

## Energy Terms and Conditions

### 1. Introduction

1.1. This document sets out the terms and conditions that will apply if we supply your business with electricity or gas, or both. These terms and conditions will apply whether you entered into an oral Contract with us over the phone or a written Contract, or where you are a Deemed Customer.

1.2. We have explained the meaning of words which are capitalised in clause 19 (Definitions).

1.3. You understand and agree that the Contract is legally binding (whether entered into by you or somebody acting on your behalf) and you must comply with the obligations and responsibilities placed on you by the Contract. If you do not, we may take legal action against you.

### 2. Before we supply you with Energy

2.1. We agree to supply you with Energy on the basis that:

a. you have the authority to enter into the Contract, and you are the owner or occupier of the Site;

b. you have made sure that the Site is connected and able to receive Energy;

c. on the date of this Contract, you have no contract with, or obligation to, another Energy supplier which will prevent us from registering as your Energy supplier in due course;

d. you confirm that you will use the Energy we supply entirely or mainly for business purposes, and not for domestic purposes;

e. you will provide us with a meter reading, or allow us or our agents access to the Site to obtain a meter reading, and you consent to us liaising with your previous supplier, any third party intermediaries appointed by you or other industry parties to obtain information we reasonably require to carry out the transfer of your Energy services or commence supplying Energy to any Site;

f. if requested, you will provide us with a deposit for Energy supply and/or a completed Direct Debit mandate. We will hold the deposit for 12 months. After this time provided all of our invoices have been paid in full, on time and by Direct Debit, at your request we'll either refund to you the unused balance of the deposit or apply the unused balance of the deposit as a credit to your account to be used as payment towards your Energy services. We don't pay any interest on deposits held by us;

g. if any Site Works are required, these are paid for by you in advance.

2.2. We will only be obliged to supply you with Energy if:

a. you have met the conditions set out in clause 2.1;

b. we are allowed to supply you under the terms of our Supply Licence;

c. we have been able to identify the Site, the meter location/Connection Point, MPAN and/or MPRN;

d. the results of any credit reference search carried out on you are acceptable to us;

e. we are able to register as the Responsible Supplier to each Connection Point.

### 3. Becoming your Energy supplier

3.1. Subject to clause 2, the Contract is binding on us and you from the date it is entered into, but we will only start to supply Energy to the Site from

the date on which we become the Responsible Supplier.

3.2. We will normally start to supply you within 21 days of the date on which we become aware that your contract with your previous supplier has ended, unless:

a. we agree otherwise;

b. your current supplier prevents the transfer;

c. we do not receive all the necessary information required to complete the transfer; or

d. there are no Metering arrangements or connections at the Site.

e. we become aware, prior to starting to supply the Site, that we do not have a valid Contract for the supply of Energy.

3.3. You must do all that you reasonably can to help us register as your Energy supplier, which may include providing us with information or contacting your previous supplier if we ask you to do so.

3.4. If we are not able to register as your Energy supplier for any of the reasons set out in clause 3.2, we will try to become your Energy supplier within 21 days of the date that the final reason for the delay has been resolved.

3.5. We will not be responsible for any losses caused by any delay or failure in us becoming the Responsible Supplier for reasons which are beyond our reasonable control.

3.6. The Charges are based on us becoming the Responsible Supplier within 21 days of your contract with your previous supplier ending. You agree that if we are not able to become the Responsible Supplier within that time because of something you have or have not done, you will compensate us for any losses we suffer as a result of the delay. In this situation, we will decide whether to invoice you for any losses and, if we do, you agree to pay that invoice in accordance with these terms and conditions.

3.7. Once we have become the Responsible Supplier, we will be entitled to stop you from transferring your Energy supply at any Site to which this Contract applies to if:

a. you changing supplier would break the terms of the Contract;

b. you have not paid all of the Charges or other sums due to us under the Contract;

c. in the case of electricity only, the transfer does not include transferring at the same time all Connection Points that need to be transferred together.

3.8. If we do agree to you transferring your Energy supply to a new supplier even though clause 3.7(a), (b) or (c) apply, you will not be relieved from your obligations to pay us any sums due under the Contract.

### 4. Length of the Contract

4.1. The Contract is binding on you and us from the date it is entered into, whether orally or in writing, and, unless you are a Deemed Customer or on Out of Contract Rates, will continue for at least the Fixed Period.

4.2. The Fixed Period will begin on the date we become the Responsible Supplier. We will write to you to confirm both the Contract start date and the date on which we become the Responsible Supplier.

4.3. If the Contract is for a Fixed Period, we will send you a statement of renewal terms at least 60 days before the end of the Fixed Period. We will explain in the statement of renewal terms both how you can end the Contract and the options for renewing the Contract. We may change the Contract Rate set out in the statement of renewal prior to agreeing a new Fixed Period and will inform you of any new Contract Rate when we agree the new Fixed Period.

4.4. Your Contract will expire at the end of the Fixed Period if you have given notice during the Fixed Period in accordance with clause 14.1. If it does not expire and you do not renew your Contract for a further Fixed Period you will be transferred onto our standard variable rates and can end the Contract at any time on 30 days' written notice as set out in clause 14.1.

### 5. Deemed Customers

5.1. This clause only applies to Deemed Customers.

5.2. The following clauses of the Contract do not apply to you if you are a Deemed Customer: 2.1, 2.2, 3.2, and 4. The remainder of these terms and conditions will apply, as long as they do not conflict with anything in this clause 5, until you either enter into a formal Contract with us or you transfer your Energy services to another supplier.

5.3. Unless we agree otherwise with you, we will calculate and apply Charges for Energy supplied to you in accordance with clause 9:

a. if you are a Deemed Customer because you are the new occupier or owner at the Site and we are the existing Responsible Supplier, we will calculate Charges from the date you became responsible for the Site;

b. if you are a Deemed Customer because you or we have terminated the Contract and you have not transferred to a new supplier, we will calculate Charges from the date the Contract ended;

c. if you are a Deemed Customer because we have been appointed under a last resort direction, we will calculate Charges from the date provided in the notice from Ofgem to us informing us of our appointment.

5.4. The Charges we apply for the Energy we supply to you as a Deemed Customer will be our Out of Contract Rates, unless we agree otherwise with you.

5.5. As a Deemed Customer, you can end the Contract at any time by transferring away. You remain liable for all Charges during the period you were a Deemed Customer.

### 6. During the Contract

6.1. You must pay us for the Energy we supply at any Site as set out in clause 9.

6.2. Where you are an electricity customer:

a. electricity will be delivered to each Connection Point by the Network Operator on our behalf. The Network Operator is responsible for maintaining the Network and the connection of each Site to the Network, and it may Disconnect or De-energise the electricity supply if legally permitted to do so. We do not accept responsibility or liability for the delivery of electricity;

b. ownership of, and responsibility for, the electricity will transfer to you at the Connection Point and you will be responsible for electricity losses which are incurred on your side of the Connection Point;

c. we are acting on behalf of your Network Operator to agree with you that you accept (by entering into the Contract) and will comply with

the National Terms of Connection (NTC) from the date on which you enter into this Contract. The NTC is a legal agreement setting out rights and duties in relation to the Connection Point at which your Network Operator delivers electricity to, or accepts electricity from, your Site. If you require a copy of the NTC or have any questions about it, please write to: Energy Networks Association, 4 More London Riverside, London SE1 2AU: phone 0207 706 5100, or search on <https://www.energynetworks.org/>.

6.3. Where you are a gas customer:

a. gas will be delivered to each Connection Point by the Transporter on our behalf. The Network Operator is responsible for maintaining the Network and the connection of each Site to the Network and it may Disconnect the gas supply if legally permitted to do so. We do not accept responsibility for or liability for the delivery of gas;

b. ownership of, and responsibility for, the gas will transfer to you at the Connection Point and you will be responsible for gas losses which are incurred on your side of the Connection Point.

6.4. You agree:

a. to provide us with any assistance and information we reasonably require to enable us to comply with our obligations under the Contract, our Supply Licence or the Industry Codes;

b. to maintain the equipment, pipes and any wires at each Site in good and safe working order and in compliance with law;

c. to ensure that each Site remains connected to the Network at the relevant Connection Point, and to maintain and comply with all necessary agreements and consents for such connection;

d. not to enter into a contract with any third party for the supply of electricity and/or gas (as per the services we supply to you) to any Site during the Fixed Period;

e. that we can pass on to third parties information concerning the supply of Energy or information you provide to us and we will do so in accordance with law, our Supply Licence, the Industry Codes and our privacy policy (<https://kinex.co.uk/privacy-policy>) (see clause 17);

f. we may contact you in relation to the Contract using any contact details you have provided to us;

g. on reasonable notice, to ensure that we, our metering agents or anyone else working on our behalf has access to the Site to install, test, inspect, repair, replace, remove or check the accuracy of any meter. You must pay any costs involved in providing access, including any extra costs we face because the meter is not easy to access;

h. that you authorise us, our metering agents, anyone acting on our behalf and the Distributors (including any Transporter or shipper of gas involved in the distribution network) to enter each Site at all reasonable times, to install, read, test, repair, maintain, inspect, replace, remove or check the accuracy of the meter or to De-energise or Disconnect your Energy supply. You also agree that this right of access extends to the entity that owns the Metering, and to any of our contractors.

6.5. You will notify us:

a. before you make changes to the Sites that are likely to alter the amount of Energy you consume or the time of day you consume it;

b. before you install Energy generating equipment at a Site;

c. before you change the voltage at which you take any electricity supply; and

d. before you cease occupation of the Site as per clause 14.2.

6.6. You confirm that all of the information provided by you (or on your behalf) in relation to the Contract was accurate, complete and not

misleading, including any information used by us in calculating any quotation for the supply of your Energy. You acknowledge that we relied on this information when we agreed to enter into the Contract. If the information supplied to us is incorrect or inaccurate, we may alter the Charges payable by you to take account of that.

## 7. Measuring or estimating your Energy usage

7.1. If you have an existing meter at the Site, we will use this and standard industry methods to measure how much Energy you use. We will use meter readings as evidence of the Energy you have used so that we can calculate the Charges to be invoiced to you.

7.2. You may also provide us with meter readings. We will use those meter readings to calculate the Charges to be invoiced to you, except where those meter readings are inconsistent with the meter readings taken by us or any of our contractors, in which case we will use the meter readings taken by us or our contractors.

7.3. Where there is no meter at the Site, we will arrange for Metering to be installed where reasonably possible (save where clause 7.10 applies).

7.4. If you believe that the Metering at a Site is inaccurate, you can ask us to test the Metering and we will arrange this within a reasonable period. If the accuracy of the Metering is found to be within the limits prescribed by the Industry Codes, you will reimburse us for the cost of the test but if it is not within the limits, we will repair or replace the Metering and will also apply a reasonable adjustment (up or down) to the Charges to reflect the inaccuracy.

7.5. If a meter reading is not available, or is in our reasonable belief inaccurate, we will estimate the amount of Energy used by you and will charge you accordingly. Any such estimates shall be subject to reconciliations as and when actual or more accurate information becomes available.

7.6. The Metering will either belong to us or another entity with which we have contracted and we or the other entity may transfer the ownership of the Metering or replace it with alternative Metering.

7.7. You are responsible for maintaining any of your own equipment and must ensure that it is maintained and in good working order at all times. You will be responsible for any damage to your equipment due to overloading (unless any damage is caused by us).

7.8. It is a criminal offence to and you must not damage or interfere with the Metering and you agree that you will compensate us for any losses or costs that we incur as a result of damage to the Metering. If you do anything, or fail to do anything, which results in damage to the Metering, we may De-energise the Connection Point until you have repaired or replaced the Metering, or compensated us for any repairs or replacement that we have carried out.

7.9. Where we replace the Metering at your request, you will reimburse us for any costs and expenses that we incur (including abortive visit charges) in connection with the replacement other than those arising due to our failure to meet our obligations.

7.10. Where we supply you with electricity, for Sites that have, or later are required to have, half-hourly electricity meters, we will contract with a metering agent (to carry out Meter Operator services or data collection) on your behalf unless you notify us otherwise in writing. If you wish to appoint a Meter Operator agent to act on your behalf, you may only appoint one person to carry out this role at any one time. We will only agree to you appointing your own meter agent if the person you intend to appoint is accredited under the Balancing and Settlement Code to carry out the role, there is a contract in place between you and the meter agent setting out your and their responsibilities, and if you are responsible for paying the fees of the meter agent. Where this clause 7.10 applies, you will be responsible for the accuracy of the meters and clause 7.4 will not apply. You will compensate us for any losses and

costs we incur as a result of your agent's poor performance.

7.11. You agree that we may change the profile class of the meter and that you will pay for any necessary upgrade to the Metering or Connection Point to the Distributor's Network if:

a. required by an Industry Code, direction or classification;

b. it is required to reflect the non-domestic use of the Energy under the Contract;

c. the amount of Energy you use at any Site is higher than the industry requirements for your meter profile class of the meter; or

d. the amount of Energy you use at any Site is higher than the amount of Energy your Connection Point is registered to receive.

## 8. Advanced and smart meters

8.1. If a Site has advanced or smart metering, you agree that we may obtain, store and use consumption data from that meter for the purpose of calculating Charges, monitoring usage, repairing and updating the meter. We will also use this data to optimise settlement and forecasting; identify energy efficient savings and products; and monitor and control potential energy theft. You can request that we stop obtaining, storing and using consumption data for periods of one month or more by emailing us at [service@kinex.co.uk](mailto:service@kinex.co.uk).

8.2. If you agree to have a smart meter installed, we or our agent will contact you to arrange an appointment to carry out the necessary work. If you do not let us or our agent onto the Site for the appointment we may charge you for the cost of the visit, unless you have given us 48 hours' notice of cancellation.

8.3. We or our agent will own the smart meter and any display that we or they may provide. If you leave the Site you must leave any display unit provided at the Site unless it is a display unit that you have purchased for your own use.

8.4. If you had an advanced meter or a smart meter installed by a previous supplier, we will try to support all of its functions, but if we are unable to do so we may swap the meter for one which we can support.

8.5. Once a smart meter is installed and is functional, we will be able to take meter readings, update your meter and monitor your Energy use without visiting the Site. We will use any readings obtained to calculate the Charges for your Energy use unless the smart meter has failed or communications with the smart meter have failed, in which case we will estimate your Energy usage in accordance with clause 7. We can also disconnect the Energy supply, again without visiting the Site, but only where we are legally allowed to do so or where we agree with you that we can do this.

## 9. Charges

9.1. You agree to pay us for the Energy you use (whether estimated or actual) at the Contract Rate or, where applicable, the Out of Contract Rate. You also agree to pay us any other charges set out or referred to in the Charges Schedule, the Pricing Schedule and these terms and conditions.

9.2. We can only invoice you for the Energy you have used in the last 12 months, unless:

a. the bill was sent prior to 1 November 2018; or

b. we have previously sent a compliant invoice and we are seeking payment for previously invoiced Charges; or

c. you behave in an obstructive or manifestly unreasonable way (for example you do not allow us access to your meter without good reason, you are behaving unlawfully by stealing Energy or you have wilfully avoided payment); or

d. any other circumstances apply as specified by Ofgem.

9.3. Each month, or as unless otherwise agreed, we will send you an invoice with Charges for the relevant period by post or e-billing.

9.4. Any Charges stated are exclusive of any applicable tax, duty, levy (including, but not limited to, Climate Change Levy), tariff or any government imposed charge on Energy supplied to your Site at the time of supply, which you shall pay in addition to the Charges.

9.5. You will pay the Charges set out in each invoice to us:

a. by Direct Debit (unless otherwise agreed);

b. in accordance with the advance notice given on your invoice, or, if no time limit is given, by the Due Date.

9.6. If you do not pay all Charges by the Due Date, we may charge you interest and fixed-sum charges (which vary depending on how much you owe us) at the levels set out in the Late Payment of Commercial Debts (Interest) Act 1998 together with our reasonable costs. The interest rate as set by the Act is currently 8% above the Bank of England base rate. You agree to promptly reimburse us for any costs we incur as a result of your non-payment of the Charges.

9.7. Unless otherwise agreed, we will send you your invoice by paper billing and will charge the relevant fee for paper billing detailed in the Pricing Schedule.

9.8. It is your responsibility to ensure that there are sufficient funds in your account to cover the Direct Debit payment. If you do not pay all Charges by Direct Debit (whether because you have not set up a Direct Debit or if your Direct Debit fails to be collected or otherwise) we will charge you as set out in the Pricing Schedule. You must tell us promptly of any changes to your bank details that may affect payment of the Charges. This Clause does not affect any other rights or remedies we have under the Contract.

9.9. If we are e-billing, you will notify us of the email address and, if an e-billing account is used, you must keep your password secure and confidential. We may close your e-billing account at any time without notice if we have reason to believe that the account is being accessed or used in an unauthorised manner.

9.10. Any payments made by you to us, including payments for services other than Energy, may be applied by us as we deem appropriate, including to reduce debts owed by you to our Affiliated Companies.

9.11. If there is a genuine dispute about any Charges, you shall pay the Charges in full but if we subsequently reach agreement on the disputed Charges, an adjustment (debit or credit) shall be made to a subsequent invoice.

9.12. Where we owe you a credit under the Contract, we may set-off the credit against any amounts you owe us or our Affiliated Companies under the Contract or under any other agreement. You may not set-off any Charges you owe us against any amounts we or our Affiliated Companies owe you under this Contract or any other agreement.

9.13. Where a credit arises under clause 9.12 and we do not exercise our right to set-off, we will deduct the amount from your next invoice.

9.14. Your obligations under this clause 9 still apply even if you appoint a third party agent to provide bill processing or validation services.

9.15. If you fail to pay when due any amount payable by you under the Contract and do not pay such amount in full within 10 days of the Due Date, all amounts under the Contract will be immediately due and payable. In addition, we will be entitled to:

a. require you to pay the Charges for each month in advance based on our estimate of likely Energy consumption in that month (subject to a subsequent reconciliation against actual

consumption at least once in every 12-month period); or

b. require from you a security deposit, guarantee or bond. We will hold the security deposit, guarantee or bond for 12 months. After this time provided all of our invoices have been paid in full, on time and by Direct Debit, at your request we'll either refund to you the unused balance of the security deposit or apply the unused balance of the security deposit as a credit to your account to be used as payment towards your Energy services. We don't pay any interest on security deposits, guarantees or bonds held by us; and/or

c. object to the registration by another supplier of any supply point we supply under this Contract; and/or

d. end the Contract under clause 14.4.

9.16. If you do not pay any of the Charges by the Due Date, we may pass information relating to your failure to pay onto a credit reference agency.

## 10. In case of emergency

10.1. The electricity we supply may vary in voltage, as permitted by the Electricity Supply Regulations 1988. You accept that we cannot guarantee a continuous supply of electricity. If you need a continuous supply of electricity, you must arrange an emergency or standby supply.

10.2. If you become aware of or suspect a gas leakage, you must report it immediately to the National Gas Emergency Service. As at the date these terms and conditions were last updated, the telephone number you must call is 0800 111 999.

10.3. If you become aware of or suspect an electricity emergency, you can call 105 and you will be advised accordingly.

10.4. Emergency energy services will be provided by us or on our behalf. If we ask you to, you must pay us any call-out charges we have to pay to a Distributor or our metering agents, including those relating to stopping a gas leak or providing other emergency services on your equipment.

## 11. Disconnecting or De-energising your Energy supply

11.1. We may, and you agree that we may, De-energise or Disconnect any Connection Point at any time for any or all of the Sites if:

a. you fail to pay when due any amount payable by you under the Contract, and do not pay such amount in full within 28 days of the Due Date;

b. you are in breach of any of the terms of the Contract (other than for failure to pay), and (if the breach is capable of remedy) you do not remedy the breach within 14 days of us informing you of such breach;

c. we reasonably believe that you have made unauthorised use of the Energy or committed theft of Energy;

d. there is an Insolvency Event;

e. it becomes unlawful for us to comply with any material provision of the Contract;

f. a landlord's consent is required for us to become the Responsible Supplier to the Site and you have not obtained such consent on terms acceptable to us (or that consent ends);

g. you do not provide us with the security deposit, guarantee or bond referred to in clause 9.15 within 10 days of us requesting you to do so;

h. any information you have provided to us is incorrect;

i. any of the specified termination reasons in the Supply Licence apply;

j. you ask us to in writing, as long as you pay any relevant fee to us in advance and any other sums due to us under the Contract;

k. it is necessary for safety reasons or for the safety of the Distributor's network

l. we believe that:

i. the Energy intended to be supplied to you has been stolen or redirected;

ii. there has been interference with the Network or Metering;

iii. it is necessary to do so to avoid danger or a breach of an Industry Code;

m. the law, our Supply Licence or any Industry Code requires this;

n. clause 7.8 of these terms and conditions applies;

o. after we end the Contract in respect of that Site in accordance, we remain the Responsible Supplier; or

p. we believe, acting reasonably, that we should do so.

11.2. You agree that we (and our contractors) may access a Site to Disconnect or De-energise the Energy supply to that Site in accordance with this clause 11 or that we can Disconnect or De-energise the supply remotely if the Metering provides for this.

11.3. If the Energy supply to any Site is (or arrangements are made for it to be) Disconnected or De-energised because of something you have done or something you should have done but failed to do you will:

a. compensate us for any losses or costs which we have incurred as a consequence of Disconnecting or De-energising the supply;

b. compensate us for any costs which we incur in re-establishing the supply; and

c. on our request, provide us with a security deposit, guarantee or bond as we may, at our sole discretion, reasonably require. We will hold the security deposit, guarantee or bond for 12 months. After this time provided all of our invoices have been paid in full, on time and by Direct Debit, at your request we'll either refund to you the unused balance of the security deposit or apply the unused balance of the security deposit as a credit to your account to be used as payment towards your Energy services. We don't pay any interest on security deposits, guarantees or bonds held by us.

11.4. We will not Re-energise your Site until you have asked us to do so in writing, paid our costs and charges for De-energising or Disconnecting the Site, paid our costs and charges for Re-energising the Site and remedied any breaches of the Contract caused by you (including paying any sums owed to us). We will not be liable to you for any loss you may suffer as a result of a delay in Re-energising a Site.

11.5. We will, on request, send you our current charges for Disconnecting, De-energising and Re-energising a supply.

11.6. We will notify you if we intend to Disconnect or De-energise an Energy supply to a Site in accordance with our legal obligations, our Supply Licence and any Industry Codes.

11.7. If there is a gas pipeline emergency (as defined in our Supply Licence), or if we must do so by law, or to protect the safety of people or property, or if there is an actual or suspected gas leak, we may stop or restrict the gas supply to the Site. You must stop using gas immediately if we or another authorised organisation tell you to do so.

## 12. Theft

12.1. If we suspect that somebody has committed fraud or stolen Energy by interfering with the Metering or the Energy supply, we will record this on your account and we may share it with people who may have an interest in receiving that information, for example other Energy suppliers, any landlord at the Site or industry organisations. As a result, we may record personal data about

you, which may be used by us to make decisions about you in the future. We may share your personal data with other organisations for the purpose of assessing or investigating Energy theft or fraud. Where we suspect that there has been fraud or theft of Energy, we may investigate, pursue and prevent such fraud or theft.

### 13. Changes to the Contract

13.1. We will not, during the Fixed Period, increase charges set out in the Charges Schedule to recover increases in costs that could reasonably have been expected by us however, we may increase charges set out in the Charges Schedule during the Fixed Period where the increases in costs could not reasonably have been expected by us including, but not limited to, where:

a. there is a change to law or regulation or there is a decision or advice by a regulatory authority which affects charges set out in the Charges Schedule;

b. the information provided by you or your agent is incorrect; or

c. information about the historic and expected pattern or quantity of Energy use is inaccurate or different to your actual usage.

13.2 Subject to clause 13.1, we may increase the Charges, amend the Pricing Schedule and change any term of the Contract at any time by publishing the changes online at <https://kinex.co.uk/terms-and-pricing> (or any other online address of which we notify to you) and/or notifying you in writing by email or post or notice in our invoices or notice on Customer Zone.

### 14. Ending the Contract

14.1. You can end this Contract during the Fixed Period or any renewal of it by giving us not less than 30 days' written notice to expire at the end of the first Fixed Period or any renewal of it. If you are not in a Fixed Period or a renewal of it (on our standard variable rates), you can end the Contract at any time on not less than 30 days' written notice. Written notice should be given by email to: [service@kinex.co.uk](mailto:service@kinex.co.uk) or by post to the address at clause 16.3. You can end this Contract at any time by transferring away if you are a Deemed Customer. If you wish to end the Contract because you are leaving a Site you must notify us in writing at least 30 days before you cease occupation.

14.2. You are responsible for payment of our Charges and any applicable taxes until the earlier of (1) the date on which you notify us that you have ceased occupation of the Site and provide evidence to our reasonable satisfaction that you have ceased occupation (where the date of notification and the date on which you provide satisfactory evidence are different the latter date applies); and (2) the date on which a new occupier confirms their occupation and enters into a Contract with us for the supply of Energy to the Connection Point or transfers the Energy supply to another supplier. If you vacate the Site prior to the expiry of the Fixed Period, early termination fee may be applicable as set out in clause 14.7.

14.3. If we supply you with both gas and electricity, you or we may terminate the Contract for one or both of those services in accordance with these terms and conditions. If the Contract is only terminated for one service, the Contract will continue for the remaining service on the same terms.

14.4. We may end the Contract at any time for any or all of the Sites if:

a. clause 9.15 (d) applies;

b. you are in breach of any of the terms of the Contract (other than for failure to pay), and (if the breach is capable of remedy) you do not remedy the breach within 14 days of us informing you of such breach;

c. we reasonably believe that you have made unauthorised use of the Energy or committed theft of Energy;

d. there is an Insolvency Event;

e. it becomes unlawful for us to comply with any material provision of the Contract;

f. a landlord's consent is required for us to become an Energy supplier to the Site and you have not obtained such consent on terms acceptable to us (or that consent ends);

g. you do not provide us with the security deposit, guarantee or bond referred to in clause 9.15 (b) within 10 days of us requesting you to do so;

h. any information you have provided to us is incorrect;

i. any of the specified termination reasons in the Supply Licence apply;

j. you subsequently take out a product that is incompatible with our supply.

14.5. The Contract will automatically immediately terminate if our Supply Licence is revoked, or if a last resort supply direction (as defined in the Supply Licence) is given to another supplier in respect of the supply of Energy to the Site(s). We may also terminate this Contract immediately if Ofgem directs another supplier to take over your Energy supply.

14.6. If we end the Contract in respect of any or all of the Sites in accordance with clause 14.4 or clause 14.5:

a. we will tell you when the Contract will end;

b. you will pay us all sums due and payable or accrued under this Contract and, in the case of termination in accordance with clause 14.4, any losses and costs we incur as a result of the early termination of the Contract and the enforcement of our rights including, but not limited to, any loss of profits for the remainder of the Fixed Period;

c. you will allow us or our appointed agents to enter the Site(s), to remove any Equipment and/or to De-energise or Disconnect the Connection Point or some other point to effect the discontinuance of supply.

14.7 If this Contract is terminated under clause 14.4, with the exception of clause 14.4.e, then you agree to pay us a termination fee equal to your average estimated monthly consumption multiplied by the remaining number of months in the Fixed Period. You agree that this payment represents a fair and reasonable estimate of the losses, costs, and expenses, which we will suffer in the event that the Contract is terminated pursuant to clause 14.4.

14.8. If you are a sole trader or partnership you will not be required to pay an early termination fee when you cease business if you provide a recently issued letter confirming you have ceased to trade from any of the following: a firm of solicitors/a licensed insolvency practitioner/an accountancy firm, each of which must be registered with and regulated by their respective regulatory authority. The letter must confirm you have ceased trading in all business capacities in which you were formerly engaged.

14.9. If we continue to supply Energy to any Site after you end the Contract (for example, because you have not appointed a new supplier), then the Fixed Period or any renewal of it will end for the Site but the Contract will continue until you stop taking a supply of Energy from us. Where this is the case, you will be charged at the Out of Contract Rate and you agree to reimburse us for all the costs that we reasonably incur until the earlier of (1) supply to the property being Disconnected or De-energised; and (2) the date on which another supplier becomes the Responsible Supplier.

14.10. If during this Contract a Connection Point is being registered or has been registered by another energy supplier for any reason other than as a result of any default by us or proper termination of this Contract, then you authorise us and will provide us with all reasonable assistance required to either, at our discretion:

a. raise an objection to such registration;

b. re-register the Connection Point with us as the Responsible Supplier;

c. pay us a sum calculated as the average monthly amount (which amount shall be determined by us) times the number of months left in the Contract (subject to a maximum of twelve (12) months).

### 15. Liability and Warranty

15.1. Neither you nor we shall be liable for any failure, delay or breach of this Contract caused (directly or indirectly) by any event or circumstance which is beyond our reasonable control such as floods, storm damage, terrorist activity or armed conflict. This does not include a lack of funds or the consequences of an economic downturn.

15.2. Subject to clauses 9, 15.3 and 15.6, neither you nor we shall be liable to each other for loss or damage arising in connection with this Contract (whether resulting from breach of this Contract, negligence or otherwise) except where such loss or damage was reasonably foreseeable as likely to result from such breach. Further, we shall only be liable to you if there has been physical damage to your property or to the property of any third party for which you are liable provided that:

a. our liability to you under this clause 15.2 shall be limited to a total value equal to the sum of your annual Energy consumption multiplied by your Contract Rate; and

b. subject to clauses 14.6(b) and 14.10(c), we shall not be liable to each other for any loss of profit, revenue, business, savings (anticipated or otherwise), damage to reputation or any other form of economic or indirect or consequential loss. For the purposes of this clause 15.2, property shall include work in progress valued at cost.

15.3. Nothing in this Contract shall exclude or limit the liability of any party for death or personal injury resulting from the negligence of that party or your liability for any sums properly due to us under this Contract.

15.4. We shall not be liable to you, your officers, employees or agents in any circumstances whatsoever for:

a. any loss of profit, loss of use, loss of contract or loss of goodwill / damage to reputation; or

b. any indirect or consequential loss; or

c. loss resulting from the liability of any party howsoever and whenever arising save as provided in clause 15.2.

15.5. Neither we nor our officers, employees or agents shall be liable to you for:

a. loss or damage arising out of any act or omission of the Distributor in the performance of its duties; and

b. any modifications to the distribution or Metering system. If you modify the Metering equipment then you warrant that you will indemnify us against all costs, losses, claims or demands and expenses including (without limitation) legal expenses which we may suffer or incur as a result of such modification.

15.6. You must reimburse us for all costs and losses we suffer as a result of your breach of the terms of the Contract or any law, regulation or agreement about the connection or use of the Energy we supply or failing to use our or your equipment in line with all relevant law and regulation. You also agree to reimburse us for any costs or losses we suffer as a result of your employees, agents, representatives or partners failing to adhere to the terms of the Contract or any applicable law or Industry Code.

15.7. You and we agree that each sub-clause of this clause 15 is separate and severable, and if one or more of the sub-clauses is held to be invalid, unlawful or otherwise unenforceable the others shall remain in full force and effect and shall continue to bind us and shall survive termination of this Contract.

15.8. Except as provided in this Contract, you and we agree that all rights and remedies provided by statute (save the Electricity Act or the Gas Act) or common law are excluded from application under this Contract to the fullest extent possible.

15.9. You agree that we shall hold the benefit of this clause 15 for ourselves and as trustee and agent for our officers, employees, agents and contractors.

15.10. You warrant that you are the end user of the Energy we supply and that you are not supplying the Energy on to any other parties.

15.11. Where we agree to supply Energy to entities which are linked to you, you are liable for everything those linked entities do or do not do and agree to make those entities aware of these terms and conditions.

## 16. Notices

16.1. All notices given by us or you in relation to the Contract must, unless otherwise stated in this Contract, be:

a. in writing and addressed and sent to the recipient's address or email address as notified;

b. sent by hand or courier or prepaid post or email.

16.2. All notices or other communications sent in accordance with clause 16.1 will be deemed to have been received:

a. where delivered by hand or courier, when delivered;

b. where sent by post, on the third day following the day of posting;

c. where sent by email, on receipt by the recipient's email server, unless receipt would otherwise occur outside of normal working hours, in which case receipt will be deemed to have occurred at 0900 hours on the next normal business day.

16.3. Letters sent to us should be sent to Kinex, No. 1 Dovecote, Old Hall Road, Sale, M33 2GS.

Clauses 16.1 and 16.2 do not apply to notices given under clause 13.1.

## 17. Privacy Policy and use of your information

17.1. By entering into the Contract you are confirming:

a. that you have read our privacy policy (available at [kinex.co.uk/privacy-policy](http://kinex.co.uk/privacy-policy)) which forms part of these terms and conditions; and

b. that you do not object to the use and sharing of your personal data, including your contact details, as explained in the privacy policy.

17.2. Details of our Affiliated Companies can be found at [kinex.co.uk/privacy-policy](http://kinex.co.uk/privacy-policy). We or our Affiliated Companies (or others acting on our behalf) may collect, store and use information about you including:

a. your name, age, gender and date of birth;

b. your home address and telephone number(s);

c. banking and financial information;

d. consumption data;

e. information about when you contact us and when we contact you; and

f. information we received when making a decision about you (including any information collected from credit reference agencies).

17.3. Full details of how we may use your personal data can be found in our privacy policy. As a summary, however, we may use your information to:

a. provide the services you have requested including operating and managing your account;

b. identify you if you call us about your account;

c. charge you for the services we provide;

d. comply with our legal and regulatory obligations;

e. contact you by email, SMS, letter, telephone or in any other way about our products and services (unless you have asked us not to);

f. search credit reference agencies or fraud prevention agencies;

g. identify, prevent, detect or tackle fraud, money laundering or other crimes; and

h. market services provided by our Affiliated Companies.

17.4. If you do not wish to receive direct marketing from us or our Affiliated Companies, you can let us know at any time by emailing us on [dataprotection@verastar.co.uk](mailto:dataprotection@verastar.co.uk) or by writing to us at Kinex, No. 1 Dovecote, Old Hall Road, Sale, M33 2GS or by any other means set out in our privacy policy.

17.5. We may also share your information with:

a. all relevant industry organisations (or others acting on their behalf), based on approved industry processes;

b. regulatory bodies, government authorities or ombudsman schemes;

c. credit reference agencies or fraud prevention agencies;

d. any payment system we use; and

e. our Affiliated Companies.

17.6. We may monitor and record our communications with you, including emails and phone conversations and use such information for training purposes, quality assurance, to record details about your services and to meet our legal and regulatory obligations.

## 18. Miscellaneous

18.1. The Contract represents the entire understanding and the whole agreement between us and you relating to its subject matter, and replaces and extinguishes any other statement or representation we have made. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given on our behalf which is not set out in the Contract.

18.2. No delay or failure by either us or you in exercising any right or remedy under the Contract will operate as a waiver of such right or remedy. Any single or partial exercise will not prevent any further exercise of the same right or remedy, or the exercise of any other right or remedy.

18.3. We may transfer the Contract (or our future rights and obligations under the Contract) and sub-contract any of our obligations without your consent. You must not transfer any of your rights or obligations under the Contract without our prior written consent.

18.4. If a provision of the Contract is declared invalid or illegal or unenforceable, that provision will be deemed omitted from the Contract, and the other provisions will continue to apply.

18.5. If any of the provisions of any Industry Code are amended or varied or cease to apply, you will, at our request, agree to amend the Contract to accommodate any such amendment, variation or cessation in such manner as we reasonably require.

18.6. No provision of the Contract shall be enforceable by any third party, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

18.7. If you have a complaint about the service you receive from us, please see our complaints procedure at [kinex.co.uk/help-and-support/complaints-procedure-clear-business/](http://kinex.co.uk/help-and-support/complaints-procedure-clear-business/).

18.8. The Contract is governed by the laws of England and Wales, and is subject to the exclusive jurisdiction of the courts of England and Wales.

## 19. Definitions

19.1. The following words and expressions used in the Contract have the following meanings:

Affiliated Company means any holding company or subsidiary of ours or any company which is a subsidiary of a holding company of ours and "holding company" and "subsidiary" have the meanings set out in section 1159 Companies Act 2006

Balancing and Settlement Code means the code containing the arrangements for electricity balancing and settlement as amended from time to time

Charges means the prices and charges set out or referred to in the Charges Schedule, the Pricing Schedule, the Deemed and Out of Contract Rates, and these terms and conditions and calculated, where applicable, based on your Energy consumption

Charges Schedule means the schedule of charges provided to you with your contract pack

Climate Change Levy means the tax called the climate change levy established pursuant to schedule 6 of the Finance Act 2000

Connection Point means, in respect of each Site, the point(s) at which the gas or electricity flows between the Network and your equipment, pipes or wires

Contract means the supply contract between us and you which consists of these terms and conditions together with the terms agreed at the point of sale and set out in the contract pack

Contract Rate means the pence per unit charge and the pence per day standing charge for the supply of gas or electricity as agreed at the point of sale or on renewal and set out in the contract pack as either may be varied pursuant to clause 13.1

Deemed Customer means the owner or occupier of a Site which we supply Energy to other than under a formal Contract, as described in paragraph 8 of schedule 2B of the Gas Act or paragraph 3 of schedule 6 of the Electricity Act

De-energise means to temporarily stop the electricity supply at the Connection Point

Disconnect means to permanently cut-off the gas or electricity supply

Distributor means the owner or operator of a network for distributing gas or electricity, and through which the supply of gas or electricity is delivered at a Connection Point

Due Date means the date specified on the invoice, or where there is no such date, within 7 days from the invoice date

Electricity Act means the Electricity Act 1989 as amended by the Utilities Act 2000 and regulations made thereunder and as amended, consolidated or re-enacted from time to time

Energy means either gas, electricity or both, depending on what you have asked us to supply

Fixed Period means the period agreed at the point of sale and set out in the contract pack

Gas Act means the Gas Act 1986 as amended, consolidated or re-enacted from time to time

Industry Codes means any codes and agreements referred to in the Supply Licence or implemented by industry regulators from time to time

Insolvency Event means (i) if you are an individual, an interim order or bankruptcy order or individual voluntary agreement is or is about to be made in respect of you under the Insolvency Act 1986 (or equivalent), or an interim trustee or trustee in bankruptcy is appointed over your assets; or (ii) if you are a company, an order is made for the appointment of an administrator or an administrator is appointed or a liquidator is appointed; or (iii) you are dissolved; (iv) if you are a partnership, any of the partners are declared bankrupt or you are wound up, or a partnership administration order is made; or (v) you are apparently insolvent; or a voluntary arrangement is proposed or a resolution passed or an order made for your winding up; or a receiver or administrative receiver or manager is appointed over the whole or any part of your assets; or you are unable to pay your debts within the meaning of the Insolvency Act 1986; or you cease to or threaten not to pay your debts as they fall due or seek to make any composition or arrangement with your creditors

Metering means the metering (and related equipment) used for measuring Energy consumption data at the Connection Point and for collecting and transmitting the data for each Connection Point

Meter Operator means a person authorised under the Balancing and Settlement Code to install, commission, test, maintain or repair faults in a meter

MPAN means the unique reference number given to each electricity supply, otherwise known as a supply point number

MPRN means the unique reference number given to each gas supply, otherwise known as a supply point number

Network means the gas and/or electricity distribution network through which you receive Energy

Network Operator means, for each Site, the owner or operator of the Network

Ofgem means the government regulator of gas and electricity markets

Out of Contract Rate means our out of contract rates for the supply of Energy, as published on our website [kinex.co.uk/out-of-contract](https://kinex.co.uk/out-of-contract) or otherwise notified to you from time to time

Pass-through Amounts means charges levied on us which are outside our control and which relate to the supply of Energy, including the charges made for the provision or operation of meters or the collection or aggregation of meter data; charges made for the transmission and/or distribution of Energy; charges made in respect of losses on transmission and/or distribution systems; charges made because you exceed the capacity or volume allocated by the Network Operator; and any taxes, levies or duties imposed in relation to the supply of Energy or on us (including in respect of the renewables obligation, the small-scale low-carbon feed in tariff, contracts for difference or anything similar to them)

Pricing Schedule means the schedule of prices found at <https://kinex.co.uk/terms-and-pricing> as varied by us from time to time in accordance with clause 13.

Re-energise means to reconnect your electricity or gas supply at the Connection Point

Responsible Supplier means, for each Site, the supplier registered under the Industry Codes as responsible for the supply of Energy to the Connection Point(s) at that Site

Site means each site of yours that we supply with Energy, as amended and updated from time to time, excluding any site where the Metering consists of a pre-payment meter

Site Works means any works required to be carried out at the Site before we become the responsible Supplier, for example meter installation or during the period we supply you with Energy

Start Date means the date on which we start to provide you with Energy

Supply Licence means either (1) the electricity supply licence held by Sinq Power Limited under section 6 of the Electricity Act 1989, or (2) the gas supply licence held by Economy Gas Limited under section 23 of the Gas Act 1986

Transporter means the licensed public gas transporter and any other organisation licensed, appointed or accredited to transport gas

we/us/our means, for electricity customers, (1) Sinq Power Limited (as the holder of the electricity Supply Licence) and (2) Verastar Limited (trading as Kinex); for gas customers (1) Economy Gas Limited (as the holder of the gas Supply Licence) and (2) Verastar Limited (trading as Kinex). Sinq Power Limited and Economy Gas Limited are wholly owned subsidiaries of Verastar Limited

you/your the person, people, company or partnership which has entered into the Contract with us.