

**Part B**  
**Opal Gas Limited – Standard Terms and Conditions**  
**for the supply of natural gas on a firm basis on a fixed price**

**1 DEFINITIONS**

In these Terms and Conditions:

“Act” means the Gas Act 1986 as amended or replaced from time to time and any orders or regulations made by virtue of it;

“Affiliate” means any holding company or subsidiary company of the Customer or any company which is a subsidiary of such holding company and “Holding Company” and “Subsidiary” shall have the meanings specified in Section 1159 of The Companies Act 2006, as amended or replaced from time to time;

“Agreement” means the agreement for the sale of Gas between Opal and the Customer incorporating these Terms and Conditions;

“Agreement Date” means the date of the Agreement as shown in Part A;

“AMR Device” means an automatic meter reading device which is connected to a Meter;

“AMR Service” means the optional service provided by Opal to the Customer which forms a part of this Agreement and is subject to all terms and conditions of this Agreement if indicated as such in Part A. The service shall comprise:-

- a) the installation of an AMR Device at the Site; and
- b) the provision of ½ hourly data from the AMR Device to the Customer once daily by access to a secure web portal; and
- c) maintenance of the AMR Device;

“Authorised Representative” means the individual authorized to enter the Agreement on behalf of the Customer (being a director of the limited company or a member of the limited liability partnership (as applicable))

“BTU” means British Thermal Unit;

“Confirmation Effective Date” means the date that Opal have been officially recognised as the registered supplier to a specific Meter Point by Xoserve. Charges will be due from the customer from the Confirmation Effective Date, even if a meter has yet to be fitted;

“Companies Acts” means the Companies Act 2006, the Insolvency Act 1986, the UK Corporate Governance Code or as they are amended or replaced from time to time and any orders or regulations made by virtue of them;

“Contract Period” means the Initial Period together with all Renewal Periods thereafter;

“Contract Price” means the price of Gas as shown in Part A of these Terms and Conditions;

“Contract Year” means any period beginning at 0600 hours on the Supply Start Date or any anniversary of the Supply Start Date and ending at 0600 hours on the next anniversary of the Supply Start Date;

“Control” has the meaning given by section 840 of the Income and Corporation Taxes Act 1988 and

“Controlled” shall be construed accordingly;

“Customer” means the company, partnership or sole trader (as applicable) entering into this Agreement and named as such in Part A and who is represented for the purposes of this Agreement by the Authorised Representative;

“Data Protection Law”: means (i) the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time in the UK, including but not limited to the Data Protection Act 2018, unless and until such time as the GDPR is no longer directly applicable in the UK; and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018.

“Day” means each period of twenty-four Hours beginning at 0600 hours on a day and ending at 0600 hours on the immediately following day, and “daily” shall be construed accordingly;

“Energy Act 1976” means as amended or replaced from time to time and any orders or regulations made by virtue of it;

“Force Majeure Event” means any event or circumstance preventing or delaying either party from performing any or all of its obligations under this Agreement, which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented or delayed and any event or circumstance that qualifies as force majeure under the Uniform Network Code shall be deemed to be an event of force majeure for the purposes of this Agreement;

“Gas” means all natural gas supplied to the Customer by Opal in accordance with the Agreement;

“Hour” means each of 24 periods of 60 minutes within each Day;

“Initial Contract Term” means the duration which is shown as such in Part A and which commences on the Supply Start Date;

“Initial Expiry Date” means the date upon which the Initial Contract Term ends;

“Initial Period” subject to earlier termination in accordance with clause 14, the period beginning at 0600 hours on the Supply Start Date and ending at 0600 hours on the Initial Expiry Date;

“LLPA” means the Limited Liability Partnerships Act 2000 as amended or replaced from time to time and any orders or regulations made by virtue of it;

“Maximum Annual Quantity” or “MAQ” means that quantity of Gas specified in Part A in respect of each Meter Point, which shall not be exceeded in any Contract Year;

“Maximum Daily Quantity” or “MDQ” means that quantity of Gas specified in Part A in respect of each Meter Point, which shall not be exceeded in any Day;

“Maximum Hourly Quantity” or “MHQ” means that quantity of Gas (if any) specified in Part A in respect of each Meter Point, which shall not be exceeded in any Hour;

“Meter” means each such measuring equipment in respect of the supply of Gas installed at or near the Meter Point at each Site and bearing a Meter Point Reference together with any other items that Opal may provide or make available in connection with supplying Gas to the Customer;

“Meter Asset Manager” or “MAM” means the owner of the Meter;

“Meter Point” means the point at which the Customer’s pipework is connected to the Transporter’s gas supply pipeline at each Meter;

“Meter Point Reference” means the unique number issued by the Meter Service Provider identifying the Meter and the Meter Point;

“Meter Service Provider” means Xoserve Limited or such other person who enters into arrangements with Opal for the provision of services in respect of the Meter Point;

“Micro Business” means a non-domestic customer as defined by Ofgem: ‘A non-domestic consumer is defined as a micro business if it either: has fewer than 10 employees (or their full-time equivalent) and the yearly turnover, or yearly balance sheet, is not more than €2 million, or uses less than 100,000 kWh of electricity a year, or uses less than 293,000 kWh of gas a year.

“Minimum Annual Quantity” means that quantity of Gas specified in Part A in respect of each Site, which the Customer has committed to purchase in the Contract Year;

“Month” means the period beginning at 0600 hours on the first day of each calendar month and ending at 0600 hours on the first day of the next calendar month;

“Nominated Annual Consumption” means that Quantity of Gas, as nominated by the Customer and specified as such in Part A in respect of each Meter;

“OFGEM” means The Office of Gas and Electricity Markets (or its successor body) which regulates the gas and electricity markets in Great Britain;

“Opal” means Opal Gas Limited (company number 9403911) whose registered office is at 23 Victoria Avenue, Harrogate, England, HG1 5RD;

“Out-of-Contract Rate” means the price of Gas including any standing charge that applies to any period that does not fall within the Contract Period and which is published on Opal’s website, and is available on request;

“Outside Payment Terms Rate” means the unit rate and standing charge that may be charged in the event of the Customer failing to adhere to agreed payment terms. This will be the equivalent to the Out-of-Contract Rate.

“data subject” has the meaning given in Data Protection Law.

“personal data” has the meaning given in Data Protection Law.

“Privacy Policy” means Opal’s privacy policy which is available at [www.opalgas.com](http://www.opalgas.com).

“Renewal Date” means in respect of the Initial Period, the day immediately following the Initial Expiry Date; and in respect of any Renewal Period, the day immediately following the last day of the Renewal Period;

“Renewal Period” means the period starting at 0600 on the Renewal Date and ending at 0600 on the date immediately preceding the first anniversary of the Renewal Date;

“Site” means the location at which the Customer carries on its business and which is identified in Part A as amended from time to time by agreement in writing between the parties;

“Statutory Rate” means the rate of interest payable from time to time under the Late Payment of Commercial Debts (Interest) Act 1998 as amended or replaced from time to time;

“Supply” means the provision of Gas pursuant to this Agreement and “Supplied” shall be construed accordingly;

“Supply Start Date” means the earliest date at which Opal is entitled and able to supply gas to the customer under OFGEM regulations. For the avoidance of doubt the start date will be the same as the Confirmation Effective Date as stated by Xoserve;

“Transporter” means the public gas supplier as defined in the Act or any other pipeline operator which transports natural gas in connection with this Agreement; and “Uniform Network Code” means the operating code in force from time to time prepared by the Joint Office of Gas Transporters;

“Uniform Network Code” is the competitive gas industry’s legal and contractual framework for the transportation and supply of gas;

“Xoserve” is the Central Data Service Provider (CDS) for Great Britain’s gas market.

**2 DURATION**

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2.1 Unless the Agreement is terminated early under Clause 14, the Agreement shall continue in force for the Contract Period, provided that:-

2.1.1 Opal issues notice to the Customer or their Authorised Representative not less than 60 days immediately preceding the Renewal Date of any amendment to the Contract Price pursuant to clause 5.2; and

2.1.2 the Customer has not given written notice to Opal not less than 30 days immediately preceding the Renewal Date, then the Agreement shall be deemed to automatically renew for a further period of 12 months starting on the Renewal Date pursuant to clause 5.2. The Customer acknowledges that a notice of termination must be confirmed as accepted by Opal, in writing, before it is deemed as accepted.

2.1.3 Notwithstanding clause 2.1.2 above, if the Customer is a microbusiness, the Customer may terminate this agreement by giving 30 days written notice to Opal at any point during the Renewal Period.

2.2 Any notices issued under clause 2.1 shall be in writing and shall be sent to the relevant party at the address set out in Clause 1 or such other address as is notified in writing to the other by such party.

2.3 In the event of termination of the Agreement under clause 2.1, the provisions of clause 14.4 shall apply.

2.4 For the avoidance of doubt, the Customer shall remain liable for all Gas supplied to the Meter Point and all costs associated with such supply during the continuation of this Agreement notwithstanding that the Customer ceases to be the owner, tenant or occupier of any Site within which the Meter Point is situated.

### **3 SUPPLY OF GAS**

3.1 In order to start supplying Gas to the Customer, Opal will request that the Customer provide certain information and to take such action as it necessary to enable Opal to set up the account and to comply with Opal's legal and regulatory obligations. If requested by Opal at any time (whether before signing or during the continuance of this Agreement) the Customer agrees to provide to Opal, all information required by law or reasonably required by Opal (including a photograph of the relevant gas meter(s) showing relevant meter reading and serial number within two days of the contract start date, and within two days of each contract anniversary and within two days of the contract end date) to enable the supply of Gas and/or to implement this Agreement. The Customer agrees that Opal will check the credit score of the Customer prior to the commencement of this Agreement and may also check the Customer's credit score at any time during the continuance of this Agreement.

3.2 Subject to clause 3.1 and:-

3.2.1 continuing confirmation by Opal of the acceptable credit status of the Customer in accordance with Opal's policies relating to the same in effect from time to time;

3.2.2 payment to Opal of any security deposit required by Opal from time to time in connection with the supply of Gas to the Customer;

3.2.3 acceptance by the Transporter of the transfer to Opal of the Meter Point; and

3.2.4 acceptance by any previous transporter and supplier of the transfer of the Meter Point to Opal with effect from the Supply Start Date (or such

date as the supply is transferred to Opal) subject to the terms of this Agreement -

Opal shall supply the Gas to each Meter Point.

Unless otherwise agreed and subject to this clause 3, the Supply Start Date shall usually start 5 (five) days after the date of the Agreement.

3.3 The Customer acknowledges that any delays to the commencement of supply of Gas arising other than as a result of Opal's acts or omissions may result in an increase in the Contract Price and an amended Supply Start Date. Opal shall notify the Customer in writing if such delays lead to such increase in the Contract Price and/or an amended Supply Start Date.

3.4 If the Customer fails to provide Opal with all the relevant information it requires pursuant to clause 3.1 in order for this Agreement to commence on the Supply Start Date with the proposed Contract Price, Opal reserves the right to change the Contract Price in writing any time prior to the Supply Start Date.

3.5 Opal may discontinue or restrict the supply of Gas to a Customer for the purposes of:-

3.5.1 preventing or reducing danger to life or property; or

3.5.2 securing the safety of the gas pipeline system; or

3.5.3 complying with a direction under section 2(1)(b) of the Energy Act and the Customer shall take all steps within its power to avoid using Gas at the Site immediately following notification of the same by either Opal or the Transporter until advised in writing to the contrary by Opal or the Transporter.

### **4 QUANTITIES**

4.1 The Customer shall not consume Gas at the Meter Point in excess of the MAQ, MDQ or MHQ without the prior written consent of Opal. Where consent is granted by Opal, Opal may specify any terms subject to which such additional quantities of Gas will be supplied and may be subject to additional charges and an amended Contract Price.

4.2 In relation to each Meter Point:

4.2.1 the Customer shall notify Opal in writing as soon as practicable, and in any event not less than 90 days before any proposed change, or any potential change, to the MAQ, MDQ, MHQ or Nominated Annual Consumption; and

4.2.2 Opal shall use reasonable endeavours to supply Gas in accordance with such volumes notified to Opal in accordance with clause 4.2.1. Any consent shall be in writing and shall stipulate any terms upon which such consent is granted.

4.3 If the Customer's consumption of Gas exceeds the MAQ, MDQ or MHQ without the prior written consent of Opal in accordance with clause 4.1, Opal shall be entitled to charge for any additional costs incurred by Opal and may charge the Customer for any Gas consumed in excess of such maximum quantities. If MAQ is not defined in Part A, then it shall be deemed to be 130% of the Nominated Annual Consumption.

4.4 Notwithstanding that the Customer has not consumed the Minimum Annual Quantity by the end of the Contract Year to which such quantity relates, Opal will be entitled to invoice the Customer at the Contract Price for the balance of the Minimum Annual Quantity not consumed by the Customer at the end of the relevant Contract Year. If the Minimum Annual Quantity is not

defined in Part A, then it shall be deemed to be 70% of the Nominated Annual Consumption.

### **5 PRICE OF GAS**

5.1 In consideration of the supply of Gas to the Customer the Customer shall pay to Opal the Contract Price.

5.2 The price for Gas supplied under this Agreement shall be the Contract Price set out in Part A, provided that:

a) For each Renewal Period Opal may amend the Contract Price by giving the Customer not less than 60 days' notice of such amendment prior to the beginning of such Renewal Period. The renewal price offered not less than 60 days prior to the Renewal Date shall be detailed on a 'Statement of Renewal Terms' document. The Customer may decline to accept the renewal price and request subsequent renewal offer(s) up to 30 days prior to the Renewal Date. Due to wholesale gas price uncertainty, if no offer has been accepted, then Opal will issue a further renewal price to the customer between 32 and 35 days prior to the renewal date. If the Customer does not write to Opal to decline this offer no less than 30 days prior to the Renewal Date, then the renewal rates will be applied for a period of 12 months following the Renewal Date. Should the Customer have given written notice to Opal under clause 2.1.2 (and Opal having confirmed as such), but not moved to another supplier at the renewal date, then Opal shall continue to supply gas to the Customer at the Out-of-Contract Rate, details of which may be found at [www.opalgas.com](http://www.opalgas.com).

b) If Opal reasonably believes that the Contract Price is no longer reflective of the cost associated with the supply of gas to the Customer, Opal may amend the Contract Price by giving not less than 6 months' notice in writing to the customer prior to the Supply Start Date. Should such notice be issued by Opal to the Customer, the Customer may terminate this Agreement within a 14 day Cooling Off Period.

5.3 The Contract Price is exclusive of any applicable value added tax or other taxes or duties or levies relating to the supply of Gas to the Customer. Such taxes and duties and levies shall be paid by the Customer in addition to the Contract Price.

5.4 During the term of the Agreement, whether or not Gas is consumed at the site in addition to the Contract Price the Customer shall pay to Opal all costs incurred by Opal in connection with the supply transportation and metering of Gas to the Meter Point (including any standing charges relating to the Agreement).

5.5 Opal shall calculate the Contract Price and the renewal offer price on the basis of payment by direct debit. Opal reserves the right to increase the Contract Price by 5% for any payment method other than by Direct Debit pursuant to clause 6.5, if not agreed in writing.

### **6 PAYMENT**

6.1 Each Month Opal shall issue to the Customer an invoice by prepaid post or electronic mail (delivered to an email address maintained by the Customer and notified to Opal) in respect of all Meter Points at the Site as follows:-

6.1.1 in respect of a Meter which is read monthly, Opal shall invoice the Customer in respect of the quantity of Gas consumed by the Customer in that Month, such Gas to be charged at the Contract Price. If by the date of issue of an invoice by Opal, the Transporter has not provided Opal with a Meter reading in respect of such Month, Opal may invoice the Customer based on an estimate of the

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volume of Gas consumed by the Customer in such Month; and

6.1.2 for a Meter which is not read monthly, Opal shall invoice the Customer an estimate of the volume of Gas consumed by the Customer in such Month (calculated by Opal at its sole discretion) at the Contract Price unless a meter reading is available (from the Transporter, the Customer or from a measuring device described in Clause 7.6) in which case the provisions of Clause 6.1.1 will apply.

6.2 Opal shall identify on invoices:

6.2.1 the Site; and

6.2.2 the Meter Points at such Site to which such invoice relates.

6.3 As soon as practicable following the expiry of each Contract Year, Opal shall be entitled to, provided the Meter has been read, issue the Customer with an invoice or credit note as appropriate in respect of any difference in any amounts invoiced based on estimated readings of the meter and the Customer's actual consumption of Gas calculated by reference to readings of the Meter.

6.4 Where Opal requires any payments in respect of Supply to be made in advance (including a security deposit), the Customer shall pay the amount due on such terms as Opal in its sole discretion deems appropriate.

6.5 All payments due from the Customer to Opal under the Agreement shall be made by direct debit unless otherwise expressly agreed in writing by Opal. The Contract Price is subject to payment being made by the Customer 14 calendar days following the date of each Opal invoice by direct debit. The Customer shall indemnify Opal in respect of all losses and costs incurred by Opal (whether direct or indirect) as a result of the Customer's failure to comply with the provisions of this clause 6.5. For the avoidance of doubt, this indemnity extends to any costs arising as a result of legal and associated matters in relation to pre-disconnection and disconnection visits should they arise as a result of non-payment.

6.5.1 direct debits will be collected by Opal Utilities Ltd (company number 03242056) on behalf of Opal Gas Limited.

6.6 If payment by cleared funds is not received by Opal by the due date stated in the invoice, then without prejudice to any other rights or remedies that Opal may have, from the due date until payment Opal shall be entitled to:-

6.6.1 object to the Customer transferring to another supplier; and/or

6.6.2 charge interest on overdue amounts at the Statutory Rate; and/or

6.6.3 increase the Contract Price to the Outside Payment Terms rate and/or

6.6.4 require the Customer to pay Opal a security deposit of such amount on such terms as Opal deems appropriate prior to continuing Supply; and/or

6.6.5 suspend the Supply of Gas to the Site; and/or

6.6.6 charge the Customer an administration fee to cover any costs incurred either directly by Opal or by third parties as a result of such late payment. This includes the application by Opal of a late payment fee of £50 per invoice where payment terms have not been met.

6.7 Opal may at its discretion, on the request of the Customer, issue a copy of any invoice rendered. Opal shall be entitled to charge the Customer an administration fee of £10 per invoice to cover the costs of providing such copy invoices.

6.8 In addition to payment of a security deposit as referred to in clause 3.2.2 above, Opal may require the Customer to prepay for Supplies of Gas. The Customer acknowledges that requests for advance payments will be made based upon estimates of the volume of Gas to be used by the Customer in the relevant period, and that any credit or debit balances in relation to actual volumes of Gas taken by the Customer will be detailed on the Customer's account. Opal shall be entitled to issue credit notes or invoices in respect of such balances at such time as Opal considers reasonable and, in the case of an invoice, the Customer shall be required to pay the invoice 14 calendar days following the date of the invoice, by direct debit.

6.9 If the Customer makes a payment without telling Opal which invoice or charges the payment is for, Opal may allocate the charges in the order in which they became due. Opal may also transfer between other contracts or accounts that the Customer has with Opal, any money the Customer owes to Opal under this Contract in order to pay amounts owed, and Opal will determine how payments are allocated against any debt.

6.10 Opal may use any amount owed to the Customer or any security deposit held by Opal to pay off any other debt owed by the Customer to Opal, even if that account is for a different property or MPR.

6.11 Where any credit amount is due to the Customer, Opal may use the credit amount to set-off against any amounts that the Customer owes under the contract (or that the Customer or any of its Affiliates owe to Opal or its Affiliates under any other agreement between the Customer and Opal).

6.12 In the event of non-payment, Opal at its sole discretion may propose a payment plan to the Customer to recover outstanding debt over a specified period of time which shall be no longer than six months on the following basis:

6.12.1 Any payment plan has to be agreed and signed by both the Customer and Opal, and payment would be by direct debit.

6.12.2 Any payment plan would require ongoing invoices to be paid in full, in addition to the repayment plan being in place and adhered to.

6.12.3 Failure to adhere to the payment plan, and/or failure to maintain regular payment of ongoing invoices will result in an end to the payment plan and the outstanding debt will be due in full within 24 hours of the missed payment(s) due date. In such event Opal may apply other measures as referred to in clause 6.6.

6.12.4 The Customer will be able to make one-off payments to reduce the outstanding amount at any time during the period of the payment plan and may pay off the full amount owed any time before the payment plan ends. Opal will acknowledge receipt any such one-off payments and confirm the new balance in writing.

6.12.5 No more than one payment plan will be entered into in any 12-month period.

6.13 Opal may report any non-payment to credit referencing agencies (which may affect the Customers' credit rating) and/or fraud prevention agencies.

6.14 If the Customer disputes any amount, the undisputed amount must be paid by the due date. Once the dispute is settled, any amount that is still owed must be paid by cleared funds within ten working days of settlement being reached. Any disputes will be dealt with under standard energy industry complaints procedure. If a dispute cannot

be resolved, Opal will write to the Customer stating that internal complaints procedures have been unable to reach a resolution, and advising the Customer of their rights. At this point, Opal will commence its standard debt collection procedures.

6.15 If the Customer is a company incorporated or governed under the Companies Acts or a limited liability partnership incorporated under the LLPA, in consideration of Opal's supply of Gas under this Agreement, the Authorised Representative shall guarantee and undertake to Opal that he or she shall irrevocably and unconditionally be jointly and severally liable for all payments due by the Customer to Opal under this Agreement. In the event of any payment default by the Customer, the Authorised Representative shall make all outstanding payments on demand by Opal without deduction, withholding or set set-off whatsoever as if the director or member (as applicable) as if they were the Customer. If the Customer is an unincorporated association or business, the signor of this Agreement shall be personally liable to Opal.

## **7 MEASUREMENT**

7.1 Subject to the provisions of this clause 7, the reading on the Meter shall be conclusive evidence of the quantity of Gas Supplied under this Agreement.

7.2 The Meter shall be operated and maintained by the Meter Asset Manager appointed in respect of such Meter.

7.3 Meter readings shall be taken at intervals determined by the Transporter, and shall be calibrated in accordance with Opal's standard meter policy from time to time.

7.4 The Customer shall allow the Transporter, Opal, the Transporter's agent or Opal's agent safe access to the Site and the Meter at all times:-

7.4.1 for any purpose relating to the Meter, pipes or wires (including removal of meters owned by Opal or the Transporter) where the Customer: (a) is not consuming Gas at the Meter Point; or (b) is unwilling to pay Opal's charges in connection with the location or relocation of the Meter at the Site;

7.4.2 to inspect or test the Meter or connection;

7.4.3 if Opal reasonably considers that any danger exists at the Meter Point due to the Supply;

7.4.4 for such purpose as is required by Opal in order to meet its regulatory requirements.

7.5 The Customer shall make records of such readings available for inspection by Opal. The Customer shall indemnify Opal against any costs and expenses incurred by Opal as a result of a failure by the Customer to grant access to a Transporter, Opal or their agent to read the Meter at any time.

7.6 Opal or the Customer may, each at their own option and expense, install and operate devices to accurately measure the consumption of gas, provided that such devices do not interfere with the operation of the Meter.

7.7 The Customer may at any time, by giving reasonable notice in writing to Opal, request that Opal arranges for the Meter to be verified for accuracy. If such verification identifies that the Meter is within plus or minus two per cent of accuracy, the costs of the verification shall be borne by the Customer. If the Meter is outside these limits, Opal will bear the cost of verification.

7.8 If a Meter fails to register the Gas within the limits set out in clause 7.7, the quantity of Gas Supplied to such Meter since the previous reading

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of such Meter referred to in clause 7.3 shall be calculated at the discretion of Opal:-

7.7.1 by using the readings of any measuring device installed pursuant to clause 7.6;

7.7.2 by making adjustments on the assumption that the Meter has had the same degree of error since the previous Meter reading; or

7.7.3 by reference to the quantity of Gas Supplied based on consumption or the annual consumption during a preceding period under similar conditions when the Meter was registering accurately.

7.8 Opal warrants that it has made all the necessary arrangements for the performance of any obligations of the Transporter under this Agreement.

7.9 The Customer shall notify Opal if it becomes aware of any change to the postal address of any Supply Point.

7.10 Unless a measuring device is installed and operating in accordance with Clause 7.6, the Customer shall provide accurate Meter readings to Opal each calendar month throughout the duration of the Contract Period and immediately on vacating the Site. If readings are not provided then Opal will impose suitable readings and these will be the basis for its calculations of the amount of Gas consumed by the Customer.

7.11 The Customer shall indemnify Opal against any costs and expenses Opal incurs in connection with:

7.11.1 disconnection of the Meter; or

7.11.2 replacement or repair of the Meter or associated pipework and equipment.

7.12 If a Site has an existing measuring device fitted, the Customer consents to Opal obtaining, storing and using consumption data from the measuring device. Opal will only use this data for the purposes of estimating the amount of Gas consumed by the Customer, forecasting, and the monitoring and control of potential energy theft.

#### **8 SITE EQUIPMENT AND SAFE USE OF GAS**

8.1 The Customer undertakes at all times to use the Gas in a safe manner and so as not to interfere with the supply of Gas upstream of the Meter Point.

8.2 The Customer agrees that the Supply shall be wholly or mainly for commercial use only.

8.3 The Customer shall:

8.3.1 be responsible for all equipment pipes and apparatus downstream of the Meter Point;

8.3.2 allow Opal and its authorised agents, employees and sub-contractors and the Transporter safe, full, free, unrestricted and uninterrupted access to the Site for all purposes connected with the discharge of its obligations and for the purpose of:-

(a) inspecting installing, repairing, replacing, upgrading, disconnecting or disabling any Gas fittings, equipment, apparatus and pipes at the Site;

(b) where in Opal's sole opinion it is necessary to do so and where it is so entitled under the Act, including in order to prevent or reduce danger to life or property, cutting off or discontinuing the Supply of Gas to the Site; and

(c) where any escapes of Gas occur, preventing such escapes (whether by disconnecting the Supply or otherwise);

8.3.3 provide Opal with all assistance, data and other information reasonably required by Opal or its agents to comply with any legal requirement, or obligations under any agreement, law, regulation, licence, condition, authorisation or code necessary

to permit or required in connection with the Supply;

8.3.4 allow the Transporter safe, full, free, unrestricted and uninterrupted access to the Site for the purpose of installation, operation, maintenance, testing and renewal of the Meter and any other

equipment, pipes or apparatus of the Transporter; 8.3.5 indemnify Opal in full against any and all loss of or damage to the property of the Transporter except to the extent that such loss or damage is caused by the negligence of Opal or the Transporter;

8.3.6 provide free of charge at the Site, supplies of power, water and drainage and protection for the Meter and any other requisite equipment, pipes or apparatus;

8.3.7 where the Customer intends to use the Gas for supply to gas boosting equipment, a compressor or with compressed air or extraneous gas, give Opal not less than 28 days written notice of such use and, if so required by Opal, install and keep in use, at the Customer's sole cost, an appliance approved by the Transporter to prevent pressure fluctuations in the Transporter's mains and any other inconvenience or danger to other consumers of Gas;

8.3.8 on disposal of the Site (or any part) in which any part of the Meter, and any other equipment, pipes or apparatus of the Transporter and/or Opal is installed, and at any time on reasonable request by Opal, grant an easement to Opal to lay, install, maintain or operate the Meter or any part of it or any other equipment, pipes or apparatus of the Transporter or Opal. Such easement shall be sufficient to avoid any circumstances which might permit the Customer, its successors or assigns from doing anything which might prevent or impede the performance of any such activities by the Transporter and/or Opal;

8.3.9 report any escapes of Gas to the Transporter using the continuously attended telephone service provided by the Transporter for this purpose. Opal has arranged for the Transporter to provide an emergency call-out service. The Customer shall comply with any instructions given by the Transporter or Opal in the event of an emergency.

The Customer shall reimburse Opal the amounts that the Transporter charges Opal for the call-out charges attributable to the first half hour spent on any such emergency call-out; and 8.3.10 inform Opal immediately if it becomes aware of any damage to or interference with a Meter.

8.4 Opal shall wherever possible, provide the Customer with reasonable prior notice of any installation, maintenance, repair or replacement of any equipment or facilities and shall use reasonable endeavours to carry out or procure the carrying out of such works at minimal inconvenience to the Customer. The Customer shall reimburse Opal the costs of any aborted appointment for such works as result of access being denied to Opal or its agents, provided reasonable notice has been given by Opal.

#### **9 OWNERSHIP**

9.1 Title to and risk in the Gas shall pass to the Customer at the Meter Point.

9.2 The Meter and any other equipment, pipes or apparatus of Opal or the Transporter are not and shall not become the property of the Customer.

10.1 In consideration for the provision of the AMR Service the Customer shall pay to Opal the monthly charges set out in Part A.

10.2 Any dates specified by Opal for delivery of the AMR Service are approximate only. If no dates are so specified, delivery of the AMR Service will be within a reasonable time.

10.3 If Opal is unable for any reason to provide the AMR Service, Opal will not be deemed to be in breach of this Agreement which shall continue in full force and effect and any delay in delivering the AMR Service will not entitle the Customer to cancel this Agreement in relation to the supply of Gas. The customer shall not be liable for the monthly charges set in clause 10.1 for any month, or part month, when the AMR Service has not been provided by Opal.

10.4 Sites wherein substantial additional works are required in order to deliver the AMR Service will be subject to individual quotation.

10.5 If the Customer refuses access to Opal or its representative after previously agreeing an appointment to perform AMR Services under this Agreement, or the Customer fails to provide accurate information regarding access to the Meter resulting in an aborted appointment, then an abort charge of £130 + VAT will be payable by the Customer to Opal. The abort charge shall increase annually with RPI.

10.6 Ownership of the AMR Device will not pass to the Customer. The Customer must:

10.6.1 hold the AMR Device on a fiduciary basis as Opal's bailee; and

10.6.2 maintain the AMR Device in satisfactory condition.

10.7 On the occasion that the AMR Device is lost or damaged by the Customer or a third party at the Customer's premises the Customer will be charged £180 + VAT for a replacement AMR Device. This charge shall increase annually with RPI.

10.8 If this Agreement is terminated the AMR Device must be returned to Opal in operational condition within 30 days of the date of termination (time being of the essence) or else a charge of £180 + VAT will be payable by the Customer. This charge shall increase annually with RPI.

10.9 The Customer grants to Opal, its agents and employees an irrevocable licence at any time to enter any premises where the AMR Device is located in order to inspect it, or where the Agreement is terminated, recover it.

10.10 The Customer may challenge the accuracy of the data provided by the AMR Device via a formal request for a data read or data query. If the data is found to be inaccurate, Opal will take all

reasonable steps to ensure that the AMR Device is operating correctly and that future reads are within specification. No charges for the works or any site visits will be made if the data is found to be inaccurate. If the data is found to be either accurate, or inaccurate for reasons attributable to third party interference or third party equipment, then the Customer will be liable to pay for the site visit at the following rates, which shall increase annually with RPI:

10.10.1 £25.00 for a pedestrian read; or

10.10.2 £100.00 for an Ofgem Approved engineer inspection as determined by Opal.

#### **11 LIABILITY – THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

11.1 The following sets out the entire liability of Opal (including any liability for the acts or omissions of its employees, agents or subcontractors) to the Customer in respect of any

#### **10 AMR SERVICE**

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breach of this Agreement, any representation or statement made or act or omission relating to or done in connection with and in respect of any contemplated performance or lack of performance including negligence and other tortious liability.

11.2 All warranties, conditions or other terms implied by statute, common law, trade usage or otherwise are excluded to the fullest extent permitted by law but this exclusion does not apply to any implied condition that Opal has or will have the right to sell the Gas when the property is to pass.

11.3 Nothing in this Agreement shall operate to exclude or limit Opal's liability

11.3.1 for death or personal injury caused by Opal's negligence; or

11.3.2 for fraudulent misrepresentation; or  
11.3.3 to the extent such liability may not be excluded or limited as a matter of law.

11.4 Subject to clauses 11.2 and 11.3:-

11.4.1 Opal shall not be liable to the Customer for:-  
(a) any loss of profit, loss of production, loss of opportunity, loss of contract, wasted expenditure, loss of revenue or financial loss, depletion of goodwill; and

(b) any indirect loss, any consequential loss, damage, costs or expenses whatsoever in each case which arise out of or in connection with this Agreement or its contemplated performance or lack of performance; and  
11.4.2 subject to clause 11.4.1, Opal's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance or lack of performance of this Agreement shall be limited to £20,000.

#### **12 FORCE MAJEURE**

Opal shall not be liable for any delay in performance or failure to perform its obligations under this Agreement where such delay or failure results from circumstances beyond Opal's reasonable control. Such delay or failure shall not constitute a breach of this Agreement and the time for its performance shall be extended by such period as is equal to the delay or by which performance is prevented.

#### **13 SUSPENSION AND DISCONNECTION**

If the Customer fails to comply with any of its obligations in respect of any Site and such failure remains unremedied for seven days after Opal has given written notice to the Customer requiring the failure to be remedied, Opal shall be entitled to suspend or disconnect the Supply to the relevant Site immediately and until such time as the failure is remedied, without prejudice to any other rights or remedies that Opal may have and provided always that any such suspension or disconnection shall not be treated as being outside the control of the Customer.

#### **14 TERMINATION**

14.1 Opal shall be entitled to terminate the Agreement if:-

14.1.1 the Customer commits a material breach of any of its obligations under the Agreement; or  
14.1.2 Opal reasonably believes that the Customer is unable to pay its debts; or

14.1.3 the Customer ceases or, in the opinion of Opal, threatens to cease to trade; or

14.1.4 the Customer fails to make any payment (including a security deposit) in accordance with clauses 3.1.2, 6 or 15.2; or  
14.1.5 Opal is no longer able to supply Gas to the Customer in accordance with the terms of its licence.

14.2 Termination of this Agreement shall not affect rights and duties accrued before termination.

14.3 Opal may on the occurrence of a termination event set out in clause 14.1 terminate the Agreement with respect to individual Meter Points or the Agreement as a whole.

14.4 If the Agreement is terminated either by the Customer giving notice under clause 2 or by Opal under clause 14.1:-

14.4.1 Opal shall continue to supply Gas to the Meter Point under this Agreement until such time as Opal accepts notification from a replacement supplier that they will assume supply of Gas to the Site;

14.4.2 any Gas supplied to the Customer under clause 14.4.1 shall be supplied at the Out-of-Contract Rate and notwithstanding termination of the Agreement the provisions of clauses 6.4 and 6.5 shall apply to all volumes of such Gas supplied to the Customer.

14.5 The provisions of clause 14.4 shall continue notwithstanding termination or expiry of the Agreement.

14.6 This Agreement shall terminate if the Customer has given notice in writing to Opal that it has ceased to be the owner, tenant or occupier of any Site within which the Meter Point is situated, and provided Opal with any necessary supporting documentation and evidence that it may reasonably require. Until such time that Opal has confirmed the termination date, the Agreement shall remain in full force and effect and the Customer shall remain liable for all Gas supplied to the Meter Point and all costs associated with such supply. The termination date shall be no earlier than 90 days prior to the date on when notice is received by Opal.

#### **15 ASSIGNMENT AND CHANGES TO THE CUSTOMER**

15.1 The Customer shall:

15.1.1 not assign its rights under this Agreement and shall remain liable for all gas supplied to any Supply Point until any subsequent owner, lessee or occupier of the site enters into an account for the supply of gas or until such Supply Point is physically disconnected from the network; and  
15.1.2 inform Opal immediately of any changes in the management or Control of the Customer and of any change in its organization or method of doing business which might affect its consumption of Gas or the performance of its duties under this Agreement.

15.2 For the avoidance of doubt at any time Opal may require the Customer to pay a security deposit of such amount and on such terms as Opal deems appropriate.

15.3 Opal shall have the right to object to the Customer transferring to another supplier if:

15.3.1 the date of the proposed transfer precedes the expiry of any notice of termination given under the Agreement; or

15.3.2 any sums due from the Customer to Opal are outstanding or beyond Opal's payment terms; or

15.3.3 the Customer requests Opal to do so; or  
15.3.4 if an alternative supplier attempts to register the supply point in error; or

15.3.5 Opal suspects that the transfer has been arranged without the Customer's permission; or

15.3.6 the supplier does not have *bona fide* proof that the Customer ownership or tenancy has changed.

15.4 Opal may assign any or all of its rights under this Agreement by giving not less than 30 days' notice in writing to the Customer.

#### **16 COPYRIGHT, CONFIDENTIALITY AND GDPR**

16.1 Copyright in this Agreement and in all documents produced by or on behalf of Opal in connection with this Agreement shall remain with Opal.

16.2 Neither party shall, without the prior written consent of the other, disclose to any third party or otherwise make use of any confidential information which has come into its possession or which may in the course of this Agreement come into its possession relating to the other party, this Agreement or otherwise, nor shall it disclose to any third party anything contained in this Agreement. This restriction shall continue to apply unless and until such information comes properly into the public domain through no fault of either party.

16.3 The obligations contained in this clause 16 shall continue notwithstanding any termination of this Agreement.

16.4 Opal shall comply with the requirements of Data Protection Law at all times. Opal shall respect data subjects' privacy rights, handle personal data fairly and maintain the security of personal data in accordance with Data Protection Law and the Privacy Policy.

16.5 The Privacy Policy provides information about: the personal data Opal collects, how personal data is used, how Opal ensures privacy is maintained, and data subjects' rights relating to personal data.

16.6 Opal shall not sell, trade or rent personal data to third parties.

16.7 Opal or its agents may use personal data provided by the Customer for the purposes of managing the Customer's accounts, delivery of Gas and other services to the Customer, detection of fraud and loss, creation of statistics and market analysis and to contact the Customer in connection with the services offered by Opal. Such use of personal data by Opal shall be in accordance with Data Protection Law and the Privacy Policy.

16.8 Opal may transfer personal data to third parties for the purposes of meeting its regulatory and/or contractual obligations but any such transfer shall comply with Data Protection Law and the Privacy Policy.

16.9 The Customer acknowledges that telephone calls made to Opal may be recorded for the purposes of training and/or retaining records of commercial agreements reached between Opal and the Customer.

#### **17 CUSTOMER'S WARRANTIES AND INDEMNITY**

17.1 The Customer warrants that in entering into this Agreement it is not in breach of any contract with a third party for the supply of Gas.

17.2 The Customer warrants that it is the owner or occupier of the Site or Sites.

17.3 The Customer shall indemnify Opal in full against any and all costs, fees, charges and other expenses incurred by it in connection with the recovery of monies due to Opal by the Customer or the suspension or disconnection of any supply of Gas to the Customer. At the request of the Customer, Opal will provide the current charges for disconnecting and re-establishing a Supply.

#### **18 WAIVER**

Failure or delay by either party in enforcing or partially enforcing any provision of this Agreement is not a waiver of any of that party's rights under this Agreement.

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**19 NOTICES**

19.1 If the Customer provide Opal with an email address when entering into this Agreement, such email address shall be used as the primary means for Opal to communicate with the Customer.

19.2 Unless stated otherwise, any notice given under this Agreement shall be in writing and shall be (i) delivered by hand or by prepaid recorded delivery, registered post, or first class post to the addressee at the address of the Customer given in this Agreement or if applicable at its registered office, or (ii) if the Customer has agreed, sent by email to the address provided to Opal. The notice shall be deemed to have been received:-

19.1.1 in the case of personal delivery, at the time of delivery; and

19.1.2 in the case of recorded delivery, registered post or first class post, forty eight hours from the time of posting, and

19.1.3 in the case of email, at the time of delivery.

**20 RIGHTS OF THIRD PARTIES**

This Agreement does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties Act 1999).

**21 INTERPRETATION**

21.1 The Agreement constitutes the entire agreement between Opal and the Customer for the Supply. Opal's employees or agents are not authorised to make any representation concerning the supply of Gas unless confirmed by Opal in writing and the Customer acknowledges that it does not rely on and waives any claim for breach of, any such unconfirmed representation (unless such representation is made fraudulently).

21.2 The headings in this Agreement are inserted for convenience only and shall not affect the interpretation of any of its provisions.

21.3 This Agreement shall be governed by English law. The Customer agrees to submit to the exclusive jurisdiction of the courts of England and Wales, provided that nothing in this Agreement shall limit the right of Opal to bring proceedings in any other jurisdiction, whether concurrently or not.

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