

Contract Conditions Northern Ireland

Schedule 1

1. DEFINITIONS

“Agreement” or **“Contract”** means the contract between the Parties consisting of a cover sheet entitled Electricity Supply Contract signed by or on behalf of the parties together with its schedules and any special conditions **“Connection Agreement”** means an agreement between The Customer and NIE giving, inter alia, the Customer electrical connection to the Distribution System upon the terms and conditions of that Agreement; **“Maximum Import Capacity”** means the maximum amount of electricity expressed in kW or kVA to be supplied to The Customer at the Point of Supply; **“Point of Supply”** means the point specified in the Connection Agreement or in an application to supply at a specified point as the point where energy may flow between the local Distribution System and The Customer’s installation; **“Distribution System”** means the electricity system through which electricity is delivered to the Point of Supply; **“LIBOR”** means the London Inter-bank Offer Rate; **“Industry Agreements”** mean the Company’s Supply Licence, Use of System Agreements, and associated Industry Codes; **“Commencement Date”** is the date of signing of the Agreement by the parties; **“Date of Supply Commencement”** is the date as indicated on the Agreement or the registration date as advised to The Company by NIE, as appropriate; **“Security”** means cash deposit as required by and subject to the terms set out by the Company and/or any form of guarantee or letter of credit from an entity and in a form acceptable to The Company; **“End Date”** means the date specified in the cover sheet signed by the Parties; **“Force Majeure”** means any event or circumstance beyond the reasonable control of either party (excluding inability to pay) and includes without limitation act of God, terrorist act, civil war or unrest, fire, earthquake, electricity system outage or power surge, electricity system constraint, generator outage and any form of industrial action or dispute, **“Deemed Contract”** means when a customer has not agreed contractual terms with a supplier who is supplying energy to that property or where a fixed term contract expires and there are no explicit provisions for terms and conditions for the period immediately after expiry, **“Last Resort Supply Direction”** means a direction given by the Utility Regulator to another Supplier to assume responsibility for Supply to Your premises

2. ENERGISATION

2.1 It is a condition of this Agreement that, if the Customer has a HV/EHV connection, then the Customer must have a site specific Connection Agreement for the Point of Supply in place and comply with its conditions. Alternatively, if the Customer has a MV connection then to receive a supply of electricity from us under this agreement you require a Connection Agreement with Northern Ireland Electricity plc (“NIE”). NIE operates the local electricity network that delivers electricity to your premises and has appointed the Company to act as its agent to enter into a Connection Agreement with you on standard terms. You agree that, by

entering into this supply agreement with us, you are also entering into a Connection Agreement with NIE for connection of your premises to NIE’s network. The terms of that Connection Agreement are the Standard Connection Terms and Conditions set out in the Appendix or otherwise attached to this Supply Agreement or otherwise provided to you or made known to you by us. You are entitled to negotiate terms of connection of your premises to NIE’s network that are not the same terms as the Standard Connection Terms and Conditions. If you wish to do so you must negotiate with NIE and not us about those terms but your supply cannot commence until you have provided us with evidence that there is a Connection Agreement in force for your premises with NIE and you must inform us if that Connection Agreement terminates.

- 2.2 The characteristics of the supply will be in accordance with the relevant Connection Agreement and the terms of this Agreement.
- 2.3 For the duration of this Agreement, all electricity passing through the Point of Supply will be supplied under this Agreement, notwithstanding the existence of any other supply agreement.

3. COMMENCEMENT

This Agreement shall commence on the Commencement Date following receipt of a signed Agreement and any Security required by The Company. Subject to the terms of this Agreement, The Company shall supply electricity to The Customer from the Date of Supply Commencement

4. LIMITATION OF DEMAND

The Customer is not entitled to take electricity through the Point of Supply in excess of the Maximum Import Capacity otherwise The Customer shall pay to The Company any additional costs (including without limitation additional use of system charges), losses or expenses incurred by The Company in providing the additional electricity.

5. METERING AND BILLING

- 5.1 Electricity supplied shall be measured by metering equipment installed and maintained in accordance with the Connection Agreement.
- 5.2 The accounts in respect of the charges payable by The Customer to The Company shall be issued by The Company at regular intervals.
- 5.3 If it is discovered that any meter reading has been inaccurate or omitted or the translation of such readings into charges has been incorrect then the amount of money due from either party shall be paid promptly at the next account.
- 5.4 If for any reason The Company has been unable to obtain meter readings, estimated readings will be used by The Company and the resultant charge will be paid by The Customer subject to any adjustment, which may be necessary, following receipt of actual meter readings.
- 5.5 If electricity is supplied, but all or part of it is not registered by the metering equipment The Customer shall pay a sum representative of the charge which would have been due had the metering equipment registered accurately.

6. PAYMENT OF CHARGES

- 6.1 All accounts furnished shall be payable by The Customer as cleared funds in The Company Bank Account on the due date without deduction, withholding or set-off.
- 6.2 If any account is not paid in full by the due date, The Company shall be at liberty to de-energise supply to The Customer and/or to proceed in any lawful manner considered necessary for the recovery of the amount due. Interest shall be charged on the sum due from the due date, on a daily basis, at LIBOR plus three percentage points (3%) and shall be payable from the due date until the date payment is received.
- 6.3 Charges are exclusive of Value Added Tax which shall be payable by The Customer at the applicable rate. The Company shall be entitled to amend the charges to amounts resulting from taxation changes or the imposition of, or changes in, any levies or regulatory charges incurred by The Company including without limitation changes to bulk supply tariff, low power factor charges and/or use of system charges, currency charges from the single electricity market, market operator charges and imperfections charges.

7. TERMINATION

- 7.1 This Agreement can only be terminated by The Customer:
- 7.1.1 if it is replaced by another contract with The Company; or
- 7.1.2 any time at or after the End Date of the Agreement where The Customer enters into a supply contract with a third party, subject to 30 days written notice to The Company.
- 7.2 This Agreement can be terminated by The Company at or after the End Date.
- 7.3 This Agreement may also be terminated by The Company at any time if The Customer:
- 7.3.1 does not pay any valid account for charges; or
- 7.3.2 breaches this Agreement or the Connection Agreement and does not remedy the breach in accordance with this Agreement or the Connection Agreement whichever is applicable within a reasonable time after having received written notice of default; or
- 7.3.3 has made unauthorised use of electricity or committed theft of electricity; or
- 7.3.4 is adjudicated bankrupt; or become subject to an administration order, proposal for a voluntary arrangement, receivership or liquidation or is unable to pay their debts within the meaning of the Insolvency Act 1986 or make a proposal for a voluntary arrangement under that Act; or
- 7.3.5 fails to provide any Security requested by The Company, or following a credit check The Company considers The Company to have an unsatisfactory credit rating or The Customers credit rating is downgraded.
- 7.4 Upon termination of this Agreement, The Customer shall pay to The Company all charges for electricity supplied up to the date of termination.
- 7.5 The Customer shall indemnify and keep indemnified The Company for any loss, cost, expenses,

proceedings and actions arising out of or in connection with any breach of this Agreement by the Customer including without limitation gas, electricity, use of system, carbon, regulatory and any other costs. This Sub-Clause 7.5 shall survive termination of this Agreement.

8. DE-ENERGISATION

- 8.1 The Point of Supply may be de-energised in accordance with the Connection Agreement or as a result of an event of force majeure.
- 8.2 The Point of Supply may also be de-energised if The Customer:
- 8.2.1 does not pay any valid account for charges within one calendar month of the due date;
- 8.2.2 breaches this Agreement or the Connection Agreement and does not remedy the breach in accordance with this Agreement or the Connection Agreement whichever is applicable within a reasonable time after having received written notice of default;
- 8.2.3 or has made unauthorised use of electricity or committed theft of electricity; or
- 8.2.4 are adjudicated bankrupt or become subject to an administration order, proposal for a voluntary arrangement, receivership or liquidation or is unable to pay their debts within the meaning of the Insolvency Act 1986 or make a proposal for a voluntary arrangement under that Act; or
- 8.3 De-energisation of the Point of Supply under this condition shall be in accordance with the Connection Agreement and will continue until the circumstances giving rise to such de-energisation have been remedied to The Company's satisfaction. In addition to any requirements set out in the Connection Agreement, re-energisation shall be conditional upon payment by The Customer of any reconnection charge and / or the making of such Security as The Company may reasonably require, and if such remedy shall not be effected within such time as specified in the notice of default, this Agreement may be terminated by The Company, by notice.
- 8.4 Action taken under these conditions shall be without prejudice to either party's subsisting rights.

9. CUSTOMERS INSTALLATION

The Company accepts no responsibility for the adequacy, safety or other characteristics of The Customers installation.

10. CODES AND OTHER LEGAL RULES

Both parties will comply with the relevant provisions of the relevant Transmission, Grid, Distribution and other Industry Codes and all statutory instruments, regulations and orders applicable to them.

11. LIABILITY

- 11.1 Both parties shall be liable to the other for direct loss (being cost of repair, re-placement or reinstatement of property that has suffered physical damage but not loss of profit, loss of bargain, loss of contract and/or loss of opportunity) resulting from breach of this contract which was reasonably foreseeable and which resulted in direct physical damage to the property of the other party but neither party shall be liable to the other for any loss of profit, loss of bargain, loss of contract, loss of opportunity, indirect, consequential or economic loss or damage whether arising from breach of contract, tort or statute.
- 11.2 Except for Clause 4 and Sub-Clause 7.5 the maximum aggregate liability of either party shall not exceed the amount payable to the Company by the Customer under the Agreement

- 11.3 Neither The Company nor The Customer shall be liable for breach of these conditions directly or indirectly caused by Force Majeure.
- 11.4 Nothing shall exclude or limit the liability of either party for death or personal injury resulting from the negligence of that party or The Customer for any sums due to The Company under this Agreement.
- 11.5 Neither party shall be liable to the other for its failure to comply with this Agreement resulting from Force Majeure or an act or omission of a third party which shall include a party to any of the Grid Code, Use of System Agreements, Connection Agreements, Meter Operations Agreements necessary for the provision of the supply of electricity by The Company to The Customer.
- 11.6 The rights and remedies provided by the agreement to the parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies expressed or implied and provided by common law or statute in respect of the subject matter of the Agreement, including without limitation any rights either party may possess in tort which shall include without limitation actions brought in negligence and/or nuisance. Accordingly, each of the parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the other party, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in the Agreement and undertakes not to enforce any of the same except as expressly provided herein.

12. MISCELLANEOUS

- 12.1 The Agreement cannot be assigned by a party without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.
- 12.2 This Agreement shall be interpreted, construed and governed by the laws of Northern Ireland.
- 12.3 Both Parties shall take all reasonable steps (except when otherwise required by law) to keep confidential the contents of this Agreement and any information concerning the other party's business which that party may (by written notice) reasonably designate as confidential.
- 12.4 The Customer agrees that The Company may carry out credit checks on The Customer and on any Directors or Owners of The Customer at any time during this Agreement to the extent permitted by law.
- 12.5 The Customer will notify the Company in writing (or within three days thereafter in any event) of any change of company name or formation of a new company or if the Customer in any way vacates the premises specified in this Agreement or gives up or shares possession to or with any other occupier at the Premises and will either provide a meter reading, or arrange with the Company in advance for a special meter reading, for the date on which the change takes place. If the Customer fails to do so, any termination by the Customer under this agreement will be of no effect and the Customer will continue to be liable for outstanding charges for power consumed at the Premises.
- 12.6 Where a Last Resort Supply Direction has been issued by the Utility Regulator, in respect of this Agreement, Your Agreement with Us shall terminate on the effective date of the Direction

13. VARIATION

- 13.1 Both parties shall effect any amendments necessary to comply with the relevant provisions of the relevant, Distribution Code, Metering Code, Grid

Code, Supply Competition Code, Northern Ireland Fuel Security Code and all statutory instruments regulations and orders applicable to them and shall effect any amendment required to be made to the Agreement as a result of a change in any of the above.

- 13.2 If there is a material change in the consumption pattern upon which the prices quoted in this agreement are based, The Company reserves the right to amend the prices for the period of the Agreement using the revised consumption pattern. For the purposes of this clause The Company shall decide when a change is material.
- 13.3 If, after the End Date, the Agreement is not terminated in accordance with Clause 7, The Company shall be entitled to vary the prices until such time as the Agreement is terminated in accordance with Clause 7. The Company shall issue accounts at the varied prices in accordance with clause 5 and The Customer shall make payment therefore in accordance with Clause 6.
- 13.4 In the event that any bulk power source used by The Company to supply The Customer is reduced or becomes unavailable as a result of Force Majeure, The Company reserves the right to supply The Customer from an alternative source and in such event The Company shall be entitled to amend the prices so as to recover any additional costs. The Customer shall make payment therefore in accordance with Clause 6
- 13.5 The Company reserves the right to vary the terms of this Agreement to reflect any new trading arrangements approved by the Northern Ireland Authority for Utility Regulation (NIAUR).

14. SEVERANCE

If any Clause or Sub-Clause of this Agreement is held by a court or other competent authority to be unlawful, void or unenforceable, it shall be deemed to be deleted and the agreement shall remain in full force and effect as if the Clause or Sub-Clause had not originally been contained in this agreement. If any such deletion is required, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory provision in place of the provision deleted unless the deletion defeats the original intention of the parties in which case either party may terminate this agreement.

15. DEEMED CONTRACT

A situation may arise where The Customer may not agree contractual terms with The Company to extend its current supply agreement. The Customer will then be put onto a Deemed Contract, up until a new contract is agreed going forward.