



# energy and telecoms supply terms (business customers)

## ALL SERVICES

### 1. Introduction

These terms and conditions apply if you are a customer using our gas, electricity, telecoms and/or broadband services wholly or mainly for business purposes.

**Please read these terms and conditions carefully so that you fully understand your commitments and our obligations.**

**If you have not already done so, please advise us promptly if you are or become a “micro- business”. A “micro-business” is defined in clause 22.**

Our website sets out details of the services that we provide. By submitting an order for any or all of our services you offer to purchase those services. We will send you confirmation that we accept your application and issue a quotation for the services requested by you. No contract will be formed between us until after we have received your confirmation in writing or online that you accept our quotation and sent you our notice of acceptance. If there are any problems with your application we will contact you and attempt to resolve any issues. If this is not possible we will give you notice rejecting your application. We reserve the right to reject your request for any reason. Grounds for our rejection could include but are not limited to an unsatisfactory credit score or if your premises are found to have unsuitable metering equipment (for instance those offering half hourly metering) or in the case of broadband services, that you do not have a BT telephone landline (we will test this for you using the telephone number given on your application) or your premises cannot be connected for any other technical reasons.

If you have any queries regarding this contract please contact customer services at email: [customer.service@first-utility.com](mailto:customer.service@first-utility.com) (<mailto:customer.service@first-utility.com>) or call **01926 320 700**.

### 2. Duration of contract and changes to these terms

2.1 The contract shall commence once we provide notice of acceptance in writing or online (as the case may be) and shall continue (unless the contract for any or all of the services is earlier terminated pursuant to clause, 15.3 or 15.4):

- a. in the case of gas and electricity services for an initial supply term as defined in the ‘Contract for the Supply of Electricity and Gas’ sheet provided to you (the "**initial contract period**"). After the expiry of the initial contract period unless written notice to terminate the supply of gas and electricity services supplied under this contract is given by either party pursuant to clauses 15.1 a) and b), the agreement shall be deemed to be automatically extended for a further 12 months on each anniversary of the supply start date ("**contract renewal date**"). We will write to you prior to this date reminding you of your right to terminate the contract; and
- b. in the case of telecoms services, the contract shall continue until written notice to terminate the telecoms services supplied under this contract is given by either party pursuant to clause 15.1 c); and
- c. in the case of broadband services the contract shall continue in accordance with clause 9.2(a).

2.2 Subject to clause 2.3, we reserve the right to vary the charges for any of the services with effect from any anniversary of the supply start date by giving you at least 1 month's prior written notice.

2.3 We may need to change our terms and conditions of supply from time to time (including without limitation changes to our charges) to take account of matters such as any changes to any of the industry agreements or the licence terms under which we operate, any changes in the law, any regulations, standards or codes of practice applicable to the services, any order, judgment or direction by the government or other competent authority, any changes to transportation or distribution charges, the cancellation or termination of our purchase contracts, volatile market conditions. Such changes will take effect as soon as you are notified of them.

### 3. Your obligations, our obligations

3.1 In the case of energy supply and broadband services, we will supply these services to your premises on condition that you terminate any existing supply contract to that premises to take effect in line with your supply start date (as defined below). Should your existing supplier object to first:utility registering your supply, delaying the agreed supply start date; we reserve the right to change the contract price to reflect this change.

3.2 We will tell you the date on which the supply of each of the services under this contract is expected to start ("**supply start date**"). The supply start date may differ for each service. You acknowledge that we cannot guarantee that date and although we will take reasonable steps to ensure that it will be within 30 days of the date on which we confirm our acceptance of your order for the service(s) this is an estimate only and shall not entitle you to any compensation or the right to terminate the contract (or any part thereof).

3.3 We will not be obliged to supply the premises with more gas than can be supplied by the gas transporter or with electricity in excess of the maximum amounts you are entitled to take through the connection point.

3.4 You warrant that:

- a. you are not a domestic consumer for the purposes of this agreement (i.e. the services are to be used at least in part for business purposes);
- b. those who enter into this agreement are authorised to contract on behalf of the business identified in the order form to which this contract relates;
- c. the information which you supply to us during the term of this contract (including, without limitation, any information with respect to tariffs, rates, EAC/AQ, breakdown of EAC/AQ by relevant time period and meters) is complete and accurate in all respects and that you will notify us immediately of any material changes to your circumstances. You will indemnify us in full against any liability or loss we may suffer as a result of your breach of this warranty;
- d. you are the owner or occupier of the premises (or will be on the date that you require the services to start);
- e. (where electricity or gas services are being bought) the premises are currently connected to the local electricity distributor's network or the local gas transporter system; and
- f. that you are responsible for all pipes, fittings, plant, wires and cables, equipment and apparatus used in connection with the supply of the services on your side of the metering equipment and you will maintain them in good working order and safe condition at all times.

3.5 You must:

- a. use the services and any equipment provided by us or on our behalf in accordance with any instructions given by us from time to time (so long as they are reasonable) and in accordance with all applicable laws, regulations, codes of practice and licenses;
- b. not use our service:
  - i. in connection with the carrying out of any fraudulent, criminal or other illegal activity;
  - ii. to send, knowingly receive, upload, download or use any material which may be abusive, offensive, harassing, obscene, indecent, menacing or defamatory or which might cause annoyance, inconvenience, or needless anxiety to anyone, or be in breach of copyright, confidence, privacy or other rights;

- iii. to send or provide, or knowingly receive, responses to, any spam or unsolicited advertising or promotional material;
- iv. to knowingly or recklessly transmit any electronic material (including viruses) which causes, or is likely to cause, detriment or harm in any degree to computer systems owned by us (or any of our telecommunication or broadband operator or other internet users);
- v. in a manner which restricts or inhibits any other user from using or enjoying our products or services (or those of our telecommunication or broadband operator);  
or
- vi. utilise excessive amounts of bandwidth in an abusive way;
- c. inform us as soon as possible if any of the passwords or other confidential information that we have disclosed to you becomes known to any unauthorised user; and
- d. in the case of broadband services, comply with our acceptable use policy and take reasonable steps to ensure that other persons using the broadband service that we provide to you also comply with this policy. A copy of this policy is available on our website or can be obtained from customer services.

3.6 Please note that those who provide the networks over which your calls will be carried may take action against you directly should you breach your obligations under clause 3.5 (b) and (c).

3.7 Unless expressly agreed in writing or should you purchase the equipment (where you are entitled to do so) any equipment we provide related to the supply of the services (including without limitation, all metering equipment including the modem and the dialler) will remain our property or that of our agents and you will have no right or interest to it. You must keep all such equipment safe and free from the risk of damage and you undertake that you will not nor will you permit anyone to amend, modify, remove or in any way tamper with such equipment or any part of it (including without limitation obliterate, deface or cover up any plates or other identification markings on the equipment). In the event that you remove any equipment supplied by us we may require that you purchase it from us at such price as we may reasonably determine and that you reimburse us our reasonable costs associated with the same.

3.8 You will indemnify us and be liable to us for any loss or liability we suffer as a consequence of:

- a. your breach of your obligations under clause 3.7; and
- b. any damage to or interference with our equipment, the connection to the network operator's distribution system or the gas transportation system which is caused by your negligence, wilful default or breach of this contract.

#### **4. Access to premises**

You will allow us and any of our representatives, the licensed gas transporter or the local network operator, or any other person authorised by us in connection with the supply of the services, reasonable access to install, remove, inspect, check, read, replace, reset, maintain and disconnect any equipment, isolate or de-energise the meters and otherwise to carry out its functions under or pursuant to this contract, any meter lease and any industry agreements under which we operate, in each case at your expense. In the event that we are required to obtain a warrant to gain access for the above purposes, we reserve the right to recover our reasonably incurred costs from you. A list of charges relevant to you can be accessed online through our website or available on request from customer services.

### **ENERGY**

#### **5. Meters**

5.1 By entering into this contract you agree to have your existing meter replaced with an AMR meter where such a meter is not already installed. The installation may require a short interruption to your supply. To the maximum extent permitted by law we will have no liability in respect of such interruption. We or our representative will contact you to agree a convenient time for the replacement of your meter. Your failure to honour this appointment by not being at the premises or not providing access will result in an abortive visit charge. An abortive visit charge will be levied on each subsequent occasion that you fail to honour a booked

appointment. A list of all charges relevant to you can be accessed online through our website or available on request from customer services.

5.2 If following a visit to exchange the meter it is found that the location is unsuitable or that the signal strength is not sufficient to install an AMR meter, we will, at our discretion, arrange for your meter to be read via a pedestrian meter reading, however, you will be liable to pay the additional metering charge found on your bill to cover the costs related to your existing meter.

5.3 If you wish to change any appointed agents, you must give us not less than 20 (twenty) days notice in writing and any meters or meter reading arrangements must be acceptable to us. Any agents appointed by you must have the necessary accreditation and will be subject to our prior approval. If you do change any appointed agents you will compensate us for any extra operating cost or capital expenditure incurred by us as a result of the change or from the failure of your agents to provide the required service.

5.4 If your electricity consumption exceeds the industry requirements for the metering equipment you will bear the cost of any necessary upgrade to the metering equipment and/or, where applicable, any new or augmented connection to the network operator's distribution system.

5.5 If your electricity consumption or maximum demand exceeds the set limits for your profile class, you will be moved to a new valid profile class and will be provided with new contract rates to reflect this change. You will also be liable for any charges that First Utility incurs during the period that you are assigned to an incorrect profile classes.

5.6 If once the AMR meter has been successfully installed we are required to re-visit your premises to reposition it or install any additional equipment to it in order to re-establish the connection or signal to the meter you will bear the reasonable cost of this work.

5.7 For meters installed on any new connections the supply standing charge and meter charge will be levied from the date of installation, regardless of the energisation status of the connection.

## 6. Safety and emergencies

6.1 If you believe that the metering equipment may be damaged, causing or likely to cause a safety hazard you must notify us immediately. You undertake that you will not use electricity and/or gas in any way that may create any risk of damage to any property, of injury to health and safety or the interference with the efficient supply of electricity and/or gas to other consumers.

6.2 We, a network operator or any intermediate supplier of electricity and/or gas (at their respective discretion) may suspend the supply of electricity and/or gas:

- to avoid danger;
- to avoid a possible breach of law, breach of any person's authorisation under the Electricity Act 1989 or breach of the Distribution Code;
- to undertake inspection, maintenance or repair or to replace, or add to any part of, the grid supply system or your equipment; or
- to prevent interference with the supply of electricity and/or gas, or to restore a supply of electricity and/or gas, to any person.
- under any Act of Parliament, regulation or order prohibiting or restricting the supply of electricity and/or gas.

6.3 You shall immediately notify any escape of gas to such designated emergency contact number as notified by us from time to time. The current emergency number to be called is 0800 111 999.

## 7. Scope of electricity supply and terms of electricity connection

7.1 We do not guarantee you an uninterrupted supply of electricity, emergency or stand by capability under these terms. If this is what you require you will need to enter into a separate contract with an alternative supplier.

7.2 We act on behalf of your electricity distribution network operator to make an agreement with you. The agreement is that you and your network operator both accept the National Terms for Connection ("**NTC**") and agree to keep its conditions. This will happen from the time you enter into this contract and it affects your legal rights. The NTC is a legal agreement. It sets out rights and duties in relation to the connection at which your network operator delivers electricity to, or accepts electricity from your business. If you want a copy of the NTC

or have any questions about it, please write to Energy Networks Association, 18 Stanhope Place, London W2 2HH, phone 0207 706 5137 or see the website at [www.connectionterms.co.uk](http://www.connectionterms.co.uk).

## TELECOMS AND BROADBAND

### 8. Telecoms services

8.1 If you sign up to our telecoms service you can make telephone calls from any telephone number which is registered with us. You can either use your current line rental provider or take line rental from us. If you take line rental from us we will provide you with an access line or transfer the line from your existing provider.

#### 8.2 Line rental

- a. You can obtain full details of all line rental services by visiting our website, or by contacting customer services.
- b. We reserve the right to charge you for any of the line rental services at the rates notified to you from time to time or published on our website and your call plan may be varied accordingly.
- c. You may from time to time change your line rental service options but you are only entitled to do so once in any billing month. Any such changes will take effect in the billing month following the billing month in which you made the request for the change.
- d. If we provide you with line rental and other services and you elect to use another provider for some or all of your calls we may at our sole discretion:
  - i. cancel your calls order with that provider;
  - ii. bar your use of indirect access codes;
  - iii. charge you a higher fee for your use of the line rental service (currently an additional £3 per month); or
  - iv. disconnect the line rental service.

In addition, we will raise the call charges in respect of calls made through another provider at the then current standard BT day time retail rate or at our then current call charge rate, whichever is the higher, for the telephone number dialled. Our 'lowest bill' guarantee or any similar offers made available by us from time to time will not apply to such calls.

- e. If the only telecoms service you take from us is line rental you are not eligible to receive 'free calls' (pursuant to clause 8.3 below), participate in the 'lowest bill' guarantee; or any such similar offers made available by us from time to time.

#### 8.3 Free calls credit

- a. Free call credit is non-transferable, has no cash equivalency or redeemable value, and can only be used for making phone calls through our network/dialler. If you terminate your contract with us, we reserve the right to withdraw your free call credit from the date you notify us up until you change supplier.
- b. Calls can last for up to 60 minutes before reverting to our standard UK charging. Free calls are not available between telephone numbers registered to the same account. We reserve the right to suspend free calls between monthly billed customers and if we do so we will notify you as soon as reasonably practicable.
- c. Free call credit may be withdrawn by us at any time at our sole discretion and if it is withdrawn we will notify you as soon as reasonably practicable.

### 9. Broadband and email services

#### 9.1 General

- a. The broadband service gives you network access to the Internet, a variety of intranet services and other applications. You can obtain full details of the broadband packages that we offer by visiting our website or by contacting customer services. Any specific terms and conditions or instructions relating to the service package that you chose will be treated as part of these terms and conditions.
- b. You must have suitable computer(s) and compatible cables from your telephone socket(s) to your modem and computer(s). The minimum specifications are set out on

our website.

## 9.2 Initial term and changes

- a. Your broadband and contract will continue indefinitely (subject to the provisions of clause 15 below) but is subject to an initial term as set out in the tariff sheet provided to you prior to registration during which the provisions of 9.2, 12.2 and 15.9 will apply (the "**initial term**"). This initial term will start again each time you request any change to your broadband package or you transfer the broadband service to a new premises.
- b. You may change your broadband package at any time, free of charge, but if you downgrade to a lower speed service within the initial term a re-grade charge will be payable to recover our reasonable set up and administration costs. If you downgrade the service after the initial term no charge will be payable.

## 9.3 Email

We also provide an email service either as part of the broadband package or as a separate service. Further details about our email services can be found on our website or by calling customer service.

## 9.4 Usage

We operate a fair usage policy to protect the quality of service to our customers. If we believe your use of the broadband service is adversely affecting our network (or any part of it) or our other customers we reserve the right to manage or regulate your usage in accordance with the fair usage policy. This can be viewed on our website or a copy can be obtained from customer services.

## 10. Dialler, modem and software 10.1 Dialler

- a. Unless the 'carrier pre-select' service has been enabled, calls made from any phone not plugged directly into our dialler will route to whoever is providing your line rental service.
- b. In the unlikely event that the dialler should become faulty and calls routed and charged by your line rental provider you will not be entitled to any compensation.

## 10.2 Modem and broadband package

- a. We will supply you with a modem pack comprising a modem plus two filter devices, cables and installation CD where relevant. We will charge you a one-off fee for the modem. A list of our current fees is available on our website.
- b. You must use the software on the installation CD solely for the purpose of receiving the broadband service. You must not make any copies or modify our software in any way without our permission. You are responsible for the installation of any updates of such software that we may provide.

## ALL SERVICES

## 11. Faults, maintenance and technical support

### 11.1 Telecoms

- a. If there is a fault with either your line or the telephone connection, please contact customer services. We will arrange for the repair and maintenance of your line and telephone connection. If our telecom service is not available at least 99% of the time (in any given month), you will be entitled to claim service credits relating to your telephone line and connection subject to clauses 11.1(e) and 16. You acknowledge that your claim to service credits shall be the only liability we have for any failure to provide you the telecoms services. Any claims you make for back charges under this clause must be made within six (6) months from the date such charges were incurred. If an engineer visit has been arranged at a time pre-confirmed by you and the engineer is not able to access your property, you shall be charged for this abortive visit, and any such charges will be added to your bill. An abortive fee will also be payable if we reasonably believe that the fault is due to your act or omission or to your own equipment. We reserve the

right to bill you for a non-subscription based event, including without limitation, one off charges such as an engineer visit, new line installation, or phone book purchase and these charges may be levied on you up to six (6) months after the relevant non-subscription based event has taken place.

- b. If you are on our "special care" line rental service plan and you inform us of a fault, any fault raised between 8am-5pm GMT/BST Mondays to Fridays, will be responded to within 24 hours. We will endeavour to resolve any fault by midnight of the following working day from when you register the fault with us, unless an engineer visit is required. Any fault raised or reported outside of these hours will be treated as if it had been reported at the beginning of the next working day.
- c. We will use our reasonable endeavours to ensure that our engineers keep any scheduled appointment with you at all times.
- d. Service Credits may be available if we fail to repair a non-appointed fault on time, or we fail to keep our appointment with you. In these circumstances you may be entitled to claim up to 35% of your monthly line rental charge (this is for your line rental subscription only and does not include any charges relating to your calls). If your claim is successful, the amount you receive will be credited to a later bill. The maximum service credit claimable is £500.00 per line per annum.
- e. You will not be entitled to service credits, or any other form of compensation in the following circumstances:
  - o you have not reported the fault to us within 1 (one) month of the failure giving rise to the compensation and have not claimed the compensation within 6 (six) months of the failure giving rise to the compensation;
  - o the failure is due to a fault outside of our network (for example but without limitation, a fault with the public internet);
  - o the damage or fault was caused by your act or negligence;
  - o we suspend your service in accordance with clause 15 or you are in breach of any part of the contract;
  - o through no fault on our part we are unable to carry out any necessary work on your property because we are unable to gain access to your property, we are unable to agree an appointment date, the work is aborted, or we require information or assistance to provide the service but are unable to gain this information or assistance from you.
- f. We will aim to give you at least 5 (five) days' notice before carrying out any maintenance of the telecom service that may affect you. We will aim to correct any defect or default in the services that you notify us of as soon as possible.

## 11.2 Broadband

We will provide you with support for the broadband service and any modem that we have supplied to you. If you experience a problem, you can report it by telephone 0845 215 1650 or email [broadbandsupport@firsttelecom.com](mailto:broadbandsupport@firsttelecom.com)

(<mailto:broadbandsupport@firsttelecom.com>). You are responsible for all call charges that you incur whilst making calls to us. Once you have notified us of a fault, we will do our best to resolve the problem as quickly and efficiently as we are able. Where a fault affects all of our customers or the broadband service becomes generally unavailable we will let you know by putting up a notice on our website.

## 11.3 Energy

- a. If you dispute the accuracy of the metering equipment and give us 14 (fourteen) days' written notice, we will carry out accuracy tests. If the relevant metering equipment is found to be within the acceptable limits of error prescribed by the industry agreements under which we operate (which currently are 2.5% fast and 3.5% slow) you will bear the cost of the test, if it is not the cost shall be borne by us, along with that of replacing or recalibrating the meter.
- b. You shall pay to us or we shall refund you for electricity or gas supplied and not registered or incorrectly registered, an amount calculated by us which shall be based, so far as can be reasonably ascertained, on what you would have been charged had the metering equipment not been defective.

## 12. Moving premises

## 12.1 Telecoms

- a. If you move premises you must contact us not less than 14 (fourteen) days prior to moving with your updated address details, the new telephone number on which you want the service to be activated (if applicable). Failure to do so may result in a restriction or suspension of the telecoms service. Call plan fees will be re-calculated accordingly.
- b. If we are requested to move your line we will, unless otherwise requested, endeavour to retain your existing telephone number. Installation of the new line in the property you are moving to or any additional new line will attract new line connection charges and a new twelve (12) month contract. We may also charge you for moving the existing line to your new property as well as impose as a three (3) month minimum contract period. Details of these charges can be obtained from customer services.
- c. Please note that in the cases where you have been allocated or chosen to obtain a new number then unless our 'carrier pre-select' service has been activated on that new number, all calls made on your new number will be billed by us at a higher rate which will be the applicable rate from time to time at the time of the call as specified in our price list which appears on our website.

## 12.2 Broadband

You must let us know immediately if you are moving premises or change the telephone number of your BT telephone landline to which you connect to the broadband service. You may be able to transfer the service to a new BT landline or new premises if you wish to do so. Such changes will be free of charge but will be subject to the provisions of clause 9.2 and 15.9. If you move premises or change your telephone number and do not wish to transfer the broadband services your contract with us will continue until it is ended in the ways set out in clause 15.1 c) below.

## 12.3 Energy

If you move you must give us Satisfactory Notice. We will continue to charge you until the earlier of the date that you have moved or the date that a new occupier/owner enters into a contract with us or another supplier.

## 13. Pricing

### 13.1 Energy

- a. In consideration for receiving the supply of electricity and/or gas at the premises you will pay us our charges. Our rates are detailed in the tariff sheet provided to you as part of our registration process but may be amended from time to time in accordance with clause 2.2. A list of all our charges relevant to you is available on request from customer services.
- b. Our published rates apply only where an AMR meter is installed at your premises and provided you pay us by direct debit. If First Utility agree prior to registration of the contract, that you may pay by means other than direct debit, this payment term will be based on a charge of £25 per account per month. If we are unable to install or make use of an AMR meter at your premises for any reason, we will transfer you to our higher Default Rate under clause 13.1(c).
- c. Any instances under our terms & conditions where we may impose Default Rates on SME energy contracts will be reflected by the levying of the higher of;
  - i. 30% increase on the standing charge and unit rates for a 1 (one) year contract at the time that Default Rates are applied or;
  - ii. 30% increase on the current contracted standing charge and unit rates for the remaining period of the original contract.
- d. The amount invoiced will normally be based on an actual read taken on the last day of each calendar month. Reasonable endeavours will be made to obtain an actual read on this day, but failing this, an actual read at a day either side of the last day of the month will be used. In the unlikely event that no actual read can be obtained for these 3 (three) days, an estimate will be made based on the last actual read and the actual data history of consumption at the premises.
- e. If a meter is not read immediately before the relevant supply start date and we are unable to install an AMR meter at supply start date, then we may estimate your initial supply period based on historical consumption data provided by your previous supplier

and other historical data relating to the premises until an AMR meter is installed.

- f. We reserve the right to pass onto you any tax, duty or levy which is imposed upon us in relation to the supply of energy to you under this contract including (without limitation) Value Added Tax, the Renewables Obligation, Climate Change Levy ("CCL"), any carbon tax or other similar levies. In the event that your premises qualify for reduced VAT or other levy exemption, you must send us a valid HMRC declaration certificate. If you fail to do so, we reserve the right to bill you for VAT and CCL at the standard rates.
- g. The gas AMR device may transfer readings via the electricity meter and the termination of the electricity contract precludes us from using this device when we are no longer the electricity supplier. If you terminate the supply of electricity services and you are also a gas customer your attention is drawn to clause 15.5.
- h. Our charges consist of charges for energy supply, meter and data charges which include the charges for providing you with the details of your energy consumption data via your account on our website.
- i. In relation to a supply of gas where the gas transporter is not the gas transporter whose transportation charges our prices are based on, you will also pay the additional amount (if any) notified as being payable in these circumstances.
- j. Where you provide incorrect data or the data provided proves to be incorrect such as the EAC/AQ or breakdown of EAC/AQ by relevant time period then we reserve the right to amend the charges.
- k. Where we are required to involve Revenue Protection due to potential fraudulent practice in obtaining our services, we shall be entitled to recover all cost involved with such visits should the case against you be established.

### 13.2 Telecoms

- a. In consideration for receiving the telecoms services, you will pay for all calls made in accordance with your call plan, our published price list for the service and our call records.
- b. A fixed monthly package fee (where applicable) will be charged in arrears, a pro-rata sum will be charged on your first bill to cover the period from the activation of the service to the end of the first billing period, and a variable monthly charge for the telephone calls you make that exceed your free minutes allowance.
- c. The call charges will be billed monthly in arrears, and charges are calculated in accordance with your current call package. If you take a line rental service from us we will bill you monthly in advance for this service, a pro-rata sum will be charged on your first bill to cover the period from the activation of the service to the end of the first billing period.
- d. Where packages include inclusive minutes, which apply to call types up to a monthly limit, unused inclusive minutes (call minutes) cannot be carried forward from one month to the next. Free minutes are only available for voice (not data or internet) calls and cannot be used for premium rate, international, mobile or non geographic numbers (unless specifically stated in your call plan).

### 13.3 Broadband and email

You will pay to us the appropriate charges for your use of the broadband and email services that may apply at the time you subscribe. Our current charges set out on our website or are available on request from customer services. We will collect the first payment from you shortly after the date on which the broadband service is made available to you. We will then collect payment on a monthly basis.

### 14. Billing and payment

14.1 We will send you one monthly bill covering all services under your contract with us. You must pay us by direct debit unless we agree otherwise in writing (in which case we will levy a reasonable monthly administration charge currently set at £25 per account).

14.2 Where we fail to collect payment (other than as a result of our own act or omission) we will charge you, and you will be liable for, interest on the sum due 28 (twenty-eight) days after we sent the original bill according to the Late Payment of Commercial Debts (Interest) Act 1998. The rate of interest in such circumstances shall be the Bank of England base rate plus 8%.

14.3 If you cancel a direct debit or your direct debit is returned by your bank you will be charged a £10 administration fee. The Default Rates will be applied to all units and standing charges on your next bill.

14.4 We reserve the right to demand from you a bond equivalent to our estimate of the value of gas, electricity and/or call charges which will be incurred by you during 3 (three) months of supply. This will be requested should you, within any contract period, cancel 2 (two) direct debits or fail to make 2 (two) non-direct debit payments by the date cleared funds are required and you will deliver the bond to us within 5 (five) working days of our demand. In addition, if you fail or score low on the credit checks we carry out as part of our registration process we reserve the right to request that you pay us a security deposit and/or set a credit limit on your account. In the event that you fail or score low on the credit checks we carry out as part of the ongoing management of your account, we reserve the right to request that you pay us a security deposit or retain any existing security deposit and/or set a credit limit on your account. Notwithstanding any other provisions in the contract, if you refuse to pay us a security deposit or, having a credit limit, exceed that credit limit or do not pay all or any part of our charges, we may discontinue any or all of the services or put a load limit on your supply, in each case without prior notice.

14.5 If you reasonably dispute any amount in an invoice you must notify us with full details of the invoice and the reason for your dispute no later than 4 (four) days before the payment is due. You and we shall try to resolve the dispute as soon as reasonably practicable. However, in the meantime you must pay the amount of the invoice which is not in dispute. Once the dispute is resolved any amount due by you to us shall be paid within 10 (ten) days and any amount due from us shall be credited to your account within 10 (ten) days. We may, when it is considered reasonable to do so and at our sole discretion, apply a charge to recover any costs we may have incurred in investigating a payment dispute or other query initiated by you including, but not limited to, the provision of duplicate consumption data and documents.

14.6 If you pay your account by cheque, credit card or direct debit and your bank or credit card company refuses to make payment or you cancel your payment instruction, we reserve the right to charge you for any bank charges, approved financial institution fees and/or other extra administration costs that we incur as a result. In addition if you take a line rental service from us and it is that payment which has not been made your calls service will be suspended and Indirect Access Call Barring (IACB) will be applied to your account and you will cover all setup costs associated with this activation together with all monthly charges that we incur as a result.

14.7 In the event of non payment by you, any costs we incur for debt collection, tracing and investigations and legal proceedings and any costs associated with suspending or ceasing any of the services will be added to the outstanding balance. Furthermore, any cheques returned from your bank, for whatever reason, will be charged at £25 per cheque.

## 15. Termination/suspending the services

15.1 You may provide us with written notice to end this contract:

- a. in the case of gas services, after the expiry of the initial contract period by providing 30 days' written notice to take effect at 0600 hrs on the contract renewal date (or if the contract has continued beyond that date at 0600 hrs on the next anniversary of the contract renewal date);
- b. in the case of electricity services, after the expiry of the initial contract period by providing 30 days' written notice to take effect at 0000 hrs on the contract renewal date (or if the contract has continued beyond that date at 0000 hrs on the next anniversary of the contract renewal date); and
- c. in the case of telecommunication and broadband services, by providing 30 days' written notice to expire at the end of the 30 day period. If the contract is terminated by you in accordance with this clause 15.1(c), our provider may charge us a termination fee, if this is the case we shall be entitled to seek to be reimbursed from you for the full amount of such fee. If proper notice is given the contract with us will end on the expiry of such notice. For energy customers, notice can be provided in writing to:

SME Renewals Team  
First Utility  
Athena House  
Athena Drive

Tachbrook Park Warwick  
CV34 6RL

### **From 15 October 2012**

SME Renewals Team  
First Utility  
Point 3,  
Opus 40 Business Park Haywood Road, Warwick  
CV34 5AH

or by email to:

[sales@first-utility.com](mailto:sales@first-utility.com)

If you have not accepted the renewal term but have previously provided written notice of termination in accordance with clauses 15.1 a) and b) and then continue to take supply from First Utility past the contract renewal date, default rates will be applied to all units of electricity and/or gas consumed up to the date when you transfer supply. The associated standing charges will also still need to be paid during this period.

15.2 When we have received notice under clauses 12 or 15.1, we shall prepare a final bill or statement for you. In the case of energy services, we will need to get a final energy meter reading before we can do this and we will make reasonable endeavours to obtain an actual automated meter read to allow us to provide you with an actual final read via your AMR.

15.3 If you are in a contract with us or owe us any amounts under this contract, we have the right to object to you transferring to a different supplier and if we do object then we will notify you as soon as reasonably practicable that we have done so.

15.4 We are entitled to end this contract and/or discontinue any or all of the services to your premises immediately by giving you notice if:

- a. you do not pay any security deposit or bond requested under clause 14.4 or any part of our charges (that are not genuinely in dispute) when due under these terms and in the case of energy supply it is not safe or practicable to fit a prepayment meter to collect the debt and future charges;
- b. you commit a serious or repeated breach of this contract (for example, if we reasonably believe that you have stolen energy, broadband or telecoms services or deliberately interfered with a meter or any other equipment or part of thereof which may affect the services);
- c. you become subject to an administration order, receivership or liquidation order or are unable to pay your debts (within the meaning of the Insolvency Act 1986) or make a proposal for voluntary arrangement under Part 1 of that act or are wound up adjudicated bankrupt or make any compromise or arrangement with or for your creditors;
- d. you cease to be the owner or occupier of the premises;
- e. an energy, telecoms or broadband regulator directs another supplier, instead of us, to supply your premises or your supply of energy is required to be cut off under any of the energy industry arrangements under which we operate;
- f. there is a risk of danger to you or other members of the public if the supply is continued;
- g. circumstances occur which are beyond our reasonable control and which result in us being unable to perform our obligations under this contract; such circumstances would include without limitation the acts or omissions of any other telecoms or broadband service provider, energy supplier, electricity distributor, gas transporter or shipper;
- h. in the case of telecoms services, if in any period of one calendar month you do not make at least £1 worth of calls using the service;
- i. we cease to be party to any of the industry agreements under which we operate;
- j. in the case of energy services, the relevant agent is not appointed in respect of each supply point at your premises;
- k. in the case of electricity services, if your premises become a mandatory half hourly metered site or if you elect to be half hourly metered;
- l. you are still within an existing contract with another supplier for electricity or gas services;

- m. you disconnect your telephone landline or change to a non-BT telephone line;
- n. you fail or score low on a credit check that we carry out once the contract is already in force;
- o. you request to end your contract due to a force majeure.

15.5 If we supply you with both electricity and gas and you terminate the electricity contract, we reserve the right from the day following the last electricity supply date to either terminate the gas contract between us, or place the gas contract onto our higher Default Rates.

15.6 Each of us may end this contract immediately if we are no longer licensed to supply energy or provide telecoms services at your premises.

15.7 Ending your contract will not affect any rights and obligations which arose before that contract came to an end or which are stated in that contract to take effect or to continue after that date, or the right to claim damages for losses whenever they occur provided they arise out of an event occurring on or before termination of this agreement. In addition clause 3.4(c), 3.8, 4, 13.1(h), 15.6, 15.8, 16, 17, 19(e) and 20 shall survive termination as well as any provisions of this Agreement necessary for the interpretation or enforcement of this Agreement.

15.8 At the end of this contract you must immediately pay us all undisputed sums owing and return any of our equipment that you may have.

15.9 Notwithstanding any other provision in the contract, this contract will not end until you make arrangements with another supplier. If notice to terminate the contract is served under this contract but you continue to take energy or any other service at the premises then you will be liable to pay us for that supply at our higher Default Rates under clause 13.1(c) from the date of termination.

15.10 Where you end the contract for broadband services prior to the initial term or end it outside the initial term but do not request and use a migration access code, we will charge you an early termination fee to cover our costs described in clause 15.2. This fee will not apply where you transfer the broadband services to a new premises (even if these cannot be connected due to geographical or technical reasons) or if you change your broadband package or if the contract is terminated pursuant to clause 15.1(c).

15.11 In the case of energy services, if the contract ends under clause 15.4(a) to (d) inclusive, 15.4(k), 15.4(l), 15.4(n) and 15.4(o) prior to the expiry of the initial contract period or prior to each contract renewal date you shall pay us an early termination fee of the greater of

- i. 2 (two) pence for any unused units (kWh) or
- ii. the difference between the value of the unused units (kWh) at the current market price and the value of the unused units (kWh) at the contract price for the remainder of the contract term i.e. (where day d+1 is the first day with the new supplier, and day n is the intended final day of the contract). Unused units will be calculated according to your current annual usage and industry profiles.

**If you are being provided with more than one service by us, ending one service will not automatically end the contract for the other services at our discretion.**

### 15.12 Suspension of services

We may suspend any of the services in the following circumstances without liability to compensate you and without prejudice to any other rights and remedies we may have:

1. to comply with any law, regulation, court order or request/order/direction/determination/consent by or of a governmental or regulatory body or authority;
2. in order to carry out emergency maintenance or repair which may include any necessary action to prevent interference with, damage to, or degradation of our telecommunications provider's network;
3. we suspend service to carry out any planned maintenance or upgrade to our telecommunication provider's network;
4. we suspend service to eliminate any hazardous conditions;
5. if we reasonably suspect fraudulent or unauthorised use of the services;
6. to maintain the quality of services;

7. if you are in breach of any part of the contract including without limitation paying us all undisputed amounts due.

## 16. Liability

16.1 The full extent of our liability to you is as set out in these terms and conditions. Subject to clause 16.5, we have no other duties, obligation or responsibilities to you and we exclude all warranties and conditions implied by law or otherwise and any liabilities that arise from them so far as is permissible by law.

16.2 We will not be liable to you for any event or circumstance beyond our reasonable control, including without limitation any act or omission of any other telecommunication or broadband operator, energy supplier, electricity distributor, gas transporter or shipper, data collector/aggregator, meter asset owner or operator or the failure of their equipment including access lines, the distribution system, or delay or failure in manufacture, production or supply of equipment by third parties.

16.3 We are not liable to you in any way for loss of income, business or profits, data, use of services, any special, indirect or consequential loss, or for any loss or damage other that was not reasonably foreseeable at the time you entered into this contract. In addition, we will not be liable to you for any loss which you sustain as a result of your liability to any other person (howsoever it arises).

16.4 To the extent that our liability to you is not altogether excluded by this clause 16 and, subject to clause 16.5, our liability to you will not exceed £100,000 for any one event or a series of connected events.

16.5 Nothing in these terms will exclude liability for death or personal injury caused by negligence and liability to you arising from a breach by us of our statutory duty under Part 1 of the Consumer Protection Act 1987 or any other liability which cannot be excluded or limited by the applicable law.

16.6 Nothing in this contract shall prejudice or affect our rights, powers and obligations under our energy supply licences or legislation applicable to the services and our performance of our obligations under our energy supply licences or applicable legislation will not constitute a breach of this contract

16.7 This clause 16 shall survive the termination of this contract.

## 17. Data protection

17.1 You agree that any personal information you provide may be used by us and our agents and contractors for the purposes of supplying you with energy, telecoms or broadband services, billing and maintaining your account. You also consent to us sharing data with:

- other businesses that operate in the energy and telecoms and broadband markets, such as our replacement supplier or service provider, meter readers and distribution network operators;
- licensed credit reference and debt collection agencies, governmental and other appropriate authorities to help us to make credit decisions about you, to prevent fraud, to check identity and to prevent money laundering. These organisations may record any searches on file, and this information may be used by other credit grantors for making credit decisions about you and the people with whom you are financially associated, for fraud prevention, money laundering prevention and occasionally for tracing debtors. We may also disclose details of how you conduct your account to such organisations;
- other parties offering you goods or services that we feel may be of benefit to you;
- our approved partners who will use this information solely for the purpose of administering and improving the customer relationship with us. If you do not wish to consent to these matters, please let us know by e-mail to customer services and your details will be removed from any third party communication.

17.2 In deciding whether to accept your registration, we may use the information you have given to us to make checks with our credit checking agency to confirm your identity. The credit checking agency will check any details we disclose to them against any database (public or private) to which they have access and will keep a record of that check. The credit checking agency will also retain this information and may use it in the future to assist other companies with identity verification. We reserve the right to retain this information for any ongoing credit checking requirements. This helps us to protect you and us from fraudulent transactions. In the event that your registration is not accepted, we may contact you to offer an alternative

payment method or service. Details of the credit checking agencies we may use are available upon request from customer services.

17.3 The Contract also allows First Utility to act on your behalf to resolve any issue arising with your old supplier, should they decide to object to you changing to us as your supplier.

17.4 Our privacy policy is available on request through our registration process or can be freely accessed online through our website.

## 18. Complaints

If you have any complaints about the service then please contact customer services.

## 19. Other terms and conditions

- a. These terms and conditions, the pricing information and any other documents referred to in them set out the whole contract between you and us.
- b. We may assign, grant security or declare a trust over, or transfer by novation or otherwise, all or any of our rights (including the right to recover unpaid charges) or interests and liabilities under the contract, and sub- contract any of our obligations under the contract, in each case without your prior consent and without any obligation to provide notice. You are not entitled to transfer the benefit or burden of this contract to another party without our prior written consent.
- c. We shall not contract with you under a single agreement for the supply of telecoms and/or broadband services with gas and/or electricity services and should a particular agreement create or purport to create such a contract, it shall for all purposes (including the transfer of any of our rights and/or obligations therein) take effect as two separate agreements, one for the supply of telecoms and/or broadband and the other for the supply of gas and/or electricity.
- d. If we are registered with the local metering point administration service as the supplier responsible for the energy supply for the premises all energy passing through the premises will be deemed to be on the terms of our contract even if you have a purported contract for the supply of energy with another supplier.
- e. Both parties shall take all reasonable steps except when otherwise required by law to keep confidential the contents of the contract and, if applicable, any information concerning the other party's business.
- f. We may monitor and record our communications with you (including telephone conversations and e-mails) to confirm your identity, ensure security, help maintain service quality and for training purposes.
- g. All communications under this contract must be in writing and sent by e-mail, facsimile, first class letter post or by hand to the recipient's registered office or, in the case of a consumer, principal residence address. Any e-mail notification sent to you shall be deemed to be received one day after sending, unless we have received a message by return that our e-mail has failed to deliver. Any facsimile shall be deemed received upon acknowledgement by the addressee's facsimile receiving equipment, unless such acknowledgement occurs after 1700 hours on any business day, in which case receipt shall be deemed to have occurred at 0900 hours on the next business day.
- h. No delay, failure or omission on our part to enforce any right or remedy arising under any provision of this contract is to be taken as a waiver of such right or remedy or as operating to prevent any later enforcement of it.
- i. If any provision in this contract is held to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to that extent be deemed not to form part of this contract and the enforceability of the remainder of this contract shall not be affected.
- j. If the customer comprises more than one person, each person will be jointly and severally liable to us. This means that we may at our option take action against any one or more of the persons comprising the customer.
- k. Unless expressly provided in this contract, no express term of this contract is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise by any person who is not a party to it.
- l. Where the services are provided in England and Wales the contract will be governed by the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales. Where the services are provided in Scotland the contract will be governed by the laws of Scotland and the parties

irrevocably submit to the exclusive jurisdiction of the Scottish courts.

## 20. Force Majeure

20.1 If the performance of First Utility's obligations under this Agreement is prevented, restricted or interfered with by reason of:

20.2 war, revolution, civil commotion, act of public enemy, strike, blockade, shortage of fuel, embargo, act of God, fire, riot, sabotage, flood, adverse weather conditions, lack of electricity supply, earthquake, epidemic;

20.3 any law, order, proclamation, regulation, ordinance, demand, or requirement having a legal effect of any government or any judicial authority or representative of any such government; or

20.4 any other act, whether similar or dissimilar to those referred to in Clauses 16.2 and 16.3, that is beyond its reasonable control,

20.5 then it shall, upon giving written notice to the Developer, be excused from such performance to the extent of such prevention, restriction, or interference, and shall have no liability to the Developer as a result thereof. If First Utility's performance is prevented, restricted or interfered with as a result of a Force Majeure Event for a continuous period of more than 90 (ninety) days either party may terminate this Agreement by giving 30 (thirty) days' written notice of such termination to the other party.

## 21. Deemed Contracts

21.1 A Deemed Contract will apply to any supply point registered without a contract being in place, for example a change of tenancy or an erroneous transfer

21.2 When taking supply under a Deemed Contract a customer will be charged in line with the first:utility [Deemed Contract rates \(/wp-content/uploads/2014/01/Deemed-Rates.pdf\)](/wp-content/uploads/2014/01/Deemed-Rates.pdf), which are available through our website.

21.3 These Deemed Contract rates will not apply if within 28 (twenty-eight) days of taking supply the Customer agrees to a contract offered by first:utility. In this circumstance all rates from the date of taking supply will be charged at the new contract rates.

21.4 A copy of our Deemed Contract is available through our website. Any Deemed Contract rates can be revised at any time without notice.

## 22. Definitions & interpretation

22.1 The words and expressions used in this contract have the following meanings:

"**agent**" means any person appointed by you or us to read, provide and/or maintain metering equipment or as a meter operator, data collector, data aggregator, meter asset provider or meter asset manager.

"**AMR**" means Automatic Meter Reading, a type of meter that can be read remotely without having to physically visit the site to obtain a read.

"**AQ**" means the annual quantity in the case of gas supply.

"**contract renewal date**" has the meaning set out in clause 2.1.

"**contract**" or "**agreement**" means these terms and conditions, any schedules and appendices to it, any pricing information and any document referred to in them, and any other document in agreed form.

"**Deemed Rates**" mean the higher charges that are applicable where you have entered into a contract of supply with First Utility.

"**Default Rates**" mean charges applied where you are no longer in a contract with us and are applied in accordance with clause 13.1(c) of these terms and conditions.

"**EAC**" means estimated annual consumption in the case of electricity supply.

"**gas transporter**" means licensed gas transporter for the time being or any other third party licensed, appointed or accredited to provide transportation and where no Agent has been appointed Metering services to us.

"**initial contract period**" has the meaning given in clause 2.1 of the terms and conditions.

"**micro-business**" means a customer at premises other than domestic premises which has:

- i. an annual consumption of—
  - a. electricity of not more than 55,000 kWh; or
  - b. gas of not more than 200,000 kWh; or
- ii.
  - a. fewer than 50 employees (or their full time equivalent); and
  - b. an annual turnover or annual balance sheet total not exceeding Euros 10 million

**"National Terms of Connection" or "NTC"** has the meaning given in clause 7.2.

**"network operator"** means the local electricity distribution system operator(s) responsible for the distribution of electricity and grid supply system in the areas in which the premises are located.

**"normal working hours"** the hours of 8.30am to 4.30pm on a day (other than a Saturday or a Sunday) on which clearing banks are open for business in the city of London.

**"premises"** means those premises (including any part of any land or buildings or structure) which you have requested us to supply with the services pursuant to this contract.

**"Satisfactory Notice"** means: 48 (forty-eight) hours prior written notice to include the details of the date you cease to be responsible for the supply to the premises; a meter reading on this day; a forwarding address for you and the name and current address of the new occupier of the premises or details of the landlord or freeholder.

**"supply start date"** the date which we tell you that the service(s) are expected to start pursuant to clause 3.2.

**"we"** and **"us"** and **"our"** in the case of energy services refers to First Utility Limited (company number: 05070887) whose registered office is at Point 3, Opus 40 Business Park, Haywood Road, Warwick, CV34 5AH, UK and in the case of telecoms services refers to First Telecommunications Limited whose registered office is at Point 3, Opus 40 Business Park, Haywood Road, Warwick, CV34 5AH.

**"website"** means [in the case of energy services] [www.first-utility.com](http://www.first-utility.com) [and in the case of telecoms and broadband services [www.firsttelecom.com](http://www.firsttelecom.com)]

**"you"** and **"your"** refers to you the business customer whose company name, company number and registered office appears on the order form.

22.2 References to 'energy' should be read as gas, electricity or both, and references to 'services' should be read as gas, electricity, telecoms or broadband services or any or all of them, depending on the options you have chosen.

## **Micro Business - Summary Statement of Renewal Terms for Fixed Term Contracts**

**1.1** The fixed term period for this contract shall be 12 months.

**1.2** The Micro Business Consumer may provide First Utility with 30 days written notice of termination to end this contract. This may be provided at any time but must be provided at least 30 days prior to the contract renewal date.

**1.3** Such written notice of termination shall take effect at 12.00hrs on the contract renewal date for electricity and 06.00hrs on the contract renewal date for gas. Notifications should be sent in writing to:

SME Renewals Team  
First Utility  
Point 3  
Opus 40 Business Park  
Haywood Road  
Warwick  
CV34 5AH

Or by email to [business.sales@first-utility.com](mailto:business.sales@first-utility.com)

**1.4** If you have told us that you wish to leave in line with the process laid out above but have not arranged to switch to a new supplier by the end of the contract renewal date, you will continue to be supplied by First Utility at our out of contract rate which will be higher than the previous rate. Standing charges will also continue to be due. This will continue until you transfer to another supplier.

**1.5** If notice that you wish to leave is not provided as laid out above, the contract will then continue for another 12 month period at a price set in line with First Utility's standard prices applicable 30 days prior to the contact renewal date.

updated: 17/01/14

