

Deemed Terms and Conditions for the Supply of Electricity or Gas (Version 9.0)

Paragraph 3 of Schedule 6 to the Electricity Act 1989 provides for certain circumstances in which the owner or occupier of premises will be deemed to have contracted with us for the supply of electricity to those premises. Paragraph 3 of Schedule 6 to the Electricity Act 1989 also provides for us to make a scheme for determining the terms and conditions which are to be incorporated into the resulting deemed contracts. This is our scheme, and the terms and conditions are set out below.

Paragraph 8 of Schedule 2B to the Gas Act 1986 provides for certain circumstances in which the owner or occupier of premises will be deemed to have contracted with us for the supply of gas to those premises. Paragraph 8 of Schedule 2B to the Gas Act 1986 also provides for us to make a scheme for determining the terms and conditions which are to be incorporated into the resulting deemed contracts. This is our scheme, and the terms and conditions are set out below.

1 Words and Phrases

The words and expressions used in the **contract** have the meanings set out in the glossary at clause 14.

2 The Contract Period

The **contract** takes effect from the **supply start date**, and continues until it is ended in accordance with clause 10.

3 Energy Supply

3.1 We will supply **energy** to each **property** from the **supply start date**, and you will pay us the **charges**.

3.2 The **energy** will be delivered to each **connection point** by the **network operator** on our behalf. The **network operator** is responsible for maintaining the **network** and the connection of each **property** to the **network**, and it may **disconnect** the supply of energy in accordance with its legal rights to do so.

3.3 Ownership of the **energy** will transfer to you at the **connection point**. Responsibility for the **energy** will transfer to you at the **connection point**, and you will be responsible for **energy** losses which are incurred on your side of the **connection point**.

3.4 We will only supply properties with gas that are not subject (under the **industry codes**) to daily meter reading.

The following applies only in the case of supplies of electricity: Your supplier is acting on behalf of your network operator to make an agreement with you. The agreement is that you and your network operator both accept the National Terms of Connection (NTC) and agree to keep to its conditions. This will happen from the time that you enter into this contract and it affects your legal rights. The NTC is a legal agreement. It sets out rights and duties in relation to the connection at which your network operator delivers electricity to, or accepts electricity from, your home or business. If you want a copy of the NTC or have any questions about it, please write to: Energy Networks Association, 6th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF: phone 0207 706 5137, or see the website at www.connectionterms.co.uk.

4 Disconnecting the Supply of Energy

4.1 You agree that the supply of **energy** to any **property** may be **disconnected** if:

- (a) you do not make a payment when due under the **contract**; or
- (b) we believe that:
 - (i) the **energy** intended to be supplied to you has been stolen or redirected;
 - (ii) there has been interference with the **network** or **metering**;
 - (iii) it is necessary to do so in order to avoid danger or a breach of an **industry code**; or
- (c) you have materially breached the **contract** (or any other agreement for the supply of electricity or gas between you and us or our **affiliated companies**) and such breach is continuing;
- (d) we are obliged to **disconnect** the property under law, our **supply licence** or any **industry code**; or
- (e) after we end the **contract** in respect of that **property** in accordance with clause 10, if we remain the **responsible supplier**.

4.2 You agree that we (and our contractors) may access a **property** for the purposes of **disconnecting** the supply of **energy** to that **property** in accordance with clause 4.1. You also agree that we can **disconnect** the supply remotely if the **metering** provides for this.

4.3 If the **energy** supply to any **property** is (or arrangements are made for it to be) **disconnected** because of something you have done or not done (but should have done) you will:

- (a) compensate us for any losses or costs which we have incurred as a consequence of **disconnecting** the supply;
- (b) compensate us for any costs which we incur in re-establishing the supply; and
- (c) if we request, provide us with a performance bond in an amount which we reasonably determine to approximate to the value of three months' supply of **energy**.

4.4 If you ask us to do so, we will send you our current charges for **disconnecting** and re-establishing a supply.

4.5 We will give you notice of our intention to **disconnect** a supply to a **property** in accordance with our obligations under law, our **supply licence** and the **industry codes**.

5 Your Obligations

5.1 You confirm that none of the **properties** are a property at which a supply of **energy** is taken wholly or mainly for domestic purposes. Please contact us if you are unclear what this means.

5.2 You will notify us:

- (a) before you make changes to the **properties** that are likely to alter the amount of **energy** you consume or the time of day that you consume it;
- (b) if the **contract** is for the supply of electricity, before you install electricity generating equipment at a **property**; and
- (c) if the **contract** is for the supply of electricity, before you change the voltage at which you take the electricity supply.

5.3 You agree:

- (a) to provide us with the assistance and information that we reasonably require to enable us to comply with our obligations under the **contract**, our **supply licence** and the **industry codes**;
- (b) to maintain the equipment, pipes and wires at each **property** in good and safe working order and in compliance with law; and
- (c) to ensure that each **property** remains connected to the **network** at the relevant **connection point**, and maintain and comply with all necessary agreements and consents for such connection.

- 5.4 You agree that we can pass on to third parties information concerning the supply of **energy** or that you provide to us, and we will do so in accordance with law, our **supply licence** and the **industry codes**.
- 5.5 You confirm that all of the information provided by you (or on your behalf) in relation to the contract is accurate and complete, and not misleading.
- 5.6 You agree that we may obtain from your previous **energy** supplier (or other relevant industry parties) any information we reasonably require in order to supply **energy** to the **properties**.
- 5.7 If you believe that there is (or may have been) an escape of gas, you must immediately call the **network operator** on 0800 111 999 and they will provide any emergency services for which you must allow them access.
- 5.8 You agree to us contacting you in relation to the **contract** using any contact details you have provided to us.

6 Metering and Estimates

- 6.1 We will arrange for **metering** to be (or remain) installed at each **property** (save where clause 6.9 applies).
- 6.2 The **metering** will either belong to us or to another entity with which we have contracted. You will not own the **metering**, and will not be able to object to any transfer of the ownership of the **metering** that may take place or to its replacement with alternative **metering**.
- 6.3 You will allow our representatives reasonable access to each **property** at reasonable times to install, read, inspect, maintain, remove or replace the **metering**. You also agree that this right of access extends to the entity that owns the **metering**, and to any of our contractors.
- 6.4 You will not interfere with the **metering**, and will make sure that it is not damaged. You will compensate us for any losses or costs that we incur as a result of damage to the **metering**.
- 6.5 Where we agree to replace the **metering** at your request, you will reimburse us for any losses and expenses that we incur (including abortive visit charges) in connection with such change other than those arising due to our failure to meet our obligations.
- 6.6 We will arrange for the **metering** to be read. You may also provide us with readings. We will use the readings you provide to us, but not if they are inconsistent with the readings taken by us or our contractor.
- 6.7 If a meter reading for the **supply start date** or any period of the **Contract** is not available, or is in our reasonable belief inaccurate, we will estimate the amount of **energy** used by you and

to charge you accordingly. Any such estimates shall be subject to reconciliations as actual or more accurate information becomes available.

- 6.8 If you reasonably believe that the **metering** at a **property** is inaccurate, you can ask us to test the **metering**. If you ask us, we will arrange for the **metering** to be tested within a reasonable period. If the accuracy of the **metering** is found to be within the limits prescribed by the **industry codes**, you will reimburse us for the cost of the test. If the accuracy of the **metering** is found to be outside the limits prescribed by the **industry codes**, we will repair or replace the **metering**. If the accuracy of the **metering** is found to be outside the limits prescribed by the **industry codes**, we will also apply a reasonable adjustment (up or down) to the **charges** to reflect the inaccuracy.
- 6.9 For those **properties** (if any) that have half-hourly electricity meters, you will contract with a meter operator agent (as defined in the **industry codes**) for the maintenance of those meters. You will notify us of the entity with which you have contracted at least 30 days in advance of the intended supply start date (and in advance of any replacement). Where this clause 6.9 applies, you will be responsible for the accuracy of the meters under clause 6.8 and you will compensate us for any losses and costs we incur as a result of the poor performance of your agent.
- 6.10 If a **property** has smart metering, you consent to us obtaining, storing and using consumption data from the smart metering relating to periods of less than one month in duration. We will only use this data for the purposes of optimising settlement and forecasting; identifying energy efficient savings and products; and the monitoring and control of potential energy theft. You may restrict us to obtaining, storing and using consumption data in respect of periods of one month or more by writing to us at Royal Pavilion, 2 Summerhouse Road, Moulton Park, Northampton, NN3 6BJ.

7 **Charges**

- 7.1 You will pay us the **charges**. The **charges** are stated exclusive of value added tax, **climate change levy** and **green deal charges** which will be payable by you (where applicable in accordance with law).
- 7.2 We will, each month or at such other intervals as we agree with you, send you an invoice in respect of the **charges** for the relevant period. We will send the invoice by prepaid post or (if agreed) through e-billing facilities. E-billing facilities may (at our discretion) entail us sending the invoice to an e-mail address maintained by you, or uploaded onto your e-billing account on our web-site. You will maintain an email address for this purpose, and notify us of the address. If an e-billing account is used, you will keep your password secure and confidential, and we may close your e-billing account at any time without notice if we have reason to

believe that the account is being accessed or used in an unauthorised manner.

- 7.3 You will pay the **charges** shown in each invoice to us by Direct Debit (unless otherwise agreed) within 10 days of the date of an invoice or statement.
- 7.4 If you do not pay the **charges** by the payment date, we will charge you interest on the overdue amount at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act 1988 (which is 8% above the Bank of England base rate).
- 7.5 This clause will apply if a Direct Debit request is returned unpaid by your bank twice in any 12-month period, or you fail to pay any invoice by its due date. Where this clause applies we may charge you an administration fee. This clause applies in addition to any other rights or remedies we may have.
- 7.6 Where any credit amount is due to you under the **contract**, we may use the credit amount to set-off against any amounts that you owe us under the **contract** (or that you owe to us or our **affiliated companies** under any other agreement). Set-off will settle both the amount owed to you and the amount you owe.
- 7.7 Where a credit arises under clause 7.6, we will deduct the amount we take by Direct Debit. However, if we have consented to payment terms other than by Direct Debit or if the credit is greater than the amount owing to us, then we will credit the amount to an account operated by us for that purpose. We will pay any such amount to you on request. We will send the reconciliation notice or credit note to your address as held by us, unless we are aware that you are no longer in occupation of the **property** and you have not provided a forwarding address.
- 7.8 Save as set out in clause 7.6, you will pay the **charges** in full without any deduction or set-off.
- 7.9 Your obligations under this clause 7 still apply even if you appoint a third party agent to provide bill processing or validation services.
- 7.10 If you do not pay any of the **charges** by the payment date, and you are more than 10 days late in making payment, all our unpaid invoices under the **contract** will be deemed to be immediately due and payable. In addition, we will be entitled to require you to:
- (a) pay the **charges** for each month in advance based on our estimate of likely **energy** consumption in that month (subject to a subsequent reconciliation against actual consumption at least once in every 12-month period); or
 - (b) pay us a cash deposit in an amount equal to our estimate of our likely exposure to you under the **contract** (in which case title in such amount will vest in us, but we will

pay you an equal amount after the payment of our final invoice following the end of the **contract** (subject to any amounts deducted by us in settlement of outstanding invoices under the **contract**).

- 7.11 If you do not pay any of the **charges** by the payment date, we may pass information relating to you onto a credit reference agency.
- 7.12 If you have entered into any other agreement with us or one of our **affiliated companies**, and you send a payment to our address without specifying the agreement to which the payment relates, then we may choose to allocate the payment to the **contract** or to the other agreement.

8 **Variation**

- 8.1 We reserve the right to vary the **charges** and shall publish details of such variations on our website or by writing to you. Such variations shall be effective immediately after being published or from any later date stated at the time of publication.
- 8.2 We reserve the right to increase the **charges** at any time by giving you prior notice if, due to circumstances beyond our control, the cost of supplying your **connection point** is greater than the **deemed rate**
- 8.3 We may vary the **charges** at any time in order to reflect any change (howsoever arising) in the **pass through amounts**. We will give you as much advance notice as we can, but we will not be able to do so if we have not been given advance notice of the change in the **pass-through amounts**.
- 8.4 In addition to our other rights under this clause 8, we may vary the **contract** at any time by publishing the proposed variations on our website or by notifying you in writing not less than 30 days in advance of the new terms taking effect.

9 **Climate Change Levy and Green Deal Charges**

- 9.1 This clause 9 only applies in the case of electricity supply.
- 9.2 If a property is (or becomes) subject to a **green deal plan**, we will collect **green deal charges** from you and pass these to the **green deal provider** (or its nominee). We will only collect **green deal charges** under the **contract** that become payable after the **supply start date**. Once we stop supplying the **property**, you remain liable under the **contract** for the **green deal charges** incurred during the period in which we supplied you with **energy**. Despite the **contract** ending, while you are the green deal bill payer under the **green deal plan**, you will remain liable for the **green deal charges**.

- 9.3 If the electricity supplied to any **property** is **renewable source electricity** or **chp electricity**, we will charge you an additional amount equal to the value of the **climate change levy** that would have applied if the electricity had not been **renewable source electricity** or **chp electricity**. We refer to this amount as a CCL Exempt Charge.
- 9.4 We are required by the Finance Act 2000 to make the following declarations, which do not create any contractual rights or obligations. We declare that, in each averaging period, the amount of exempt renewable supplies made by us will not exceed the difference between: (a) the total amount of renewable source electricity that during that period is either acquired or generated by us, and (b) so much of that total amount as is allocated by us otherwise than to exempt renewable supplies. We further declare that, in each averaging period, the amount of chp electricity supplied by us will not exceed the difference between: (a) the total amount of chp electricity that during that period is either acquired or generated by us, and (b) so much of that total amount as is allocated by us otherwise than to exempt chp supplies.

10 Ending the Contract

- 10.1 Where you are no longer the owner or occupier of a **property**, the contract shall end in respect of that **property** from the date we enter into an **energy** supply contract for that **property** with another person (which may be deemed to occur under law).
- 10.2 We may end the **contract** at any time for any or all of the **properties** if:
- (a) you fail to pay when due any amount payable by you under the **contract**, and do not pay such amount in full within 10 days after us informing you of such failure;
 - (b) you are in material breach of any of the provisions of the **contract** (other than failures to pay), and such breach is not remedied to our reasonable satisfaction within 2 days after us informing you of such breach;
 - (c) you are deemed in accordance with law to be unable to pay your debts, or any legal proceedings or other steps are taken in relation to: your winding-up or liquidation; the appointment of a liquidator, receiver, administrator, administrative receiver or similar officer in respect of you or your assets; a composition, assignment or arrangement with your creditors;
 - (d) it becomes unlawful for you or us to comply with any material provision of the **contract**;
 - (e) where a landlord's consent is required for us to become a supplier of **energy** to the property (including in order for us to use a network that is not operated by a statutory licensee), and you have not obtained such consent on terms acceptable to us (or that

consent ends);

(f) or the **energy** is gas and the **property** is subject (under the **industry codes**) to daily meter reading.

10.3 If we end the **contract** in respect of any or all of the **properties** in accordance with clause 10.2, we will inform you of the date the **contract** will end (and, if the **contract** is not ending, of the affected **properties**).

10.4 The **contract** will end automatically and with immediate effect if:

(a) our **supply licence** is revoked;

(b) a last resort supply direction (as defined in our **supply licence**) is given to another supplier in respect of the supply of **energy** to the **properties**;

(c) a contract for the supply of **energy** by a supplier other than us comes into effect and once that supplier becomes the **responsible supplier**; or

(d) a contract for the supply of **energy** to the **property** by us (other than the **contract**) comes into effect.

10.5 The ending or expiry of the contract for whatever reason will be without prejudice to your and our rights and remedies which have accrued prior to the end or expiry of the **contract**. Such ending or expiry will also be without prejudice to the continuing validity of any provision of the **contract** which expressly or by implication is intended to come into or remain in force on or after the end or expiry of the **contract**.

11 Liability

11.1 If either we or you are unable to perform any or all of the obligations under the **contract** (other than payment obligations) because of some unforeseeable event or circumstance beyond the affected party's reasonable control, then the **contract** will remain in full effect but the affected party will have no liability for such failure to perform (provided it uses its reasonable endeavours to overcome the problem).

11.2 We have no obligation in respect of the **energy** supply if the supply is shut-down, interrupted, delayed, reduced or impaired as a result of actions by the **network operator**.

11.3 We will be liable to you in respect of physical damage to property which results directly from our breach of the **contract** and which was reasonably foreseeable at the date of the **contract** as likely to result from such breach (subject to clause 11.5).

11.4 We will not be liable to you for any loss of profits, revenues, contracts, interest, business,

goodwill or opportunity (whether or not foreseeable) arising from or in connection with the **contract** (whether in contract, negligence or otherwise).

- 11.5 Our total aggregate liability arising from or in connection with the **contract** (whether in contract, negligence or otherwise) will in no circumstances exceed the average total **charges** payable to us each year.
- 11.6 We will not be liable to you in respect of any damage to equipment installed or stored at the **property** by third parties. We will not be liable either to you or to any third party for any costs incurred by you as a result of you entering into an agreement with a third party.
- 11.7 The exclusions and limitations of liability under this clause 11 will not apply to death or personal injury caused by our negligence, or in the case of our fraudulent misrepresentation.
- 11.8 You will compensate us in full for any loss or cost we suffer as a result of your breach of the **contract**.

12 Notices

- 12.1 All notices or other communications to be given by us or you to the other in relation to the **contract** must be:
- (a) in writing and addressed and sent to the recipient's registered office (or, in the case of notices to you, to the **property**) (or as otherwise notified by the recipient in accordance with this clause 12);
 - (b) sent by hand or courier or prepaid post or email or fax.
- 12.2 All notices or other communications sent in accordance with clause 12.1 will be deemed to have been received:
- (a) in the case of delivery by hand or courier, when delivered;
 - (b) in the case of prepaid post, on the third day following the day of posting;
 - (c) in the case of fax, on acknowledgement by the addressee's facsimile receiving equipment; and
 - (d) in the case of email, on receipt by the recipient's email server,
- unless receipt would otherwise occur outside of normal working hours, in which case receipt will be deemed to have occurred at 0900 hours on the next normal working day.

13 Miscellaneous

- 13.1 The **contract** constitutes the whole and only agreement between us and you relating to its subject matter. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given on our behalf which is not set out in the **contract**.
- 13.2 No delay or omission by either us or you in exercising any right or remedy under the **contract** will be construed as a waiver of such right or remedy. Any single or partial exercise will not prevent any other or further exercise of the same right or remedy, or the exercise of any other right or remedy.
- 13.3 You will not transfer any of your rights or obligations under the **contract** without our prior written consent.
- 13.4 We may transfer the **contract** (or our future rights and obligations under the **contract**) to any entity that has the necessary statutory authorisations to supply **energy** to the property. You agree that, from the date you are notified of such a transfer, you will accept such person in substitution for us. We may also sub-contract any of our obligations under the **contract** (provided that we will remain liable for performance).
- 13.5 If a provision of the **contract** is declared invalid or illegal or unenforceable, that provision will be deemed omitted from the **contract**, and the other provisions will continue to apply (unless it would be manifestly unreasonable for such provisions to continue).
- 13.6 If any of the provisions of any **industry code** are amended or varied or cease to apply, you will, at our request, agree to amend the **contract** to accommodate any such amendment, variation or cessation in such manner as we reasonably requires.
- 13.7 No provision of the **contract** shall be enforceable by any third party, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 13.8 The **contract** (and all contractual and non-contractual matters arising in relation to it) will be governed by and read in accordance with the laws of England, and subject to the jurisdiction of the courts of England and Wales.

14 Glossary

- 14.1 The words and expressions used in the **contract** have the following meanings:

affiliated company: means any holding company or subsidiary of ours or any company which is a subsidiary of a holding company of ours and "holding company" and "subsidiary" have the meanings set out in section 1159 Companies Act 2006;

charges: means the **deemed rate** together with any other amounts payable by you to us in accordance with the **contract**;

chp electricity: means 'chp electricity', as defined in schedule 6 of the Finance Act 2000;

climate change levy: means the tax of that name established pursuant to schedule 6 of the Finance Act 2000;

connection point: means, in respect of each property, the point(s) at which the **energy** flows between the **network** and your equipment, pipes or wires;

contract: means the electricity or gas supply contract between us and you that has effect under the Electricity Act 1989 or Gas Act 1986 as applicable on the basis of these terms and conditions;

disconnect: means to interrupt, cut-off, de-energise, disconnect or suspend a supply of **energy**, whether temporarily or on a permanent basis;

energy: means either gas or electricity, as applicable;

green deal plan: means a 'green deal plan' as described in the Energy Act 2011, being an arrangement pursuant to which payments in instalments (**green deal charges**) are due to be paid to an authorised provider (**green deal provider**) and are collected by energy suppliers under energy supply contracts;

industry codes: means the codes and agreements referred to in our **supply licence**;

metering: means, for each **connection point**, the appropriate metering (and related equipment) used for measuring **energy** consumption data at the **connection point** and for the collection and transmission of such data;

network: means, as the case may be, either the electricity distribution network or the gas distribution network, through which you receive the supply of **energy**;

network operator: means, in respect of each property, the owner or operator of the **network**;

deemed rate: means our deemed rates for the supply of **energy**, as published on our website or otherwise notified to you from time to time;

pass-through amounts: means charges levied on us which are outside our control and which concern or relate to the supply of **energy**, including the charges made for the provision or operation of meters or the collection or aggregation of meter data; charges made for the transmission and/or distribution of **energy**; charges made in respect of losses on transmission and/or distribution systems; charges made because you exceed the capacity or volume

allocated by the **network operator**; and any taxes, levies or duties imposed in relation to the supply of **energy** or on us (including in respect of the renewables obligation, the small-scale low-carbon feed in tariff, contracts for difference or anything similar to them);

property: means the property in respect of which you have been deemed to have contracted with us for the supply of electricity pursuant to Schedule 6 to the Electricity Act 1989 or the Gas Act 1986 as applicable;

renewable source electricity: means ‘renewable source electricity’, as defined in schedule 6 of the Finance Act 2000;

responsible supplier: means, for each **property**, the supplier registered under the **industry codes** as responsible for the supply of **energy** to the **connection point(s)** at that property;

supply licence: means either, as the case may be, our electricity supply licence held under section 6 of the Electricity Act 1989 or our gas supply licence held under section 7A of the Gas Act 1986;

supply start date: means the date on which we commence supply to you at the **property** under the **Contract**;

we/us/our: if the **contract** is for the supply of electricity, Opus Energy Limited; or, if the **contract** is for the supply of gas, Opus Gas Supply Limited; and

you/your: the person, people, company or partnership which has entered into the **contract** with us.

14.2 In the **contract** any references to:

- (a) us, includes references to our employees, agents and contractors;
- (b) legislation, includes references to that legislation as modified, amended, extended or re-enacted from time to time;
- (c) codes or agreements, includes those codes or agreements as amended from time to time;
- (d) clauses are references to the clauses of these terms and conditions;
- (e) the singular include references to the plural (and vice versa);
- (f) the terms ‘include’ and ‘including’ are without limitation to any other matters being included in or covered by the relevant provision; and
- (g) person or persons or other entities, are references to any legal or natural person

including individuals, companies, sole traders, partnerships etc.