clause 16.2, any termination notice given by you shall only take effect in relation to the relevant Site when:
- 16.5.1 someone else has entered into an agreement with us for a supply of electricity at the relevant Site;
  - 16.5.2 another supplier has Registered and started supplying electricity to the relevant Site; or
  - 16.5.3 the relevant Site is disconnected because no supply of electricity is required at the relevant Site,
- and you shall continue to be liable for all Charges until such time as the termination notice takes effect.
- 16.6 If the Agreement is terminated in respect of a Site in accordance with this clause 16 we shall issue an invoice to you showing all outstanding monies (including the Charges due from the date of the previous invoice up to and including the date termination of the Agreement in respect of such Site takes effect, any HH Tolerance Charge, AMR Tolerance Charge and Site Removal Fee, and any amounts under the Agreement due and payable by you up to and including the date termination of the Agreement in respect of the relevant Site takes effect) and such invoice shall be paid by you in accordance with clause 4.2.
- 16.7 Without prejudice to the foregoing provisions of this clause 16, if at any time the details of the owner and/or occupier of a Site (including any change in the legal identity of the owner or occupier) change during the Term, you must notify us of such change as soon as possible and in any event fourteen (14) days prior to the change.

## 17 LIABILITY

- 17.1 We do not give any warranty or guarantees whatsoever as to the reliability or quality of the Supply.
- 17.2 We have no obligation to provide the Supply if the Supply is shut down, interrupted, reduced or impaired as a result of de-energisation of or reduction in availability of or capability of any Supply Point or the exercise of demand control by the Local Network Operator or the operator of the relevant Transmission System.
- 17.3 If a party's performance of an obligation under the Agreement is impaired or prevented by Circumstances Beyond Their Control (the "Affected Party"), the Affected Party shall immediately give the other party written notice specifying the nature and extent of the Circumstances Beyond Their Control and shall take all reasonable steps to alleviate the effect of the Circumstances Beyond Their Control and resume performance of their obligations under the Agreement as soon as practicable.
- 17.4 Provided that the Affected Party complies with clause 17.3, the Affected Party's obligations under the Agreement shall be suspended without liability to the extent that performance of them is hindered or prevented, whilst the Circumstances Beyond Their Control continue.
- 17.5 The Agreement shall continue in effect for the duration of the Circumstances Beyond Their Control and no obligations accruing before the Circumstances Beyond Their Control occurred shall be excused.
- 17.6 Subject to clauses 17.7, 17.11 and 17.13, we shall only be liable to compensate you for a breach by us of the Agreement to the extent that such breach:



- 17.6.1 directly results in physical damage to your property, or the property of your officers, employees or agents; and
- 17.6.2 such physical damage was reasonably foreseeable as at the date of the Agreement.
- 17.7 Subject to clauses 17.11 and 17.13, our total liability to you whether in contract, tort (including negligence and breach of statutory duty), statute, or otherwise in relation to an incident or series of related incidents in any twelve (12) month period shall not exceed one million pounds (£1,000,000) in aggregate.
- 17.8 Subject to clause 17.9, if and to the extent that we are able to recover, and do recover, in respect of matters forming the subject of the Agreement, from a Local Network Operator, the Transmission Licensees or any third party, monies in respect of loss suffered by you, we shall account to you for the amount so recovered, less any reasonable costs and expenses (including professional fees and expenses) we incur in effecting the recovery.
- 17.9 If you become entitled to recover compensation under a Connection Agreement, we will deduct a sum equal to the amount of that compensation from any sum we have to pay under clause 17.6 in respect of that incident.
- 17.10 Subject to clauses 17.11 and 17.13, neither us, nor our officers, employees or agents, will be liable to you in contract, tort (including negligence and breach of statutory duty), statute or otherwise for any:
- 17.10.1 economic or financial loss, loss of profit, revenue, use, business opportunity, agreement or goodwill;
- 17.10.2 indirect or consequential loss;
- 17.10.3 loss resulting from your liability to any other person; or
- 17.10.4 loss resulting from loss, corruption or damage to any computer or electronically stored data or any operating systems, computer programs, interfaces or other software.
- 17.11 Notwithstanding any other provisions of the Agreement, nothing in the Agreement shall exclude or limit our liability to you where such exclusion or limitation is not permitted by law.
- 17.12 Subject to clauses 17.11 and 17.13, the rights and remedies provided by the Agreement to each party are exclusive and exhaustive and replace all substantive rights or remedies, express or implied, and provided by common law or statute in respect of the subject matter of the Agreement, including any rights either party might otherwise have in tort.
- 17.13 Nothing in the Agreement shall exclude, restrict, prejudice or affect any of the rights, powers, duties and obligations of either party or the Authority or the Secretary of State conferred or created by the Act, or any subordinate legislation made from time to time under the Act, or any licence granted to us under the Act.
- 17.14 So far as it excludes liability, this clause 17 overrides any other provision in the Agreement except where otherwise expressly provided, and each clause of this clause 17 shall survive termination of the Agreement.

## 18 OBJECTIONS TO TRANSFER

- 18.1 Without prejudice to our other rights or remedies, if we receive notification that another

supplier ("New Supplier") has applied to supply any Supply Point at any of the Site(s), and either:

- 18.1.1 you have an outstanding debt with us which is not subject to a bona fide dispute (which may include an Early Termination Fee or Site Removal Fee);
- 18.1.2 the New Supplier's application only relates to one of the Supply Point(s) at a Site and the New Supplier has not applied to Register all other Supply Point(s) for the Site on the same date for the same start date;
- 18.1.3 you are in breach of any of your obligations under the Agreement;
- 18.1.4 the New Supplier attempts to Register such Supply Point(s) in error;
- 18.1.5 the New Supplier's application is for the purpose of commencing a supply to the Supply Point prior to the Earliest Termination Date or prior to the expiry of a valid notice of termination given by you; or
- 18.1.6 we otherwise have reasonable grounds on which to object to such application; then clause 18.2 shall apply.
- 18.2 If clause 18.1 applies, you:
- 18.2.1 irrevocably authorise us to raise an objection with the relevant Local Metering Point Administration Service to prevent the New Supplier taking over the Supply to the Supply Point;
- 18.2.2 undertake not to dispute, challenge or take any steps to prevent any objection properly raised in accordance with this clause 18;
- 18.2.3 if we request you to do so, agree to provide to the New Supplier, within three (3) working days of our request, written confirmation (in a format agreed by us) that you;
- 18.2.3.1 do not wish them to proceed with their application to supply the relevant Supply Point and require them to withdraw all existing or pending Registration applications for the Supply Point; and/or
- 18.2.3.2 require them to confirm to us in writing that they will not make any further applications in respect of the Supply Point until they have obtained confirmation from us that you have given us proper notice to terminate the Agreement in respect of such Supply Point and;
- 18.2.4 agree to take any other necessary action to ensure that we continue to remain Registered with the Local Metering Point Administration Service as the electricity supplier responsible for supplying the relevant Supply Point.
- 18.3 If:
- 18.3.1 we have raised an objection because of an outstanding debt only;
- 18.3.2 within five (5) days of raising such an objection we subsequently receive full payment of all outstanding debts; and
- 18.3.3 within ten (10) days of us confirming we have received payment, the New Supplier reapplies to supply the relevant Supply Point, we will not object to the New Supplier's reapplication.
- 18.4 If the New Supplier has not reapplied within the period referred to in clause 18.3.3, the





Agreement will remain in force in respect of the relevant Supply Point and any subsequent application by any New Supplier will once again be subject to clause 18.1.

## 19 MISCELLANEOUS

- 19.1 Any notice under the Agreement shall be in writing and shall be properly given if served by delivery by hand, or by sending it by first class pre-paid post, recorded delivery post or facsimile or email to, the Notices Address of the party or such other address notified from time to time in accordance with this clause 19.1. Notices sent by post shall be deemed to be received two (2) working days following the date posted. Notices sent by facsimile or email will be deemed to be received at the time of the transmission unless after 1800 hours on a working day in which case receipt will be deemed to be 1000 hours on the following working day. Notices delivered by hand will be deemed to be received on the day so delivered or, where this is not a working day, on the first (1st) working day following such delivery.
- 19.2 We shall use reasonable endeavours to resolve a dispute arising out of, under or in connection with the Agreement at a senior management level. If the dispute is not resolved at the senior management level within seven (7) days of a dispute being referred to the senior management, either party may refer the dispute to the courts of England and Wales or for disputes arising out of the BSC only, the parties may refer a dispute to arbitration pursuant to the arbitration rules of the Electricity Arbitration Association. If you are not satisfied with the service you have received from us, please refer to the complaints handling procedure set out on our website, which details all relevant contacts and our complaint escalation process. If after following our complaint escalation process, you are still not satisfied and your business qualifies for its services, you can contact Ombudsman Services: Energy. If you are a Micro Business you can also contact Consumer Direct for advice.
- 19.3 The Agreement, and any issues or disputes arising out of or in connection with it (whether such disputes are contractual or non-contractual in nature, such as claims for tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with English law and, subject to clause 19.2, the parties agree that the courts of England and Wales shall have exclusive jurisdiction.
- 19.4 No delay or omission by either party in exercising any right, power or remedy shall impair or be construed as a waiver of such (or any other) right, power or remedy, and any single or partial exercise of a right, power or remedy shall not preclude any future or other exercise of such (or any other) right, power or remedy.
- 19.5 The Agreement except where otherwise expressly specified and agreed by both parties in writing contains the entire agreement between you and us and supersedes all prior negotiations, representations, proposals, understandings or agreements, whether written or oral, relating to the Supply. Each party acknowledges and agrees that it does not enter into the Agreement in reliance on any representations, warranties or other undertakings not set out in the Agreement. The parties acknowledge that they have each entered into the Agreement in reliance only on the representations, warranties or other undertakings promised and terms contained or expressly referred to in the Agreement and, save as expressly set out in the Agreement, neither party shall have any liability in respect of

warranties, representations or undertakings made prior to the date of the Agreement unless such warranty, representation or undertaking was made fraudulently.

- 19.6 We shall have the right to assign the Agreement without your prior consent. You shall not assign the Agreement without:
- 19.6.1 our prior written consent, not to be unreasonably withheld or delayed; and
- 19.6.2 you and the transferee entering into a deed of novation or assignment (as appropriate) with us in the form prescribed by us which contains an undertaking by the transferee to comply with the conditions set out in the Agreement, and it shall be reasonable for us to withhold consent on the grounds of the financial standing of the proposed transferee.
- 19.7 If we have to take legal action to enforce our rights under the Agreement, you agree to pay our costs, which will not be limited to the fixed fees or costs recoverable under the court rules.
- 19.8 Except as otherwise expressly provided the parties do not intend that any of term of the Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it, or their permitted assigns.
- 19.9 Subject to clause 19.10, neither party shall disclose Confidential Information without the prior written consent of the other party, at any time after the date of the Agreement and for a period of five (5) years after the Agreement has come to an end.
- 19.10 Notwithstanding clause 19.9:
- 19.10.1 we may disclose Confidential Information:
- 19.10.1.1 in order for us to fulfil our obligations under the Agreement; or
- 19.10.1.2 to share information about your account with our Group Companies and with debt collection agencies, credit insurers and credit reference agencies (who may use this information for credit scoring purposes);
- 19.10.2 either party may disclose Confidential Information:
- 19.10.2.1 in compliance with and to the extent of any requirement of law, any Competent Authority or any agreement, licence, code, authorisation or consent necessary to permit the Supply or to enable either party to comply with its obligations under any agreement relevant to the Supply;
- 19.10.2.2 to the extent that such information is required to be furnished to any employee, officer, agent, consultant or professional adviser of a party for their proper consideration, or to any bank, other financial institution or ratings agency in respect of the financing or credit support of that party's business activities, such persons having first been made fully aware of and agreed to comply with the obligations of confidence set out in clauses 19.9 and 19.10 in relation to such information;
- 19.10.2.3 to the extent required to be published or otherwise disclosed pursuant to or in respect of a regulatory requirement of a regulatory body (including the London Stock Exchange plc, the Authority and the Financial Services Authority) applicable to a party or an Affiliate of a party;



- 19.10.2.4 to the extent that it is in, or lawfully comes into, the public domain other than by breach of this clause 19.10 and the party seeking to rely on this clause 19.10 can show that this is the case; or
- 19.10.2.5 to the extent that disclosure is required for the operation of or, is allowed pursuant to, clause 19.20 or an equivalent clause in any subsequent agreement which you may enter into with another electricity supplier (and we shall be entitled to rely on a written statement of the existence of a clause of the same type as clause 19.20 from any person claiming to be a subsequent electricity supplier without need for further investigation or verification of or by you).
- 19.11 For the purposes of the Agreement time shall be of the essence.
- 19.12 Without prejudice to clause 5, no variation to the Agreement shall have effect unless agreed by the parties in writing except that we may at any time vary any of the terms of the Agreement (including by adding new terms) by giving you notice in writing in the event of:
- 19.12.1 any change to, or introduction of, the Licence, the Transmission Licence, the BSC, the CUSC, the Regulations, the DCUSA, the Statement of the Use of System Charging Methodology and/or any other legislation or law, regulation, or industry codes of practice, agreements or arrangements with which we are required to comply;
- 19.12.2 any order or direction being made by the Authority or any Secretary of State which is relevant to the Agreement and/or its subject matter; or
- 19.12.3 any change to electricity standard industry practices.
- 19.13 Except where the Sites are directly connected to the GB Transmission System, you shall enter into a Connection Agreement with the relevant Local Network Operator.
- 19.14 Except where the Sites are directly connected to the GB Transmission System, we shall enter into a Connection Agreement with you on behalf of your Local Network Operator in which you and your Local Network Operator shall accept the National Terms of Connection ("NTC") and agree to keep to its conditions. This Connection Agreement will have legal effect from the time that you enter into this Agreement and sets out the rights and duties in relation to the connection to which your Local Network Operator delivers electricity, or accepts electricity from your business, and you shall, at all times during the Term, comply with and perform your obligations under the NTC. If you would like a copy of the NTC or have any questions about it, please write to: Energy Networks Association, 6th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF: phone 0207 706 65137, or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk). You agree that, where this clause 19.14 applies, your Local Network Operator has the benefit of, and is entitled to enforce, the provisions of the Connection Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 19.15 Where the Sites are directly connected to the GB Transmission System, you shall be registered with CUSC and you shall at all times during the Term, comply with and perform your obligations under the Connection Agreement set out in Schedule 2, Exhibit 1 of the CUSC.
- 19.16 We may subcontract or delegate the performance of our obligations or duties under the Agreement without your prior consent provided that such subcontracting or delegation shall not relieve us from liability for such obligations or duties.
- 19.17 Nothing in the Agreement shall operate to prevent or restrict us from enforcing an obligation (including suing for a debt or other payment) owed to us pursuant to the Agreement.
- 19.18 The parties contract both for themselves and as trustees for their officers, employees and/or agents.
- 19.19 Each of the clauses in the Agreement shall be construed as a separate and severable term. If one or more clause is held to be invalid, unlawful or otherwise unenforceable, the other clauses shall remain in full force and effect.
- 19.20 You consent to any previous electricity supplier disclosing to us any information relating to you which it has in its possession in respect of Supply Points at the Sites to enable us to take over the Supply.
- 19.21 The Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original but all the counterparts shall together constitute one and the same Agreement. For the purposes of this clause 19.21, the delivery of a facsimile copy of a signed counterpart of any Agreement shall be deemed to be valid signature thereof provided that the party so delivering a facsimile delivers an original copy of the Agreement forthwith following transmission by facsimile.

## 20 RO & FIT TOLERANCE

- 20.1 In each Relevant Period you will pay to us an amount in respect of RO (your "RO Prepayments").
- 20.2 If, following the end of a Relevant Period, the RO Outturn Rate for that Relevant Period is greater than or equal to the RO Forecast Rate plus the RO Tolerance for that Relevant Period, you shall pay to us the RO Tolerance Charge, calculated as follows:
- $$\text{RO Tolerance Charge} = (\text{RO Outturn Rate} - (\text{RO Forecast Rate} \times \text{RO Tolerance})) \times \text{Supplied Electricity.}$$
- 20.3 The RO Tolerance Charge shall be submitted in an invoice of Charges at any time during or after the expiry of the Term and you must pay any amount due to us accordingly.
- 20.4 In each Relevant Period, you will pay to us an amount in respect of FiT (your "FiT Prepayments").
- 20.5 If, following the end of a Relevant Period, the FiT Outturn Rate for that Relevant Period is greater than or equal to the FiT Forecast Rate plus the FiT Tolerance for that Relevant Period, you shall pay to us the FiT Tolerance Charge, calculated as follows:
- $$\text{FiT Tolerance Charge} = (\text{FiT Outturn Rate} - (\text{FiT Forecast Rate} \times \text{FiT Tolerance})) \times \text{Supplied Electricity.}$$
- 20.6 The FiT Tolerance Charge shall be submitted in an invoice of Charges at any time during or after the expiry of the Term and you must pay any amount due to us accordingly.
- 20.7 For the purposes of clause 20 the below terms have the following meanings:
- FiT means a charge to cover the cost of meeting our obligations under the FiT Order.



## FiT Appendix

FiT Year	FiT Forecast Rate (£/MWh)
FIGURES PROVIDED	
ALONGSIDE QUOTATION	

**FiT Contribution Cost** means the total sum of all the FiT licensees' FiT contributions due in respect of a FiT Year (the FiT contribution of a licensee is as defined in article 25(1) of the FiT Order), where FiT licensee has the meaning set out in the FiT Order.

**FiT Forecast Rate** means a rate expressed in £/MWh for each FiT Year, as set out on your FiT Appendix.

**FiT Order** means the Feed in Tariffs (Specified Maximum Capacity and Functions) Order 2010, as amended from time to time.

**FiT Outturn Rate** means for each FiT Year (or FiT Years, as applicable if the Relevant Period spans more than one FiT Year), the FiT Contribution Cost divided by the total electricity supply market in a FiT Year (or FiT Years, as applicable if the Relevant Period spans more than one FiT Year), expressed in £/MWh. Where such total electricity supply market is calculated in accordance with article 27(2)(a) of the FiT Order.

**FiT Prepayments** means the FiT Forecast Rate applicable in that Charging Period, multiplied by the Supplied Electricity in that Charging Period, included in the consumption charges for that Charging Period.

**FiT Tolerance** means forty per cent (40%)

**FiT Year** means a 12 month period beginning on 1 April and ending on 31 March the following year.

**Renewables Obligation** means the number of renewables obligation certificates (as defined in article 2(1) of the RO Order) per MWh that we are required to produce to the Authority in the relevant RO Year under article 5(2)(a) and article 12 of the RO Order.

**RO** means a charge to cover the cost of meeting our obligations under the RO Order.

## RO Appendix

RO Year	RO Forecast Rate (£/MWh)
FIGURES PROVIDED	
ALONGSIDE QUOTATION	

**RO Forecast Rate** means a rate expressed in £/MWh for each RO Year, as set out on your RO Appendix.

**RO Order** means the Renewables Obligation Order 2009 as amended from time to time.

**RO Outturn Rate** means for each RO Year (or RO Years, as applicable if the Relevant Period spans more than one RO Year), the buy-out price (as defined in article 43(4) of the RO Order) multiplied

by the Renewables Obligation applicable to that RO Year (or Years, as applicable if the Relevant Period spans more than one RO Year), expressed as a £/MWh figure.

**RO Prepayments** means the RO Forecast Rate applicable in that Charging Period, multiplied by the Supplied Electricity in that Charging Period, included in the consumption charges for that Charging Period.

**RO Tolerance** means forty per cent (40%)

**RO Year** means a 12 month period beginning on 1 April and ending on 31 March the following year.

## 21 DEFINITIONS

In the Agreement:

**"Act"** means the Electricity Act 1989 as amended from time to time;

**"Advance Payments"** has the meaning given in clause 11.1.6;

**"Affiliate"** means those companies which control, are controlled by or which are under common control with a party and "control" has the meaning given to the term in Section 840 of the Income and Corporation Taxes Act 1988;

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

**"Agent Services"** means the services provided by a Qualified Agent;

**"Agreed CCL Exempt Percentage"** means the Climate Change Levy % exemption set out on your Pricing Schedule which shall be applied to either your Supplied Electricity or Total Forecasted Consumption (at our discretion). Such Climate Change Levy % exemption shall be determined by the total percentage of electricity supplied by Pure Green, Renewable, Good Quality CHP and Any LEC as set out in the energy mix of your Pricing Schedule;

**"Agreed Nuclear Percentage"** means the percentage of electricity supplied by Pure Nuclear as set out in the energy mix of your Pricing Schedule, applied to either the Supplied Electricity or Total Forecasted Consumption (at our discretion);

**"Agreement"** means the Applicable Term Sheet entered into by us and you which incorporates these Conditions and any other document referred to in the Applicable Term Sheet as forming part of the Agreement;

**"AMR"** means an automatic meter reading from a non half hourly meter which can be read remotely;

**"AMR Meter"** means a Meter with AMR;

**"AMR Site"** means a Site at which the energy consumption is recorded using an AMR Meter;

**"AMR Tolerance Charge"** has the meaning given in clause 4.21;

**"Applicable Term Sheet"** means, at the relevant time, the Term Sheet which has been entered into by the parties with the latest Earliest Supply Start Date;

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

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

**"Available Capacity"** means



- (a) subject to paragraph (b), in respect of each Site the capacity notified to us by the Local Network Operator in the Distribution Use of System Charge; or
- (b) where a Site is directly connected to the Transmission System, the Connection Site Demand Capability (as that term is defined in the CUSC) of a Supply Point;

**"Averaging Period"** has the meaning given to that term in paragraph 20 or 20B of Schedule 6 to the Finance Act 2000 (as amended) as appropriate;

**"Balancing Services"** means Balancing Services as used in Special Condition C16 of a Transmission License granted under the Electricity Act 1989;

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

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

**"Charging Period"** if the Agreement provides for you to be billed on a monthly basis, the charging period will normally be a period of approximately one (1) month. If the Agreement provides for you to be billed on a quarterly basis, the charging period will normally be one Quarter;

**"Circumstances Beyond Their Control"** means circumstances beyond either your or our reasonable control and which result in or cause us or you to fail to perform any of the obligations under the Agreement including, act of God, strike, lockout or other industrial disturbance, act of war, insurrection, rebellion, terrorism, civil commotion, vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, other inclement weather, failure of any plant or apparatus which could not have been prevented by good industry practice, suspension, interruption or termination of transmission through any transmission or distribution network, any exercise of demand control pursuant to a Grid Code, any Act of Parliament or governmental restraint including a direction of the Secretary of State under sections 34(4) or 96 of the Act. For the avoidance of doubt, any inability to pay an amount due and owing under the Agreement shall not constitute circumstances beyond that party's reasonable control and "Circumstances Beyond Our Control" shall have the same meaning except that the reference to "your and our" or "us or you" in this definition shall be replaced with "our" and "us" respectively;

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

**"Confidential Information"** means the existence and terms of the Agreement, any information relating to the Agreement, and any information relating to the affairs of the other party which is disclosed pursuant to the Agreement;

**"Connection Agreement"** means either:

- (a) an agreement between you and the Local Network Operator allowing you to keep the Site in question connected to the Distribution System. The 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); or
- (b) where the Sites are directly connected to the Transmission System, the connection agreement between you, National Grid and the CUSC;

**"Competent Authority"** means the Secretary of State, the Authority and any local or national agency, authority, department, inspectorate, minister, ministry, official or public, judicial regulatory

or statutory body or person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Community;

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

**"Connection and Use of System Code"** or "CUSC" means the document of that name as modified from time to time, setting out terms for the connection to and use of the GB Transmission System and established by National Grid under its Transmission Licence;

**"Consumer Direct"** is the Government funded telephone and online service offering advice to consumers, including Micro Businesses (website: [www.consumerdirect.gov.uk](http://www.consumerdirect.gov.uk), telephone number: 08454 04 05 06);

**"Credit Support"** means any cash (in Sterling) provided by you pursuant to clause 11.1 or any other form of security we agree you may provide to us whether before or after the commencement of the Agreement;

**"Data Aggregator"** means a Qualified person appointed to carry out the aggregation of data from Meters for the purposes of the BSC;

**"Data Aggregator Agreement"** means in respect of a Supply Point an agreement between you (or us if we so agree) and a Data Aggregator for the provision of data aggregation services;

**"Data Collector"** means a Qualified person appointed to retrieve, validate and process data from Meters for the purposes of the BSC;

**"Data Collector Agreement"** means in respect of a Supply Point an agreement between you (or us if we so agree) and a Data Collector for the provision of data collection services;

**"D&B"** means Dun & Bradstreet Limited registered in England and Wales and its successors;

**"D&B Risk Rating"** means the risk indicator maintained by D&B which, in general terms, is a summary of how likely it is for a business to fail or experience a failure triggering event in a future twelve (12) month period. This rating generally ranges from one (1) through to (4), with one (1) indicating the lowest risk of those events occurring and four (4) indicating the highest risk of those events occurring;

**"D&B Score"** means the "D&B UK Failure Score" maintained by D&B which, in general terms, predicts the likelihood that a corporate entity will obtain legal relief from its creditors (if it became insolvent) or cease operations over a future twelve (12) month period;

**"Distribution Code"** means the distribution code as defined in the Supply Licence;

**"Distribution Connection and Use of System Agreement"** or "DCUSA" means the agreement of that name as modified from time to time which permits (among other things) our use of the Distribution System of a Local Network Operator through which the Supply is delivered to a Supply Point;

**"Distribution Exemption Holder"** means a person who is distributing electricity for the purpose of giving a supply of electricity or enabling a supply to be given, and who is authorised to do so by an exemption from the requirement to hold a distribution licence.

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

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

**"Earliest Supply Start Date"** means the relevant earliest supply start date set out in the Term



Sheet;

**“Earliest Termination Date”** means the earliest termination date set out in the Term Sheet;

**“Early Termination Fee”** has the meaning given in clause 9.1.1;

**“Electricity Arbitration Association”** means the unincorporated members’ club known as the Electricity Supply Industry Arbitration Association formed inter alia to promote the efficient and economic operation of the procedure for the resolution of disputes within the electricity supply industry by means of arbitration or otherwise in accordance with its arbitration rules;

**“Energy Rate”** means the rate specified in the Term Sheet;

**“Estimated Annual Consumption”** means the total contract forecast units for the relevant HH Site or AMR Site (as set out in the relevant Price Schedule(s)) divided by the number of months in the Term duration (as set out in the relevant Term Sheet) and multiplied by 12, save that where the Term duration in the relevant Term Sheet is less than 12 months the Estimated Annual Consumption for the first Relevant Period only shall mean the contract forecast units for the relevant HH Site or AMR Site (as set out in the relevant Price Schedule(s)).

**“Estimated Triad Consumption”** means the amount specified in the Price Schedule or as we otherwise agree with you;

**“Exempt Distribution System”** means a distribution system operated or controlled by a distribution exemption holder who is covered by an exemption granted to it in relation to that system.

**“Experian”** means Experian Limited registered in England and Wales and its successors;

**“Experian Score”** means the “Experian Commercial Delphi Score” maintained by Experian which, in general terms, predicts the likelihood of a limited company failing or a non-limited business falling into default within a twelve (12) month period;

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

**“Financial Year”** means the period of twelve (12) months ending on 31 March in each calendar year;

**“GB Transmission System”** means a system consisting (wholly or mainly) of high voltage electric lines owned and/or operated by Transmission Licensees (as defined in the Transmission Licence) within Great Britain and used wholly for the transmission of electricity;

**“Generator Declarations”** has the meaning given to the term “generator declaration” in the Electricity (Fuel Mix Disclosure) Regulations 2005.

**“Good Quality CHP Source Electricity”** has the meaning given to the term “CHP electricity” in paragraph 20A of Schedule 6 to the Finance Act 2000 (as amended);

**“Grid Code”** means the grid code as defined in the Supply Licence;

**“Group Company”** means any company which is a Holding Company, Subsidiary or Associate of EDF Energy Customers plc (the terms “Holding Company” and “Subsidiary” shall have the meanings assigned to them by Section 1159 of the Companies Act 2006 and “Associate” shall have the meaning assigned to it by Section 416 of the Income and Corporation Taxes Act 1988). Any reference to “Group Companies” shall be construed accordingly;

**“HH Site”** means a Site at which the energy consumption is recorded using half hourly metering;

**“HH Tolerance Charge”** has the meaning given in clause 4.19;

**“Interest Act”** has the meaning given to that term in clause 4.4;

**“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;

**“LEC”** means a Levy Exemption Certificate providing proof of Renewable Source Electricity or Good Quality CHP Source Electricity;

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

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

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

**“Material Adverse Change”** means any one or more of the following events:

- (a) your Rating is revised downward below BBB by S&P or Baa2 by Moody’s;
- (b) your Rating is withdrawn by both S&P and Moody’s for any reason;
- (c) your D&B Score is revised downward below thirty (30) or is withdrawn by D&B for any reason;
- (d) your D&B Risk Rating increases to four (4) or is changed to “-” (indicating that a D&B Risk Rating cannot be assigned) by D&B;
- (e) your Experian Score is revised downward below thirty (30) or is withdrawn by Experian for any reason;
- (f) publication of information which in our reasonable opinion indicates a material deterioration in your business, assets or financial condition;
- (g) the suspension or cancellation of admission and/or trading of your equity or debt securities from any investment exchange on which they are admitted and/or traded;
- (h) the withdrawal of any credit insurance taken out by us in respect of the Agreement;

for the purposes of this definition of Material Adverse Change the word “your” means you and/or your parent undertaking as such is defined in section 1162 of the Companies Act 2006;

**“Measurement Class”** has the meaning given to it in the BSC;

**“Moody’s”** means Moody’s Investors Services, Inc. incorporated in the United States of America and its successors;

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

**“Meter Operator”** means a Qualified person who has been appointed as a Meter Operator Agent for the purposes of the BSC (which, for the avoidance of doubt, may include a Local Network Operator acting as a legacy meter asset provider);

**“Meter Operator Agreement”** means in respect of a Supply Point an agreement between you (or, if we so agree, us) and a Meter Operator for the provision of meter operator services;

**“Master Registration Agreement”** or MRA means the agreement of that name as modified from time to time which provides (among other things) the procedure for our Registration as supplier in respect of any Supply Point;



**"Micro Business"** means a company which either:

- (i) consumes less than 200,000 kWh of gas a year; or
- (ii) consumes less than 55,000 kWh of electricity a year; or
- (iii) has fewer than ten employees (or their full-time equivalent) and an annual turnover or annual balance sheet total not exceeding €2,000,000;

**"MPAN"** means the unique meter point administration number associated with a Supply Point;

**"National Grid"** means National Grid Electricity Transmission plc, a company registered in England under number 2366977;

**"Notices Address"** means for:

- (a) you: as shown on the Term Sheet; and
- (b) us:

EDF Energy  
B2B Sales  
Gadeon House  
Grenadier Road  
Exeter Business Park  
Exeter EX1 3UT  
Facsimile: 0845 366 3667

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

**"Nuclear Source Electricity"** has the meaning given to "nuclear" in the definition of "energy source" in Paragraph 1 of the Schedule to the Electricity (Fuel Mix Disclosure) Regulations 2005;

**"Offer Period"** means the period starting at deemed receipt (in accordance with clause 19.1) of any new Term Sheet proposed to be executed by the parties and ending on the date and time specified in such new Term Sheet, or such later date as we may agree with you;

**"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 (website: [www.ombudsman-services.org](http://www.ombudsman-services.org), telephone number: 0330 440 1624).

**"Party" any party to the Agreement, and "Parties"** shall be construed accordingly;

**"Payment Method"** means the payment method shown in the Price Schedule or as agreed between the Parties;

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

**"Price Point"** means the price point on which our Charges for the Supply are based as specified in the Price Schedule;

**"Price Schedule"** means the schedule forming part of the Agreement which sets out (among other things) our Charges and your Price Point, Payment Method and Payment Period;

**"Profile Class"** has the meaning given in the BSC;

**"Qualified"** has, in relation to an Agent, the meaning given to that term in the BSC;

**"Rating"** means any rating issued or maintained by either S&P or Moody's with respect to your long-term, unsecured, senior, unsubordinated debt securities ("Debt Securities"), or, in the case of more than one rating by the same rating agency, any rating of such Debt Securities;

**"Registered"** means, except where otherwise provided, in respect of any particular electricity supplier (which expression includes us) and in respect of any particular Supply Point, 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 to a Supply Point under the relevant Registration System;

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

**"Regulations"** means the Electricity Safety, Quality and Continuity Regulations 2002 or any amendment or re-enactment of such regulations or any other regulations made under section 29 of the Act;

**"Relevant Period"** means:

- (a) where the Term duration as set out in the relevant Term Sheet is for less than 12 months, the period from the date of the Agreement to the end of the Term duration or any subsequent 12 month period during the Term as applicable; or
- (b) where the Term duration as set out in the relevant Term Sheet is for 12 months or more, the 12 month period from the date of the Agreement or any subsequent 12 month period during the Term as applicable.

**"Remainder Period"** means the period between the date on which early termination of the Agreement takes effect and the Earliest Termination Date;

**"Renewable Source Electricity"** has the meaning given to that term in paragraph 19 of Schedule 6 to the Finance Act 2000 (as amended);

**"S&P"** means Standard & Poor's Ratings Group (a division of The McGraw Hill Companies Inc.) incorporated in the United States of America and its successors;

**"Secretary of State"** means one of Her Majesty's Principal Secretaries of State as defined in the Interpretation Act 1978;

**"Site"** means the site or sites listed in the schedule attached to the Agreement, as such list is amended by way of addition or removal under the terms of this Agreement, which will comprise one or more Supply Points;

**"Site Remainder Period"** means the period between the date on which early termination of the Site takes effect and the Earliest Termination Date;

**"Site Removal Fee"** has the meaning given in clause 9.1.2;

**"Site Total Forecasted Consumption"** means the total contract forecast units set out in the Price Schedule for the relevant Site;

**"Statement of Use of System Charges"** means the statement of charges issued by National Grid from time to time determined in accordance with the Statement of the Use of System Charging Methodology;

**"Statement of the Use of System Charging Methodology"** means the charging methodology produced by the National Grid from time to time in accordance with its transmission licence;

**"Supplied Electricity"** means electricity supplied to you under this Agreement;

**"Supply"** means the supply of electricity to be provided by us to you at the Site(s) under the



Agreement, and if the Agreement covers more than one Site, the supply shall be construed separately in relation to each Site;

**“Supplier Transfer”** means, in relation to any of the Sites at which another electricity supplier is supplying electricity, the transfer of responsibility for that supply from that electricity supplier to us.

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

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

**“Supply Point”** means each Boundary Point Metering System (as defined in the BSC) associated with a Site;

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

**“Supply Start Reading”** has the meaning given in clause 14.9;

**“Term”** has the meaning given in clause 1;

**“Termination Effective Date”** has the meaning given in clause 7.1;

**“Term Sheet”** means the pages headed “Agreement (Term Sheet)” and attachments, including the Price Schedule and list of Sites, executed or proposed to be executed by the parties from time to time;

**“Tolerance”** means twenty per cent (20%);

**“Total Forecasted Consumption”** means, where there is one Site, the Site Total Forecasted Consumption figure for that Site or, where there is more than one Site, the sum of the Site Total Forecasted Consumption figures for all those Sites;

**“Transfer Period”** means the period, if any, from the Termination Effective Date or the Earliest Termination Date (as applicable) to either (i) the date on which we receive evidence (in a form satisfactory to us) of either the Registration of a New Supplier in respect of the relevant Site(s) or the disconnection of the relevant Site(s) or (ii) the date on which we enter into a new Agreement with you;

**“Transmission Licence”** means a licence granted under section 6(1)(b) of the Act;

**“Transmission Network Use of System Charges”** means the transmission use of system charges which may be payable by us for use of the Transmission System and which we are entitled to pass through to you;

**“Transmission System”** means a system of the type described in section 4(4) of the Act;

**“Triad Charges”** means a sum equal to your average half hourly electricity demand during the Triad Period in question (or, where you are not metered on a half hourly basis, our estimate of your average half hourly electricity demand) multiplied by the Triad Demand Tariff in respect of the relevant Zone Area minus the amounts, if any, you have already paid to us prior to the Triad Period in question as prepayment(s) as described in clause 4.14;

**“Triad Demand Tariff”** means each of the tariffs at the relevant time set out in the column headed “Demand Tariff” in the Statement of Use of System Charges and levied by National Grid for services which National Grid provides in respect of use of the GB Transmission System, as more fully described at standard conditions C4 and C5 to the Transmission Licence;

**“Triad Period”** means the half hour settlement period of highest transmission system demand

of a Financial Year and each of the two half hour settlement periods of next highest demand, separated by at least ten (10) days occurring annually between November and February (inclusive) as identified by National Grid and more fully described in the Statement of the Use of System Charging Methodology;

**“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;

**“Zone Area”** means each of the areas set out at the relevant time in the column headed “Zone Areas” in the Statement of Use of System Charges.

## 22 INTERPRETATION

In the Agreement:

22.1 any reference to:

22.1.1 a “clause” means a clause of the Agreement;

22.1.2 “Agreement” means the Agreement including these terms and the schedules;

22.1.3 a “schedule” means a schedule to the Agreement;

22.1.4 “we” and “us” and “our” in each case refers (regardless of any wording to the contrary) to EDF Energy Customers plc trading as EDF Energy;

22.1.5 “you” means the customer named in the Agreement and the expressions “you” and “your” will be construed accordingly;

22.1.6 “our agents” includes any agent appointed by us to act on our behalf;

22.1.7 “de-energise” means the movement of any switch or the removal of any fuse or the taking of any other step (including such steps that are taken without requiring physical access to the relevant Site) which has the effect of no electrical current being able to flow from the Distribution System to your electrical installation in the Site, and the expressions “de-energised” and “de-energisation”, shall be construed accordingly;

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

22.1.9 “kWh” means kilowatt hour;

22.1.10 “month” means:

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

(i) the period from the Earliest Supply Start Date to the first normal meter reading thereafter; or

(ii) the period of approximately one calendar month from one such reading to the next; or

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

(b) in circumstances other than as set out in clause 21.1.10.(a), a calendar month;





- 22.1.11 "Quarter" means, if the Agreement provides for you to be billed on a "quarterly" basis:
- (a) the period from the Earliest Supply Start Date to the first normal meter reading thereafter; or
  - (b) the period of approximately three (3) months from one such reading to the next; or
  - (c) the period from one such reading to the ending of the Supply;  
(as the case may be) and the expression "quarterly" shall be construed accordingly;
- 22.1.12 "re-connection" and "re-connect(ed)" means, where a Site has been disconnected, the connection of any cable or other equipment such that a Site is connected to the Distribution System;
- 22.1.13 "re-energisation" means, where a Site has been de-energised, the movement of any switch or the removal of any fuse or the taking of any other step (including such steps that are taken without requiring physical access to the relevant Site) which has the effect of electrical current being able to flow from the Distribution System to your electrical installation in the Site;
- 22.1.14 "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 in England and Wales;
- 22.1.15 "working hours" means 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 the Agreement to any legislation, regulation, code of practice or any specific statutory provision shall be construed as including references to any modification, consolidation or re-enactment thereof (whether before or after the date of the Agreement) for the time being in force, and references to legislation or any specific statutory provision shall include all statutory instruments or orders made pursuant to that legislation or statutory provision.







## e-documents - a better way of working

Why an e-document? At EDF Energy we are committed to using the most sustainable working practices wherever possible and this includes when delivering communications to our customers.

E-documents significantly reduce the volume of printed material we need, reducing our carbon footprint.

Our customers appreciate e-documents because they offer timely delivery of easy to access information in an ideal format for the modern screen based working environment.

**[edfenergy.com/largebusiness](https://www.edfenergy.com/largebusiness)**

To view our fuel mix visit [edfenergy.com](https://www.edfenergy.com)

EDF Energy Customers plc with registered number 2228297. EDF Energy 1 Limited with registered number 3986835.

Registered offices at 40 Grosvenor Place, Victoria, London, SW1X 7EN. Incorporated in England and Wales. EDF Energy 1 Limited acts as agent of EDF Energy Customers plc for the purposes of collecting all payments in connection with its supply contracts. The responsibility for performance of supply obligations rests with EDF Energy Customers plc.

EDF Energy (Fixed - Protect) - Standard Electricity Terms & Conditions for Industrial and Commercial Business Customers