

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 9 (LIMITATION OF LIABILITY).

1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

AML: all applicable legislation relating to anti-money laundering and all other legislation and regulatory requirements in force from time to time which apply to a party relating to anti-money laundering including but not limited to Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692) as amended.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5.

Conditions: these terms and conditions as amended from time to time in accordance with clause 12.5.

Contract: the contract between NFU Energy and the Customer for the supply of Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation.

Customer: the person or firm who purchases Services from NFU Energy.

Customer Default: has the meaning set out in clause (j).

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Deliverables: the studies, reports, documents and other deliverables as set out in the Proposal produced by NFU Energy for the Customer.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

NFU Energy: NFU Energy Limited registered in England and Wales with company number 04056474 VAT Registration Number 754 1246 42.

NFU Energy Materials: has the meaning set out in clause 4.1(h).

Proposal: NFU Energy's proposal or quotation document which contains or refers to these Conditions.

Services: the services, including the Deliverables, supplied by NFU Energy to the Customer as set out in the Proposal.

Start Date: the start date specified in the Proposal.

Term: the term of the Contract as set out in the Proposal

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes fax and email unless otherwise stated.

2. BASIS OF CONTRACT

- 2.1 The Proposal constitutes an offer by NFU Energy to supply the Services in accordance with these Conditions.
- 2.2 The Customer's written acceptance of the Proposal received during the period of validity, as set out in clause 2.6 below or as otherwise set out in the Proposal, is the Customer's acceptance of NFU Energy's offer. The date on which NFU Energy receives the Customer's acceptance of the Proposal is the date on which the Contract shall come into existence. NFU Energy shall be entitled to terminate the Contract with immediate effect and with no liability to the Customer by giving written notice to the Customer within 5 Business Days of receipt of the Customer's acceptance of the Proposal if it is unable to provide the Services on the terms set out in the Proposal due to unforeseen circumstances or if the information or assumptions on which the Proposal was based is incorrect, inaccurate or has changed.
- 2.3 If the Customer's written acceptance of the Proposal is received after the Proposal's validity, such acceptance shall constitute an offer by the Customer to purchase Services for the Term in accordance with these Conditions. Such offer shall only be deemed to be accepted when NFU Energy issues written acceptance at which point the Contract shall come into existence. NFU Energy may accept or reject such offer at its discretion.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by NFU Energy, and any descriptions or illustrations contained in NFU Energy's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the

Services described in them. They shall not form part of the Contract or have any contractual force.

- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.6 Each Proposal issued by NFU Energy is only valid for a period of 30 days from its date of issue.
- 2.7 If any special conditions are set out in the Proposal under a heading 'Special Conditions' and referencing this clause 2.7, these terms shall be deemed incorporated into the Contract and shall take precedence and prevail over any conflicting terms in these Conditions. The terms of the Proposal shall be incorporated into the Contract, including but not limited to any terms contained under the heading 'Limitations'.

3. SUPPLY OF SERVICES

- 3.1 Subject to clause 3.6, NFU Energy shall supply the Services to the Customer for the Term in accordance with the Proposal in all material respects. The Services shall commence on the Start Date or the date on which the Contract is formed, whichever is the later.
- 3.2 NFU Energy shall use all reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3 NFU Energy reserves the right to amend the Proposal if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and NFU Energy shall notify the Customer in any such event.
- 3.4 NFU Energy undertakes to the Customer that the Services will be provided using reasonable care and skill and its employees, agents, consultants and subcontractors shall comply with all reasonable standards of safety and comply with the Customer's health and safety procedures from time to time in force at the Customer's site(s) where the Services are provided.
- 3.5 If the Customer notifies NFU Energy that the Services do not comply with the undertaking set out in clause 3.4 then NFU Energy shall be entitled to reperform the Services. If the NFU Energy reperforms the Services, it shall have no further liability to the Customer for the prior failure to comply with clause 3.4.
- 3.6 NFU Energy shall have no obligation to supply the Services until:
 - (a) the Customer completes and returns to NFU Energy the due diligence checklist and required proof of identification where this is stated to be required in the Proposal;
 - (b) NFU Energy has verified the documentation referred to in (a) above or as required by the AML; and
 - (c) the Customer has completed and returned to NFU Energy any direct debit instruction stated in the Proposal to be required and in the form provided by NFU Energy which authorises NFU Energy to withdraw monies from the Customer's account in accordance with its terms and the Contract.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) ensure that the terms of the Proposal (including but not limited to) any information provided by it and documented in the Proposal are complete and accurate;
- (b) co-operate with NFU Energy in all matters relating to the Services;
- (c) provide NFU Energy, its employees, agents, consultants and subcontractors, with access to the Customer's site and other facilities as reasonably required by NFU Energy;
- (d) be responsible for all health and safety matters whilst NFU Energy employees, agents, consultants and subcontractors are on the Customer's site(s);
- (e) provide NFU Energy with such information and materials as NFU Energy may reasonably require in order to supply the Services, including but not limited to that required information set out in the Proposal, and ensure that such information is complete and accurate in all material respects;
- (f) update NFU Energy if there are any material changes to the information regarding the Customer's site(s), equipment and any other relevant matter as set out in the Proposal or as otherwise provided to NFU Energy in accordance with clause 4.1(e)
- (g) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the Start Date;
- (h) keep all materials, equipment, documents and other property of NFU Energy (**NFU Energy Materials**) at the Customer's site(s) in safe custody at its own risk, maintain NFU Energy Materials in good condition until returned to NFU Energy, and not dispose of or use NFU Energy Materials other than in accordance with NFU Energy's written instructions or authorisation;
- (i) comply with any additional obligations as set out in the Proposal; and
- (j) supply NFU Energy with a letter of authority in the form provided by NFU Energy which allows NFU Energy to act on your behalf.

4.2 The Customer warrants that it has provided NFU Energy with all relevant, complete and accurate information as to the Customer's business, site(s), operations, facilities and needs and any other information which NFU Energy reasonably requires and it will keep NFU Energy updated and will notify NFU Energy if there are any changes to the information provided such that it is no longer true or relevant.

4.3 The Customer shall:

- (a) Provide NFU Energy with all required information as set out in the Proposal;
- (b) where the Services are to be provided at the Customer's site(s), make available free of charge all gas, electricity, heating and water required by NFU Energy together with such facilities for the use of NFU Energy's employees and any third party contractors as shall be required in order to enable NFU Energy to comply with relevant legislation concerning their health, safety and well-being and to perform the required Services;

- (c) carry out any preparatory works specified in the Proposal in good time to enable the Services to be supplied promptly and effectively;
- (d) forward to NFU Energy any communication or correspondence received from a third party agency or supplier which relates to the Services;
- (e) disclose to NFU Energy the presence of any hazardous machinery or substance in any place where NFU Energy is to provide the Services and to give NFU Energy full information as to the nature of any such hazard (if the Customer does not do so, NFU Energy may refuse to perform or to complete the Service without being under any further obligation to the Customer);
- (f) obtain any necessary consents or permits required from any local or governmental authority to enable the Services to be carried out.

4.4 If NFU Energy's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, NFU Energy shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays NFU Energy's performance of any of its obligations;
- (b) NFU Energy shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from NFU Energy's failure or delay to perform any of its obligations as set out in this clause 4; and
- (c) the Customer shall reimburse NFU Energy on written demand for any costs or losses sustained or incurred by NFU Energy arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

5.1 In consideration of the provision of the Services by NFU Energy, the Customer shall pay the Charges.

5.2 NFU Energy shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom NFU Energy engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by NFU Energy for the performance of the Services, and for the cost of any materials. The anticipated expenses will be set out in the Proposal.

5.3 The provision of services other than the Services set out in the Proposal shall subject to additional charges and NFU Energy shall provide the Customer with reasonable notice of such additional charges.

5.4 NFU Energy shall invoice the Customer for the Charges at the intervals specified in the Proposal. If no intervals are so specified NFU Energy shall invoice the Customer at NFU Energy's discretion

5.5 The Customer shall pay each invoice submitted by NFU Energy:

- (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by NFU Energy and confirmed in writing to the Customer; and

- (b) in full and in cleared funds to a bank account nominated in writing by NFU Energy or by cheque to NFU Energy Limited, and

time for payment shall be of the essence of the Contract. NFU Energy may require you to make payment by way of direct debit and where this is the case, your cancellation of the direct debit shall entitle NFU Energy to suspend provision of the Services until such time as a replacement direct debit is entered into.

- 5.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by NFU Energy to the Customer, the Customer shall, on receipt of a valid VAT invoice from NFU Energy, pay to NFU Energy such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.7 If the Customer fails to make a payment due to NFU Energy under the Contract by the due date, then, without limiting NFU Energy's remedies under clause 10:
- (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- (b) NFU Energy shall be entitled to withhold issue of any Deliverables until overdue amounts are paid.
- 5.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) unless otherwise agreed.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by NFU Energy.
- 6.2 NFU Energy grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 6.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 6.2.
- 6.4 The Customer grants NFU Energy a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to NFU Energy for the term of the Contract for the purpose of providing the Services to the Customer.

7. DATA PROTECTION

- 7.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7.1 (Data protection) is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

- 7.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and NFU Energy is the processor. The processing will be as follows (unless otherwise set out in a Proposal):
- (a) scope, nature and purpose of processing by NFU Energy: collecting, storing and using for the purpose of contacting the Customer.
 - (b) the duration of the processing is the term of the Contract and a period of twelve months thereafter (save that a copy of the signed Proposal and any Customer identification documents provided for the purposes of compliance with the AML shall be retained by NFU Energy for a period of 6 years after the termination of the Contract);
 - (c) types of personal data: Names, addresses, photographic images contained on identification documents, email addresses and telephone numbers
 - (d) categories of data subject: customers, customer employees and employees of customer sub-contractors.
- 7.3 Without prejudice to the generality of clause 7.1 the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to NFU Energy for the duration and purposes of the Contract.
- 7.4 Without prejudice to the generality of clause 7.1, NFU Energy shall, in relation to any personal data processed in connection with the performance by NFU Energy of its obligations under this agreement:
- (a) process that personal data only on the documented written instructions of the Customer unless NFU Energy is required by Applicable Law to otherwise process that personal data;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or NFU Energy has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) NFU Energy complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (iv) NFU Energy complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;

- (e) maintain complete and accurate records and information to demonstrate its compliance with this clause 7 (Data protection) and allow for audits by the Customer or the Customer's designated auditor (limited to once per year) and inform the Customer if, in the opinion of NFU Energy, an instruction infringes the Data Protection Legislation.

7.5 Without prejudice to clause 12.2 (Assignment), the Customer consents to NFU Energy appointing third party processors of Personal Data under this agreement. NFU Energy confirms that it has entered or (as the case may be) will enter with the third party processors into a written agreement which NFU Energy undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and NFU Energy, NFU Energy shall remain fully liable for all acts or omissions of any third party processor appointed by it pursuant to this clause 7.

7.6 NFU Energy may, at any time on not less than 30 days' notice, revise this clause 7 (Data protection) by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

8. ANTI-BRIBERY AND MODERN SLAVERY ACT COMPLIANCE

8.1 The Customer shall:

- (a) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
- (b) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate;
- (c) notify NFU Energy (in writing) if it becomes aware of any breach of clause 8.1 (a), or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with the performance of the Contract or anything relating to it;

8.2 The Customer represents, warrants and undertakes that:

- (a) It shall comply with all applicable anti-slavery and human trafficking laws, statutes and regulations from time to time in force including but not limited to the Modern Slavery Act 2015;
- (b) it has not been convicted of any offence including slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking;
- (c) notify NFU Energy as soon as it becomes aware of any actual or suspected slavery or human trafficking in any of its supply chains or connected with any of its directors, officers, employees, agents or subcontractors.

8.3 NFU Energy may terminate the Contract with immediate effect by giving the Customer written notice if this clause 8 is breached.

9. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 9.1 The limits and exclusions in this clause reflect the insurance cover NFU Energy has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.
- 9.2 References to liability in this clause 9 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 9.3 Nothing in this clause 9 shall limit the Customer's payment obligations under the Contract.
- 9.4 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 9.5 Subject to clause 9.4 (Liabilities which cannot legally be limited), NFU Energy's total liability to the Customer for all loss or damage shall not exceed the lower of 3 times the total charges paid by the Customer under the Contract and £1,000,000.
- 9.6 Subject clause 9.3 (No limitation of customer's payment obligations) and clause 9.4 (Liabilities which cannot legally be limited), this clause 9.6 sets out the types of loss that are wholly excluded:
- (a) loss of profits.
 - (b) loss of sales or business.
 - (c) Loss of production.
 - (d) Loss of use.
 - (e) Loss of opportunity.
 - (f) loss of agreements or contracts.
 - (g) loss of anticipated savings, discount or rebate.
 - (h) loss of use or corruption of software, data or information.
 - (i) loss of or damage to goodwill or reputation; and
 - (j) indirect or consequential loss.
- 9.7 NFU Energy has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.8 Unless the Customer notifies NFU Energy that it intends to make a claim in respect of an event within the notice period, NFU Energy shall have no liability for that event. The notice period for an event shall start on the day on which the Customer

became, or ought reasonably to have become, aware of the event having occurred and shall expire 6 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

- 9.9 The Customer acknowledges that NFU Energy is not responsible for the actions of third party agencies and suppliers and as such NFU Energy shall not be liable for any actions or delays of such third parties.
- 9.10 The Customer acknowledges that:
- (a) NFU Energy is not responsible for the actions of third party agencies and suppliers and as such NFU Energy shall not be liable for any actions or delays of such third parties.
 - (b) NFU Energy is not liable for the Customer's receipt of income from a third party agency or supplier (including but not limited to OFGEM or any payments under incentive schemes) by a certain time.
 - (c) NFU Energy is not responsible for any losses occurring due to the Customer's failure to notify NFU Energy of any changes to information previously provided.
- 9.11 This clause 9 shall survive termination of the Contract.

10. TERMINATION

- 10.1 Without affecting any other right or remedy available to it, either party may terminate the Contract as set out in the Proposal.
- 10.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
 - (b) the other party has a moratorium declared in respect of any of its indebtedness, takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with all or any of its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 10.3 Without affecting any other right or remedy available to it, NFU Energy may terminate the Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under the Contract on the due date for payment; or

- (b) NFU Energy reasonably believes the Customer is about to become subject to any of the events listed in 10.2(b); or
 - (c) there is a change of control of the Customer; or.
 - (d) The Customer does not provide information requested by NFU Energy in accordance with these Conditions within 14 days of NFU Energy's request (or such other timescale as NFU Energy shall reasonably stipulate); or
 - (e) the information and/or assumptions on which the Proposal is based is incorrect, inaccurate or has changed.
- 10.4 Without affecting any other right or remedy available to it, NFU Energy may suspend the supply of Services under the Contract or any other contract between the Customer and NFU Energy if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 10.2(b) to clause 10.2(d), or NFU Energy reasonably believes that the Customer is about to become subject to any of them.

11. CONSEQUENCES OF TERMINATION

11.1 On termination or expiry of the Contract:

- (a) the Customer shall immediately pay to NFU Energy all of NFU Energy's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, NFU Energy shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of NFU Energy Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then NFU Energy may enter the Customer's site(s) and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

11.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

11.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

12. GENERAL

12.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

12.2 **Assignment and other dealings.**

- (a) NFU Energy may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of NFU Energy.

12.3 Confidentiality.

- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.3(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12.4 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

12.5 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.6 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract deleted under this clause 12.7 the parties shall

negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.8 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Proposal (in the case of the Customer) and to legalnotices@nfuenergy.co.uk (in the case of NFU Energy).
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (iii) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause (ii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause 12.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12.9 Third party rights.

- (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

12.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.