

Standard terms & conditions for the supply of gas by Business Energy Solutions Ltd and/or the supply of electricity by BES Commercial Electricity Ltd to Businesses and Micro Businesses

A. Introduction

- Business Energy Solutions Ltd trading as BES Commercial Gas is licensed to supply **gas** to non-domestic premises and BES Commercial Electricity Ltd is licensed to supply **electricity** to non-domestic premises.
- These **terms and conditions** refer to BES but in relation to gas this means Business Energy Solutions Ltd and in relation to electricity this means BES Commercial Electricity Ltd.
- References to "we", "us" or "our" means the relevant BES entity and "you" or "your" means the person or business being supplied or intending to be supplied by us. Words and phrases highlighted in bold are defined in section N and shall be construed in accordance with the meanings given to them therein.
- We may carry out credit checks prior to agreeing to supply you with energy. For this purpose, we may undertake searches with credit reference agencies and you should note that such agencies may keep records of our search.
- We agree to supply to you, and you agree to receive and pay for the energy supplied by us to the **site** in accordance with these terms and conditions together with any rules and/or regulations made from time to time under the Acts as well as any other relevant primary or secondary legislative provisions. You agree and understand that this **contract** is legally binding and you must carry out your obligations. In advance of the contract you have confirmed that:
 - you are the owner or occupier of the **site** or you have the authority to enter into a contract to purchase energy for the site;
 - the site is connected
 - you will provide suitable credit references and security cover, if requested by us;
 - you will provide a best estimate of the **EAC** and/or **AQ** for each site.
- For the avoidance of doubt, in the event that you are a sole trader, you hereby confirm that you are not a minor. In the event that the corporate legal structure of your business is a partnership or other type of organisation (other than a company) you and the other partners or officers in the business shall be jointly and severally liable for payment of the energy charges hereunder.
- We operate a paperless billing system. You therefore agree that you will not receive a paper bill. You therefore agree to the following:
 - You will access our **portal** to retrieve your monthly bills;
 - If you cannot access your bill or other information via the **portal** then it is your responsibility to inform us;
 - BES reserves the right to refuse to use the paperless billing system for any reason whatsoever in its absolute discretion and revert to normal paper bills via the post;
 - You agree that all bills which are available to you via the **portal** and/or paper are payable to us and are due and payable as set out at section F below. You shall remain fully responsible and liable to pay any bills which are placed on the **portal** whether or not you access the **portal** or even if you are unable to access the **portal** for any reason at all (see 7c above);
 - We will try and maintain an active **portal** service 24 hours a day 7 days a week however we cannot guarantee uninterrupted and/or reliable access to the **portal** service and we make no guarantees whatsoever as to its operation, availability, functionality, that it will be free from error or disruption or otherwise.
- All electricity contracts require that the site has or is fitted with an **SMART meter** and by entering into this contract you agree that you will allow us to install such a device (if one is not already fitted). If we are unable to fit such a device due to technical reasons then this will not alter the contractual agreement between us.

B. Contract Forms

- The **contract** is between us and you and is subject to these terms and conditions. The terms and conditions cover:
 - Fixed price contracts billed monthly:
 - based upon your **gas** or **electricity** usage;
 - Contracts where initial prices, subject to certain conditions, may vary in the future, billed monthly:
 - based upon your **gas** or **electricity** usage;
 - in equal amounts based upon your estimated consumption of **gas** or **electricity** over the **fixed term** or, when prices change, over the remaining **fixed term**;
 - Tracker contracts, that track wholesale energy and other cost movements, billed monthly:
 - based upon your **gas** or **electricity** usage;
 - in equal amounts based upon your estimated consumption of **gas** or **electricity** over the **fixed term** or, when prices change, over the remaining **fixed term**;Tracker contracts will be reviewed every April and October over the course of the contract. In respect of gas contracts in certain circumstances we may decide to place you on a budget plan and we would refer you to F4 below.
 - Default rates, where the payment terms agreed for **contract** forms 1-3 are not maintained by the customer, we will set a default rate as we may reasonably determine that will apply until such time as you return to the payment terms required by the **contract**.
 - Out-of-contract rates, where an existing **contract** has expired and a new contract has yet to be agreed by you. Actual usage, or deemed usage in the absence of monthly data, will be billed monthly at a rate we may reasonably determine.
 - Deemed contracts, where there is no current or recent contract between you and us for the supply of **gas** or **electricity** to the premises. Actual usage, or deemed usage in the absence of monthly data, will be billed monthly at a rate we may reasonably determine.
- Contracts in B.1.b and B.1.c may see price changes for gas and electricity in the event of significant changes in wholesale market energy and other costs of gas and electricity respectively or in the event of significant increases in charges for transmission, distribution or metering services. This may also be reflected in the monthly payments for the budget plan as set out at F4 below.
 - Clause 1.d is triggered by your failure to maintain payment by Direct Debit as agreed and therefore the prices applied incentivize a prompt return to this required payment method.
 - Out-of-contract prices in B.1.e and B.1.f reflect the short-term nature of the contractual relationship and the inherent and increased commercial risks borne by us. Therefore prices will normally be in excess of standard contract forms in 1-2 above.

- The specific details of your **contract**, details about your site or sites, the **fixed term**, prices and the contract renewal process, including the **renewal date (where possible)**, will accompany these terms and conditions.
- For the avoidance of doubt the contract prices agreed are based on current industry data (including profile class of meter) that has been provided to us. If this data is found to be inaccurate, incorrect or changes then we reserve the right to vary the prices either up or down. If this is the case BES will notify you in writing.

C. Registration

- We will seek to supply energy to you under this contract provided that we can confirm the address of each site **supply point**, **MPAN** and/or **MPRN** and that there is nothing to prevent us being registered as your supplier.
- We will seek to become your registered supplier within 21 days of this contract being agreed, unless:
 - We agree with you an alternative supply start date beyond 21 days of this contract date.
 - Your current supplier blocks the transfer of the supply.
 - We do not receive all of the required information required to complete the transfer of the supply.
 - There are no meter connection or metering arrangements in place at your property
- Where one of the scenarios described in C.2. applies and is complied with and/or resolved, we will seek to become your registered supplier within 21 days of the date of compliance and/or resolution
- When necessary, you will help us become registered as your supplier including arranging for any transfer objections to be lifted, if we request you to do so.
- You will not seek to extend your existing contract with your current supplier or enter into a new contract with another supplier whilst you are seeking to have us registered as your supplier. If we are unable to complete registration because of your failure to fulfill any aspect of conditions C.1 – C.3 we may seek, and you will be liable for a **termination fee**.
- In the event that we are delayed in registering as your supplier we will not be liable for any loss you suffer as a result.

D. Contract start and operation

- We shall provide the supply to the supply point at each site with effect from the **supply start date** on and subject to the terms of this contract and in accordance with regulations from time to time made under the **Acts**.
- The contract shall be on these terms and conditions only (together with the terms detailed in the document titled *Additional Information to accompany BES's standard Terms & Conditions*). This contract shall continue for the **fixed term** as a minimum.
- To prevent the **contract** extending beyond the **fixed term** or any extension period the **contract** must be terminated by written notice (see D4 below) which can be sent AT ANY TIME within the **fixed term** (except for the last 30 days). If not then it shall continue for successive extension periods of not more than twelve months. Your written notice may be submitted by email to customerservices@besutilities.co.uk or by post to BES Utilities, Parkside Stand, Fleetwood Town Football Club, Park Avenue, Fleetwood, FY7 6TX
- No later than 60 days before the end of the **fixed term** or any subsequent extension to the contract we will send to you a written **renewal reminder** which will include the charges you will pay for any extension period. This reminder will constitute the **statement of renewal terms** and will confirm the termination process, the latest date by which we must receive your notice of termination and the relevant address to which you can send a written termination notice which has to be received by us at least 30 days before the end of the **fixed term**. If no termination notice is received by us then the contract will not be terminated at the end of the **fixed term** and it will automatically continue for the extension period of 12 months at the charges set out within the **statement of renewal terms**.
- Where you serve notice of termination but you do not enter into a new contract with BES or a new supplier within 24 hours of the end of the **fixed term**, so that the new supplier is your actual supplier of gas or electricity in place of us after the end of the **fixed term**, we will continue to supply you on these conditions but subject to our out-of-contract rates (see B.1.e) until your transfer has occurred. We shall be entitled to disconnect the supply at any time after the date of termination.
- If we supply you with electricity under this contract, you are also entering into a standard connection agreement for your electricity with your local electricity **network operator** as described below, where 'your supplier' means us (there is no similar agreement for gas). 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 relating 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*

Website: www.connectionterms.co.uk
- We shall have the right to object to you transferring the **supply** to another supplier if:
 - changing supplier would put you in breach of any part of this contract and its legitimate extension;
 - you have not paid all the charges due under this contract ;
 - the new supplier agrees with us that that the transfer was started in error.
- If we have to object to your transfer to a new supplier of energy because you owe us any sums hereunder, we reserve the right to advise such third party supplier of any sums owed to us by you.

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E. Charges

1. You agree to pay us for supplying gas or electricity (or both) and for other charges which apply under this contract (such as those described in paragraph 4 below).
2. Subject to paragraph B, our prices for supply for each **site** are set out in the Additional Information Letter for that **site**. Our prices may also include a standing charge.
3. We will charge you our deemed prices for the electricity or gas (or both) you use at each **site**, until we agree to new contract details for that **site** or you transfer to a different supplier (see B.1e above).
4. We may also charge you for extra items that are not set out in your Additional Information Letter. These may also include:
 - a. our reasonable costs when we try to get back money you owe us (when you do not have a genuine reason to disagree that you owe us money);
 - b. our reasonable costs of stopping, disconnecting or reconnecting your supply;
 - c. our costs for transporting or distributing gas or electricity to the **site** (if these are not included in our supply prices);
 - d. a charge for **meters** or metering equipment;
 - e. our reasonable costs if you break any of the terms and conditions of this **contract**, including costs we have to pay to get back money that you owe us (including administration costs and costs that we have to pay for coming to your **site** to ask you to pay us the money you owe);
 - f. our reasonable costs if you fail to keep an agreed appointment with us or our agents at a **site**;
 - g. our reasonable costs if you interfere with your gas or electricity **meter** or steal gas or electricity;
 - h. our reasonable costs if you prevent us or our agents from reading or working on your **meter**;
 - i. our reasonable costs of transferring a **site** back to your old supplier, where you no longer own or use the **site** you have told us to supply;
 - j. reading your **meter** when you ask us, if this is more often than we must read it by law; or
 - k. making and sending copies of any documents we have already given you or made available to you.
5. If you owed us any money before the date this **contract** started (for any of your addresses we supply, including for a deemed site) this means you will also owe it us under this **contract**. We have the right to offset any money you send us from any money you owe us.
6. If your **meter** also supplies other addresses and/or meters that you do not own or use, you will be responsible for paying us for all the gas or electricity (or both) that is used at the other addresses and/or meters.
7. You will be responsible for paying for the gas or electricity (or both) that is used at your **sites** unless a tenant or occupier that we have authorised has taken over responsibility for the supply. You must tell us if a tenant or occupier moves into a **site** and send us details of the tenant and **meter** readings that we reasonably request.
8. If your account is in credit for a particular supply (gas or electricity) you agree that we may use this credit to offset any debt relating to the alternative **supply**.
9. We have the right to charge you for extra services you ask for. We will tell you about these before we give you the service from time to time.
10. All our prices and other charges are affected by UK tax or duty, including **VAT** and **CCL**.
 - a. we will charge you **VAT** on supplies of gas and electricity to the **site**. This will be at the standard rate unless either of the following applies:
 - i. if you send us a filled-in, valid **VAT** certificate, or other document that you and we have agreed on that shows you do not have to pay for gas and electricity at the standard rate of **VAT** at the **site** (for example, if you are a charity and you do not use the **site** for business purposes). If you do this, we will charge you **VAT** at the reduced rate on all or part of your supply that is eligible for the reduced rate of **VAT** (as shown by the percentage you declare on your **VAT** certificate or any other document that we agree to, such as a letter or e-mail).
 - ii. if the supply to your **site** is below certain limits (see below). If this is the case, we will automatically charge **VAT** at the reduced rate.
 - b. 'Below certain limits' means the gas or electricity we supply to you at the **site** where we do not supply you with more than 4397 kWh of gas every month, or more than 1000 kWh of electricity every month.
 - c. You will be charged **CCL** on the gas or electricity you use, unless:
 - i. **CCL** does not apply (because the reduced rate of **VAT** (see clause E.11a and E.11b) applies to the supply at the **site**); or
 - ii. you qualify for an exemption or discount from the full **CCL** rate (in line with Schedule 6 of the Finance Act 2000). If you are eligible for an exemption (unless the exemption relates to the supply of **renewable electricity** or **good quality CHP electricity** as set out in d below) or discount from the full rate of **CCL**, you must send us a filled-in PP11 form (or any other document that replaces the PP11 form). You can get the PP11 form from HM Revenue & Customs. If you send us a filled-in PP11 after we have started to supply your **site** with gas or electricity, by law we can only apply the exemption or discount to gas or electricity we supply to your site after 1 November 2007.
 - d. We may purchase, and you agree that we may from time to time supply you with, **good quality CHP electricity** or **renewable electricity** both of which are **CCL exempt products**. If this occurs we will not charge you **Climate Change Levy** (or **CCL**). If you are supplied under a **CCL exempt product**, you agree to pay an alternative charge to **CCL** known as the **CCL equivalent charge** (or **CCE**). This charge is the same as the **CCL** you would otherwise have been liable for; therefore the total amount of your bill will be unchanged. If the rate of **CCL** changes at any time, the rate of the **CCL equivalent charge** will change by the same amount. In some circumstances, your bill may include a combination of **CCL** and **CCE** if you have only been supplied under a **CCL exempt product** for part of the billed period and **CCL** is due on the remainder. In accordance with the Finance Act 2000, Schedule 6 Paragraph 19 (2) and 20A (3) :

- i. In each averaging period as determined under the Finance Act 2000, Schedule 6 Paragraph 20 (B), the amount of electricity supplied by **good quality CHP electricity** will not exceed the difference between :
 - the total amount of **good quality CHP electricity** that, during that period, is acquired by us; and
 - so much of the total amount as is allocated by us otherwise than to **good quality CHP electricity** supplied by us in the period.
 - ii. In each averaging period as determined under the Finance Act 2000, Schedule 6 Paragraph 20, the amount of electricity supplied by **renewable electricity** sources will not exceed the difference between :
 - the total amount of **renewable electricity** sources that, during that period, is acquired by us; and
 - so much of the total amount as is allocated by us otherwise than to **renewable electricity** supplied by us in the period.
- e. We will not be legally responsible if we have not charged you or we have overcharged you **VAT** or **CCL** because a fact in any documents you send us is incorrect (for example, if the information in your documents leads us to believe you are a charity when in fact you are a business or vice versa). If this happens, then you will have to pay the difference. If, as a result of this, there is to be a credit generated to you to recover overpaid VAT then you agree that this credit will be paid once we have received the same credit from H.M. Revenue & Customs.
- f. Where you have sent us a **VAT** certificate or form PP11, it is your responsibility to tell us if the purpose you use gas or electricity for (for example, as a business or charity) at your site changes.

F. Payment Terms

1. All payments due to be made by you to us under this contract shall be made by direct debit. No other transfer of funds will be permissible unless agreed by us in advance and in writing. Charges under this contract are exclusive of **VAT**, **climate change levy** and any other tax, levy, duty or charge. You shall pay to us on production of the appropriate tax invoice or other certificate the amount of any United Kingdom tax, duty or impost on gas or electricity on the processing, sale or supply of gas or electricity which is payable by us in respect of the gas or electricity.
2. If you dispute any bill or invoice this will not entitle you to withhold payment of any or the entire bill.
3. Should the direct debit instruction not be in force, be honoured by your bank or cancelled at any time we reserve the right to increase the contract price to the then default rate. The prevailing default rate will be provided by us with the specific contract details (which accompany these terms and conditions) and we reserve the right to charge you at that rate, as amended, until the end of the month during which the direct debit is reinstated or, at our discretion, a further calendar month thereafter.
4. In certain circumstances we may decide to place you on a budget plan whereby you shall make equal monthly payments based on anticipated energy usage for the following 12 month period. We shall notify you of our decision in writing and the budget plan shall come into force either at the commencement of the supply by us or on the first day of the calendar month after notification.
5. For each site the following provisions shall apply:
 - a. Where contracts provide for monthly (12 periodic) bills to be based upon actual monthly (periodic) usage, we will invoice each month those sums to be charged to you as follows:-
 - (i) for any daily-read or monthly-read meter the quantity of gas or electricity actually consumed by you in that month/period shall be charged at the **contract price**. If no meter readings are available at the end of any month/period, we may substitute our estimate of the quantity consumed.
 - (ii) for any meter which is not read daily or monthly, the quantity of gas or electricity shall be estimated using industry profile data for the appropriate month or period, and be charged at the contract price. In the event that the meter is read, the gas or electricity actually consumed by you at the site may be reconciled by us and included in the invoice. We reserve the right to vary the estimate of consumption from time to time to take into account the actual quantity of gas or electricity supplied. We shall give prior notice of such variations to you.
 - b. Where contracts provide for monthly bills to be based on a proportion of usage of the **fixed term**, or the remaining **fixed term**, we will invoice each month those sums to be charged in line with the specific contract details that accompany these terms and conditions or as amended, in writing, over the course of the contract.
 - c. You shall pay the amount due in respect of each invoice within ten days of date of invoice ("the due date"). Failure to pay the amounts due by the due date shall entitle us to charge a **"late fee"** at its then applicable rate, such charge to be added to the subsequent invoice issued by us. In the event that you fail to pay the subsequent invoice or you have paid later than the due date, we shall be entitled to instigate a site visit for the purpose of:
 - (i) establishing your current trading position; and
 - (ii) obtaining an independent meter reading to allow reconciliation of your account. We are entitled to charge a **"referral fee"** at our then applicable rate and any such referral fee shall be included on the invoice issued by us subsequent to such site visit.
 - d. Where an invoice has been subject to an estimate and your actual consumption of gas or electricity for the relevant period at the applicable rate plus any other amounts payable by you for that period either exceed or is less than the amount estimated for that period, a reconciliation amount shall be calculated by us from time to time (but not less than once in every 12 months). The reconciliation amount is calculated by reference to the amount by which your actual consumption of gas or electricity for the relevant period at the applicable rate (plus any such other amounts payable by you for that period) exceeds or is less than the amount estimated for that period, on a pro-rata basis, of the minimum payment as calculated by us from time to time. Unless the reconciliation amount is within 20% of the amount estimated for that period, as soon as possible after completing the reconciliation calculation we will send you a reconciliation invoice or credit note and we may vary any

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monthly installments payable by direct debit accordingly. If we have consented to payment terms other than by direct debit, any additional amount due may be paid by you to us by bank transfer within 10 days of the reconciliation invoice or a credit amount may be made to your account by us. If you request an account reconciliation we may, at our discretion, charge an administration fee at a rate we may reasonably determine.

e. If payment is not received by us by the due date, then without prejudice to any other rights or remedies that we may have, we shall from the due date until payment be entitled to object to you transferring to another supplier and charge interest at the rate of 8% above RBS bank base rate from time to time on overdue amounts from the due date until payment (both before and after judgment) or under the late payment of Commercial Debts (Interest) act 1998, as amended.

f. If payment is not received by us in accordance with these terms and conditions and/or in breach of any agreement between us then we may cause the supply to the supply point to be discontinued, isolated, or altered by whatever means available to us (in some cases remotely through your meter), either temporarily or permanently at our sole discretion. Where this discontinuance of your supply is due to you, your agent or your employees act or omission then such discontinuance and/or reconnection of supply will be conditional upon you paying (in advance if so demanded) a disconnection and/or reconnection charge.

G. Security Cover

1. We shall be entitled to demand security cover of such amount as we deem appropriate over the **fixed term** which shall be provided to us within ten (10) days of such demand.
2. If you provide cash as security cover we will return any balance after deducting any cash due to us once you have transferred to a new supplier and following receipt of a written request from you for the return of the security cover.
3. In the event that we believe you have suffered a material and adverse change in your financial standing we may require you to provide, or increase any existing, security cover. This requirement will be notified to you in writing and shall specify the form acceptable to us. The notice will also specify the timing of the requirement and failure to comply shall be treated by us as a material breach of this contract.
4. We will not pay you interest on any sums provided as security cover.

H. Contract Termination

1. You may not terminate this contract before the end of the **fixed term** or any extension of it except when:
 - a. you are about to stop trading at the site and you have notified us in writing that you wish to have the site isolated or de-energised, whereupon the appropriate isolation or de-energisation fee will be payable by you to us;
 - b. you are to vacate the site and you have provided us with legitimate details of the new owner or occupier in writing, including, where required, the provision of supporting evidential documentation. Without this information we may continue to invoice you for all gas or electricity supplied to the site until the termination of the contract even if you cease to be the owner, tenant or occupier of the site.
2. For the avoidance of any doubt you should, whenever possible, give us no less than fourteen days notice of your ceasing to be the owner, tenant or occupier of the site. Failure to notify us of your vacating the site may lead to additional charges to recover our increased administrative costs and any early termination fees that may apply.
3. The contract will end if we are no longer licensed to supply energy or we no longer fulfill those industry agreements that are necessary for us to be able to supply energy or because a supplier of last resort direction in respect of the site or sites supplied under this contract is awarded to another supplier.
4. In the event of a material breach of the contract by either **party** the other may end the contract by giving written notice. Such notice comes into effect immediately if the party in breach has failed to remedy the breach within a reasonable period of being asked to do so by the other party, where the reasonable period is not less than seven days nor greater than twenty one days from the date of the notification to the party in breach, depending upon the nature of the breach.
5. Any insolvency, voluntary arrangement for the benefit of creditors, receiver, administrator, administrative receiver or bankruptcy order will lead to immediate termination of the contract. However, at our discretion and in certain circumstances we may continue to supply the site under the terms of the contract.
6. After termination you will be liable for any charges for energy consumed before termination at the charges under the contract and any energy used after termination at the out-of-contract level. We will be able to recover those sums owed to us for energy or costs incurred while the contract was in place or until the site is registered with another supplier.
7. We may charge you a termination fee as set out in the additional information letter if this contract ends prematurely because you have failed to fulfill your obligations set out in these conditions or you wish to terminate it before the end of the Fixed Term. This termination fee will be the bill value over the previous 6 complete months prior to the termination notice being received by BES. This will be based on the previous consumption data where available or otherwise using the industry data for this period at the time termination fee is requested. If the termination notice is received by BES prior to you being on supply for 6 months then the termination fee will be based on the industry data for the premises for a period of 6 months. The termination fee will not include VAT and CCL but there will be an administration fee of £100. You agree that the above represents a genuine pre-estimate of the loss to BES that would arise on termination of the Agreement in the circumstances described and does not constitute a penalty.
8. If you have any money (credit) left on your account after we have told you the final amount that you owe, you must tell us that you want us to repay that money and you must give the information we ask for (for example a forwarding address or payee details) so that we can pay it to you. If you do not tell us or do not give us the information we ask for within 12 months of the date we have

told you about the final amount we owe, we will not have to pay the money to you.

I. Measurement

1. The gas or electricity supplied by us shall be measured by a **meter** and the reading shown on the meter shall be prima facie evidence of the volume of gas or electricity consumed under this contract, unless the meter is found to be registering erroneously to a degree exceeding that permitted by relevant regulation.
2. The amount of gas consumed in energy terms shall be calculated using standard industry methods referred to in the Gas Supplier's Licence, as issued by The Gas and Electricity Markets Authority. In accordance with Paragraph 2 of Schedule 7 of the Electricity Act it is agreed that the meter for electricity need not be certified.
3. We shall use reasonable endeavors to obtain at least one actual reading from the meter in any two-year period. The remaining periodic readings may be estimated by us for the purposes of calculating charges payable by you. You undertake to ensure (at your sole expense) that access is made available to the metering point(s) during normal business hours, at times to be agreed, when required by us or our agents. If such access is not made available we will have no other option than to take whatever action is necessary to fulfill our legal duty (see Eh above regarding the payment of the costs of the same).
4. From time to time we may ask you to read the meter and submit the reading to us. If you fail to submit a reading we may have to arrange for one to be undertaken on our behalf and we may charge you any additional costs we incur.
5. You shall remain responsible for your equipment and shall ensure that it is maintained in good working order and condition at all times, and you shall also be responsible for any physical damage or damage due to overloading to your equipment and our equipment (unless such physical damage or damage due to overloading is caused directly by us).
6. In respect of a gas supply we may wish to install an **AMRD** at the site and in respect of your electricity supply we may wish to install a **SMART meter** at the site. We will notify you of our intention and provide you with an address to write to if you wish to object. Where an **AMRD/SMART meter** is to be fitted, we shall make reasonable endeavours to ensure that such **AMRD/SMART meter** is installed at a mutually convenient time.
7. If you object to the installation of an **AMRD/SMART meter** at the site, you must notify us of your objection (in writing to the address specified in the notification to you as per para 6 above) not later than 14 days from the date of your receipt of our notification to you of our intention to install.
8. You understand and acknowledge that we may be unable to install an **AMRD/SMART meter** at the site and we shall therefore be under no absolute obligation to do so.
9. Prior to installation of the **AMRD/SMART meter**, we will arrange for a manual reading of your existing meter and any energy consumption charges arising prior to the **AMRD/SMART meter** installation shall be invoiced to you in the subsequent invoice cycle.
10. Where an **AMRD/SMART meter** is installed at the site, you shall be invoiced in respect of actual periodic meter readings obtained via the **AMRD/SMART** and estimates of consumption shall not be used, unless actual readings are unavailable for whatever reason.
11. You hereby undertake that you will under no circumstances interfere with the **AMRD/SMART**. You shall notify us immediately in the event that you have any concern over the operation of the **AMRD/SMART** (including any suspicion that the **AMRD/SMART** is broken or damaged).

J. Access

1. You shall permit access to the meter as is reasonably required for the purpose of reading, inspecting, testing, repairing, renewing or verifying its accuracy. If access is denied by you then we will be entitled to charge you any costs arising from the visit or any other subsequent action we may have to take to facilitate any of the above.
2. We do not guarantee the accuracy of any data provided to you and we are not liable for inaccuracy of this data.
3. We or you may, at our/your own option and expense, install and operate measuring devices to check the meter provided that such devices do not interfere with the operation of the meter.
4. You may at any time, by giving reasonable notice in writing, request us to arrange that the meter be verified for accuracy. If a verification check shows that the meter is within plus or minus two per cent of accuracy, the costs of such verification check shall be borne by you. If the meter is outside these limits we will bear the cost of the verification check.
5. You shall provide a meter reading immediately to us on entry to and on vacating the site. If readings are not provided we will impose suitable readings and these will be the basis for our calculations.

K. Safety

1. We will take reasonable steps to keep supplying you but we cannot guarantee an uninterrupted, unreduced or unimpaired supply of gas or electricity on a continuous basis and we give no warranty or undertaking nor should any such be implied in this regard.
2. In this context such supply will be in accordance with regulations made under Section 16 (1) of the Gas Act 1986 with regard to pressure, purity and uniformity and the Electricity Supply Regulations 1988 with regard to permitted supply variations.
3. Our supply to you does not mean or imply that your installation and equipment is adequate and we accept no responsibility for ensuring their adequacy, safety and suitability.
4. You will immediately notify any gas leak to the appropriate emergency contacts as identified or amended by us. The appropriate telephone number is 0800 111 999 unless otherwise notified.

L. Deemed contracts (see B. f. above)

1. In the event that you are being supplied by us under a deemed contract (see paragraph 8 of schedule 2B of the Gas Act 1986 or paragraph 3 of schedule

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6 of the Electricity Act 1989) then where applicable these terms and conditions will apply to the deemed contract. You can terminate this contract at any time and no notice is required but it may take up to 7 days for our records to be updated.

- Charges will be calculated and applied from either the date of the last meter reading as available or as reasonably estimated by us (unless otherwise agreed between you and us) and shall be as notified to you from time to time or as amended by us.
- The rates for Deemed contracts will be higher than standard industry rates and will be sent to you as soon as we are made aware of the deemed contract but they will be applicable from the date of the Deemed contract..

M. Confidentiality and Data Protection

- Neither party shall disclose to any third party or make use of any confidential information that has come into its possession in the course of this contract without the prior written consent of the other party nor shall it disclose to any third party anything contained in this contract. For the purpose of this contract, confidential information shall include – without limitation – any details about your individual energy contract with us but may also include, as applicable, any and all information that relates to the business affairs, strategic, tactical and financial plans, products, developments, trade secrets, know how, clients and personnel of a party which is disclosed (in any form) by one party to the other party whether or not marked "Confidential" or which may reasonably be regarded as being confidential.
- This restriction shall continue to apply unless and until such information comes properly into the public domain through no fault of either party.
- The confidentiality obligations of this condition continue notwithstanding any termination of this agreement.
- We shall process information about individual persons in accordance with the DPA. We may process and utilise personal information, including telephone numbers, received lawfully from third parties or from you. You hereby grant us your consent to us sharing such information with any third party. We and any Member of our Group (acting as our agent) may use such information for the following purposes: (a) for identification, so that we are able to ascertain that we are speaking to the correct person; (b) in order to supply you with energy; (c) for the creation and management of your account with us; (d) so as to improve our service to you; (e) for the purpose of debt collection (including Credit Checks for this purpose); (f) in order to prevent or detect fraud, damage or loss; (g) for training and monitoring purposes, including keeping a record of any telephone conversations between us and correspondence with you; (h) in order to carry out risk assessments; (i) for the purpose of computer testing; (j) for the analysis of customer data, market research and marketing (save where you have selected to opt out from us contacting you for marketing purposes); (k) for the purpose of identifying and reporting potential or actual cases of theft of electricity and/or gas; (l) the purpose of seeking to assist you with the repayment of any arrears including via independent debt advice. We may share information concerning the conduct of your account with credit reference agencies, fraud detection agencies and with other financial institutions, in order to ascertain that you are able to continue paying for energy supplied to you by us, to prevent any fraud, to locate debtors and to assess whether to offer you new products and services.
- You are entitled to know what personal information is held by us about you at any time. You may request this by writing to us at the relevant notification address. We will then send you a request form. You will be required to pay the processing fee applicable from time to time (we will notify you of the processing fee when we send you the request form). We will make reasonable endeavours to process your request at the earliest opportunity and we will endeavour to remedy any issues arising in connection with any personal information held by us promptly.

N. General

- Our liability to you in connection with any failure to comply with our obligations under this contract and/or any physical damage caused to your property (or your employees' property) shall be limited to the total charges paid by you to us in respect of the supply of either gas or electricity (depending on which energy supply gives rise to the liability in question) in the relevant twelve month period of the contract term in which the liability arose. For the avoidance of any doubt, we do not seek to limit or exclude our liability for: (i) death or personal injury caused as a result of our negligence; (ii) our fraudulent misrepresentation.
- To the fullest extent permitted by law we shall not in any event be liable for any loss of profits and/or anticipated profits, any economic loss or any indirect, special or consequential damages, howsoever arising, in connection with this contract and shall not be liable for any other damages in connection with this agreement or its termination or your agreement with your previous supplier or subsequent supplier, except (in all cases) as provided herein.
- In the event that a network operator is liable for any loss or damage then our liability to you shall be strictly limited to such amount as we are able to recover from such network provider.
- We shall have no liability to you in respect of any loss or damage, which arises as a result of your failure to meet your obligations hereunder.
- We shall have no liability to you in the event that our performance of any of our obligations under this contract is prevented or hindered due to any circumstances outside our control.
- This contract contains all the terms agreed by the parties relating to the subject matter of this contract. No variation or amendment to the contract shall be effective unless agreed in writing by us, as notified to you. These terms and conditions are subject to any changes made from time to time to the Acts, any other primary legislation, secondary legislation, or any law, regulation and industry agreements, standards, codes or licence conditions. We will notify you of the necessary changes and their effective date.
- We may perform any of the obligations undertaken by us and exercise any of the rights granted to us under the contract through any other Member of our Group which shall act as our agent, and any act or omission of any such Member of our Group shall for the purposes of this contract be deemed to be our act or omission.

- All communication that you send to us under this contract must be delivered in person, by first class mail to the relevant **notification address**. We will not accept any communication from third party intermediaries on your behalf.
- You will not assign, novate or transfer your rights or obligations under this contract without our prior written consent. We may sub-contract, assign, transfer or novate any (or all) of our rights or obligations under this contract at any time without notice to you. In the event that we transfer our obligations under this contract to a Member of the **Group** or another third party, you hereby give us permission to transfer your personal information to such entity.
- A waiver of any breach will only be valid if it is confirmed in writing by the parties and any waiver is without prejudice to any other or future breach. The remedies available to the parties under this contract shall be without prejudice to any other rights, either at common law or under statute, which either may have against the other.
- The invalidity or unenforceability of any term of, or any right arising pursuant to the contract shall not in any way affect the remaining terms or rights which shall be construed as if such invalid or unenforceable term or right did not exist.
- The construction, validity and performance of the contract shall be governed by the law of England. The contract shall be subject to the sole jurisdiction of the English Courts.
- In the event that any dispute or difference arises between us (including any dispute concerning the construction, meaning or effect of these terms and conditions) or any other matter arising out of or in connection with the contract, you and we shall in the first instance make reasonable endeavours to resolve such dispute via good faith negotiations, failing which both parties shall attempt to resolve the dispute by an Alternative Dispute Resolution technique recommended by the Centre for Dispute Resolution. In the event that the dispute cannot be resolved in accordance with the foregoing, either party may pursue the resolution of such dispute via the courts. The parties submit to the exclusive jurisdiction of English courts.

O. Definitions

In these terms and conditions:

"Acts" means the Gas Act 1986 and/or the Electricity Act 1989 (as appropriate) as amended by the Utilities Act 2000 and as amended or supplemented from time to time.
"AMRD" means an automatic meter reading device at the site for the purpose of obtaining an actual (in lieu of estimated) meter reading being taken by a remote device transmitting consumption information to us or to a third party on our behalf.

"AQ" means the estimated annual consumption of gas for each site per year.

"Climate Change Levy (CCL)" is the tax payable by industrial and commercial companies for using gas or electricity as set out in Schedule 6 of the Finance Act 2000.

"CCL equivalent charge (CCE)" is an amount calculated by multiplying your total electricity consumption in a billing period with the current applicable **Climate Change Levy (CCL)**.

"CCL exempt product" means a supply of energy from either **Good quality CHP electricity or Renewable electricity** which, in accordance with the Finance Act 2000, Schedule 6 partially or wholly exempts the consumer receiving that supply from **CCL**.

"Contract" shall mean the supply contract between you and us incorporating the terms and conditions and additional information letter. The contract applies even when existing contracts have lapsed if no new contract has been agreed between you and another energy supplier, although prices may change at the end of the initial contract term. In the case of deemed contracts this contract will apply even where a supply contract has not been agreed between you and us.

"Contract price" means the price of gas or electricity agreed with you at the point of sale and as confirmed by us in writing, or as subsequently amended in line with the contract provisions, when these apply, or as specified by us in the case of out-of-contract terms and deemed contracts.

"DPA" means the Data Protection Act 1998.

"EAC" means the estimated annual consumption of electricity for each site per year.

"Electricity" shall mean all electricity supplied to the customer by us in accordance with this contract.

"Fixed term" shall mean a **Site** for which we have agreed a fixed term **contract** for a specific period or any **Site** for which the term has been renewed or extended.

"Gas" shall mean all natural gas supplied to the customer by us in accordance with this contract.

"Good quality CHP electricity" is qualifying CCL exempt electricity in accordance with the Finance Act 2000 Schedule 6 Paragraph 20 (A), produced by CHP (Combined Heat & Power) generation and meeting the CHPQA criteria.

"Group" means, in relation to us, (i) our companies and (ii) any other company which, at the relevant time, is our holding company or subsidiary, or the subsidiary of any such holding company (as 'subsidiary' and 'holding company' are construed in accordance with section 1159 of the Companies Act 2006) and (iii) any associate or affiliate company which has at least 50% of its shareholders in common with us; and "Member" of a Group has a corresponding meaning.

"Late fee" means a charge applied when the amounts due are not paid by you by the due date.

"Meter" shall mean the measuring equipment installed at or near the supply point at each site.

"Micro-business" means a customer at premises other than domestic premises which meets one of the following conditions;

- Uses less than 100,000KWh of electricity a year
- Uses less than 293,000KWh of gas a year
- Has fewer than 10 employees and yearly turnover less than €2 million

"Month" shall mean a period beginning at 0600 hours on the first day of any calendar month and ending at 0600 hours on the first day of the next calendar month.

"MPAN" means the meter point administration number given to each electricity meter.

"MPRN" means the meter point reference number given to each gas meter.

"Network operator" means the company licensed to operate the electricity distribution network in your area.

"Notification address" means, in respect of the relevant company out of Business Energy Solutions Ltd and BES Commercial Electricity Ltd, as applicable, the registered address of that company at the time of service of notice.

"Parties" shall mean us and you and "party" shall be construed accordingly.

"Portal" means an internet entry point to access your bills and other information that we may supply.

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"Referral fee" is the additional charge levied to recover the costs incurred by us or our agents when requesting and making a site visit.

"Renewable electricity" is qualifying CCL exempt electricity in accordance with the Finance Act 2000 Schedule 6 Paragraph 19 produced from renewable sources as listed in Regulation 47 of the Climate Change Levy (General) Regulations 2001.

"Renewal date" is the day on which the initial contract term or an extension to this contract ends;

"Renewal reminder" means a notice sent to customers in advance of the renewal date incorporating the charges that will apply during any extension period.

"Site" shall mean the location at which you carry on your business and which is identified in the recordings and within the contract. The site may be amended from time to time by agreement in writing between us.

"SMART meter" means an automatic meter reading device at the site for the purpose of obtaining an actual (in lieu of estimated) meter reading being taken by a remote device transmitting consumption information to us or to a third party on our behalf.

"Statement of renewal terms" means a written statement explaining the process for contract renewal and termination. We will send you the statement when you enter into a contract, when your contract is extended and, if you have not indicated your intention to terminate the contract, when we send you a renewal reminder.

"Supply" shall mean the provision of gas or electricity in accordance with this contract.

"Supply start date" shall mean the date agreed by the parties in the recording or if later, the date notified to you in writing by us.

"Supply point" shall mean the point of connection between the licensed network and your apparatus or equipment.

"Termination fee" shall be the charge levied by us, if any, and payable by you in the event of termination of the contract before the renewal date.

"Terms and conditions" shall mean the standard terms and conditions of supply set out in this document together with any additional terms and/or special terms accompanying this document.

"VAT" means value added tax, described in the Value Added Tax Act 1994