



Terms & Conditions

v1.5 – September 19



Dyce Energy Limited Terms and Conditions

For the supply of electricity and gas

1 Interpretation

1.1 The definitions and rules of interpretation in this Term apply in this Agreement.

| | |
|--------------------------------|--|
| Acceptance Form | means the Acceptance Form attached to these Terms signed by you and delivered to us in connection with the Supply, including any annexes to it |
| Acts | means the Gas Act 1986 and the Electricity Act 1989 as applicable |
| Actual Consumption | means the quantity of electricity and/or gas (as applicable) consumed by you during a Fixed Term Period pursuant to this Agreement |
| Agent | means the operator or agent of the operator of the local electricity and/or gas distribution network and any relevant shippers and transporters or any of them including but not limited to a Meter Operator, Data Collector and Data Aggregator |
| Agreement | means this Agreement for the supply of electricity and/or gas comprising these Terms, the Acceptance Form, the Welcome Pack and any other documents specifically referred to as forming part of this Agreement |
| Annual Rate Review | means our annual rate review product as referred to in Term 3.1 |
| Anticipated Consumption | means your anticipated annual consumption of electricity and/or gas being subject to Term 8.3 of this Agreement and the quantity of electricity and/or gas (as applicable) specified in the Acceptance Form under the headings "Gas Consumption", "Day Consumption", "Night Consumption" and "Evening/Weekend Consumption" |
| Authority | means the Gas and Electricity Markets Authority (GEMA) or the Office of Gas and Electricity Markets (Ofgem) (as applicable) |
| Base Rate | means the base lending rate of Yorkshire Bank from time to time (or such other equivalent rate as we may reasonably specify) |
| Business Day | means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business |
| Charges | means the charges and provisions payable by you to us in connection with the Supply as set out in the Welcome Pack and/or the Acceptance Form (subject to variation by us in accordance with these Terms) and all other charges, costs and expenses set out or referred to in this Agreement and including value added tax on such charges, provisions, costs and expenses and any other tax, levy, charge or duty related to, or on, the supply of electricity and/or gas or imposed on us as a supplier as we may reasonably attribute to you, as such charges and provisions may be varied from time to time in accordance with the terms of this Agreement |
| Commencement Date | means the date on which we provide the Welcome Pack to you confirming that we have accepted your offer to take a supply of electricity and/or gas from us on the terms of this Agreement |
| Data Aggregator | has the meaning given to such term in the Industry Agreements |
| Data Collector | has the meaning given to such term in the Industry Agreements |

| | |
|------------------------------------|--|
| Due Date(s) | such dates as are detailed in the Acceptance Form |
| Fixed Term | means the Initial Fixed Term and any extension as referred to in Term 2.3 |
| Fixed Term Period | means: <ul style="list-style-type: none"> (a) in respect of the Initial Fixed Term, the period commencing on the date on which we commence the Supply until the date specified in the Welcome Pack and/or Acceptance Form as the expiry of the Initial Fixed Term or, if earlier (and subject to Term 8.1), the date on which this Agreement expires or is terminated; and (b) thereafter, a period of time commencing on each extension to the Fixed Term and concluding on the last day of such extension to the Fixed Term proposed pursuant to Term 2.3 or, if earlier (and subject to Term 8.1), the date on which this Agreement expires or is terminated) |
| Force Majeure | means any cause or circumstances beyond a party's reasonable control, including fire, flood, earthquake, explosion, strike or labour dispute (excluding any industrial dispute affecting the Supplier), war, act of government or act of God |
| Index Price | means actual costs incurred by us in providing the Supply to you |
| Industry Agreements | means all agreements (other than this Agreement), licences, authorisations, codes and procedures relating to the supply of electricity and/or gas to the Premises |
| Initial Fixed Term | means the period commencing on the date on which we commence the Supply until the date specified as the "End Date" in the Welcome Pack and/or Acceptance Form as the expiry of the Initial Fixed Term |
| Low Electricity Consumption | means where the supply of electricity to you pursuant to this Agreement is less than 1000kWh per month |
| Low Gas Consumption | means where the supply of gas to you pursuant to this Agreement is less than 1000kWh per month |
| Meter Operator | has the meaning given to such term in the Industry Agreements |
| Micro-Business Customer | means a customer that: <ul style="list-style-type: none"> (a) is supplied with or requires to be supplied with no more than 100,000 kWh of electricity per year; or (b) is supplied with or requires to be supplied with no more than 293,000 kWh of gas per year; or (c) has fewer than 10 employees (or their full time equivalent) and has an annual turnover or annual balance sheet total not exceeding €2million; or (d) we reasonably deem to be a Micro-Business Customer |
| Out of Contract Rates | means the charges and provisions payable by you to us in connection with the Supply as set out at dyce-energy.co.uk (subject to variation by us from time to time, acting in our sole discretion) |

| | |
|---------------------------------------|--|
| Premises | means a property to which we supply electricity and/or gas to you under this Agreement as specified in the Welcome Pack and/or Acceptance Form |
| Registered | means we are registered as the supplier in respect of a Supply Point in accordance with all Industry Agreements, industry processes and regulations |
| Standard Tariff | means the pricing for the Supply at the rates set out at dyce-energy.co.uk |
| Supply | means the supply of electricity and/or gas (as specified in the Welcome Pack and/or Acceptance Form) by us to you at the Supply Point(s) in accordance with the terms of this Agreement |
| Supply Point(s) | means in respect of each of the Premises, the point(s) at which electricity or gas is metered prior to supply to such Premises |
| Supply Start Date | means the date(s) on which the Supply shall commence as specified in the Acceptance Form |
| Tariff | means the price shown on the Acceptance Form or Welcome Pack |
| Terms | means these terms and conditions as may be amended by us (acting reasonably) from time to time |
| Termination Date | means the later of (i) the expiry of the Fixed Term, and (ii) the date on which no Supply Points are registered to us under this Agreement |
| Total Anticipated Consumption | means, subject to Term 8.1.2, the sum of the Anticipated Consumption for the duration of the Initial Fixed Term or the duration of any extension to the Fixed Term |
| Tracker Rate | means (if applicable) the tracker rate specified in the Acceptance Form and/or Welcome Pack |
| UK Data Protection Legislation | means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any replacement legislation coming into force from time to time including (without limitation) the General Data Protection Regulation 2016/679 of the European Parliament together with any codes of practice or other guidance issued by any competent regulatory authority |
| Welcome Pack | means the welcome pack emailed to you by us confirming that we have accepted your offer to take a supply of electricity and/or gas from us on the terms of this Agreement |
| we, us, our or Supplier | means Dyce Energy Limited registered in England and Wales with company number 09995796 and having its registered office at B3 Patrick Tobin Business Park, Bolton Road, Wath Upon Dearne, S63 7LL |
| you, your or Customer | means the business identified as the customer in the Welcome Pack and/or Acceptance Form |

1.2 Clause headings are for reference only and do not affect the construction of this Agreement.

- 1.3 Reference to a Term is a reference to the corresponding paragraph in these Terms.
- 1.4 In this Agreement unless the context otherwise requires:
- 1.4.1 a reference to a person shall include a reference to any individual, company, partnership, trust, association, government or local authority department or other authority or body (whether corporate or unincorporated);
 - 1.4.2 references to statutes and statutory provisions shall be construed as references to those statutes and provisions as replaced, amended or re-enacted from time-to-time (whether before or after the date of this Agreement) and shall include any statutes and provisions of which they are re-enactments (whether with or without modification) and any subordinate legislation under such statutes and provisions; and
 - 1.4.3 a reference to the singular shall include the plural (and vice versa)
- 1.5 Any agreement, covenant, representation, warranty, undertaking or liability arising under this Agreement on the part of two or more persons shall be deemed to be made, given or assumed by such persons jointly and severally.
- 1.6 In the event of any inconsistency between the Terms and any other provision of this Agreement, the Terms shall prevail unless we expressly agree otherwise in writing.
- 1.7 A reference to writing or written includes e-mail.

2 Basis of contract

- 2.1 We agree to provide, and you agree to accept, the Supply, subject to the terms of this Agreement. By taking the Supply, you are deemed to have agreed to be doing so subject to the terms of this Agreement.
- 2.2 Subject to the other provisions of this Agreement, this Agreement shall commence on the Commencement Date and shall continue until the Termination Date (unless terminated earlier in accordance with the terms of this Agreement).
- 2.3 Subject to Term 2.4, we shall be entitled to extend the Fixed Term by written notice to you:
- 2.3.1 where you are a Micro-Business Customer, no later than 60 days prior to the expiry of the Fixed Term, setting out the proposed period of the extended Fixed Term (which shall not exceed a duration of up to 12 months from expiry of the current Fixed Term); and
 - 2.3.2 where you are not a Micro-Business Customer, no later than 120 days prior to the expiry of the Fixed Term, setting out the proposed period of the extended Fixed Term (which shall not exceed a duration of up to five years from expiry of the current Fixed Term)
- and in either case we shall be entitled to increase the Charges by giving you notice of the Charges that shall apply during such extended Fixed Term and any other changes to the terms of this Agreement that shall apply in relation to such extension.
- 2.4 You shall be entitled to object to a proposed extension to the Fixed Term under Term 2.3 by giving us notice in writing (in accordance with Term 18.1) no later than:
- 2.4.1 where you are a Micro-Business Customer, 30 days prior to expiry of the current Fixed Term (in which case the extension of the Fixed Term shall not apply); and
 - 2.4.2 where you are not a Micro-Business Customer, not less than 90 days and not more than 120 days prior to expiry of the current Fixed Term (in which case the extension of the Fixed Term shall not apply).
- 2.5 If we continue to provide you with a Supply after the expiry of the Fixed Term (and any extension thereof) or the expiry of the Annual Rate Review product, we shall be entitled at any time and from time to time to vary all or any of the Charges that will apply in relation to the Supply by giving you at least 5 Business Days' written notice, unless:

- 2.5.1 we have entered into a new agreement with you for the supply of electricity and/or gas to each of the Supply Point(s);
 - 2.5.2 you transfer to another supplier; or
 - 2.5.3 all of the Supply Point(s) have been permanently disconnected.
- 2.6 The Supply under this Agreement is for non-domestic purposes. You will advise us if you are or if you become a domestic customer or if you cease to be a Micro-Business Customer.

3 Annual rate review

- 3.1 Terms 3.2 to 3.5 (inclusive) will only apply where you have elected to receive our Annual Rate Review product (as set out in the Acceptance Form).
- 3.2 In respect of the Annual Rate Review product, the Charges shall include (without prejudice to the other terms of this Agreement the standing charges specified in the Acceptance Form (as may be amended from time to time in accordance with this Agreement).
- 3.3 Charges in connection with the quantity of electricity and/or gas supplied to you under this Agreement shall be calculated by reference to the applicable Index Price plus the relevant Tracker Rate.
- 3.4 The Index Price that will apply until the first anniversary of the commencement of the relevant Fixed Term shall be (i) Day Units, Night Units and Evening/Weekend Units in respect of electricity and (ii) the Unit Charge in respect of gas, in each case as specified in the Acceptance Form. Subject to Term 3.1, we will review the Index Price which is used in the calculation of the Charges on an annual basis during the Fixed Term. We will give you written notice of any changes to the Charges as a result of such review under this Term 3.4 at least 60 days prior to the first anniversary of the commencement of the relevant Fixed Term and each anniversary of that date thereafter (each such anniversary being a Review Date) (other than a Review Date occurring at the end of a Fixed Term). Any change to the Charges made pursuant to this Term 3.4 shall apply for the remaining period of the Fixed Term following the relevant Review Date (unless and until such Charges are otherwise reviewed in accordance with this Term 3.4 or any other term of this Agreement).
- 3.5 Where the Welcome Pack and/or the Acceptance Form indicates any elements of the Charges that are passthrough Charges, such Charges shall be passed through and invoiced to you at cost.

4 Preconditions

- 4.1 The Supply in respect of each Supply Point shall commence upon the later of (i) the Commencement Date, and (ii) the date on which such Supply Point is Registered to us.
- 4.2 If (i) no Supply Point has been registered to us within 30 days of the Supply Start Date, or (ii) for reasons beyond our control, all of the Premises have not been Registered to us or any Supply Point has not been connected to the relevant electricity or gas distribution network within 30 days from the Supply Start Date then we may:
 - 4.2.1 vary the Charges by giving you written notice of such variation (such variation to take effect from the Commencement Date); and/or
 - 4.2.2 terminate this Agreement (without any liability by us to you) on giving you not less than one month's written notice (in which case Term 16.2 shall apply).

In the event that we propose to vary the Charges in Term 4.2.1, you shall be entitled to terminate this Agreement on giving us one month's written notice, provided that you must give us such notice no later than 10 Business Days following receipt by you of our notice under Term 4.2.1.

- 4.3 It is your responsibility to terminate any agreements with other suppliers in relation to the supply of electricity and/or gas to the Supply Point(s).
- 4.4 We will use reasonable endeavours to transfer the supply of electricity and/or gas to the Supply Point(s) from your previous supplier(s) within 21 days from the day after the Commencement Date or, where we have given you a period of time within which you may decide not to proceed with the Supply, within 21 days from the day after the day on which that period ends, in either case unless:

- 4.4.1 you request that the transfer of the supply is completed at a later date; and/or
 - 4.4.2 you terminate this Agreement prior to the completion of the transfer of the supply (in which case Term 16.2 shall apply); and/or
 - 4.4.3 your current supplier raises an objection to the transfer of the supply, where they are entitled to do so in terms of their agreement with you; and/or
 - 4.4.4 we do not have all of the information required in order to complete the transfer of the supply and/or comply with the Industry Agreements, despite us having taken all reasonable steps to obtain the missing information from you and we cannot readily obtain that information from another source; and/or
 - 4.4.5 we are prevented from completing the transfer of the supply due to any other circumstance which is outside our control and which we have taken all reasonably practicable steps to resolve; and/or
 - 4.4.6 the Premises are not connected to the relevant electricity or gas distribution network.
- 4.5 We shall have no liability to you if we are unable to transfer the supply of electricity and/or gas to you within the timescales specified in Term 4.4 for reasons beyond our control.

5 Supply

- 5.1 The Supply to any Supply Point may be temporarily or permanently discontinued, de-energised, disconnected or altered:
- 5.1.1 in accordance with the Acts or any other law or industry agreements relating to the supply of electricity and/or gas;
 - 5.1.2 if we believe the metering equipment is being interfered with;
 - 5.1.3 if any Authority, Agent or network operator tells us to do so;
 - 5.1.4 in accordance with 7.11 below, if you fail to make payment of a security deposit as required under this Agreement;
 - 5.1.5 in the case of an accident or emergency;
 - 5.1.6 to avoid or minimise the risk of danger;
 - 5.1.7 in the event of any breach of this Agreement by you (including, without prejudice to the foregoing generality, if you fail to make any payment due to us under this Agreement by the Due Date for payment and/or in accordance with any payment plan agreed by us);
 - 5.1.8 to enable maintenance works to be undertaken;
 - 5.1.9 any circumstances were that we have no control over which prevent us from supplying you;
 - 5.1.10 to avoid failure or interference in our supply of electricity and/or gas to any other person caused by your failure to comply with the terms of the Acts or any other law or Industry Agreements; and
 - 5.1.11 in accordance with the terms of your electricity connection agreement with the operator of the relevant electricity distribution network.

Where the Supply is temporarily or permanently disconnected or altered due to an act or omission by you, we shall be entitled to charge you a restoration charge before restoring the Supply.

- 5.2 Title and risk to electricity and/or gas which forms the Supply shall pass to you at the Supply Point(s).

6 Your obligations

- 6.1 During any Fixed Term, you will not do anything to transfer the Supply to another supplier except in relation to any Premises which you cease to own or occupy. If another supplier attempts to transfer the Supply, we shall be entitled to object to such transfer where:

- 6.1.1 you have not paid any Charges that are due to be paid to us; and/or
 - 6.1.2 any Fixed Term will not have expired on or before the date of a proposed transfer; and/or
 - 6.1.3 the transfer of the Supply to another supplier would otherwise be in breach of the terms of this Agreement.
- 6.2 Where you cease to own or occupy any Premises, you will give us as much notice as reasonably practicable of such fact (which shall, in any event, be no less than 28 days' notice), together with your new address and the details of the new owner or occupier of the Premises. You will continue to be liable for the Charges and all other sums due under this Agreement in respect of such Premises until (i) you have provided us with the information required under this Term 6.2, the 28 day notice period has expired and you have ceased to own and/or occupy such Premises, or (ii) such time as another supplier has commenced a supply of electricity and/or gas to such Premises (as the case may be) or we commence a supply of electricity and/or gas to such Premises under another agreement.
- 6.3 If you give us notice under Term 6.2, we shall be entitled, in our sole discretion, to either:
- 6.3.1 accept such notice and agree to terminate this Agreement in relation to those Premises; or
 - 6.3.2 refuse to accept such notice in which case this Agreement shall not terminate in relation to those Premises; or
 - 6.3.3 ask you to provide such evidence as we may reasonably require in respect of you ceasing to own or occupy such Premises.
- If we ask you to provide evidence in terms of Term 6.3.3, we shall be entitled in our sole discretion to either accept or reject such evidence and exercise our rights under Terms 6.3.1 or 6.3.2 accordingly.
- 6.4 Subject to Term 6.1, you shall be entitled to transfer the Supply to another supplier after the termination or expiry of the Fixed Term:
- 6.4.1 where you are a Micro-Business Customer, on giving us not less than 30 days' written notice prior to the end of that Fixed Term; and
 - 6.4.2 where you are a not Micro-Business Customer, on giving us not less than 90 days' written notice prior to the end of that Fixed Term, provided that you shall not be entitled to serve any such notice more than 120 days prior to the end of that Fixed Term.
- 6.5 Where we continue to provide you with a Supply after the expiry of the Fixed Term (and any extension thereof) in accordance with Term 2.5, you shall be entitled to transfer the Supply to another supplier:
- 6.5.1 where you are a Micro-Business Customer, on giving us not less than 30 days' written notice; and
 - 6.5.2 where you are not a Micro-Business Customer, on giving us not less than 90 days' and not more than 120 days' written notice.

7 Charges and payments

- 7.1 You will pay to us the Charges calculated in accordance with the terms of this Agreement.
- 7.2 The quantity of electricity and/or gas supplied to you under this Agreement shall be measured by the meter(s)
- at each Supply Point. We shall be entitled to submit to you an invoice on a monthly basis (or by reference to such other period as we may reasonably determine) based on those meter readings. We shall be entitled to submit to you an invoice based on our reasonable estimate of the electricity and/or gas consumed where a reading of any such meter is not available to us, and you agree to pay any such invoice. Where we issue an invoice based on an estimate of consumption, we shall make such adjustment as is appropriate (if any) on the basis of the next actual reading of the relevant meter(s).
- 7.3 You shall pay any invoice in full in such manner as is agreed in the Welcome Pack and/or Acceptance Form

within 10 days of the date of the invoice. Any change to the method of payment which has not been agreed by us may result in our alternative tariff being applied to the Supply. If we agree a monthly or other periodic budget plan with you from time to time, you agree that we shall be entitled to apply such sums as are held by us in settlement of any outstanding Charges.

- 7.4 Without limiting any of our other rights or remedies, if you fail to make any payment due to us by the Due Date, we shall be entitled in our absolute discretion to:
- 7.4.1 charge you interest on the overdue amount at the rate of 8 per cent per annum above the Base Rate, accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount in full, whether before or after judgment, and compounding monthly; and/or
 - 7.4.2 charge you an amount of up to £100 per Premises on each occasion where we are required to contact you in respect of a failure by you to pay an amount due by you by the Due Date; or
 - 7.4.3 charge you fixed sum charges in accordance with the Late Payment of Commercial Debts (Interest) Act 1998; or
 - 7.4.4 recover from you all costs, charges and expenses including legal costs incurred by us and/or any third party appointed by us in attempting to recover any sums due by you to us or for any breach by you of this Agreement; or
 - 7.4.5 discontinue, alter, de-energise and/or disconnect the Supply and recover all costs associated with the discontinuance, alteration, disconnection and/or de-energisation of the Supply and replacement or removal of any meters; or
 - 7.4.6 any payment is not made within 30 days of the date on which a direct debit was due we may start the disconnection process and, in addition, you will immediately be transferred to a nondirect debit tariff, the charges for which will be displayed on our website dyce-energy.co.uk and this tariff will remain in place until your direct debit is reinstated; or
 - 7.4.7 you fail to make payment of an outstanding amount or clear arrears within 30 days of invoice date, the Supply may be disconnected and we may pass your account to a debt recovery agency; or
 - 7.4.8 you make a refund request, this can only be processed upon receipt of an actual meter reading and may take up to 28 days to process. Due to standard industry lead times any refund request made after a final invoice may take up to 45 days to process following receipt of the closing meter reading as confirmed and accepted by the new supplier, or
 - 7.4.9 apply an alternative tariff to the Supply,
- for each of the above events we reserve the right to charge the administration fee specified in our Charges.
- 7.5 You shall pay all amounts due under this Agreement in full without any deduction or withholding except as required by law and you shall not be entitled to assert any credit, set-off or counterclaim against us in order to justify withholding payment of any such amount in whole or in part. We may, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.
- 7.6 Payment by direct debit forms part of the Tariff. If you cancel a direct debit mandate that is required by the Tariff or if your bank refuses to pay us the direct debit for reason of you not having sufficient funds, you will be in breach of this Agreement. The price we charge you may have to change to reflect this and may include moving you to a Tariff which is more expensive than our contracted rates. You may also be asked to pay a security deposit. In addition, if the change in your payment method requires any meter or associated equipment to be changed, there may be a charge to cover this.
- 7.7 Without prejudice to our other rights under this Agreement, we may vary the Charges or pass through any higher or additional costs:

- 7.7.1 if any of the information supplied by you to us is untrue, incomplete or inaccurate (in which case such variation or pass-through shall be with effect from the Commencement Date);
- 7.7.2 in order to comply with any law, regulation, direction, order, licence or other legal requirement;
- 7.7.3 where the Welcome Pack and/or Acceptance Form provides for the pass-through of third party charges;
- 7.7.4 where there is a change in relation to third party charges as a result of a change in law, Industry Agreements or the Authority imposes such a change or there is a change in the structure or method of calculating such charges;
- 7.7.5 you do not have or cease to have your own Agents; and/or
- 7.7.6 where any obligation or cost that is imposed on us in connection with distribution, transportation or supply of electricity and/or gas is increased, or the method of calculating such costs is changed, or a new obligation or cost is introduced, and that increase, change in method or new cost or obligation affects our costs of providing the Supply or of otherwise complying with our obligations under this Agreement.
- 7.8 In addition to the Charges, you will also pay to us on demand:
- 7.8.1 the reasonable costs, charges and expenses incurred by us in attempting to recover any sums due by you to us or for any breach by you of this Agreement, including, without limitation, third party costs, charges, expenses and any costs of litigation;
- 7.8.2 any costs, charges and expenses incurred by us in connection with the disconnection or reconnection of the Supply or a de-energisation or energisation of electricity Supply Point(s) and/or the replacement or removal of any meters;
- 7.8.3 any costs, charges or liabilities incurred by us relating to an obligation imposed on us a supplier of electricity and/or gas under any Industry Agreement, law, regulation, direction or order;
- 7.8.4 such reasonable charges as may be levied by us or upon us by an Agent or others arising from or in relation to this Agreement;
- 7.8.5 any costs, charges and expenses incurred by us if you fail to keep any appointment with us or any Agent at a site;
- 7.8.6 any costs, charges and expenses incurred by us if you interfere with your Supply Point and or prevent us or any Agents from reading and/or working on your meters or Supply Point(s);
- 7.8.7 any costs, charges and expenses incurred by us in transferring a site to another supplier where you no longer use the site;
- 7.8.8 any costs, charges and expenses incurred by us in reading your meter(s);
- 7.8.9 any costs, charges and expenses incurred by us in making and/or sending you copies of any documents;
- 7.8.10 any costs, charges and expenses incurred by us in connection with you exceeding the total amount of electricity and/or gas that you are permitted to consume at a Supply Point in any given period as agreed with the operator of the local electricity or gas distribution network (as the case may be);
- 7.8.11 any costs, charges and expenses incurred by us in connection with us being Registered to a Supply Point with Low Electricity Consumption and/or Low Gas Consumption, based on the network and metering costs, charges and expenses we incur as a result, subject to a minimum monthly charge of £100 per relevant Supply Point;

- 7.8.12 any costs and expenses incurred by us in connection with you making any payments due to us under this Agreement by way of credit, debit or charge card;
- 7.8.13 in respect of any invoice which is not settled by direct debit, an amount equal to the greater of (i) 6% of the amount of such invoice, and (ii) £75 in respect of each Supply Point to which such invoice relates;
- 7.8.14 the sum of £50 on each occasion:
- (a) that you or your bank cancel a direct debit instruction (unless you give us written notice of alternative, valid, direct debit instructions prior to the date on which you or your bank cancel such direct debit instruction);
- (b) we are unable to recover a payment, or we only recover part of a payment, from you pursuant to a direct debit instruction; and
- 7.8.15 an amount calculated in accordance with the following on each occasion that you fail to pay in full when due any instalment we may agree with you from time to time in relation to a monthly or other periodic budget plan:

| Amount of unpaid instalment (£) | Late payment charge (£) |
|---------------------------------|-------------------------|
| Less than 1,000 | 40 |
| Between 1,000 and 9,999 | 70 |
| 10,000 or more | 100 |

- 7.9 We shall be entitled at any time to undertake a review of your credit status. If we are not satisfied (in our sole discretion) with your credit status at any time, or if we have reasonable concerns about your ability to pay our invoices, or if you have failed to pay any sum due to us by any Due Date, we may:
- 7.9.1 require that you provide us with a security deposit (or increase any security deposit held by us), bank guarantee, parent or personal guarantee or such other form of security or guarantee that we may request, all on such terms and from such party as may be acceptable to us; and/or
- 7.9.2 terminate the Fixed Term immediately upon notice to you (in which case Term 2.5 shall apply); and/or
- 7.9.3 terminate this Agreement immediately upon notice to you (in which case Term 16.2 shall apply); and/or
- 7.9.4 vary the Charges immediately upon notice to you.
- 7.10 We shall be under no obligation to hold any security deposit on trust for you or in a separate bank account specified for that purpose.
- 7.11 If we require provision of a deposit, security or guarantee prior to the commencement of the Supply, the Supply shall not commence until such deposit, security or guarantee has been provided to us. If at any other time you fail to provide a deposit, security or guarantee within 14 days of our request, such failure shall be deemed to constitute a material breach of this Agreement and we shall be entitled to either:-
- 7.11.1 terminate this Agreement forthwith by writing notice to you (in which event Term 16.2 shall apply); or
- 7.11.2 vary the Charges immediately upon notice to you.
- 7.12 Any deposit or Security paid by you will be repayable to you, less the amount of any unpaid bills you owe us, in the following circumstances:
- 7.12.1 at the end of your contract with us, when you enter into a contract with another supplier and we cease to Supply gas and/or electricity to you;

- 7.12.2 when you vacate the Premises, either as owner or occupier.
- 7.13 We will be entitled to draw on funds held by us by way of a security deposit at any time for any outstanding debt or when any bill issued to you remains unpaid by the end of the calendar month in which it falls due for payment. If we draw on the security deposit you will be required to replenish the taken amount upon demand.
- 7.14 During the Fixed Term Period, we may at any time give you not less than 30 days' written notice of an increase in the prices we charge for the supply of electricity and/or gas, following which you may, within the period of 30 days following the issue of our notice issue notice to terminate this Agreement and, subject to payment of any outstanding sums to us, transfer to another supplier.
- 7.15 Any amount expressed as payable to us under this Agreement is exclusive of VAT (unless stated otherwise) which shall be payable at the prevailing rate.
- 7.16 Where the Welcome Pack and/or the Acceptance Form indicates any elements of the Charges that are passthrough Charges, such Charges shall be passed through and invoiced to you at cost.

8 Minimum and maximum consumption

- 8.1 At the end of each Fixed Term Period, we shall calculate your Actual Consumption during that Fixed Term Period. If your Actual Consumption during that Fixed Term Period is at least 10% less or 10% more than the Total Anticipated Consumption relating to that Fixed Term Period, we shall be entitled to impose Charges on you, and you agree to pay such Charges calculated on the basis of our Out of Contract Rates from time to time (which shall, for the avoidance of doubt, be in addition to the other Charges), for the difference between (i) the Actual Consumption during that Fixed Term Period, and (ii) the Total Anticipated Consumption relating to that Fixed Term Period. For the avoidance of doubt:
- 8.1.1 if (i) no Supply Point has been registered to us within 30 days of the Supply Start Date, or (ii) for reasons beyond our control, all of the Premises have not been Registered to us or any Supply Point has not been connected to the relevant electricity or gas distribution network within 30 days from the Supply Start Date then the provisions of this Term 8.1 shall apply and the calculation of Charges shall be calculated on the basis that the Actual Consumption shall be zero in respect of the relevant Supply Point(s) and/or Premises (as the case may be); and
- 8.1.2 if this Agreement (and, as a consequence, a Fixed Term Period) expires or is terminated early, the Total Anticipated Consumption shall be calculated on the basis that this Agreement had not expired or terminated early.
- 8.2 If this Agreement expires or is terminated for any reason, we shall be entitled to demand Charges from you pursuant to Term 8.1.
- 8.3 Where the final period of the Initial Fixed Term or any extension to the Fixed Term is not a complete year (other than as a consequence of this Agreement being terminated early), the Anticipated Consumption for that final period shall be adjusted on a pro-rata basis for the purposes of calculating the Total Anticipated Consumption.
- 8.4 If any of Terms 4.4.2, 4.4.3, 4.4.5 or 4.4.6 applies or we terminate this Agreement under Terms 4.2.2, 7.9, 7.11 or 14.3 or as a result of a material breach of this Agreement by you, then without prejudice to any other rights we may have (whether under this Agreement or otherwise), we shall be entitled to charge you a termination fee equal to one month's instalment of the payment plan set out in the Welcome Pack and/or Acceptance Form (as may be adjusted from time to time). For the avoidance of doubt, our rights under this Term 8.2 are in addition to, and do not replace or impose any limitation on, our rights under Terms 16.2 and 16.3

9 Metering

- 9.1 Upon request by us at any time and from time to time, you will provide us with true, complete and accurate details of the metering equipment and meter reading arrangements in place in respect of each of the Premises. You will give us notice as soon as possible where any changes are made to a Supply Point or the metering equipment or meter reading arrangements relating to such Supply Point or where there has been any damage to or interference with any metering equipment.

- 9.2 We may ask you to provide a meter reading before we start supplying your gas or electricity.
- 9.3 We have the right to use a different meter reading from the one you provide to us if we read the meter and obtain a different meter reading. If you disagree with a meter reading you must tell us within 6 months of receipt of an invoice based on that meter reading.
- 9.4 If for any reason whatsoever it is necessary to change the metering equipment or the meter reading arrangements during the term of this Agreement for all or any of the Premises (including, without limitation, where the metering equipment or meter reading arrangements do not comply with the requirements of the Acts or Industry Agreements or we are unable to calculate the Charges payable by you under this Agreement), we will be entitled to arrange for the installation, maintenance or replacement of the metering equipment and/or change the meter reading arrangements for such Premises.
- 9.5 If we incur any costs, expenses or charges in connection with the installation, maintenance or replacement of metering equipment or change to meter reading arrangements in terms of Term 9.4, you will pay to us within 14 days of demand the whole amount of such costs, charges and expenses.
- 9.6 We are not responsible for any faults in metering equipment that we do not own or provide to you.
- 9.7 If you or we believe that metering equipment is not accurately measuring the amount of electricity or gas supplied to any Premises and as a result, you or we are bound or entitled in terms of the Acts and the Industry Agreements for the accuracy of the metering equipment to be tested, then where we are bound to undertake such test or either or us requests such test to be undertaken, the metering equipment shall be tested in accordance with the Acts and the Industry Agreements as soon as practicable. If the metering equipment is found to be working within the limits of accuracy required by the Acts or the Industry Agreements, the cost of such inspection and testing will be borne by whoever disputed the accuracy of the metering equipment. If the metering equipment is not working within the limits of accuracy required by the Acts or the Industry Agreements, you shall be responsible for all costs incurred except where the Meter Operator has been appointed by us.
- 9.8 If you wilfully damage or interfere with metering equipment, or allow any person to do so, we shall be entitled to terminate any Fixed Term and Term 16.2 shall apply.
- 9.9 You will give us and the Agents full, free and safe rights of access to the Supply Points and the Premises at all times and on such notice as may be reasonable or required under the Acts (if any). If we are unable to gain full, free and safe rights of access to any Supply Point or Premises, we will give you written notice of that fact and if you do not remedy the situation within one month, we shall pass through to you any additional expenses, charges and costs incurred by us as a result.
- 9.10 You shall indemnify us against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us, our agents and contractors in connection with (i) your interference with electricity or gas metering equipment and (ii) the theft of electricity or gas at any Premises.

10 Access rights

- 10.1 You will allow us, our agents and contractors, the Agents, the operators of the local electricity and gas distribution networks and any of their agents and contractors full, free and safe rights of access to the Premises at all times:
- 10.1.1 if we believe it is necessary in order to disconnect or de-energise the supply of electricity and/or gas to the Premises to avoid danger to life and/or property or in any other case of emergency; and/or
- 10.1.2 for any purpose authorised or required in terms of the Acts, the Industry Agreements or this Agreement.
- 10.2 You shall indemnify us against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us, the Agents, our agents and contractors, the operator of the local electricity and gas distribution networks and any of their

agents and contractors arising out of or in connection with your failure to comply with the Terms 9.9 and 10.1.

11 Moving out of a site

11.1 You must provide us with at least 28 days' notice of your intention to move out of a site supplied by us and tell us:

- 11.1.1 the date you are leaving the site;
- 11.1.2 your new address and phone number; and/or
- 11.1.3 the name and address of the new owner or tenant.

11.2 On the date that you leave the site you must in a meter reading, provide the meter reading to us and provide written proof of the new owner or tenant taking over the site (including but not limited to a new tenancy agreement or solicitors documents).

11.3 If you fail to comply with your obligations above at 11.1 and 11.2, we will continue to supply to the site and you will be responsible for all charges until:

- 11.3.1 you have adhered to the requirements for moving at 11.1 and 11.2; and/or
- 11.3.2 another owner or occupier takes over the site and we have accepted them as a customer, accepted their credit score and they have provided us with a meter reading which will be used as your final meter reading for the purposes of invoicing you.

12 Electricity – national terms of connection

We are acting on behalf of your electricity 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 Agreement 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 visit the website at www.connectionterms.co.uk.

13 Personal information

13.1 In this Term 13, **you, your** and **customer** is extended to include all or any of your directors, employees or partners.

13.2 This Term 13 only applies to the extent that we process personal data as defined in the UK Data Protection Legislation from time to time including, without limitation, if you are acting in your personal capacity, as a sole trader or provide employee information for contact or account opening purposes. For the avoidance of doubt, our obligations and your rights under this Term 13 do not apply to the extent that the data we hold is not personal data.

13.3 As part of the Supply you may need to give us certain personal data about you, your employees and in relation to your business. For example, we will need to collect your name, contact details, payment information, date of birth and any other information we may reasonably require during the Supply. We may also hold personal data about you that we learn through our relationship with you and the way you use energy.

13.4 Any information which you provide to us or we otherwise hold (whether or not under this Agreement) may be used by us as follows:

- 13.4.1 to identify you when you contact us;
- 13.4.2 to contact you through mail, telephone or other electronic means;
- 13.4.3 to administer any accounts, services and products provided by us now or in the future;
- 13.4.4 for market research and analysis;
- 13.4.5 for testing computer systems;

- 13.4.6 to improve the products and services we offer;
- 13.4.7 to comply with any legal obligations imposed on us through the provision of the services, for example any anti-money laundering requirements;
- 13.4.8 to recover debt, where required (for which we may trace your whereabouts in order to achieve);
- 13.4.9 to keep you informed of other services we provide which may be of interest to you, unless you have opted not to receive such information;
- 13.4.10 to inform you about services and products which may be of interest to you; and
- 13.4.11 for training purposes.

13.5 We will treat all of your personal data and financial information (together referred to as "information") as private and confidential and in accordance with UK Data Protection Legislation (even when you are no longer a customer).

13.6 Information we hold about you will not be disclosed to anyone unless:

- 13.6.1 we are legally required to disclose the information. This includes sharing your information with tax authorities and law enforcement agencies;
- 13.6.2 we need to disclose the information for the purpose of or in connection with any legal proceedings, or for the purpose of obtaining legal advice, or the disclosure is otherwise necessary for the purposes of establishing, exercising or defending legal rights;
- 13.6.3 disclosure is required to protect our interests, or someone else's interests (for example, to prevent fraud);
- 13.6.4 in the event that we decide to sell any part of our business, disclosure may be made to a prospective purchaser in the normal course of such a transaction;
- 13.6.5 the disclosure is made with your written consent;
- 13.6.6 it is to a third party for the purposes of providing administrative or processing services on our behalf, provided that if such disclosure is required we will take steps to ensure that the third party protects your personal data in the same way that we do;
- 13.6.7 it is to an agent or contractor acting on our behalf in respect of the use of your personal data set out in clause 13.4.

- 13.7 We do not work with any third parties based outside of the European Economic Area (EEA) or store, host or transfer any of your personal data outside the EEA. If our circumstances change, you will be notified and a transfer in such circumstances will only be carried out with your consent.
- 13.8 Please note that we may need to contact you with information about the services and/or the Supply by a variety of means including email, post and/or telephone. Please let us know as soon as possible if your contact details change.
- 13.9 We will keep your personal data for the duration for the contractual relationship between you and us for a further 6 years after termination of the Supply, or as required as a minimum by law, whichever is the later. Your personal data will be retained in accordance with your rights under UK Data Protection Legislation and in line with our regulatory obligations.
- 13.10 We may monitor and/or record communications with you (including telephone conversations and e-mails) to confirm your identity, ensure security, maintain service quality and for monitoring and training purposes.
- 13.11 When you apply to us for a supply of electricity and/or gas we and/or our suppliers may check the following records relating to you for the purpose of assessing applications or verifying identity:
 - 13.11.1 our own;

- 13.11.2 publicly available records; and
- 13.11.3 personal and business records at credit reference agencies, such as Experian (**CRAs**).

When CRAs receive a search from us and/or our suppliers, they will place a search footprint on your business and, where applicable, personal credit file that may be seen by others.

- 13.12 We and/or our suppliers may periodically review the records referred to in Term 13.11 to help us manage the arrangements under this Agreement on an ongoing basis. Those checks will be used to assess the ongoing suitability of the payment arrangements you have with us.

You have the right to make a written request for a copy of the personal data we hold about you. To make a request, please contact us in writing at Dyce Energy Limited, B3 Patrick Tobin Business Park, Bolton Road, Wath Upon Dearne, S63 7LL or enquire@dyce-energy.co.uk. We aim to respond to your request as soon as possible and in any event within 1 month your request is received. Please note that we may require further information from you before being able to respond, for example further information in order to verify your identity.

- 13.13 From May 2018, you will also have the following additional rights:

- 13.13.1 the right to request that we rectify any inaccuracy about you, in which case we may require you to verify the corrected information;

- 13.13.2 the right to request that we erase your personal data, however, we can only comply with such a request if (i) your personal data is no longer required for the purposes of this Agreement and/or the Supply or (ii) the processing of the personal data by us is prohibited by law or (iii) we do not require your personal data for the purposes of establishing, exercising or defending a legal claim;

- 13.13.3 the right to request that we restrict or refrain from processing your personal data where you have contested the accuracy of your personal data or where we no longer need your personal data for the purposes set out in this Agreement but you need them for the purposes of establishing, exercising or defending a legal claim;

- 13.13.4 the right to data portability, in which case we will transfer a copy of the data you have provided to us at your request, but we shall not be obliged to also transfer a copy of any analysis of that personal data that we have carried out.

- 13.14 You have the right to complain to the Information Commissioner's Office.

- 13.15 We may communicate with you by electronic mail; this may be an unsecured method of communication. If there are any physical or email addresses you do not wish to be used then we should be informed.

- 13.16 The uses of the your personal data set out above are covered by our registration with the Information Commissioner's Office (registration number: ZA265531).

14 Limitation of liability

- 14.1 Nothing in these Terms shall limit or exclude our liability for:

- 14.1.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);

- 14.1.2 fraud or fraudulent misrepresentation; or

- 14.1.3 any matter in respect of which it would be unlawful for us to exclude or restrict liability.

- 14.2 Subject to Term 14.1:

- 14.2.1 we shall under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement;

- 14.2.2 our total liability to you in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £50,000; and

- 14.2.3 we shall be entitled to recover from you any loss of actual or anticipated profit, revenue, contract, production or goodwill or any indirect or consequential loss arising under or in connection with any breach by you of these Terms or this Agreement or the termination of this Agreement (for any reason whatsoever).

14.3 This Term 14 shall survive termination of this Agreement.

15 Termination

- 15.1 Without limiting our other rights or remedies, we may terminate this Agreement with immediate effect by giving written notice to you if:
- 15.1.1 you commit a material breach of any term of this Agreement and (if such a breach is remediable) fail to remedy that breach within 10 days of that party being notified in writing to do so;
 - 15.1.2 you take any steps or actions in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business;
 - 15.1.3 you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or
 - 15.1.4 your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under this Agreement have been placed in jeopardy.
- 15.2 Without limiting our other rights or remedies, we may suspend provision of the Supply under this Agreement or any other agreement between you and us if you become subject to any of the events listed in clause 15.1.1 to clause 15.1.4, or we reasonably believe that you are about to become subject to any of them, or if you fail to pay any amount due under this Agreement on the due date for payment.
- 15.3 Without limiting our rights or remedies, we may terminate this Agreement with immediate effect by giving written notice to you if you fail to pay any amount due under this Agreement on the due date for payment.
- 15.4 On termination of this Agreement for any reason you shall immediately pay to us all of our outstanding unpaid invoices, interest and any Charges to which we are entitled.
- 15.5 Termination of this Agreement shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Agreement that existed at or before the date of termination.
- 15.6 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

16 Consequences of termination

- 16.1 On termination of this Agreement for any reason:
- 16.1.1 you shall immediately pay to us all of the our outstanding unpaid invoices and interest and, in respect of any Supply for which no invoice has been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt;
 - 16.1.2 you shall immediately pay to us all other Charges payable by you under this Agreement (including, without limitation, Charges due pursuant to Term 8), which shall be payable by you immediately on receipt of an invoice from us;
 - 16.1.3 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and
 - 16.1.4 any provisions of this Agreement which expressly or by implication have effect after termination shall continue in full force and effect.

- 16.2 If this Agreement is terminated by you during the Fixed Term, any of Terms 4.4.2, 4.4.3, 4.4.5 or 4.4.6 apply or we terminate this Agreement under Terms 4.2.2, 7.9, 7.11 or 15 or as a result of a material breach of this Agreement by you, then without prejudice to any other rights we may have (whether under this Agreement or otherwise), you shall indemnify and keep us indemnified in respect of any costs, charges, expenses, liabilities and any other losses (including, without limitation, all such losses as are referred to in Term 14.3) suffered by us in connection with such termination or circumstances. For the avoidance of doubt, our rights under this Term 16.2 are in addition to (and do not replace) our rights under Terms 8.2 and 8.4.
- 16.3 If this Agreement is terminated in accordance with Term 6.3.1, then without prejudice to any other rights we may have, you shall indemnify and keep us indemnified in respect of any costs, charges, expenses, liabilities and any other losses (including, without limitation, all such losses as are referred to in Term 14.3) suffered by us in connection with such termination.
- 17 General**
- 17.1 We may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of our rights or obligations under this Agreement.
- 17.2 You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of your rights or obligations under this Agreement without the prior written consent of us.
- 17.3 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.4 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
- 17.5 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 17.6 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 17.7 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 17.8 No one other than a party to this Agreement and their permitted assignees shall have any right to enforce any of its terms.
- 18 Notices**
- 18.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
- 18.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 18.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

18.3 The provisions of this clause 18 shall not apply to the service of any proceedings or other documents in any legal action.

19 Governing law and jurisdiction

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.