

# KAIZEN ENERGY DISTRICT HEATING SYSTEM (TERMS AND CONDITIONS OF HEAT SUPPLY)

## Terms and Conditions of Heat Supply

### 1. Who the Contract is between

- 1.1 The contract is between Kaizen Energy Ltd (“**Kaizen**”, “**us**”, “**our**” or “**we**”) and a person who agrees to enter into a contract for the supply of Heat with us (the “**Customer**” or “**you**”) and consists of these terms and conditions (“**General Terms and Conditions**”) and the Customer’s registration form (together, the “**Contract**”).
- 1.2 We are Kaizen Energy Ltd, a company registered in Ireland with company number 523238. Our address is Block 3, Airvista Office Park, Swords Road, Santry, Dublin 9. Full contact details for Kaizen Energy Ltd are set out in Clause 18.3.
- 1.3 The Contract governs the supply of Heat by us to the Customer.
- 1.4 Some of the words and phrases used in the Contract have a special meaning. These are explained in Clause 20.
- 1.5 The Contract is only available in English. No other languages will apply to the Contract.
- 1.6 The Contract is a legally binding agreement. Both you and we must comply with the Contract. We may take legal action against you if you do not.
- 1.7 Our Privacy Notice sets out the ways in which we process any Personal Data you provide us with. By agreeing to the Contract, you acknowledge that Personal Data you share, or we collect in connection with the Contract is processed in accordance with our Privacy Notice which is available on our website, and in writing upon request.
- 1.8 If you are not the Property Owner (e.g. if you are a tenant), by entering into this Contract you confirm that you have the Property Owner’s consent to do so. You also confirm that you have the Property Owner’s consent for any notice, request, authorisation or any other communication that you give to us in connection with the supply of Heat to the Premises.

### 2. What you Agree to do

- 2.1 You promise that:
  - (i) You are over 18 and can legally agree to enter into the Contract in respect of the supply of Heat to the Premises;

- (ii) You either live at or own the Premises;
  - (iii) On request from us, you shall confirm to us whether you are the Premises Owner or a tenant at the Premises;
  - (iv) If you are the Premises Owner and have let the Premises to a tenant (or tenants), you will take reasonable steps to ensure that you bring these General Terms and Conditions to the attention of your tenant (or tenants);
  - (v) The Premises is connected to the Heat Network;
  - (vi) You will keep us up to date concerning your postal address, email address and phone number;
  - (vii) On request from us, you shall provide us with accurate readings in respect of the Heat Meter;
  - (viii) At all reasonable times during the Term, you shall allow us or any other person nominated by us, safe access to the Premises for any reason that relates to the supply of Heat to you.
- 2.2 We have entered into the Contract in reliance on the information provided by you, which you confirm is accurate. If this information changes you must tell us.
  - 2.3 The Heat meter is the property of us or the DHS System Owner. It is your responsibility to pay due care and attention to the usage of the Heat Meter and you shall ensure that the Heat Meter is not damaged or interfered with, whether for repairs or any other purpose, by any person other than us or the DHS System Owner.
  - 2.4 You shall immediately notify us and the DHS System Owner where you have reason to believe there has been any damage to or interference with the Heat Meter as specified in Clause 2.3.
  - 2.5 By entering into the Contract, you agree to pay your Heat Bill and any other amounts due under the Contract on time. If you do not make the payments required under the Contract, we may suspend your Heat supply and/or terminate the Contract in accordance with Clause 10.

### 3. What we agree to do

- 3.1 We will perform our duties under the Contract and are under a legal obligation to supply Heat to the Premises that is in conformity with the Contract.
  - 3.2 We are responsible only for the supply of Heat to the Premises and not for the supply of any other services. We are not responsible for any faults or other problems with any equipment inside the Premises such as the internal pipes, fittings, plant, wires and cables, equipment, and/or apparatus in the Premises used in connection with the supply of Heat.
  - 3.3 We will assign personnel of appropriate qualification and experience to perform our obligations under this Contract.
  - 3.4 We will process all Personal Data provided to us or collected by us in connection with the Contract in accordance with all relevant Data Protection Legislation and our Privacy Notice.
- ### 4. About the Contract
- 4.1 Your Contract with us commences on the Commencement Date (as defined in Clause 20) and shall continue in force unless and until terminated by you or us in accordance with Clause 10.
  - 4.2 If you decide to cancel the Contract, it is vital that you notify us in accordance with Clause 10. If you do not, we will continue to charge you for the supply of Heat until you terminate the Contract in accordance with its terms.
  - 4.3 Where more than one person enters into the Contract with you, each such person shall be jointly and severally liable under the Contract. This means that, if there is any breach of the Contract by one Customer, we can bring a legal claim against either of both of you.
  - 4.4 You have entered into the Contract by your execution and return of the customer registration form, or your registration via the Kaizen app or website.
  - 4.5 If you are the Premises Owner and have agreed to enter into this Contract, but the Heat will be supplied for use by tenants in the Premises:
    - (a) You understand that our Contract is with you alone and not your tenants.

- (b) You are our customer and the counterparty to the Contract and are responsible for actions of any user of the Heat at the Premises.
  - (c) You agree that any acknowledgment by us of the tenant's use of the Heat at the Premises does in no way constitute a waiver or disclaimer of your obligation to comply with all terms of the Contract; and
  - (d) You agree that you are liable and shall pay for all and any Charges for the Heat at the Premises, including any Charges incurred after the date of cessation of any tenancy arrangement which you have entered into with any tenants.
- 4.6 These General Terms and Conditions apply to the exclusion of any other terms that you might try to include in the Contract, or which might otherwise be implied as a result of any trade, custom, practice or course of dealing.
- 4.7 You acknowledge that if you cease to occupy the Premises that this does not relieve you of your legal obligations under the Contract and that such obligations shall continue in full force and effect (including but not limited to any fees and Charges that accrue in this period) unless you terminate your Contract with us in accordance with Clause 10.

## 5. Pricing and Payment

- 5.1 You may be requested to pay a security deposit to us prior to the Commencement Date. This security deposit is used to secure the payment of any monies which become due by you under the Contract and which remain unpaid. Any security deposit provided to us will be repaid to you when you close your account provided that all sums due have been paid in full.
- 5.2 You are liable to pay all Charges due and owing under the Contract from the Charging Start Date. If any Charges payable by you are subject to a Dispute, you must notify us of the Dispute, and pay any part of a Heat Bill or such Charge that is not in Dispute.
- 5.3 You agree to pay every Heat Bill issued by us to you on or before the due date specified in the Heat Bill. If you do not pay any sum due under the Contract you may be required to pay interest on any outstanding amounts from the due date until payment is made at a rate equal to 2% above EURIBOR. We may also temporarily suspend the supply of Heat to the Premises or terminate the Contract in accordance with Clauses 9 and 10.
- 5.4 In the event that you have built up arrears on your account, we reserve the right to pass your particulars on to a third-party debt collection agency in order to recover any amounts due and owing by you to us.
- 5.5 The Heat Rates are available in the Kaizen Energy app and upon request by emailing [billing@kaizenenergy.ie](mailto:billing@kaizenenergy.ie). Full details of the price for the supply of Heat to your Premises and relevant information relating to how that price is calculated are set out in your Welcome Letter.
- 5.6 We are entitled to amend the Heat Rates from time to time once we have informed you by giving you prior notice of the change. Any such notice will state the date from which the change is to become effective, which shall be no less than thirty (30) days from the date such notice is given. If you are not satisfied with any change to the Heat Rates, you may exercise your right to cancel this Contract under Clause 10.
- 5.7 The Heat supplied to the Premises will be measured using the Heat Meter. We will read the Heat Meter or, in the event that the reading cannot be taken, estimate the Heat Meter read using our standard estimation process. We will use these reads as the basis of calculating your Heat Bills.
- 5.8 If at any time any Heat Meter reading is found to have been inaccurate or if the readings have not correctly been converted into Charges and you have been overcharged for the supply of Heat, we will repay or credit your account with any amounts owing to you (less any amounts outstanding which are owed by you) at the date of your next Heat Bill. If you have been undercharged, we will invoice you for the amount of which you have been undercharged and you shall be required to pay any such amounts owing as part of your next Heat Bill.

## 6. Reconnection Fee

- 6.1 In certain circumstances, when entering into a new contract with us you may be required to pay a reconnection fee. We will advise if this applies to you before you enter into the Contract. The amount of the reconnection fee is set out in your customer heat manual.
- 6.2 Where you have been disconnected from the supply of Heat by us for more than six months prior to the Commencement Date of this Contract, we may be required to check and certify the pipes, fittings, plant, wires and cables, equipment and/or apparatus used in connection with the supply of Heat to the Premises. In the event of such reconnection, you agree that we will be entitled to enter the Premises upon giving 3 days' notice for the purposes of such reconnection.
- 6.3 In the event that you miss a scheduled reconnection appointment, you will be charged a missed appointment fee. The amount of the missed appointment fee is set out in your customer heat manual.

## 7. Disconnection Fee

- 7.1 If the supply of Heat is discontinued by us as a result of your failure to pay Charges and/or your material breach of its terms, you will be required to pay all related expenses reasonably incurred by us including the cost of disconnection from the Heat Network.

## 8. Changing the Contract

- 8.1 From time to time we may vary these General Terms and Conditions for valid reasons. These include:
- (a) to comply with changes in applicable law or regulatory requirements;
  - (b) to account for a change in the Heat Rates or any matter relating to their calculation;
  - (c) to ease the administrative burden of complying with this Contract; or
  - (d) to administer a benefit to you.
- 8.2 We will provide you with no less than thirty (30) days prior notice to such a change and if you are not satisfied, you may exercise your right to cancel this Contract under Clause 10.
- 8.3 We will notify you of these changes via email, or, if you have opted to receive communications by post, by post.

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- 8.4 If there is a material change to our General Terms and Conditions we will provide you with a copy of the amended General Terms and Conditions 30 days before the change comes into effect.
- 8.5 Price changes (including changes to the Heat Rates) will be notified as per Clause 5.6.

### 9. When we can Suspend the Supply of Heat to the Premises

- 9.1 We may temporarily suspend the supply of Heat to the Premises in any of the following circumstances:
- (a) Where required for safety reasons or other circumstances beyond our control (please see further detail in Clause 19);
  - (b) Where we have reasonable grounds to believe there has been interference with the Heat Meter or associated pipework;
  - (c) If we have reasonable grounds to believe that the Heat Meter is faulty, and you do not allow us reasonable entry to the Premises to inspect, replace or repair the Heat Meter within a reasonable time after our request;
  - (d) In any circumstances where we have a right to terminate the Contract in accordance with Clause 10.9.
- 9.2 Where we temporarily suspend the supply of Heat to the Premises, we will always give you as much notice as possible of the intended suspension, except where this is not possible due to an emergency or safety issue. After any suspension, we will restore the supply of Heat as soon as possible after the issue that led to the suspension is rectified.

### 10. Ending the Contract

- 10.1 Your and our rights to terminate the Contract are set out in this Clause 10. If you or we terminate the contract, after any notice period required in this Clause 10, we will stop providing Heat to your Premises, and it will be your responsibility to find an alternative supplier to meet your energy needs.

#### Cooling-off period

##### *Right to cancel*

- 10.2 You have the right to cancel this contract within 14 days without giving any reason. The cancellation period will expire after 14 days from

the day of the conclusion of the Contract.

- 10.3 To exercise the right to cancel, you must inform us (Kaizen Energy Limited; 3, Airvista Office Park, Swords Road, Santry, Dublin 9; 01-6853516; [billing@kaizenenergy.ie](mailto:billing@kaizenenergy.ie)) of your decision to cancel this contract by an unequivocal statement such as an e-mail or a letter sent by post. You may use the attached cancellation form but it is not obligatory.
- 10.4 To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

##### *Effects of cancellation*

- 10.5 If you requested to begin the supply of district heating during the cancellation period, you shall pay us an amount which is in proportion to what has been provided until you have communicated to us your cancellation of this contract in comparison with the full coverage of the contract.

##### **Termination by you**

- 10.6 After expiry of the cooling off period referred to in Clause 10.2 above, if you wish to terminate the Contract you must give us at least seven calendar days' notice, either in writing or by scheduling in the Kaizen Energy app (or as otherwise agreed by us). You will not be liable for any Heat used in the Premises after such notice of termination has expired.
- 10.7 If you do not give us notice in accordance with Clause 10.7, your termination may not be effective and you may be liable for payment of any Charges for the Heat until such supply to the Premises is discontinued or a new account is opened in respect of the Premises.

##### **Termination by Us**

- 10.8 We may terminate this Contract and/or temporarily suspend the supply of Heat to the Premises:
- (a) with fourteen days' prior written notice, if you have not paid all monies which have become due and owing by you under the Contract, provided that:

- (i) you have not raised a Dispute in relation to the overdue sums in question; and
  - (ii) you have still not paid any overdue sums after we have sent you at least one reminder to pay after the due date for payment.
- (b) with seven days prior written notice, if you continue to be in material breach of these General Terms and Conditions for one month after we have sent you a notice telling you about the breach and calling on you to comply with your obligations under the Contract;
  - (c) with seven days' notice if an interim order or bankruptcy order or any event analogous to either of the foregoing is or is about to be made in respect of yourself; or an interim trustee or trustee in bankruptcy is appointed over your estate or you are insolvent or a resolution is passed or an order is made for your winding up; or a receiver, examiner or administrative receiver is appointed over the whole or any part of your assets or you are unable to pay your debts as they fall due or you cease or threaten not to pay your debts as they fall due or seek to make any composition or arrangement with your creditors or any event analogous to the foregoing occurs in relation to you;
  - (d) without notice, if in our reasonable opinion there is any risk of injury to persons or property as a result of any defects or suspected defects in the Heat Meter or the Premises System and this has not been rectified within a reasonable period of time of us telling you about the defects and calling on you to have them rectified; and/or
  - (e) without notice, if we no longer have a licence from or agreement with the DHS System Owner whereby we are engaged to supply Heat to your Premises.

### 11. Consequences of Termination

- 11.1 If we or you terminate the contract, after any notice period required in Clause 10, we will stop providing Heat to your Premises.
- 11.2 Upon termination of the Contract you must immediately pay to us:
- (a) all Charges then due and payable up to the effective date of termination; and

- (b) all interest on overdue amounts payable up to the effective date of termination.
- 11.3 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities which have accrued to you or us prior to the date of termination.

## 12. Maintenance & Repair

- 12.1 We are responsible for the maintenance and repair of the DHS System (including the Heat Meters).
- 12.2 You, or the Premises Owner, are responsible for the maintenance and repair of the Premises System. The Premises System must be used and maintained by you and/or the Premises Owner in accordance with the DHS System Owner's reasonable instructions.
- 12.3 You are responsible at all times for exercising due care towards the Heat Meter and the Premises System, to avoid causing any damage to the DHS System.
- 12.4 You will not interfere or allow any interference with the Heat Meter or any part of the Premises System that is directly connected to the DHS System, whether for repairs or for any other purpose, without the DHS System Owner's consent.

## 13. Enforcement of Rights

- 13.1 We can enforce any rights and obligations under the Contract even if there is a delay in doing so.
- 13.2 If we delay in taking action when you breach the Contract, we shall be entitled to take action to enforce a similar (or any subsequent) breach of the Contract.
- 13.3 If any part of the Contract is declared invalid by a court or regulatory authority, the validity of the rest of the Contract will not be affected.

## 14. Limitation of Liability

- 14.1 We will not be liable to you under the Contract or otherwise for any loss which is not foreseeable by both us and you at the time we enter into the Contract, and which is suffered by you as a result of the supply (or any breakdown or interruption in the supply) of Heat or in connection with this Contract.
- 14.2 We will not have any liability, howsoever arising in respect of, or in connection with, any losses that are not caused by our breach of the Contract, including any failure of the services provided by the

Premises Owner or the DHS System Owner to you or us.

- 14.3 We accept no liability in relation to the use to which the Heat is put by you or any appliances in which the Heat may be used by you.
- 14.4 Each sub-Clause in this Clause 14 applies separately and to the extent permitted by law. If a court or other authority tells us we cannot rely on a certain sub-Clause, the other sub-Clauses will still apply.

## 15. Transferring your and our rights under the Contract

- 15.1 The contract is personal to you and you may only transfer it to someone else with our prior written consent and the consent of the person to whom it is transferred.
- 15.2 You consent to us transferring our rights and obligations under the Contract so that a different organisation is responsible for the supply of Heat to you as set out in the Contract. This may apply, for example, if the DHS Owner appoints another company to operate the DHS System. We will notify you in writing if this happens and will ensure that the transfer will not affect your rights or guarantees under the Contract.

## 16. Governing Law

- 16.1 The Contract and any claims in connection with the Contract shall be governed by the Laws of Ireland. Any disputes arising shall be dealt with by the Irish Courts.

## 17. Data Protection/Privacy

In order to provide you with a service, we need to collect and use Personal Data relating to you. For further information on how we process your Personal Data, see our Privacy Notice (available on our website).

## 18. Notices and Communications

- 18.1 How we may contact you:
- (a) We can contact you at any of the Premises addresses, or any other addresses you give us for this purpose.
- (b) Notices required under the Contract, or other forms of communication that we need to send to you, will be in writing and may be delivered by hand, sent by post, sent by email or published on our website.
- (c) Any notices that we send to you by hand or by post will be sent to the most recent billing

address (or alternative address if relevant) provided by you to us. We will assume that you have received hand delivered notices within 24 hours of delivery and posted notices within 5 business days after posting unless we receive evidence to the contrary.

(d) Any notices that we send to you by email will be sent to the most recent email address provided by you to us. We shall assume that you have received emails on the same business day.

- 18.2 If you prefer to receive communications by post, please let us know in writing.
- 18.3 How you may contact us:
- (a) Via the postal address Kaizen Energy Ltd of Block 3, Airvista Office Park, Swords Road, Santry, Dublin 9.
- (b) [billing@kaizenenergy.ie](mailto:billing@kaizenenergy.ie)
- (c) 01-6853516

## 19. Circumstances outside our control

- 19.1 We will not have to carry out any obligation under this Contract if we are prevented from doing so by any cause or circumstances beyond our reasonable control. This includes (but is not limited to) failure or shortage of fuel supplies (such as a regional or national gas shortage), infrastructure failure, civil unrest, labour shortage or labour dispute, instructions or request from the Government, an emergency services organisation, or any other competent authority, or legal obligations.
- 19.2 From time-to-time it may be necessary to suspend the supply of Heat to the Premises in order to perform planned or emergency maintenance on the DHS System. If this happens, we will not be in breach of the contract provided that we give you as much notice as possible of any such disruptions. We will always do our best to ensure that such disruptions are as short as possible.

## 20. Glossary:

In these conditions, these words have the following meaning:

**"Billing Period"** – means every two months or part thereof that we will issue Heat Bills.

**"Charging Start Date"** – means the earliest of:

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- (i) the date we take a Heat meter reading for your Premises following your execution and return of a customer registration form;
- (ii) the date you move into the Premises and start consuming Heat;
- (iii) in the case of a new build, the start of our agreement of taking on the new building from the Premises Owner; or
- (iv) the date on which we are appointed as Heat supplier by the System Owner.

**"Charges"** – means charges for the provision of Heat to the Premises, being the fees payable as specified in each Heat Bill or otherwise, as calculated in accordance with Clause 5.

**"Contract"** – has the meaning given to the term in Clause 1.1.

**"Commencement Date"** – means the date the Contract is concluded between us and you.

**"Customer"** or **"You"** – means you, the customer who has entered into the Contract for the supply of Heat to the Premises.

**"Data Protection Legislation"** - means all applicable data protection and privacy legislation in force from time to time including the General Data Protection Regulation (Regulation (EU) 2016/679) ("**GDPR**").

**"Development"** - means the building where the DHS System is installed that the Premises forms a part of.

**"DHS System"** – means the district heating system installed which you have a right to use, and which encompasses all of the generation and distribution equipment within the development that is utilised to provide, and measure heat up to the Premises and including the Heat Meter. The Premises System does not form part of the DHS System.

**"DHS System Owner"** – means the owner of the Development and/or the DHS System.

**"Dispute"** – means a claim which is not incontestable and where you have raised a relevant objection to payment in writing.

**"General Terms and Conditions"** – has the meaning given to the term in Clause 1.1.

**"Heat"** - means any heat energy transported through the DHS System.

**"Heat Bill"** – means the total Heat charges for the Premises calculated using a combination of the Heat Rates, the quantity of Heat used or estimated and the number of days in a given Billing Period.

**"Heat Rates"** – means the current tariffs and the pricing structure applicable to the supply of Heat at the Development.

**"Heat Meter"** – means the equipment and related fittings and pipes installed by the DHS System Owner for the purpose of measuring the quantity of Heat used by you that may be installed outside or within the Premises.

**"Heat Network"** – means a network is where heating, cooling or hot water is supplied to a single building divided into separate premises.

**"Operator"** or **"we"** or **"us"** – means Kaizen Energy Ltd of Block 3, Airvista Office Park, Swords Road, Santry, Dublin 9.

**"Personal Data"** – has the meaning given to the term in the GDPR.

**"Premises"** - means the property specified in your application for Heat supply or such other properties as may be notified by you to us and accepted by us from time to time.

**"Premises Owner"** means the owner(s) of the Premises, being the person(s) named as the lessee on the head lease of the Premises (including their personal representatives, successors, and permitted assigns).

**"Premises System"** means the equipment within the Premises used for the generation,

distribution, emission and control of the Premises' space heating and domestic hot water, not including the heat meter.

**"Term"** – means the period from the Commencement Date to the date of termination of the Contract.

**"Welcome Letter"** – the welcome letter sent to you before conclusion of the Contract.

**KAIZEN ENERGY STANDARD CANCELLATION FORM**

If you wish to cancel your contract with Kaizen Energy, please complete the following form and return to us by post or email.

To:

Kaizen Energy, Block 3, Airvista Office Park, Swords Road, Santry, Dublin 9 | [billing@kaizenenergy.ie](mailto:billing@kaizenenergy.ie)

I/We, \_\_\_\_\_, hereby give notice that I/We cancel my/our supply contract for the provision of heating and hot water supply at the following address

\_\_\_\_\_.

Full Name: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Please note that on cancellation of your contract the supply of heat and hot water will be disconnected to your premises.