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# Terms And Conditions of Supply to SME's for a Fixed Term

Small and medium enterprises  
(SME) including micro-businesses

January 2016

**ecotricity**

# Terms And Conditions Of Supply

Certain words in these terms and conditions have initial capitals. This is because we have given these words specific meanings. A list of these words and their meanings can be found at the end.

## 1. Do these terms and conditions apply to you?

- i. These terms and conditions apply to you if you are a Micro-Business customer; or a Small and Medium Enterprise and you have agreed to be supplied by us for a Fixed Term at a Fixed Price.
- ii. If you satisfy the definition of a Micro Business then this is a Micro-Business Consumer Contract. Under our Supply Licences some businesses defined as Micro-Businesses are given special protection.

## 2. The Contract

- i. These terms and conditions, together with the Contract Letter, create a legally binding contract (the 'Contract') between you, our Customer, and us, The Renewable Energy Company Limited ('Ecotricity').
- ii. This Contract will commence on either the day that we receive your acceptance by email or on the day that we receive the Contract Letter signed by you whichever is the sooner ('the Contract Date') and terminate at the end of the Fixed Term, unless we have agreed with you otherwise.
- iii. By entering into this Contract you confirm that you are the owner or occupier of the Site (or will be on the date that you want your Supply to start) and that the Site is connected to mains electricity and/or gas, or connected through another connection to mains electricity and/or gas; and
  - a) if you are a sole trader in England and Wales you are aged 18 or over, or if you are sole trader in Scotland you are aged 16 or over; or
  - b) if you are entering into this contract on behalf of a partnership or other unincorporated organisation you agree that you and your partners, or fellow officers, will be jointly and severally liable under this Contract; or
  - c) the Customer is a limited company, limited partnership or other incorporated organisation, and you have authority to act on its behalf.
- iv. By entering into this Contract you have committed to receive a Supply from us until the end of the Fixed Term, except where we make a change to these Terms and Conditions which is significantly to your disadvantage (Clause 14 ii.)

## 3. National Terms of Connection

- i. When we supply you with electricity under this Contract you are also entering into the National Terms of Connection with your local electricity Network Operator.
- ii. Ecotricity is acting on behalf of the Network

Operator to make an agreement with you. The agreement is that you and the Network Operator both accept the National Terms of Connection (NTC) and agree to keep these conditions. This will happen from the time that you enter into this Contract and it affects your legal rights. The NTC is a legal agreement. It sets out rights and duties in relation to the connection at which your Network Operator delivers electricity to, or accepts electricity from, the Site. If you want a copy of the NTC or have any question about it, please write to: Energy Networks Association, 6th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF, phone 0207 706 5137 or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk)

## 4. Supply

- i. Where the Site has not previously been supplied by Ecotricity your electricity supply and/or your gas supply will usually start on the date that you have requested when agreeing to this Contract (the 'Supply Start Date').
- ii. Where Ecotricity has previously supplied the Site, or you are renewing your Contract, your Supply Start Date will be the same date as your Contract Date.
- iii. Your Supply Start Date could be delayed if we have difficulties taking over your Supply from your previous supplier. This could arise if:
  - a) your current Supplier objects to you switching your Supply because you have not properly terminated your contract with them;
  - b) your current Supplier objects to you switching your Supply because they consider that you owe them money;
  - c) we've not been provided with or do not have all of the information that we require to take over the Supply despite taking reasonable steps to obtain it;
  - d) you are connected to a private gas or electricity network and:
    - a. a physical connection needs to be made to the Distribution Network for the electricity and/or gas and the connection hasn't been made yet; or
    - b. your old Supplier has told you about the way your metering needs to be arranged to allow another Supplier to start supplying you and your meter has not yet been changed to allow this;
  - e) you do or don't do something that prevents us from taking over your Supply;
  - f) Ofgem prevents us taking over your Supply; or

g) there are other circumstances beyond our control.

## 5. Your Electricity Supply

- i. You must obtain our or (if we ask you to) the Network Operator's prior written agreement to install generating equipment on the Site, or modify or exceed the design features of your connection. You will pay all of the costs associated with these changes.
- ii. If your maximum demand exceeds your Authorised Supply Capacity, as advised by the Network Operator, or if we advise you that you've exceeded 100kw on three separate occasions in a 12 month period:
  - a) the Network Operator may require you to install a half-hourly meter at your own cost; and
  - b) it will be your responsibility to agree a new maximum Authorised Supply Capacity directly with the Network Operators; and
  - c) unless you are a Micro-Business (see clause 5iii below), this Contract will terminate and we may supply you under our terms and conditions for half-hourly meters or, if reasonable to do so, our Out of Contract Rates.
- iii. If you are a Micro-Business, we will continue to charge you the Fixed Price for the remainder of the Fixed Term. On the day immediately after the end of the Fixed Term we may supply you under our terms and conditions for half-hourly meters or, if reasonable to do so, our Out of Contract Rates.
- iv. The electricity supplied may be subject to the variations that are permitted by the Electricity Supply Regulations 1988.

## 6. Your Gas Supply

- i. The gas supplied to you under this Contract shall be at the pressure laid down in the Network Operator's code.
- ii. Your gas supply may be interrupted or be of lower quality due to circumstances outside of our control or the control of the Network Operator.
- iii. In an emergency, or if we are required by law, we or the Network Operator may need you to stop using gas. If so notified you will use your best endeavours to immediately stop using gas.

## 7. Security Deposit

- i. In some circumstances, we may ask you to pay us a Security Deposit as a condition of entering into, or continuing with this Contract. We may ask you to pay the Security Deposit at the start of the Contract. If we do require a Security Deposit we will explain the procedure when we contact you.
- ii. If at any time there are Arrears on your account we shall on each and every occasion be entitled to

withdraw an equal sum from the Security Deposit to discharge the Arrears. You will then be required to top the Security Deposit up to its agreed original level.

- iii. Subject to clause 7.v below we will repay your Security Deposit to you within 10 working days of the date that we stop supplying you or at any time at our discretion during the Contract.
- iv. We don't pay interest on the Security Deposit.
- v. When we repay your Security Deposit we will deduct from it any sums which you owe to us.

## 8. Our Charges

- i. The Fixed Price for your Supply are set out in the Contract Letter.
- ii. The Fixed Price that we have agreed with you will include a Standing Charge (clause 8iv below) but does not include any additional third party charges such as those arising from a meter move or meter testing charges which will be agreed with you as and when they become payable.
- iii. We will charge you for the amount of gas or electricity which we have supplied to you in kilowatt hours.
- iv. The Standing Charge will apply from the Supply Start Date.
- v. Where you receive electricity from us the time for the application of any day/evening/ night/weekend prices are those prescribed by the Network Operator.

## 9. Climate Change Levy Exemption: Renewable Source Declaration

- i. We declare that in each averaging period (as defined at Schedule 6 of the Finance Act 2000), for the entire duration of your contract with us, the amount of electricity we supply from exempt renewable sources will not be more than the difference between:
  - a) the total amount of electricity from renewable sources that is either acquired or generated by us in each averaging period; and
  - b) so much of the total amount of renewable source electricity as is allocated by us otherwise than to exempt renewable supplies made by us in that averaging period.
- ii. This declaration is set out as a requirement of the Finance Act 2000 as confirmation that the amount of electricity supplied in any relevant averaging period will not exceed the amount of renewable source electricity obtained for the purpose of calculating the Climate Change Levy exemption.

## 10. Your Bill

- i. We will send you your bill at least quarterly.

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- ii. We may produce your bill based on a reasonable estimate of your usage based on the information that we have about the Site and your historical usage. If you believe that the estimate is incorrect please provide us with your own meter reading and, provided that your meter reading is in line with previous accurate readings, we'll revise your bill to your meter reading.
- iii. If you don't give us a meter reading on your Supply Start Date your account may be opened on an estimated meter reading.
- iv. Where a meter reading has been obtained this will be conclusive evidence of your consumption in order for us to calculate your bill unless the meter is found to be recording inaccurately.
- v. If your meter fails or fails accurately to register your usage you agree to pay us for the amount that we reasonably estimate you have used.
- vi. Either of us can ask for the meter to be tested to make sure that it is recording your usage accurately:
  - a) if the meter is found to be recording accurately within permitted tolerances you will bear the cost; but
  - b) if the meter is found to be recording inaccurately outside the permitted tolerances then we'll bear the cost of the accuracy test and arrange for the meter to be replaced.

## 11. Payment Terms

- i. You must pay all bills in full within 14 days ('the Due Date') by the payment method we agreed in the Contract Letter. If you fail to make payment by this agreed payment method we will consider you to have materially breached the Contract.
- ii. If you've agreed to pay your bills by fixed direct debit and the Contract comes to an end in accordance with clause 13 we may adjust the final debit amount to take account of any sums we reasonably estimate to be owing to us at the end of the Contract.
- iii. We may use any sums that you pay to us to offset sums that are owing to us as follows:
  - (a) we may allocate your payment against the oldest sum due even if you tell us that the payment related to another amount that you owe to us;
  - (b) if you are in credit in relation to a particular Supply or Site we may allocate this credit against a debit balance on another part of your account or against another Site e.g. if your gas account is in credit, we can use this credit to pay off a debit on your electricity account;
  - (c) if we receive a payment intended to pay for more than one Supply or Site we may allocate this payment to different accounts against the oldest sums which you are due to pay us; or

- (d) we may allocate your payment to topping up the Security Deposit asset out in clause 7.ii above.
- iv. If you don't pay your bill by the Due Date we may charge you the following:
  - (a) interest on the amount you owe us at the rate of 8% per annum above Barclays Bank plc base rate from the Due Date to the date that we receive your payment in full;
  - (b) a late payment administration fee of up to £100 or such other sum as provided for by Late Payment Legislation; and
  - (c) our reasonable legal and debt recovery costs incurred by us to recover the sums which you owe to us including third party and administration costs.

## 12. Access to Meters

- i. When we ask you to, you will allow safe access to the metering equipment on the Site to the following:
  - (a) us;
  - (b) our agents;
  - (c) the Network Operators;
  - (d) Relevant Industry Bodies; and
  - (e) any other person nominated by us.
- ii. You accept that it may not always be possible for the parties in clause 13.i to provide you with notice of their intention to access the Meters.
- iii. You must allow forthwith the parties in clause 13.i access to the Site:
  - (a) to install, repair, replace or remove a meter;
  - (b) to read, test or inspect a meter;
  - (c) to disconnect, reconnect, de-energise, isolate or re-energise a Supply;
  - (d) at any time in the case of an emergency;
  - (e) for the purpose of detecting, investigating and preventing theft of electricity and/or gas; and
  - (f) for any other reason permitted under the terms of our Supply Licenses.
- iv. You must not damage or tamper with your meter. If you do we will charge you for the reasonable costs associated with repairing or replacing the meter.
- v. If your supply meter is or appears to be running backwards, or is in any way failing to record your usage accurately; due to a micro generation system installed on site, you must notify us immediately and we may charge you for the reasonable costs associated with repairing or replacing the meter.

- vi. You are responsible for and will maintain all pipes, wires, cables, equipment and fittings after the point that the Supply leaves your meter and the meter has recorded it.
- vii. You must ensure that that neither you nor any representative or employee does or fails to do anything that will prevent or impede access to the Site. If you do you agree that you will pay any costs associated with the failed visit.

### 13. Ending the Contract

- i. If you breach the terms of this Contract, or become bankrupt or insolvent (or if bankruptcy or insolvency proceedings are commenced against you), we may terminate it immediately and supply you on alternative terms including under a Deemed Contract.

- ii. We have a right to make certain changes to these Terms and Conditions, provided those changes are not directly related to you no longer satisfying the definition of a Micro-Business, under clause 17 vi. If we make a change to these Terms and Conditions that is of significant disadvantage to you, you can end this contract by giving us 28 days written notice, within 14 days of us notifying you of the changes, provided that on the final day of the notice period your Supply is switched to an alternative Supplier or is disconnected/de-energised.

If you don't give us notice, or your Supply has not been switched to another Supplier, we'll continue to Supply you until the end of the Fixed Term on the new terms.

- iii. If you are moving out of a Site you must give us not less than 28 days written notice ending on the date that you cease to be responsible for the Site. This Contract will end on the date that you cease to be responsible for the Site. If you don't provide us with notice under this clause 13ii we will continue to charge you for the Supply and may continue to do so until the end of the Fixed Term.
- iv. We may object to you transferring to another Supplier, at the end of the Fixed Term or where you have given notice under Clause 14 ii., where:
  - (a) you have a bill or other sums outstanding to us;
  - (b) your new Supplier has contacted us and we have agreed that the application was made by mistake;
  - (c) your new Supplier's application relates to a metering point which is a Related Meter and the new Supplier has not applied to register all of the Related Meters on the same working day for the same start date; or
  - (d) you have asked us to do so.
- v. We will object to your transferring to another Supplier where the date that your Supply would

switch to your new Supplier falls within the Fixed Term.

- vi. Ofgem can withdraw our Supply Licences in certain circumstances. So that you do not lose supply, Ofgem may require another Supplier to take over your supply (a 'Last Resort Supply Direction'). If this happens this Contract will terminate on the date that the Last Resort Supply Direction takes effect.

### 14. Data Protection

- i. For the purpose of this clause 15 'you', 'your' and 'customer' is extended so that it also includes any of your Directors, Partners or other Officers.

(a) When you apply to enter into a Contract with us we may, in order to check your credit, assess your application, verify your identity or prevent fraud, check the following records relating to you:

- 1. our own;
- 2. publicly available records; and
- 3. personal and business records at Credit Reference Agencies ('CRAs') we may keep a copy of the report.

(b) When we ask CRAs to carry out a search for us they may record this on your credit file, whether or not your application for a Contract was successful.

(c) If you would like details of the CRAs that we use please contact the Business Team on 08000 302 302 or by email to [business@ecotricity.co.uk](mailto:business@ecotricity.co.uk).

- ii. Your information may be used by us and shared with other companies in our group, our agents, Relevant Industry Bodies and other Suppliers to:

(a) obtain your Supply details or other relevant information from other Suppliers or Relevant Industry Bodies;

(b) help calculate the Security Deposit that we require from you;

(c) verify your identity when you make enquiries of us by phone, email or letter. Calls may be monitored to make sure that we are meeting our legal and regulatory requirements and for staff training;

(d) help us set up and otherwise administer your accounts for services and products that we or our group of companies provide to you now or in the future, including improving our service to you and collecting debts;

(e) undertake market research or provide up to date information on products and special offers from us, our group of companies and affiliates with which we have a partnership unless you've told us that you don't want to be contacted in this way;

(f) for market and statistical analysis;

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(g) demonstrate compliance or provide evidence of our business practices as requested by Ofgem, Consumer Focus, the Department of Energy & Climate Change and any other Relevant Industry Body or their agents that require such information for compliance and market monitoring purposes; and

(h) for demonstrating and testing computer systems.

- iii. We may share your information with third parties if you've instructed us to do so or where those third parties are acting on your behalf including:

(a) other Suppliers where you wish to transfer supply;

(b) your landlord or letting agent;

(c) joint account holders;

(d) a joint bank account holder named on a Direct Debit instruction; and

(e) any other third party that you have authorised us to speak to.

- iv. If you'd like to see a copy of the information that we hold about you please write to:

The Data Protection Officer, Unicorn House,  
Russell Street, Stroud, Gloucestershire GL5 2AJ

An administrative charge of £10 may be payable.

## 15. Our liability to you

- i. We cannot guarantee an uninterrupted Supply. If we can't supply you for some reason beyond our reasonable control you won't be able to claim that we are in breach of this Contract.
- ii. We, and your Network Operator, are not liable for:
- (a) any indirect or consequential loss including loss of profit, revenue or use; or
- (b) damage which is beyond our reasonable control.
- iii. Together, the maximum that we or your Network Operators will pay you in a calendar year for any incident or series of incidents will be £25,000 (Twenty Five Thousand Pounds).
- iv. Nothing in this Contract limits or excludes our liability for death or personal injury caused by our negligence.

## 16. Other Terms

- i. If a court finds that any part of this Contract is not valid, the rest of the Contract won't be affected.
- ii. If, at any time, we don't enforce any part of this Contract it won't stop us from doing so in the future.
- iii. You may not assign or transfer this Contract

without our consent.

- iv. We may transfer all or any part of this Contract to another Supplier without notice to you.
- v. You and we do not intend that any part of this Contract should be enforceable by any person who is not a party to it and agree to exclude the provisions of the Contract (Rights of Third Parties) Act 1999.
- vi. We may change these terms and conditions from time to time, and as a result the Contract between us, by writing to you.
- vii. This Contract constitutes the entire agreement between us for the Supply. This Contract replaces and cancels any previous drafts, agreements, action, statement, warranties and arrangements of any kind whether in writing or not.
- viii. Your statutory rights under the law are not affected by this Contract.
- ix. This Contract is made under the laws of England and Wales for supply in England and Wales, and by the laws of Scotland for supply in Scotland.

## Glossary

**Arrears** – any sums which are not paid by you to us by the Due Date.

**Authorised Supply Capacity** – the maximum electricity supply that you are allowed to take in a half-hour period.

**Climate Change Levy** – the tax charged on the commercial and industrial use of electricity and/or gas set out in Schedule 6 of the Finance Act 2000.

**Contract Letter** – the letter that we send to all customers wishing to join Ecotricity setting out the Fixed Price and the Fixed Term for your Supply.

**Deemed Contract** – where we Supply to a Site without there being an agreed contract between us we will supply you under a deemed contract as described in paragraph 8 of Schedule 2B of the Gas Act 1986 or paragraph 3 of Schedule 6 of the Electricity Act 1989.

**De-energise/Isolate** - physically terminating the Supply, for example by removing the fuse and the Meter or capping the supply.

**Disconnect** - physically terminating the Supply by severing the connection to your Site on the Distribution Network.

**Distribution Network** – the system of distribution of electricity or gas to customer sites.

**Fixed Price** – the fixed Unit Charges and Standing Charges that we have agreed will apply in respect of the Supply for the Fixed Term as set out in the Contract Letter.

**Fixed Term** – the term that you and we have agreed the Fixed Price will apply as set out in the Contract Letter.

**Late Payment Legislation** – the Late Payments of Commercial Debts (Interest) Act 1998, the Late Payment of Commercial Debts Regulations 2002, the Late Payment of Commercial Debts Regulations 2013 and any later statute relating to late payment of commercial debts enacted by parliament.

**Micro-Business** – a type of Small and Medium Enterprise which meets one of the following conditions: uses less than 55,000 kWh of electricity a year, or uses less than 200,000 kWh of gas a year or has fewer than 10 employees and yearly turnover less than €2 million or as amended by Ofgem.

**Network Operators** – the local electricity distributors and gas transporters that manage the Distribution Networks.

**Ofgem** – the Office of Gas and Electricity Markets who regulate the gas and electricity markets in Great Britain or any regulatory organisation which replaces it.

**Out of Contract Rates** – the Unit Price and Standing Charge that we will charge you if you are on a Deemed Contract.

**Profile Class** – a profile of the expected electricity consumption pattern of a specified group of customers.

**Related Meters** – two or more meters that supply the same customer and are located at the same Site.

**Relevant Industry Bodies** – including but not limited to Ofgem, Customer Focus, Department of Energy and Climate Change and their agents.

**Security Deposit** – a sum of money we may ask you to pay to us which we will repay to you when you leave or when specific conditions have been satisfied.

**Site** – each location at which you would like us to provide a Supply.

**Small and Medium Enterprise** - a customer who has less than 50 sites and uses less than 1GWh of electricity through non half-hourly metering and/or less than 150KWh of gas each year.

**Standing Charge** – a daily charge to keep a Site connected payable whether or not a Site is occupied and whether or not electricity and/or gas has been consumed at the premises.

**Supply** – the physical supply of electricity or gas or both under this Contract or a Deemed Contract.

**Suppliers** – a company that provides you with a Supply under a Supply Licence or who provides you with a Supply but is exempt from the requirement to hold a Supply Licence under the Electricity Act 1989.

**Supply Licences** – a licence to supply electricity granted under the Electricity Act 1989 and/or a licence to supply gas granted under the Gas Act 1986 (as amended).

**Unit Charges** – the price we charge you in pence per kWh.

