

Terms & Conditions

1. DEFINITIONS

IN THESE TERMS AND CONDITIONS:-

‘**Act**’ means the Gas Act 1986 for the supply of Gas ([http://www.crowngas.co.uk/online-documents/.](http://www.crowngas.co.uk/online-documents/))

‘**AMR Device**’ means a device installed on Site by the Installer which shall provide an automated reading to Crown Gas & Power.

‘**Agreement**’ means the arrangements under which Crown Gas & Power supplies the Customer with Gas, the details of which are set out in the Contract Details to be read together with these terms & conditions as set out below and as each may be supplemented or as amended by agreement of both parties in writing from time to time.

‘**Agreement Date**’ means the date of signature of the Customer as specified in the Contract Details or the Renewal Agreement.

‘**Agreement Type**’ means the type of agreement entered into between Crown Gas & Power and the Customer as referred to in the Contract Details or the Renewal Agreement.

‘**Climate Change Levy**’ (“CCL”) means a levy charged to any industrial, commercial, agricultural, public or service sector user only subject to exclusions as more particularly set out in Schedule 6 of the Finance Act 2000.

‘**Consequential Loss**’ means indirect or consequential loss, loss of profit, loss of use, loss of business, loss of production, loss of revenue, business interruption or increased cost of working.

‘**Contract Details**’ means those principal terms of the Agreement as set out in the document attached headed “Natural Gas Supply Agreement”.

‘**Contract Month**’ means a period of the term of this Agreement beginning at 0600 hours on the first day of the Supply Period (as set out in the Contract Details) and ending at 0600 hours on the same date of the next succeeding calendar month and each month thereafter.

‘**Contract Price**’ means the Unit Charge (expressed in pence per kWh) for each Supply Period and the Standing Charge] [and CCL] (if any) as set out in the Contract Details (or the Renewal Agreement) to be paid by Customer to Crown Gas & Power in respect of Gas supplied.

‘**Contract Year**’ means each consecutive period of 12 Contract Months commencing at 0600 on the Installation Date.

‘**Contracted Annual Quantity**’ means the contractual amount of Gas the Customer must take as set out in the Contract Details or the Renewal Agreement.

‘**Crown Gas & Power**’ means a trading division of Crown Oil Limited (registered in England and Wales under number 1315556) whose registered office is at The Oil Centre, Bury New Road, Heap Bridge, Bury, BL9 7HY.

‘**Customer**’ means the person whose details are set out in the Contract Details (or the Renewal Agreement).

‘**Demand Attribution Formula**’ means the method by which the System Operator estimates the daily quantity of Gas consumed in respect of Non-Daily Metered Sites.

‘Deemed Contract’ means a contract for the supply of Gas where Crown Gas & Power has never entered into a written contract with the Customer and Gas is still being supplied to the Site and as more particularly defined in paragraph 8(1) of Schedule 2B of the Act.

‘Deemed Contract Rate’ means the rates and charges which shall apply at any time to a Deemed Contract which are available at <http://www.crowngas.co.uk/online-documents/>.

‘Forecast Contractual Consumption’ means the quantity of Gas it is estimated will be consumed in each Supply Period under the Agreement as calculated by Crown Gas & Power by reference to the System Operator’s registered annual quantity and as set out in the Contract Details.

‘Gas’ means Natural Gas

‘Installation Date’ means the date on which the Meter is installed

‘Installer’ means Crown Gas & Power, Transporter or an alternative third party appointed by Crown Gas & Power to provide the Meter Installation.

‘Maximum Contractual Consumption’ (‘MACC’) means in respect of each Supply Period the maximum quantity of Gas the Customer can take equal to 125% of the Forecast Contractual Consumption.

‘Maximum Daily Quantity’ (‘MDQ’) means in respect of a Site the maximum quantity of Gas which each Site can use in one 24-hour period.

‘Meter’ means in respect of a Site, the primary measuring equipment of the Transporter installed in the supply pipeline from Transporter’s transmission system at such Site. There may be more than one meter at a Site.

‘Meter Installation’ means with respect to each Offtake Point, the meter and associated equipment installed or to be installed at each Site, including associated pipework, regulator filters, valve seals, housing and mounting.

‘Meter Reader’ means the person appointed to undertake a Meter Reading.

‘Meter Reading’ means the reading of the index of the Meter.

‘Micro Business’ means any business which consumes less than 293,071kWh and employs fewer than 10 employees and the annual turnover or annual balance sheet does not exceed £2million.

‘Minimum Contractual Consumption’ (‘MCC’) means in respect of each Supply Period the minimum quantity of Gas the Customer can take equal to 75% of the Forecast Contractual Consumption.

‘Network Code’ means the contract defining the rights of National Grid and Gas shippers.

‘Nominated Consumption’ means the quantity of Gas in respect of each Meter which the System Operator estimates (using its reasonable endeavours) that will be consumed on each Site in each Supply Period as specified overleaf.

‘Non-Daily Metered Site’ means a site where a meter read is only required at monthly, quarterly or longer intervals as defined in the Uniform Network Code.

‘Offtake Point’ means the final outlet of a Meter.

‘**Out of Contract Rate**’ means the higher of a rate not more than four (4) times the Contract Price or twice the prevailing charge for Gas at the relevant date.

‘**Pass Through Charges**’ means a charge to vary the Standing Charge by reason of Gas usage either exceeding or being less than the Nominated Consumption.

‘**Registered User**’ in respect of Site means the person who is registered by Transporter as being responsible to Transporter for Gas taken at the Offtake Points at the Site.

‘**Renewal Agreement**’ means a new agreement for the supply of Gas following expiry of the initial Supply Period, the details of which are as those details as provided to the Customer for the supply of Gas following the expiry of the initial Supply Period.

‘**Site**’ means any location containing one or more Offtake Points at which the Customer requires Gas and which is identified by Transporter for that location.

‘**Standing Charge**’ means the fixed charge per day as set out overleaf.

‘**Supply Date**’ means the date on which the supply of Gas commences.

‘**Supply Period**’ means the initial period commencing on the Supply Date or the Installation Date whichever is the earlier and ending after such period as defined under Supply Period as set out in the Contract Details or any new period as set out in the Renewal Agreement.

‘**System Average Price**’ (“SAP”) means the weighted average UK price of all trades for the relevant gas day on the open commodities market platform.

‘**System Operator**’ means the organisation(s) responsible for transportation and distribution of Gas through the UK pipeline network.

‘**Total Nominated Consumption**’ means the aggregate quantity of gas which the National Grid estimates (using its reasonable endeavours) that will be consumed on each Site in each Supply Period as specified overleaf.

‘**Transporter**’ means National Grid and any other person authorised to supply Gas through pipes pursuant to the terms of the Gas Act 1986 with whom Crown Gas & Power has a contract for transportation of Gas sold hereunder.

‘**Transporter’s Equipment**’ means all equipment deemed necessary by Transporter and installed by or on behalf of Transporter for the delivery of Gas to Customer.

‘**Uniform Network Code**’ means the common set of rules which define the legal and contractual framework to the supply and transportation of Gas.

‘**Unit Charge**’ means the charge for Gas expressed as pence per kw/h as set out in the Contract Details.

Any term used in this Agreement shall have the meaning ascribed to it in this clause or if not defined in this Agreement as defined in the Uniform Network Code.

In this Agreement the singular includes the plural and vice versa and each of the masculine, feminine and neuter genders includes each of the others.

2. DURATION AND TERMINATION

- 2.1
- i. This Agreement shall commence on the Agreement Date and shall remain in full force and effect until the end of the Supply Period and Crown Gas & Power shall only continue to supply the Customer thereafter if the Customer has entered into a new agreement with Crown Gas & Power or has not upon the expiry of the Supply Period arranged for the supply of Gas to be transferred to an alternative third party provider.
 - ii. Crown Gas & Power shall contact the Customer not less than sixty (60) days prior to the end of the Supply Period to provide the Renewal Details for the purpose of the Customer entering into a new Agreement.
 - iii. If the Customer has not entered into a new Agreement with Crown Gas & Power in accordance with clause 2.1(ii) above and has not switched across the supply of Gas to an alternative third party provider upon the expiry of the Supply Period the Out of Contract Rate will be charged to the Customer in the circumstances set out in clause 2.6. The Customer shall in those circumstances only subject to clause 2.7 below be entitled to terminate at any time with immediate effect if the supply of Gas is being charged at the Out of Contract Rate.
- 2.2 Without prejudice to its other rights and remedies, Crown Gas & Power may object to the transfer of any Site to a supplier other than Crown Gas & Power should notice terminating this Agreement not be delivered pursuant to this Agreement.
- 2.3 If the Customer fails to comply with any of its obligations under this Agreement and such failure is not remedied within fourteen (14) days after Crown Gas & Power has given notice to Customer requiring the failure to be remedied, Crown Gas & Power shall be entitled to immediately suspend its sale of Gas to Customer until such time as the failure is remedied but shall be entitled to charge for Gas during the period of suspension at the Out-of-Contract Rate. Such suspension shall be without prejudice to any other rights or remedies that Crown Gas & Power may have. All costs which Crown Gas & Power incurs in suspending the sale of Gas under this clause and any reinstatement of supply to the Customer shall be borne and paid by the Customer before resumption of supply commences.
- 2.4 In the event that either party is in breach of any of its material obligations under this Agreement and fails to remedy the breach within fourteen (14) days of being given notice of such breach by the other party this Agreement shall terminate forthwith.
- 2.5 Either party may terminate this Agreement forthwith by written notice to the other party if the other party becomes insolvent or goes into liquidation (which in the case of the Customer includes the presentation of a winding up petition against it) or administrative receivership or being an individual, applies for a voluntary arrangement or enters into some other scheme or arrangement with creditors or is unable to pay his/her debts within the meaning of Section 268 of Insolvency Act 1986 or presents a petition to the court for his/her bankruptcy.
- 2.6 The Customer shall be liable for payment for any Gas taken after termination of this Agreement until such time as Crown Gas & Power ceases to be treated by Transporter as the supplier or Registered User in respect of each Site.
- 2.7 The Customer may not terminate this Agreement for any reason if any invoice remains unpaid, outside of the payment terms as set out in these terms and the Customer agrees not to move to a new supplier of Gas until all debts to Crown Gas & Power are paid in full. Without prejudice to its other rights and remedies, Crown Gas & Power may object to the transfer of any Site to a supplier other than Crown Gas & Power until all debts to Crown Gas & Power are paid in full.
- 2.8 Following termination of this Agreement, a final invoice will be sent to the Customer within 14 days of a Meter Reading being registered with Crown Gas & Power after the date upon which termination takes effect and must be paid within 10 days of the date of the invoice. In the event of non-payment, interest shall be charged in accordance with clause 8.4.
- 2.9 Crown Gas & Power will not be held liable for any direct or indirect costs due to any delay in taking over supply by a new supplier following termination of this Agreement, save where Crown Gas & Power are responsible for such delay.
- 2.10 In the event of termination by Crown Gas & Power of this Agreement further to clause 2.4 and/or termination further to clause 2.2 the Customer shall be liable for all reasonable costs and expenses arising out of termination (including but not limited to legal costs and isolation fees) together with any outstanding amounts due under this Agreement.

- 2.11 Any termination of this Agreement shall be without prejudice to any rights or remedies of either party that have arisen prior to termination. Termination of this Agreement shall not affect the operation of any provision in this Agreement that expressly or impliedly is to have effect following termination.
- 2.12 In the event a Customer fails to complete and sign off the Contract Details, Crown Gas & Power shall supply Gas to the Customer under a Deemed Contract to which the terms and conditions as set out in this Agreement shall apply (save for clauses 2.1 and 3.2) and Crown Gas & Power shall charge the Customer the Deemed Contract Rate.

3. WARRANTIES

The Customer represents warrants and agrees:

- 3.1 that it is the owner or occupier of each Site to which this Agreement relates;
- 3.2 that it has the authority to enter into this Agreement with respect to each Site;
- 3.3 that it has the continuing ability and authority to fulfil the obligations of the Customer and to administer the rights of Customer, as set out in this Agreement in respect to each Site;
- 3.4 that Crown Gas & Power may deal solely with Customer (save with consent where the matter is being dealt with through an agent) and rely solely on such dealings with Customer in all matters relating to the purchase of Gas at each Site, including but not limited to the giving and receiving of all notices and statements, the making and witnessing of all measurements and tests, the paying and receiving of all amounts due hereunder and the settlement of all disputes with respect thereto;
- 3.5 that all pipelines, appliances, equipment and other facilities other than the Transporter's Equipment, used in any way by Customer in connection with Gas supplied to Customer under this Agreement:
- (i) are used only for the purpose for which they were intended;
 - (ii) are and will be operated so that they at all times remain compatible with Transporter's transportation system; and
 - (iii) will at all times be properly maintained, serviced and kept in good order and repair; and
- 3.6 that in using Gas supplied to any Site under this Agreement, Customer shall apply the proper standards of safety.

4. OBLIGATIONS OF CUSTOMER

The Customer shall:

- 4.1 not interfere in any way with the Meter and/or AMR Device and maintain both in good working condition;
- 4.2 at all times allow Crown Gas & Power, Transporter, their agents or Installer access to each Site for any purpose whatsoever connected with the supply of Gas under this Agreement;
- 4.3 keep Crown Gas & Power informed as to the intended use of Gas supplied;
- 4.4 not install any apparatus, which may cause pressure fluctuations in the Transporter's Equipment;
- 4.5 not mix Gas with any substance;
- 4.6 In the event of an escape or leak, comply with Crown Gas & Power's escape procedures and call 0800 111 999;
- 4.7 be responsible for all pipes and apparatus after the Meter;
- 4.8 not request a quantity of Gas which is in excess of the amount which the Transporter's Equipment is capable of delivering to the Site;
- 4.9 without prejudice to any rights or remedies of Crown Gas & Power under this Agreement, in the event that the Customer wishes to either sell or terminate the use of a Site, give no less than twenty-eight (28) days' notice to Crown Gas & Power of such sale or termination of use and promptly supply Crown Gas & Power with all and any information reasonably requested in respect of such sale or termination (including but not limited to any sale, tenancy agreement or any other relevant formal documentation). Customer shall remain liable for payment up until the date of final Meter Reading agreed between the parties further, where any Site is to be sold, such Site shall only be removed from this Agreement and this Agreement shall only terminate in respect of such Site,

with Crown Gas & Power's written consent and on Crown Gas & Power being satisfied, inter alia, that the supply of Gas to such Site is being governed by a valid agreement with a supplier other than Crown Gas & Power or that the new owners of such Site have entered into an agreement for the supply of Gas to that Site with Crown Gas & Power.

- 4.10 For the avoidance of doubt, in circumstances where Crown Gas & Power have not been notified of the sale or termination of use of a Site in accordance with clause 4.9 Crown Gas & Power shall not be under any obligation whatsoever to remove such Site from this Agreement, and this Agreement shall remain in full force and effect in respect of any such Site and the Customer shall be responsible for paying for any Quantity of Gas supplied.
- 4.11 Without prejudice to its other rights and remedies, Crown Gas & Power may object to the transfer of a Site to a new supplier other than Crown Gas & Power if there is any sum owing to Crown Gas & Power in respect of such Site;
- 4.12 in the event that the Customer suffers any loss as a result of any legitimate action taken by Transporter and/or Crown Gas & Power, which is in compliance with the Network Code and which is not as a result of Transporter's and/or Crown Gas & Power's negligence, Customer shall not bring any action or proceedings against Crown Gas & Power or Transporter and neither Transporter nor Crown Gas & Power shall have any liability to Customer;
- 4.13 provide the names and phone numbers of 3 representatives who can be contacted at any time day or night by Crown Gas & Power or Transporter in case of emergency if the Total Nominated Consumption exceeds 500,000kWh;
- 4.14 shall not cancel any appointment for Crown Gas & Power, Transporter, Installer their agents or subcontractors to attend the Site(s) without first giving the relevant party forty-eight (48) hours prior written notice. For the purposes of this clause "relevant party" shall mean the party with whom the Customer had arranged the appointment;
- 4.15 pay Crown Gas & Power the Contract Price or (where appropriate) the Deemed Contract Rate together with,, in all circumstances, all other sums due under the Agreement from the Agreement Date ; and
- 4.16 where Crown Gas & Power is not the existing supplier of Gas to the Site take all necessary steps and comply with all requests to ensure that the Site is transferred to Crown Gas & Power and indemnify Crown Gas & Power against all and any losses (including direct, indirect and Consequential Losses), damage costs and charges arising as a result of or in connection with the Customer's breach of this clause 4.16.

5. QUANTITIES

- 5.1 Crown Gas & Power will sell Gas to the levels of maximum consumption as determined by reference to the Total Nominated Consumption. In the case of more than one Meter on Site, Customer shall allocate its receipt of Gas between Meters provided however, that Crown Gas & Power's obligation to supply shall be limited to the capacity of the existing Transporter's Equipment.
- 5.2 Customer shall not be entitled to receive more than the Maximum Daily Quantity for a Site without the prior written consent of Crown Gas & Power. Customer shall be liable for any and all costs incurred by Crown Gas & Power as a result of the Customer using more than the MDQ.
- 5.3 If Customer received from Crown Gas & Power in any Supply Period less than the MCC for each Supply Period, Crown Gas & Power shall be entitled to adjust the Contract Price in accordance with Customer's actual consumption by charging Customer, and Customer shall pay, an amount equal to the difference between the actual quantity received and the MCC multiplied by the Contract Price.
- 5.4 If the Customer received from Crown Gas & Power in any Supply Period more than the MACC Crown Gas & Power shall be entitled to charge the Customer the difference between the Unit Charge and the published daily SAP multiplied by the consumption in excess of the MACC profiled in accordance with the System Operator's Demand Attribution Formula.
- 5.5 If the Customer has entered into the Agreement under which a fully inclusive price is paid as provided for under clause 7.2((iv) below (and as shown on the Contract Details or the Renewal Agreement) the Customer shall be required to pay for the Forecast Annual Consumption whether or not this has all been used upon the expiry of the Supply Period.

6. QUALITY AND MEASUREMENT

- 6.1 Gas supplied shall comply with the same standards of pressure and quality as applied to the supply of Gas by Transporter under the Gas Act 1986 and any applicable Statutes and Regulations in force from time to time.
- 6.2 Crown Gas & Power shall ensure that Transporter or Installer is responsible for the installation, operation and maintenance of each Meter.
- 6.3 If an AMR Device is installed (which shall be at the Installer's discretion whether or not there is an AMR Device already on Site) at any time during the Supply Period the Customer shall permit the Installer such access required to install the AMR Device. Such installation shall be at the Installer's cost. If the Customer requires any data from the AMR Device the Installer reserves the right to charge an additional amount for such information.
- 6.4 Crown Gas & Power shall, if an AMR Device is installed by them, only rely upon data from their own AMR Device.
- 6.5 Meter Reading shall be done by Transporter or another person appointed by Crown Gas & Power to take Meter Readings at least once each Contract Year unless where an AMR Device is fitted, in which circumstances a reading may be taken if required.
- 6.6 If in any Contract Month the Meter is not read or a Meter Reading is not made available promptly to Crown Gas & Power by the Meter Reader or otherwise, by the Customer when no reading has been taken (and there is no AMR Device, or the AMR Device installed is not working either at all or properly), the quantity of Gas taken by the Customer for such Contract Month shall be estimated by Crown Gas & Power based on historical trends. If an invoice covers a period of more or less than one calendar month, then Crown Gas & Power reserves the right to adjust the monthly invoice to reflect such period to coincide with the period and the payment method.
- 6.7 Customer may request that the Meter be verified for accuracy. Where the Meter is found to register inaccurately then appropriate adjustments to payments shall be made. If the Customer requests that the accuracy of a Meter is verified and the Meter is found to be recording properly, then the Customer shall pay for the cost of the Meter verification.
- 6.8 The reading shown on the Meter shall be evidence of the quantity of Gas consumed.
- 6.9 The quantity of Gas consumed in energy terms shall be calculated by methods referred to in Crown Gas & Power's licence, available on request.

7. CONTRACT PRICE

- 7.1 The Contract Price is exclusive of VAT or any other tax, duty or imposed levy on the sale, consumption or use of the Gas, Crown Gas & Power shall be entitled to add VAT at the prevailing rate and to adjust any amount invoiced to reflect any other tax duty imposed on the sale of Gas from time to time.
- 7.2 Dependent upon the Agreement (as set out in the Contract Details or Renewal Details) type:-
 - i. Crown Gas & Power shall subject to clause 7.3 give not less than 60 days' notice of any change in the Contract Price (to be included in the Renewal Details) for the next Contract Year prior to the expiry of the existing Agreement for the current Contract Year; or
 - ii. the Customer shall be entitled to fix the Contract Price charged for an agreed period (subject to clause 7.4 below) or, otherwise, the Contract Price shall apply as set out in the Contract Details or the Renewal Agreement; or
 - iii. the Contract Price shall be linked to the ICE Endex for each Contract Month for the Supply Period.
 - iv. the Customer shall be entitled to purchase a Contracted Annual Quantity at an all-inclusive price (to include Unit Charge and Standing Charge).
- 7.3 Crown Gas & Power shall where there is any change in the new Contract Price notified to the Customer under clause 7.2(i) of this Agreement prior to the commencement of a new Agreement for the next Contract Year, give not less than 60 days' notice of any revision in the Contract Price prior to the expiry of the existing Agreement for the current Contract Year. On receipt of such a notice the Customer must respond no later than the expiry of the existing Agreement. No response

within such period will be treated by Crown Gas & Power as the Customer not wishing to enter into a New Agreement and the provisions of clause 2.1(iii) shall apply.

7.4 Crown Gas & Power shall be entitled:-

- i. at any time on 28 days' notice to amend this Agreement and the Contract Price as a result of any change in the arrangements or costs for Transportation in place between Transporter and Crown Gas & Power or any regulations set by the Government including but not limited to any increase in VAT levies or any imposts;
- ii. at any time to pass on to the Customer any penalties incurred and/or review the Contract Price as a result of the Customer not providing to Crown Gas & Power the correct information at the correct time;
- iii. at any time to amend this Agreement and the Contract Price where there is a reduction in the number of Sites receiving Gas pursuant to this Agreement; and
- iv. at any time amend the Contract Price where the Customer does not pay any and/or all charges due under this Agreement by direct debit.

7.5 Crown Gas & Power will be allowed to charge the Customer for any Site works it arranges on behalf of Transporter or Installer.

8. BILLING AND PAYMENT

8.1 Crown Gas & Power shall, prior to entering into this Agreement, undertake credit checks on the Customer. In the event at any time during this Agreement the Customer's credit rating falls to a level at which Crown Gas & Power determines it is no longer appropriate to give the Customer credit, Crown Gas & Power may request a security deposit of up to 3 months' charges or may, in such circumstances, and without prejudice to its rights under clause 2.5 above, terminate the Agreement on giving the Customer not less than one (1) calendar month's notice.

8.2 Crown Gas & Power will make all reasonable efforts to email monthly invoices ("e-billing") to the Customer for each Contract Month detailing the Quantity of Gas received and the Contract Price of the Gas.

8.3 Payment shall be made by the method agreed as set out in the Contract Details or the Renewal Agreement. If payment is to be made by direct debit, Customer shall at all times ensure there are sufficient funds available from the Customer's account in such bank to meet such direct debits. All Crown Gas & Power direct debits for the amount due for Gas delivered in a Contract Month will be taken from the Customer's bank account ten (10) days after the date of invoice immediately following the month in which such Gas was delivered. Unless otherwise agreed if payment is made by any other method Customer shall pay any invoice promptly but in any event within ten (10) days from invoice date.

8.4 If payment has not been received by the due date Crown Gas & Power shall have the right without prejudice to any other rights under this Agreement to charge interest on the overdue amount from the due date at a rate of 4% per annum above the Bank of England base rate in force at the time.

8.5 If at any time the Customer cancels its direct debit arrangement without consent in writing from Crown Gas & Power or the direct debit mandate is not effective Crown Gas & Power will have the right to charge the Customer an administration fee of £1.00 per day which shall be added to the standing charge until payment by direct debit is resumed.

8.6 If the Customer wishes to be provided with paper copies of any invoice provided by Crown Gas & Power in addition to, or in place of, e-billing Crown Gas & Power reserves the right to charge the Customer an additional fee for this service, the amount of such fee to be determined by Crown Gas & Power.

8.7 If Crown Gas & Power are supplying more than one Site under this Agreement to the Customer (or to any associated or holding company of the Customer) then in such circumstances, Crown Gas & Power shall be entitled to transfer or credit monies between the accounts of the Customer (or any associated or holding company of the Customer) where monies are outstanding or where monies paid have been misallocated between such accounts.

8.8 The Customer shall have no right of set-off against any monies due to Crown Gas & Power under this Agreement or otherwise.

9. FORCE MAJEURE

- 9.1 Either party shall be relieved from the consequences of failing to perform its obligations under this Agreement to the extent that such failure is the result of an Event of Force Majeure.
- 9.2 An 'Event of Force Majeure' shall mean any event or circumstances beyond the control of either party resulting in the failure by that party to fulfil any of its obligations under this Agreement and which shall include without limitation:
- (i) damage to, or failure, breakdown of physical inoperability of Transporter's transmission system and/or the facilities of Customer at any Site;
 - (ii) non-availability of supplies of Gas from Transporter;
 - (iii) act of Government, national, municipal or other governmental agency, whether domestic or foreign;
 - (iv) war declared or undeclared, civil war, riot or civil disturbance;
 - (v) strike, lock-out or other industrial action, provided however that in no event shall either party be relieved from liability in circumstances in which the Event of Force Majeure could have been prevented or overcome by the exercise by it of reasonable efforts.
- 9.3 The parties shall not be relieved by reason of Force Majeure from any obligation to indemnify or to make any payments due under the Agreement.

10. RISK AND OWNERSHIP

- 10.1 Crown Gas & Power warrants that Customer will obtain good title to the Gas supplied in accordance with the terms of this Agreement and such Gas will be free of all liens, charges and adverse claims.
- 10.2 Title to and risk in the Gas received by the Customer shall pass to Customer at the Offtake Point.
- 10.3 Subject to clause 10.4 below and clause 4.16 above neither Crown Gas & Power nor Customer shall in any circumstances be liable to the other whether in contract, tort (including negligence), equity, breach of statutory duty or otherwise for any Consequential Loss whether or not foreseeable..
- 10.4 Nothing in this Agreement shall exclude or restrict the liability of either party:
- i. for death or personal injury resulting from negligence; or
 - ii. for fraud or fraudulent misrepresentation; or
 - iii. under the Consumer Protection Act 1987; or
 - iv. for breach of the implied conditions as to title and quiet possession implied by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982.
- 10.5 Subject to clauses 10.3 and 10.4 Crown Gas & Power's total liability in respect of all other losses arising under or in connection with this Agreement whether in contract, tort (including negligence), equity, breach of statutory duty or otherwise shall not exceed the cost of the Gas supplied in the previous twelve (12) Contract Months or the period for which the Gas has been supplied, whichever is the shorter.
- 10.6 Customer shall indemnify Crown Gas & Power against all and any claims, losses, costs and charges arising out of any act or omission by the Customer in respect to its obligations under the Agreement.

11. MISCELLANEOUS

- 11.1 Crown Gas & Power may assign this Agreement provided that the assignee is an approved gas supplier by the Director General of Gas supply. The Customer may not assign this Agreement without the prior written consent of Crown Gas & Power.
- 11.2 Any notice to be given pursuant to this Agreement shall be in writing and may be served by personal delivery or first class post or by email to the parties at their respective addresses as set out in the Contract Details or the Renewal Agreement and shall be deemed to be given when received at such addresses on the day when personal service is effected or if by post two (2) days after the date of posting or in the case of email upon acknowledgement from Crown Gas & Power of receipt of the email.

- 11.3 This Agreement shall be governed by and constructed in accordance, with the laws of England and Wales. The parties submit to the exclusive jurisdiction of the courts of England and Wales as the proper legal forum for the settlement of any controversy or dispute which cannot be settled by agreement between parties within fourteen (14) days of the same arising.
- 11.4 Crown Gas & Power reserves the right to make such changes as deemed necessary by Crown Gas & Power to these terms at any time for the purpose of ensuring continuity of supply of Gas for the Supply Period. The Contract Price shall remain the same for each Supply Period (save for an increase as a result of an increase in charges made by the Transporter or as provided for by clauses 2.12, 5.4, 7.4 or any other relevant clause of this Agreement or any variation to the Standing Charge) and no other material changes to the Contract Details or the Renewal Agreement or these Terms and Conditions will be made without the consent of the Customer.
- 11.5 The Customer or an authorised signatory on the Customer's behalf may use an electronic signature on the Contract Details or Renewal Agreement, subject to verification of the signature in accordance with Crown Gas & Power's authentication process.