

# General Terms & Conditions

Gas Version 3.0

## General Terms

We (Evolve Energy) and you (the “Customer” as identified in the **contract option**) have decided to enter into an **agreement** for the **supply** of gas. These **general terms** apply in addition to the **contract option** which together make up the **agreement** between us.

## Definitions

1.1 In this **agreement**, when the following words are shown in bold, they have the meanings described below:

“**act(s)**” means the Gas **Act** 1986 for the **supply** of gas

“**advanced meter**” means a gas **meter** that either on its own or with an ancillary device, in compliance with any relevant industry requirements, provides measured gas consumption data for multiple time periods and is able to provide such data remotely;

“**agent**” means a **meter reader**, **meter asset manager**, **meter asset provider** together with any other third party appointed to **act** for or on behalf of one of us;

“**agreement**” means the **agreement** between you and us which includes these **general terms**, the **contract option** and the **product schedule**;

“**agreement date**” means the date of the **contract option**

“**authority**” means the Gas and Electricity Markets **Authority** (GEMA) or **Ofgem** as appropriate;

“**averaging period**” has the meaning given to it in paragraph 20 of Schedule 6 of the Finance **Act** 2000;

“**balancing transaction**” means any trade by the **transporter** to balance the **supply** network;

“**business day(s)**” means any day on which the clearing banks in the City of London are open;

“**charges**” means the amount payable by you to us as shown in or calculated in accordance with (as relevant) these **general terms**, the **contract option** and the **product schedule**;

“**CCL**” means climate change levy, the tax that commercial and industrial customers must pay for using gas as set out in Schedule 6 of the Finance **Act** 2000;

“**confidential information**” has the meaning given to it in clause 8.1;

“**contract option**” means the document containing your business details and details of the product, which you sign to indicate your acceptance of the **agreement**;

“**control**” means the power to direct or cause the direction of your business, whether as a result of share ownership, voting powers or powers conferred by any document regulating your business;

“**meter reader**” means a third party who collects data from the **meter**;

“**default system marginal price**” has the meaning set out in the **Uniform Network Code**;

“**de minimis limit**” means the maximum amount, per kWh, of gas supplied per day that does not benefit from any exemption from **CCL** pursuant to Schedule 6 Article 9.1 of the Finance **Act** 2000;

“**delivered volume**” means the volume of gas that we deliver to you at your **site(s)**;

“**delivery shortfall**” means the difference between the **minimum consumption** less the total **delivered volume** for the **supply period**;

**“demand side response”** (DSR) is where in the unlikely event of the UK gas system being unable to balance due to a critical loss of **supply**, a National Executive Committee as delegated by National Grid will take steps to bring the UK gas system into balance which may involve the involuntary temporary discontinuation of commercially firm consumers’ gas **supplies**.

**“disconnect”** means removing the **supply** to a **meter** (which may include the removal of a **meter**);

**“effective date”** has the meaning given to it in clause 2.1;

**“end date”** means the date on which **supply** will stop: (i) as shown in the **product schedule**, being the latest ‘**end date**’ listed for the **site(s)**; or (ii) in the case of an extended **supply period**, on the revised latest **end date** that is shown on a subsequent **contract option**, **product schedule** or variation **agreement** as applicable; or (iii) where this **agreement** is terminated in accordance with its **terms**;

**“end notice”** has the meaning set out in clause 4.17 below;

**“equipment”** means any part of the **meter** installation, including a **meter**, **smart metering equipment**, data loggers, mains, pipes, telecommunications or other **equipment** provided for the purpose of supplying and ascertaining the quantity of **supply**;

**“exempt distribution system”** meaning is set out in the **act**;

**“force majeure event”** has the meaning set out in clause 15 below;

**“first termination date”** means the first date that the **agreement** can be ended in accordance with the serving of a **termination notice** as per clauses 11.5 and 11.6 below;

**“general terms”** means these **general terms** and conditions governing **supply** to you;

**“good quality CHP”** has the meaning given to it in Guidance Note 10 issued by the Department of Energy and Climate Change;

**“green deal charges”** has the meaning given to it in the Energy **Act** 2011;

**“green deal premises”** means a premises in respect of which **green deal charges** are owed to a **green deal provider**;

**“green deal provider”** has the meaning given to it in the Energy **Act** 2011;

**“group company”** means a **subsidiary** of ours, any **holding company** of ours, and any **subsidiary** of any **holding company** of ours (and “**subsidiary**” and “**holding company**” will have the meanings given to them in the Companies **Act** 2006);

**“insolvency office holder”** means the administrator or the supervisor of the **voluntary arrangement**, as applicable;

**“isolate(d)”** or **“isolation”** means where no gas can flow directly or indirectly from the **transporter’s** network;

**“management charge”** shall comprise either a Unit Rate or a Unit Rate and Daily Charge.

**“maximum consumption”** means the maximum amount of Gas that we will be required to **supply** to the **site(s)** in any period as specified in the **contract option** or **product schedule** (where relevant);

**“meter”** means the **equipment** measuring the amount or gas you use at a **site(s)**;

**“meter asset manager”** or **“MAM”** means a third party who manages the performance and safety of a **meter** during its lifecycle;

**“meter asset provider”** or **“MAP”** means the third party who provides a **meter** to you;

**“meter number”** means the unique **meter** point reference number assigned by the **transporter** to each gas **meter** (MPRN)

**“meter operator”** means a **meter asset manager** and/or **meter asset provider**;

**“microbusiness customer”** means a customer: (i) where the **agreement** is for the **supply** of gas, consuming less than 293,071 kWh’s of gas a year or (ii) having fewer than ten (10) employees and having an annual turnover or annual balance sheet total of less than two million Euros (€2,000,000). Any customer falling within these parameters will automatically be a **microbusiness customer**;

**“minimum consumption”** means the minimum amount of gas that we will **supply** to you in any period as specified in the **contract option** (where relevant);

**“network operator”** has the meaning given to it in National Grid’s Grid Code, as amended from time to time;

**“new connections”** means the provision of infrastructure to connect your **site(s)** to a **transporter’s** network;

**“Ofgem”** means the Office of Gas and Electricity Markets, which regulates electricity and gas markets in Great Britain;

**“out of contract rate”** means the rate which we charge customers for **supply** when they have not transferred supplier even though their **agreement** with us has ended;

**“personal information”** means any **personal information** we hold about you (if you are an individual) or any individuals engaged by you (including directors, employees or other staff) such as names, addresses and e-mail addresses;

**“price”** means the **charges** and any other amounts which we have the right to include in an invoice (without deduction or set off) together with any **VAT** and **CCL** payable;

**“product schedule”** means the schedule to these general conditions (including any Annexes to it) describing the **supply** and including specific provisions relating to the way on which the **supply** is made;

**“Project Nexus”** means an **Ofgem** sponsored programme to ensure the gas industry is ready to move to replacement IT systems. **Project Nexus** aims to ensure that (i) the replacement systems meet the current and anticipated requirements of market participants and (ii) market participants update their own IT systems to work with the new **Xoserve** systems.

**“reasonable and prudent operator”** means a person seeking in good faith to perform its contractual obligations, and in doing so and in the general conduct of its obligations, using the skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator complying with applicable law engaged in the same type of business in the same or similar conditions;

**“renewal price”** means the **price** that we quote to you for **supply** for a subsequent **supply period**;

**“site(s)”** means the premises and/or property we **supply** to as detailed in the **product schedule**;

**“smart metering equipment”** means any of the following (as applicable):

- (a) a data logging device for connection to a **meter**; or
- (b) a communications capable smart metering system, which complies with any relevant industry requirements; or
- (c) an **advanced meter**.

**“start date”** means the earliest date on which we become registered as the supplier for your **site(s)**

**“SOQ”** means the **“Supply Offtake Quantity”** of the **meter**, which represents the maximum daily consumption for the **meter**;

**“supplier certificate”** means any certificate, document or evidence as required by HM Revenue & Customs, which details and substantiates the amount of your **supply** which is eligible for relief from **CCL** pursuant to Schedule 6 Article 125 of the Finance Act 2000 and HMRC Notice CCL1/3 Reliefs and special treatments for taxable **supplies**. This includes, but is not limited to, the **CCL PP11** exemption certificate;

**“supplier of last resort”** means a licensed supplier appointed by the **authority** under a last resort direction made under the **act(s)**;

**“supply”** means the **supply** to you of gas, as identified in the **contract option**;

**“supply period”** means the period from the **start date** to the **end date**;

**“system average price”** has the meaning given to it in the **Uniform Network Code**;

**“system buy price”** means:

- i. for the **supply** of gas, the higher of: (i) the **system average price** (plus the **default system marginal price**), and; (ii) the highest **balancing transaction** made by the **transporter(s)** in the relevant period; and

**“term”** has the meaning given to it in clause 2.1 below;

**“termination notice”** means a notice given by you to terminate the **agreement** in accordance with clause 11.5 below;

**“transporter”** means the owner of the relevant transportation system, distribution system or transmission system;

**“Uniform Network Code”** means the code of that name prepared by the Joint Office of Gas **Transporters**, as amended from time to time;

**“VAT”** means value added tax as described in the Value Added Tax Act 1994; and

**“voluntary arrangement”** means either a company **voluntary arrangement** or an individual **voluntary arrangement**, as applicable.

**“Xoserve”** means the Company that operates the UK Link system for energy settlements.

## The Agreement

- 2.1 Your **agreement** starts on the date on which you receive an email from us confirming our acceptance of the **agreement** (following which you will receive a countersigned copy of the **agreement**) (the **“effective date”**). Your **agreement** will continue until the **end date** (the **“term”**) unless it is terminated in accordance with these **general terms**.
- 2.2 During the **term** of the **agreement**, we will **supply** gas, to you in accordance with the **terms** of the **agreement**.
- 2.3 By agreeing to the **terms** of the **agreement**, you warrant that:
  - a) you own or have the right to enter into this **agreement** in respect of each **site** which we are being requested to **supply**;
  - b) the gas that we **supply** to you is for your own consumption; and
  - c) you are not a domestic user.

If any of the warranties given in clause 2.3 cease to be true at any time, you shall inform us immediately in writing (which may include by email).

- 2.4 We will complete the transfer of your **site(s)** to us within 21 days of the **Effective date**, unless:
- a) the **start date** shown on the **contract option** is more than 21 days from the **Effective date** (in which case we will complete the transfer by the **start date** on the **contract option**, unless any of 2.4(b) to (f) below applies); or
  - b) you notify us that you no longer wish such transfer to take place; or
  - c) another supplier prevents the transfer from taking place; or
  - d) we do not have all the information we need to complete the transfer (despite having taken all reasonable steps to obtain it); or
  - e) we are prevented from completing the transfer due to a circumstance outside our **control** which we have taken all reasonably practicable steps to resolve; or
  - f) your **site** is part of an **exempt distribution system**.

If any of the circumstances in 2.4 (c) to (e) apply, we will ensure that the relevant **site(s)** transfer to us as soon as reasonably practicable and, in any event, within 21 days of the date on which such circumstance ends.

- 2.5 If **site(s)** do not transfer to us on time for any reason and the failure to transfer is not as a result of: (i) our failure to comply with the **terms** of this **agreement**; and/or (ii) our failure to comply with our obligations as a supplier of gas we will have the right to invoice you for our losses in relation to gas we have purchased in anticipation of the **supply** to you. You must pay the invoice within (10) days of the date of the invoice.

## Microbusiness Customers

- 2.6 If you are a **microbusiness customer**, you will:
- a) be provided with details of the principal **terms** and conditions for **microbusiness customers** which will apply in addition to these **general terms**;
  - b) within ten (10) days of the commencement date, receive copies of the **general terms** and a statement of the renewal **terms** which will apply at the **end date**;
  - c) be contacted at least sixty (60) days before the **end date** with details of the options available to you; and
  - d) be required to give us thirty (30) calendar days' prior written notice to end the **agreement** on the **end date**.
- 2.7 This clause 2.7 provides notice to you that we intend to obtain data that shows us the quantity of gas, supplied to the **site(s)** in any one or more periods of less than one month (the "granular data") and that we may use this granular data to help us to provide energy services under this **agreement**. You may at any time object to us obtaining the granular data by providing written notice to us (which may be given by email). If you object, we will only collect or store the granular data to the extent required to: (i) meet our obligations under the **agreement**; and/or (ii) comply with our licence conditions.

## Our Obligations

- 3.1 Our obligation to **supply** you is conditional upon the following requirements:
- a) your credit score (and/or any credit support we request) being acceptable to us;
  - b) us having a licence to **supply** the **site(s)** in accordance with the relevant **act**;
  - c) the **transporter** approving **supply** to you;

- d) where we **supply** gas to you under this **agreement**, you having notified us, at least 28 **business days** before the **start date** of the name, telephone and facsimile numbers of three representatives who can be contacted in an emergency for each of the **sites**. If these persons or details should change, you must notify us immediately;
  - e) us being registered as the sole supplier for each **meter**;
  - f) you providing us with the **meter number** for each **meter**;
  - g) the **sites** being connected to a **transporter's** network;
  - h) **agents** being appointed for each **meter**; and
  - i) the **site(s)** not being a **green deal premises**.
- 3.2 If any of the conditions listed in clause 3.1 stops being satisfied or the warranties you give at clause 2.3 cease to be true at any time during the **term** in relation to one or more **sites**:
- (i) our obligation under this **agreement** to **supply** those **sites** will come to an end;
  - (ii) we may, if we choose, also stop **supply** to the other **sites** covered by this **agreement**; and
  - (iii) we may recover from you any costs we incur relating to your failure to satisfy such conditions or give such warranty.
- 3.3 If you satisfy the requirements in clause 3.1, we will **supply** you in accordance with the **act**. Title and risk of the gas will pass to you at the **meter**.
- 3.4 We will **act** as a **reasonable and prudent operator** when carrying out our obligations under this **agreement**.
- 3.5 We will perform those obligations for which we are responsible as set out in clause 4 below.

## Meters and Access

- 4.1 You must ensure that the **equipment** installed at your **sites** is suitable for **supply**. If your **equipment** is not suitable for **supply**, or if we have to do anything to ensure the safety of **supply** to the **site(s)** or **meters**, we will arrange for the installation, maintenance or replacement of the **equipment** and, where we reasonably believe that the reason for such installation, maintenance or replacement is as a result of your failure to maintain, properly use or wilfully damage the **equipment**, you will pay our costs for doing this in accordance with clauses 5 and 6 below. If during the **term**, your **equipment** is replaced because you choose to upgrade it or because you require different **equipment** for your business needs, this shall be at your own cost. You must also notify us of this and ensure that the new **equipment** is suitable for **supply**.
- 4.2 You agree to:
- a) protect the **equipment** against physical damage (howsoever caused) and any other interference (whether caused by third parties or not), ensure that the **meter** and its housing complies with all applicable regulations, and not dispose of or use the **equipment** other than to comply with your obligations under this **agreement**;
  - b) provide power, water and drainage as required for the **equipment**;
  - c) ensure that all **equipment** installed is kept in proper order for the purpose of accurately registering the quantity of gas supplied; and
  - d) at all times provide safe and reasonable access to all **equipment**.
- 4.3 You will notify us, as soon as reasonably practicable, where changes are made to any **equipment** and will, at all times, be responsible for maintaining and ensuring the safety of all **equipment**, unless otherwise notified by us. You will provide proof, on demand, in a form reasonably satisfactory to us, that you are complying with this maintenance requirement.
- 4.4 If either of us believes that there is a problem with the accuracy of the **meter**, we will notify the other. Where either of us provides such a notification to the other, we will ensure that the **meter** is examined as soon as practicable in accordance with the **act**. The **meter** will continue to be deemed to be accurate until the examination of it has conclusively found it to register inaccurately. Except where the **meter** is owned by us or the **transporter** or **agent** appointed by us, you will be responsible for all costs incurred by us where it is found to register inaccurately in violation of the requirements under the **act**. If, however, the **meter** is found to register accurately then the costs will be paid by the person that provided the original notification.

- 4.5 You will continue to make payment for **supply** under this **agreement** where a dispute as to the accuracy of a **meter** has been raised in accordance with clause 4.4. If it is found that the **meter** is registering inaccurately, we will have the right to invoice you for any additional costs (and you will be required to make payment for such costs in accordance with this **agreement**) or may, where money is owed to you, set this off against any future invoices or make a refund of the amount to you, at our discretion.
- 4.6 Where your **meter** is a half hourly **meter**, you will ensure that you have entered into an **agreement** with a **meter operator** before the **start date**.
- 4.7 You will ensure that your **agents** operate at all times as **reasonable and prudent operators** and will be responsible for all costs that we incur as a result of damage caused to, or removal of, the **equipment**.
- 4.8 You will notify us as soon as reasonably practicable if you believe that there has been damage to or interference with **equipment** and agree to provide us with all information, which we may reasonably require in relation to such damage or interference. If you wilfully damage or interfere with any **equipment**, we may immediately end this **agreement**, and you will indemnify us for all costs we reasonably incur.
- 4.9 You will ensure that all installations, plant and **equipment** for which you are responsible comply with any relevant law or regulation and that you perform your obligations under this **agreement** as a **reasonable and prudent operator**.
- 4.10 We will appoint an **agent** to read the **meter** in accordance with normal industry **meter** reading cycles, and you may inform us that you wish to provide **meter** reads to us directly (either yourself or via your third party intermediary. Where that you wish to provide **meter** reads, you will ensure that they are provided to us: (i) in accordance with applicable industry **meter** reading cycles; (ii) within the timescale notified by us; and (iii) in a format that can be electronically sent and loaded onto our systems. If you fail to comply with (i), (ii) or (iii) above we reserve the right to invoice you for the costs we have incurred in appointing an **agent** to read the **meter**.
- 4.11 Where you are the '**meter owner**' as defined in the **act**, you will, throughout the duration of this **agreement**, have a contract in force with a **meter asset manager** or **meter asset provider** approved by us.
- 4.12 Where we choose, or have an obligation, to install **smart metering equipment** to a **site**, we will install the relevant **smart metering equipment** to comply with our choice or obligation and will have the right to do so at any point throughout the duration of this **agreement**. You agree to provide us or our **agent** with access to install the **smart metering equipment**, and you agree to co-operate fully with us or our **agent** in carrying out the installation. Unless otherwise agreed, you will not incur any expense in relation to an installation under this clause 4.12. Where you request that we provide you with data from the **smart metering equipment** we may agree to do so but reserve the right to charge you additional costs for providing such data.

## Your Supply

- 4.13 Where **supply** to you is curtailed by the **transporter** as a result of firm load shedding due to a gas deficit emergency, we will pay you a DSR payment. The DSR payment is made in consideration for the provision by you to us of an involuntary **demand side response** service. We will make the DSR payment as soon as reasonably practicable following receipt by us of payment from the relevant gas shipper. The **terms** "firm load shedding", "gas deficit emergency" and "DSR payment" have the meanings given to them in the **Uniform Network Code**.
- 4.14 You agree that:
- a) you will not at any time, without our prior written consent, exceed the **maximum consumption**. We will not have any obligation to **supply** in excess of the specified **maximum consumption**, but we will be entitled to charge you for any such **supply** at the greater of the **price** in p/kWh as set out in the **contract option** or the **system buy price**, and for any additional costs we incur in supplying gas in excess of the **maximum consumption**, and you will pay such **charges** in accordance with the provisions of clauses 5 and 6 below; and
  - b) if you anticipate that there is a risk that the **maximum consumption** may be exceeded, you will provide us with a request for the additional **supply** by giving us a minimum of six (6) week's prior written notice, detailing your requirements. We will make reasonable efforts to meet such request but will be under no obligation to satisfy your request. We will have the right to invoice you for any additional costs we incur in relation to such a request, and you will be required to pay such invoice in accordance with the provisions of clauses 5 and 6 below; and

- c) where a **site** is a daily metered **site**, you will inform us if the **SOQ** changes at any time during the **term**.
- 4.15 You agree to indemnify us and our group companies for any costs we incur where, notwithstanding any other provision of this **agreement**, we **supply** gas, in accordance with the **terms** of this **agreement** but where we deliver at volumes which are outside the parameters set out in the **product schedule**.

## Moving Out or Stopping Supply

- 4.16 You will give us at least 30 days' notice in accordance with clause 4.17 below if you cease to own or occupy any **site** or if gas is no longer consumed at any **site** (the "**end notice**"). You will be liable for the **price** until the end of the notice period or until a new owner or occupier assumes responsibility for the **price**, whichever is the later.
- 4.17 The **end notice** must contain the following details:
- (a) your customer number, name and address;
  - (b) the date on which you will leave the **site(s)**; and
  - (c) the name and address of the person or business taking responsibility for the **site(s)**, together with any contact details for them you may have.
- 4.18 If you let or sublet a **site**, you will be responsible for **supply** to that **site** unless your tenant or subtenant has entered into an **agreement** for **supply** with us.
- 4.19 If you are moving from a **site** to a new address, you must:
- (a) end the **agreement** in accordance with clause 11 below; or
  - (b) enter into a new **agreement** with us for **supply** to your new address on **terms** relevant to such address.

## Change of Control

- 4.20 You agree to notify us within ten (10) **business days** where there is a change in the **control** of your business.

## Prices and Charges

- 5.1 You agree to pay the **price** in accordance with the **terms** of this **agreement**. Time for payment will be of the essence in this **agreement**.
- 5.2 We may invoice you at any time for additional costs not included in the **charges** (and you must pay such amounts in accordance with clause 6), or we may (acting reasonably and at our option) vary the **charges** to take account of these costs, where:
- a) you breach any **terms** of the **agreement**, including our reasonable costs when we try to get back money you owe to us (when you do not have a genuine reason to disagree when you owe us money) and any administration costs for dealing with the **supply**;
  - b) you fail to keep an agreed appointment with us or our **agent** or subcontractor, and we incur a charge as a result;

- c) you fail to comply with the **terms** of this **agreement**, to meet deadlines notified by us or to comply with a reasonable instruction we give to you;
  - d) you decide to make payment for **supply** by credit card (in which case we may add an amount that is equal to 3% of the **price** to cover the banking costs we incur);
  - e) we incur costs levied by any third party in connection with the **meter** and/or **supply** at the relevant **site(s)** (including but not limited to:
    - (i) any unidentified gas costs payable in respect of the **supply**; and
    - (ii) costs in respect of transportation levied due to changes in the cost of transportation, distribution or transmission (as relevant) imposed by the relevant **Transporter**. (iii) if any industry **charges** are revised or newly introduced at any time before or during the **term** in respect of all or part of the **term**, then such revised (or introduced) **charges** will be reflected in the **Management Charge** from the date upon which they become effective. When making such changes, Evolve Energy shall wherever possible use published industry information and for periods or **charges** for which there is no published industry information use its best estimate of **charges** imposed by the relevant **Transporter** or Industry third party. Where the amount Evolve Energy has charged you materially differs from the actual **charges** incurred by Evolve Energy, Evolve Energy may reconcile the amounts which have been collected from you for part or all of the **term** against the actual **charges** for part or all of the **term** and will invoice or credit (as appropriate) you the difference; and (iv) **charges** arising following the implementation of **Project Nexus**.
  - f) we incur any amounts as a result of any directions or requirements of the Secretary of State under the **act**, the enactment or coming into force of any legislation or regulations which determine the **price** of gas, electricity or both to suppliers, or we become responsible for increased costs (that are outside of our **control**) from the **transporter** or **authority** as a result of us being a supplier of gas, electricity or both to the **site(s)**;
  - g) any information provided to us by you or your representative or **agent** is incorrect;
  - h) there is a delay in the **start date** due to circumstances beyond our reasonable **control**;
  - i) your actual off-take is less than the **minimum consumption** creating a **delivery shortfall**, in which case, the amount payable by you for the **delivery shortfall** will be calculated by multiplying the **delivery shortfall** by the **charges**;
  - j) you change the way in which you pay for your **supply**, in which case we reserve the right to change your **charges** to reflect any increased cost in processing the payment. For the avoidance of doubt, the cheapest way for you to pay for your **supply** is by direct debit; or
  - k) specifically provided for in this **agreement**.
- 5.3 You will be charged **CCL** unless: (i) you send to us completed **supplier certificates**, to be received no later than five (5) **business days** prior to their application; or (ii) your **supply** is less than the **de minimis limit** per day pro-rated for the period of the invoice. Relief from **CCL** cannot be backdated and we will not be liable in any way as a result of late receipt of your **supplier certificates**.
- 5.4 You will be responsible for the payment of all taxes (including **VAT**), levies, duties, imposts and other fiscal **charges** which arise in connection with the **supply** of gas under this **agreement** and will reimburse us for any interest, penalties, liabilities and expenses (including reasonable legal expenses) incurred by us as a result of your delay in paying them.
- 5.5 We will not be legally responsible if we have not charged you enough **VAT** because information you provide to us is incorrect. If there is an increase in the **VAT** actually payable, you will have to pay the difference.

## Payment

- 6.1 We will invoice you for the **price**, and you will pay the **price** in cleared funds within ten (10) days of the date of the invoice by direct debit or as otherwise agreed in the **contract option**.
- 6.2 We may use any money you pay to us or any money we owe you to pay off what you owe under this **agreement**.

- 6.3 Without affecting any other right or remedy that we may have, if you fail to make any payments to us in accordance with this clause 6, we may charge interest on the outstanding amount from the due date for payment until full payment is made at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis and being compounded quarterly.
- 6.4 If:
- a) we are not provided with an up-to-date **meter** reading or actual consumption data in relation to one or more **site(s)**; and/or
  - b) we do not receive the relevant information from third parties (including, without limitation, the **meter operator**, **meter reader** and previous supplier) in relation to the **site(s)**; and/or
  - c) we reasonably believe **meter** readings or data to be inaccurate,
- we may:
- (i) issue an invoice based on your own **meter** reading; or
  - (ii) issue an invoice based on your estimated usage, and you will pay this invoice in accordance with this clause 6. If, having received accurate data or readings, we determine that the amount you have paid to us for the invoice is more than the amount due, we will set off the overpayment against subsequent invoices. If the amount you have paid is less than the amount due, we will include the additional amount in the subsequent invoice and you will pay the invoice in accordance with this clause 6.
- 6.5 Subject to clause 6.6 below, if any amount payable is the subject of a bona fide dispute, you must pay the undisputed portion of the invoice in accordance with this clause 6. When the disputed portion of the invoice is agreed or the amount determined, you will pay the amount to us within five (5) **business days** following such **agreement** or determination.
- 6.6 If you have elected to benefit from consolidated billing (i.e. you will receive an invoice containing **charges** for more than one **site**), and any amount payable is the subject of a bona fide dispute, you will pay the entirety of the invoice and we will negotiate in good faith to agree the disputed amount. If, following the discussions, we agree that an amount is owed to you, we will include such amount as a credit in your next invoice.
- 6.7 If an invoice has been based on inaccurate information, we will, as soon as reasonably practicable, submit a revised invoice to you following the receipt of accurate information.

## Changes to this Agreement

- 7.1 Without prejudice to the provisions of clause 6 above and except where specified in this clause 7, this **agreement** may only be varied by an **agreement** in writing signed by both of us or expressly approved by each of us by email.
- 7.2 In the case of **new connections**, where **supply** does not commence on the **start date** detailed in the **contract option**, we may at our sole discretion and without your **agreement**, defer the **end date** by a period equal to that by which the **start date** is delayed.
- 7.3 If either of us wishes to vary the **agreement**, we will submit details of the requested change to the other in writing (which may be given by email).
- 7.4 If either of us requests a change to the **agreement**, we will, within a reasonable time, provide a written estimate to you of:
- a) the likely time required to implement the change;
  - b) any necessary variation to our **charges** arising from the change;
  - c) the likely effect of the change on the **supply**; and
  - d) any other impact of the change on this **agreement**.
- 7.5 If you wish us to proceed with the change, we have no obligation to do so unless and until we have agreed in writing (which may include by email) the necessary changes to our **charges**, and any other relevant **terms** of this **agreement**.

- 7.6 Notwithstanding clause 7.1, we may from time to time and without advance notice or **agreement** by you, change the **agreement** in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or **charges** for the **supply**. We will notify you of such changes.

## Confidential and Personal Information

- 8.1 Each of us will keep in strict confidence: (i) all technical or commercial know-how, specifications, inventions, processes or initiatives which have been disclosed to us by the other's employees, **agents**, consultants or subcontractors; and (ii) any other **confidential information** concerning the other's business or products which we may obtain which is marked as being confidential ("**confidential information**").
- 8.2 Each of us may disclose such **confidential information**:
- a) to our respective employees, officers, representatives, advisers, **agents** or subcontractors who need to know such information for the purposes of carrying out our respective obligations under this **agreement**; and
  - b) as may be required by law, court order or any governmental or regulatory **authority**.
- 8.3 Each of us will ensure that our respective employees, officers, representatives, advisers, **agents** or subcontractors to whom we disclose such information comply with clauses 8.1 and 8.2 above.
- 8.4 Each of us agree not to use any of the other's **confidential information** for any purpose other than to perform our respective obligations under this **agreement**.
- 8.5 Where you provide **personal information** to us, you confirm that: (i) you have obtained the permission of the relevant individuals to provide such **personal information** to us; and (ii) the relevant individuals agree that the **personal information** can be used for the purposes set out in this **agreement**. If the relevant individuals withdraw this permission at any time, you will inform us immediately.
- 8.6 The data controller of the **personal information** will be Evolve Energy.
- 8.7 We or our **agents** may use **personal information**:
- (a) to carry out our obligations under this **agreement**;
  - (b) to carry out credit checking and monitoring, as set out in clause 10.1;
  - (c) to contact you (including by post, e-mail, phone, text or other forms of electronic communications) to provide information, products or services which we believe may interest you, or to carry out market research (except where you have asked that the relevant individuals are not contacted for such purposes);
  - (d) to carry out quality assurance checks;
  - (e) to help to prevent and detect fraud; and
  - (f) if we are under a duty to disclose the **personal information** for legal or regulatory reasons.
- 8.8 We may monitor and record any communication we have with you, including phone conversations and e-mails for quality assurance purpose.

## Responsibility For Loss and Damage

- 9.1 This clause 9 sets out our entire financial responsibility to you (including any responsibility for the **acts** or omissions of our employees, **agents**, consultants and subcontractors) in respect of:
- a) (a) any breach of this **agreement**, including any deliberate breach of this **agreement** by us, or our employees, **agents** or subcontractors;
  - b) (b) any use made by you of the **supply**; and
  - c) (c) any representation, statement or tortious **act** or omission (including negligence) arising under or in connection with this **agreement**.

- 9.2 We are legally responsible to you without limit if we or our **agents** injure or kill somebody (or cause somebody to be injured or killed) because we or they have been negligent or because we have acted fraudulently.
- 9.3 Subject to clause 9.2, we will not be liable for (i) loss of profits; (ii) loss of business; (iii) depletion of goodwill and/or similar losses; (iv) loss of anticipated savings; (v) loss of goods; (vi) loss of contract; (vii) loss of use; (viii) loss or corruption of data or information; or (ix) any special, indirect, consequential or pure economic loss, costs, damages, **charges** or expenses (the “excluded losses”). This limitation to our liability shall apply even if we were aware at the time of entering into this **agreement** that loss of a type falling within the excluded losses was a likely consequence of us breaching our obligations under the **agreement**.
- 9.4 Subject to clause 9.2, our total liability to you will be limited to the lower of: (i) six times the average monthly **price** for your **supply**; or (ii) one million pounds sterling (£1,000,000); for each and every claim you may have against us under or in relation to this **agreement**.
- 9.5 Each sub-clause in this clause 9 applies separately. If a court or **authority** tells us that we cannot enforce a certain clause, the other sub-clauses will still apply.
- 9.6 Neither of us will be liable to the other for failure to fulfil our obligations under this **agreement** due to a **force majeure event** except to the extent specified in clause 15.5 below.
- 9.7 The party affected by the **force majeure event** will notify the other as soon as reasonably practicable of the **force majeure event** (providing all relevant information relating to it) and will take all reasonable steps to mitigate the effect on its ability to perform its obligations under this **agreement**. The party affected by the **force majeure event** will immediately notify the other party when the **force majeure event** ends.
- 9.8 Under no circumstances will we be liable to you for any loss caused by any **act** or omission of an **agent** appointed by you.
- 9.9 You agree to indemnify us against any claim from any third party or other liability incurred by us as a result of your failure to comply with your obligations under this **agreement**.

## Credit Assessment

- 10.1 You acknowledge and agree that details of your name, address and payment record may be submitted to a credit reference agency, and data in relation to you will be processed by and on behalf of us in connection with the **supply** to help us to make decisions about your ability to pay for the **supply** to your **site(s)**.
- 10.2 The payment **terms** set out in this **agreement** are based on our assessment of your credit worthiness at the **effective date**. Subject to clause 10.4, if, at any time:
- we (in our sole discretion) reasonably determine that your credit worthiness or credit risk is materially different than at the time when this **agreement** was entered into; and/or
  - any credit insurance or credit support in place for your **agreement** is withdrawn (either fully or partially); then we may serve notice upon you: (i) setting out amendments to the **terms** of this **agreement**; and/or (ii) requiring you to put in place a form of credit support determined by us.
- 10.3 If you fail to comply with any request we make pursuant to clause 10.2 within five (5) **business days** of us providing the notice to you, we may terminate this **agreement** immediately. We shall also be entitled to recover from you all of the costs we incur which result from ending this **agreement** early.
- 10.4 Clauses 10.2 and 10.3 shall not apply where you or your business enters into administration or a **voluntary arrangement** with people you or your business owe money to (your creditors).

## Ending This Agreement

### Our right to end this agreement

- 11.1 This **agreement** will terminate automatically if you stop trading, if your business is wound up, you go into liquidation or have a bankruptcy order made against you, or your business goes into receivership.

In addition, we can end this **agreement** wholly or in respect of one or more **sites**:

- a) if keeping to any clause in this **agreement** means we would be breaking the law;
- b) pursuant to clause 4.8, where you wilfully damage or interfere with any **equipment**;
- c) where you fail to put in place appropriate credit support in accordance with clause 10.2;
- d) if you materially breach the **agreement** and the breach is not capable of remedy;
- e) if you materially breach the **agreement** and, if the breach is capable of remedy, we notify you of the breach and you do not remedy it to our reasonable satisfaction within ten (10) **business days** of such notification;
- f) where you transfer a **site** to a third party without our consent or you cease to be the owner of a **site**;
- g) where you cease to take **supply** for a period of more than three (3) consecutive calendar months; or
- h) where the **authority** appoints a **supplier of last resort** to the **site(s)**.

11.2 If any of clauses 11.1(a) to 11.1(h) applies, unless we tell you otherwise in writing (which may include by email), the **agreement** will end immediately.

11.3 If:

- a) your business goes into administration; or
- b) your business enters into a company **voluntary arrangement**; or
- c) you, or any member of your firm or partnership, enter into an individual **voluntary arrangement**,

then we will be entitled to terminate this **agreement** in the following circumstances:

- i) if the insolvency office-holder consents to the termination of the **agreement**; or
- ii) if the court grants permission for the termination of the **agreement**, or
- iii) if any **charges** in respect of the **supply** that are incurred after you entered administration or the **voluntary arrangement** took effect are not paid within 28 days, beginning with the day on which payment is due.

11.4 We are entitled to terminate **supply** in the following circumstances:

- a) we give written notice to the insolvency office-holder that **supply** will be terminated unless the insolvency office-holder personally guarantees the payment of any **charges** in respect of the continuation of **supply** after you entered administration or the **voluntary arrangement** took effect, and
- b) the insolvency office-holder does not give that guarantee within 14 days of receiving the notice.

## Your Right to End the Agreement

11.5 11.5 You may end this **agreement**:

- a) (a) on the **end date**; by providing us with no less than three (3) months written notice.

11.6 Any **termination notice** will only be valid if in writing and sent:

- (i) by recorded signed for delivery marked for the attention of the Operations Manager to our current business address as notified to you; or
- (ii) to the email address [account.services@evolve-energy.com](mailto:account.services@evolve-energy.com). Your **termination notice** will be acknowledged by us in the following timescales:
  - a) (a) If sent by recorded signed for delivery within five (5) **business days** from the first day following the day on which the **termination notice** was received; or
  - b) (b) If sent by email within five (5) **business days** from the day on which the email was received.

11.7 If we do not acknowledge the **termination notice** within the timescale referred to in clause 11.6 (a) or 11.6 (b) (as relevant) then the **termination notice** will be deemed to have not been received. If you do not receive an acknowledgement, please contact us so that we may check our records. If we have not received a **termination notice**, we may ask you to resend it.

11.8 Prior to the **end date** and in accordance with the requirements of this clause 11, you must:

- a) ensure that you have entered into a new **agreement** with us for the period following the **end date**; or
- b) have ended this **agreement** in accordance with clause 11.5 and have registered with a new supplier. If you have registered with a new supplier by the **end date** but have not transferred to this supplier by the **end date**, clause 11.11 below will apply; or
- c) have requested that the **site(s)** be **isolated**. If you have requested that the **site(s)** be **isolated**, and you have not reached the **minimum consumption**, clause 5.2(j) will apply.

11.9 If you have not complied with the requirements set out in clauses 11.5 to 11.8 above, the provisions of clause 11.11 below will apply.

11.10 If you want **site(s)** to be **isolated**, you must give us not less than two (2) months' prior written notice. You will be liable for the **price** until the end of the notice period or until the **site(s)** are **isolated**, whichever is later.

## Failure to Transfer to Another Supplier at the End Date

11.11 Where we continue to be the registered supplier after this **agreement** has ended, the **terms** and conditions contained in this **agreement** will continue to apply until you transfer to another supplier, except that you will be charged at our **out of contract rate**.

## Failure to End the Agreement in Accordance With Its Terms

11.12 Unless you have ended this **agreement** in accordance with clauses 11.5 to 11.8 above, in which case this clause 11.12 will not apply:

- a) upon the **end date**, the **agreement** will end and you will be charged at our **out of contract rate** in respect of any **supply** made by us after the **agreement** ends until you transfer to another supplier;
- b) we may at our discretion issue you with a written notification prior to the **end date** stipulating a **renewal price**. You may reject the **renewal price** within seven (7) days of its notification to you, in which case this **agreement** will end on the **end date**. If you wish to accept the **renewal price**, you must complete and sign the **renewal contract option**. If you fail to respond to our offer of the **renewal price**, your **agreement** will end and you will be charged at our **out of contract rate** in respect of any **supply** made by us after the **agreement** ends until you transfer to another supplier.

## Force Majeure

11.13 Either of us may end this **agreement** in accordance with clause 15.4 below where a **force majeure event** continues for more than three (3) months.

## Consequences of Ending This Agreement

11.14 On ending this **agreement** for any reason:

- a) you agree to immediately pay to us (or we will have the right to set off against any amounts we have received from you which may become refundable as a result of the ending of the **agreement**) all of the outstanding unpaid invoices and interest;
- b) in respect of gas supplied but for which we have not provided you with an invoice, we may submit an invoice based on the closing **meter** reading, which will be payable immediately on receipt together with any other amounts due under this **agreement**. Where the closing **meter** reading is not available or the **meter** has transferred to a new supplier, we will use the **meter** reading used by the new supplier;
- c) in respect of any amounts that we have to pay to third parties as a result of entering into this **agreement** which we are unable to mitigate, we may submit an invoice, which you will pay immediately on receipt or which we will have the right to set off against any amounts we have received from you which may become refundable as a result of ending the **agreement**; and
- d) you will, within a reasonable time, return all of our **equipment**. If you fail to do so, then we may enter your **site(s)** and take possession of it. Until they have been returned or repossessed, you will be solely responsible for their safe keeping.

11.15 If this **agreement** terminates before the **end date** (other than a termination pursuant to clause 11.13) and the termination is not as a result of our failure to comply with the **terms** of this **agreement**, we have the right to invoice you for any losses we incur as a result of the **agreement** ending early. You will pay such invoice in accordance with the payment **terms** of this **agreement**.

11.16 On termination of this **agreement** (however arising) the following clauses will survive and continue in full force and effect:

- (a) clause 8 (confidential and **personal information**);
- (b) this clause 11 (ending this **agreement**);
- (c) clauses 9, 12, 13, 14, 15, 16, 17 and 18.

## Isolating a Meter

12.1 We may **isolate** a **meter** in the following circumstances:

- a) if we end this **agreement** because you are in breach of any of your obligations under this **agreement**;
- b) pursuant to clause 11.4;
- c) where you request us to **isolate** a **meter**; or
- d) where no gas or is used for a consecutive period of six (6) months. In any event, the **transporter** may remove the means of **supply** from an **isolated meter** which is not re-established after twelve (12) months; or
- e) on notice (or without notice where necessary for safety purposes) to:
  - (i) avoid danger or because failure to do so would or might involve us being in breach of industry regulations;
  - (ii) avoid interference with **supply** to another person which we reasonably believe may result from or be caused by your **meter** installation; or
  - (iii) enable maintenance or repair work to be carried out.

12.2 Where this **agreement** has been terminated:

- a) so long as we remain the registered supplier and you remain the owner, occupier or **agent** responsible for the **meter**, you will remain liable for the **price**. For the avoidance of doubt, this will be the case even if the **meter(s)** have been **isolated** or you vacate or cease to consume gas at the **site(s)**; and
- b) notwithstanding any such **isolation**, you will remain liable for all costs reasonably associated with such action and any subsequent re-establishment of **supply**.

12.3 We may require you at any time, by providing prior notice to you, to temporarily refrain from using gas, and we may (at our sole discretion) temporarily discontinue **supply** to you for any reason set out in clause 12.1(e) above.

## Objection to Transfer

- 13.1 We have the right to enter an objection under the customer transfer process and prevent an alternative supplier from registering the **meter(s)** or **site(s)** for any of the following reasons:
- a) if you attempt to transfer to an alternative supplier before the **end date** in breach of this **agreement**;
  - b) if there are any amounts that are owed by you under this **agreement** which have not been paid in accordance with the **agreement** or are disputed;
  - c) if an alternative supplier attempts to register a **meter** in error or without your consent or knowledge; or
  - d) if we have the right to object to the transfer of a **meter number** and it is related to or associated with another **meter number**, in which case we will also have the right to enter an objection in relation to the related or associated **meter**.
- 13.2 If we choose to enter an objection in accordance with clause 13.1 above, you will have no right to bring any claim against us in relation to the objection.

## Emergency

- 14.1 You must contact the **transporter(s)** immediately in the event that a loss of **supply** causes, or you reasonably believe may cause, an emergency or safety critical situation. Emergency contact details for **transporters** can be found on your invoice or on our website at [www.evolve-energy.com](http://www.evolve-energy.com)
- 14.2 If we are given a direction under section 2(1)(b) of the Energy Act 1976 (or other similar, amendment or supplementary statutory provision or regulation), prohibiting or restricting the **supply** of gas, to specified persons then, for so long as the direction is in force and so far as is necessary or expedient for the purposes of, or in connection with, the direction:
- a) we will be entitled to discontinue or restrict the **supply** of gas to the **site(s)**; and
  - b) you will refrain from using, or restrict your use of gas on being notified by us that you should do so. For avoidance of doubt, notification under this clause 14.2 may take the form of email communication or oral communication, by telephone or otherwise.
- 14.3 You should also be aware that the **network operator** can discontinue or restrict your **supply** in some circumstances.

## Force Majeure

- 15.1 Provided that you or we (as relevant, being the “affected party”) have complied with the provisions of clause 15.3 below, the affected party will not be in breach of this **agreement**, nor liable for any failure or delay in performance of any of its obligations under this **agreement** arising from or attributable to **acts**, events, omissions or accidents beyond its reasonable **control** (a “**force majeure event**”), including but not limited to any of the following:
- a) **acts** of God, including fire, flood, earthquake, windstorm or other natural disaster;
  - b) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
  - c) terrorist attack, civil war, civil commotion or riots;
  - d) nuclear, chemical or biological contamination or sonic boom;
  - e) pandemic or epidemic;
  - f) compliance with any law;
  - g) exceptionally adverse weather conditions including hurricanes or tornadoes;

- h) collapse of building structures, failure of plant machinery, machinery, computers or vehicles;
- i) any labour dispute, including but not limited to official strikes, industrial action or lockouts;
- j) shortage of fuel due to protests, blockades or other action of individuals or organisations, whether acting collectively or otherwise;
- k) non-performance by suppliers or subcontractors; and
- l) interruption or failure of utility service, including but not limited to electricity, gas or water.

15.2 Where there is a **force majeure event**, the corresponding obligations of the other party will be suspended to the same extent.

15.3 If subject to a **force majeure event**, the affected party will not be in breach of this **agreement** if:

- a) the affected party promptly notifies the other in writing (including by email) of the nature and extent of the **force majeure event** causing its failure or delay in performance;
- b) the affected party could not have avoided the effect of the **force majeure event** by taking precautions which, having regard to all the matters known to us before the **force majeure event**, it ought reasonably to have taken, but did not; and
- c) the affected party has used all reasonable endeavours to mitigate the effect of the **force majeure event**, to carry out its obligations under this **agreement** in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

15.4 If the **force majeure event** continues for more than three (3) months, either of us may give written notice to the other to end this **agreement**. The notice to end the **agreement** must specify the **end date**, which must not be less than fifteen (15) calendar days after the date on which the notice is given. Once a notice to end the **agreement** has been validly given, the **agreement** will terminate on the **end date** set out in the notice.

15.5 If a **force majeure event** occurs, each of us will bear half of any loss incurred by Evolve Energy from selling the gas (as relevant) that has not been supplied to you but which was secured, in anticipation of your **supply**, on the open market. We will invoice you for such amount and you will pay such amount to us in accordance with clause 6. If we make a gain as a result of selling the gas, we will share half of the gain with you by applying a credit to your account.

## General

16.1 If at any time we choose not to enforce any part of this **agreement**, this will not stop us from doing so in the future.

16.2 Where we use the word “including” in this **agreement**, it will be read as “including without limitation”.

16.3 Clause, schedule and paragraph headings shall not affect the interpretation of this **agreement**.

16.4 If a Court or other **authority** determines that part of this **agreement** is not valid, the rest of the **agreement** will not be affected.

16.5 These **general terms**, the **contract option** and the **product schedule** constitute the whole **agreement** between us (unless you are a **microbusiness customer** in which case the document referred to in clause 2.6(a) will also apply) and supersede any previous arrangement, understanding or **agreement** between us in relation to the **supply**. If there is any inconsistency between any of these documents, they should be interpreted in the following order of priority (the first taking precedence): the **contract option**; the **product schedule**; the **general terms**.

16.6 We each acknowledge that, in entering into this **agreement**, neither of us has relied on any statement, representation, assurance or warranty other than as expressly included in this **agreement**.

16.7 Neither of us may, without the prior written **agreement** of the other (such **agreement** not to be unreasonably withheld or delayed), assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under this **agreement**, BUT Evolve Energy may at any time:

- (i) assign or transfer our rights and obligations under this **agreement** to any **group company**; and/or
- (ii) subcontract all or any of our rights or obligations under this **agreement**.

16.8 16.8 A person who is not a party to this **agreement** will not have any rights under or in connection with it.

16.9 16.9 With the exception of a **termination notice**, a notice or other communication we or you may give must be addressed to:

- a) for you - (i) your third party intermediary (TPI) (where a TPI was used to negotiate the **agreement**) or to your Company Secretary at your registered business address; and
- b) for us - to our Operations Manager at our registered address.

16.10 16.10 Notices must be in writing and delivered by first class post or by email. With the exception of **termination notices**, notices sent: (i) by first class post will be assumed to have arrived on the second day after they were posted; and (ii) by email will be assumed to have been received on the day they were sent.

16.11 The provisions of this clause 16 will not apply to the service of any legal proceedings.

16.12 All references to time in this **agreement** are to the time in the United Kingdom.

## Dispute Resolution

17.1 If any dispute arises in connection with this **agreement**, you and we will first attempt to resolve the dispute in accordance with our customer complaints procedure which is available on our website.

17.2 If the dispute is not resolved in accordance with clause 17.1, clause 18.2 will apply.

## Governing Law and Jurisdiction

18.1 The laws of England apply to this **agreement** and any dispute or claim arising out of or in connection with it.

18.2 The courts of England will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this **agreement**.

# EVOLVE | ENERGY

## General Terms & Conditions

### Gas Version 3.0

[account.services@evolve-energy.com](mailto:account.services@evolve-energy.com)

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