

General terms and conditions for business customers

for the supply of electricity and gas to business customers (“General Terms and Conditions for Business Customers”)



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1. Scope of validity and application

These General Terms and Conditions form the basis of all energy supply contracts concluded between Scholt Energy Control GmbH, An der Pönt 48, 40885 Ratingen, HRB 72871 ("Supplier") and the customer.

2. Definitions

Balancing group costs

Costs charged to the balancing group manager by the market area manager. They consist of balance sheet flexibility costs and balancing energy costs.

Energy

electrical energy and/or gas.

Collective

a group of customers for whom the Supplier or an authorised third party carries out EEX or OTC price fixing.

Market value

the quantities of energy still to be delivered from all of the customer's fixed prices, multiplied by the EEX futures market settlement or OTC price for a day specified by the Supplier.

Off-Peak

Hours from 0:00 to 8:00 and 20:00 to 24:00 on weekdays from Monday to Friday and the hours between 0:00 and 24:00 at weekends for the purchase of electrical energy.

Peak

hours from 8:00 to 20:00 for all days Monday to Friday for the purchase of electrical energy.

RLM

Customers whose annual energy consumption is determined by means of a recording power measurement with consumption recording.

SLP

Customers whose annual energy consumption is balanced on the basis of a standard load profile.

Signature

of the contract by the parties can also be a scanned signature. It is sufficient if one party has a copy of the contract signed by the other party with the same content.

Contract value

the energy quantities still to be supplied from all of the customer's fixated prices, multiplied by the fixing price. Individual (partial) energy quantities may have been fixated at different points in time at the relevant fixing prices.

Working day

any day that is not a Saturday, Sunday or bank holidays.

3. Passing of risk

With the delivery and acceptance of grid-bound energy at the place of fulfilment, all risks and dangers are passed from the Supplier to the customer.

4. Grid connection and connection utilisation

Unless otherwise contractually agreed, the customer is responsible for the proper grid connection and the proper utilisation of the connection. The customer is obliged to ensure that delivery to the place of fulfilment is possible at all times in accordance with the technical specifications for the grid connection and connection usage. At the Supplier's request, the Customer shall submit the relevant contracts and other documents.

5. Acceptance

- a. The customer is obliged to purchase its entire requirements for grid-bound energy from the Supplier and to take delivery of the quantities supplied in accordance with the provisions of this contract at the place of fulfilment. The customer shall pay for the quantities supplied in accordance with the fee provisions of the supply contract, including the product description.
- b. The customer is responsible for terminating the previous supply contract with a third party in due time in order to be able to fulfil the obligation to take delivery. The customer shall purchase the grid-bound energy exclusively for its own consumption. Any other use, in particular the forwarding, resale or intermediate storage for purposes other than the customer's own consumption is only permitted with the prior written consent of the Supplier.
- c. Delivery shall not commence until the start of delivery specified in the contract, unless the grid operator has specified a different date. In this case, this date shall be deemed to be the contractual start of delivery.
- d. If the metering point specified in the contract falls below or exceeds the limit value specified for the

allocation of an RLM/SLP, the customer is obliged to notify the Supplier immediately.

- e. The Supplier has the right to terminate the contract at any time with two weeks' notice if an SLP extraction point becomes an RLM extraction point or vice versa. In this case, the Supplier shall offer the customer a new contract.

6. Measuring device, measurement

- a. The customer shall inform the Supplier of the responsible metering point operator before the start of the delivery period and shall inform the Supplier immediately in writing of any changes in connection with the metering point operation.
- b. Metering is carried out by the metering point operator using a metering device specified in the contract. The metering point operator is responsible for compliance with the provisions of calibration law.
- c. If there are concerns about incorrect measurement or incorrect measurement data, the Supplier may have the metering equipment checked. The customer must grant him access to the metering equipment for this purpose. If an inspection reveals that the measurement data and/or the measurement equipment are incorrect, any difference shall be compensated by both parties.

7. Payment terms, invoices

- a. The contractually agreed charges shall be invoiced by the Supplier; with regard to the quantities taken by the customer at the point of delivery, the measured values of the calibrated metering equipment transmitted by the metering point operator shall generally form the basis for invoicing. The customer agrees to electronic invoicing. The monthly invoice shall show instalment payments and any invoice discrepancies arising from the previous months (credit balances or shortfalls) separately and take them into account accordingly. The customer must raise objections to the Supplier's invoices within one month of receipt of the invoice.
- b. The customer undertakes to enable the Supplier to debit all contractually owed fees by SEPA business-to-business direct debit and shall issue the Supplier with a corresponding SEPA business-to-business direct debit mandate for this purpose. The customer account shall be debited at the earliest on the due date (usually the 4th weekday after the respective invoice is sent).
- c. If the Supplier is unable to debit a contractually

owed fee by SEPA business-to-business direct debit, the customer shall be obliged to pay the Supplier a contractual penalty of EUR 40.00 for each invoice amount or instalment that could not be debited, unless the customer is not responsible for the inability to debit. With the payment of this contractual penalty, the customer's obligation to enable the debit of the invoice amount or instalment that could not be debited by means of SEPA direct debit shall lapse. However, the obligation shall continue to exist with regard to the following invoice amounts and instalments.

- d. The service fee changes as of the respective 01 January ("**reference date**") of each calendar year, provided that the producer price index for services: Total Index ("Erzeugerpreisindex für Dienstleistungen: Gesamtindex", base = 100), issued by the Federal Statistical Office ("Statistisches Bundesamt"), has changed on this date. The service fee is calculated according to the following formula:
 - e. $DE = DEo \times DIG / DIGo$.

The individual factors are defined as follows:

- DE: The service fee payable for the calendar year of the reference date in €/MWh.
- DEo: The service fee in €/MWh in the previous calendar year.
- DIG: The average of the "Producer Price Index for Services" calculated by the Federal Statistical Office: Total Index" (base: 2015 = 100) for the first three quarters of the previous calendar year, as determined by the Federal Statistical Office.
- DIGo: The average of the "Producer Price Index for Services" calculated by the Federal Statistical Office: Total Index" (basis: 2015 = 100) for the first three quarters of the calendar year before last.

The figure calculated by the Federal Statistical Office "Erzeugerpreisindex für Dienstleistungen: Gesamtindex" is currently published on the Internet at <https://www.destatis.de>. Should this index no longer be published in future, it will be replaced by the index published by the Federal Statistical Office that comes closest to it in terms of the prices covered.

8. Taxes, duties and other levies

- a. In addition to the energy price agreed with the Supplier, the customer shall bear the fees (e.g. for grid utilisation), taxes, levies, charges and other fees incurred in connection with the purchase of energy in the respective applicable amount. Insofar as the

customer is entitled to claim partial or full exemptions or reductions for individual fee components, it shall only be exempt vis-à-vis the Supplier in this respect if it notifies the Supplier of the exemption in good time and provides sufficient evidence of this by submitting exemption or reduction notices or other documents.

- b.** Delayed proof only entitles the holder to a retroactive exemption if the Supplier is able to enforce a corresponding retroactive recourse against third parties.
- c.** The Supplier may invoice retroactive or future changes to apportionable fee components in accordance with letter a. even after the end of the contractual relationship.

9. Term and cancellation

- a.** The term of the contract and the delivery period are generally based on the end of delivery specified in the contract and can be cancelled for the first time on this date by either party by giving three months' notice to the end of the delivery period by registered letter.
- b.** In the absence of cancellation, the contract and delivery period are automatically extended by one year in each case. The Guaranteed Green ("Garantiert Grün") and Guaranteed Green Gas ("Garantiert Ökogas") options are exempt from automatic renewal.
- c.** Each party is entitled to terminate the contract for good cause. Good cause shall be deemed to exist in particular if
 - a party fails to fulfil any payment obligations in full despite a reminder, unless the outstanding amount is insignificant;
 - the Supplier loses or fails to obtain an official license that is required for lawful activity as an energy Supplier, unless the Supplier is not at fault for the refusal of the license.

The regulations on cancellation for good cause within the meaning of §314 BGB remain unaffected.

- d.** If the Market value falls by at least 15% compared to the Contract value and/or if the difference is more than EUR 15,000.00, the Supplier has the right to demand a security deposit from the Customer in the amount of this difference. The customer must provide the security deposit within five days of a written request by the Supplier. In the event of a breach of this obligation, the customer shall be excluded from further price fixing. Furthermore, in

this case the Supplier shall be entitled to invoice the Customer for the difference between the Market value and the Contract value and to terminate the contract. The Supplier also reserves the right to invoice the customer for the loss of profit for the remaining term of the contract. This amount is calculated by multiplying the service fee by the outstanding, contractually agreed consumption, the basic fee and, if applicable, the additional costs for Guaranteed Green/Guaranteed Green Gas. The security deposit will be refunded to the customer's bank account after expiry of the contract, provided that the customer has complied with the obligations associated with EEX or OTC price fixing.

- e.** If the customer is part of a Collective and if the contract of a participant in this Collective is terminated, the Supplier shall be authorised to transfer the obligations arising from the price fixings made for the customer concerned to the other participants. The customer irrevocably and unconditionally agrees to the transfer.
- f.** If the Supplier cancels the contract before the end of the agreed term due to a breach of contract by the customer, compensation is paid. On the one hand, this compensation consists of the customer paying the Supplier a sum, the amount of which is calculated by multiplying the service fee by the quantity of the contractual annual consumption not yet purchased at the time of the premature termination of the contract. If applicable, the compensation is increased by the additional costs for Guaranteed Green/Guaranteed Green Gas attributable to this delivery quantity plus the basic remuneration attributable to the period between the premature end of the contract and the originally agreed end of the contract. The customer shall continue to pay the difference between the Contract value and the corresponding Market value to the Supplier.

10. Exemption from the obligation to perform, Liability

- a.** If the parties are prevented in whole or in part from fulfilling their contractual obligations as a result of force majeure or other circumstances which are beyond their control to avert or which cannot be averted with reasonable technical and economic effort, these obligations shall be suspended until these circumstances and their consequences have been eliminated or reached, without the parties being obliged to compensate for the resulting

damage. This shall not apply if the damage occurs or increases due to the fact that the affected party did not immediately inform the contractual partner of the circumstances known to it and their expected duration and termination. If and for as long as network operators are authorised to restrict or discontinue the supply to the customer, e.g. due to network bottlenecks, the performance of work necessary for operations or to avoid an imminent network collapse, the Supplier shall be entitled to interrupt the supply.

- b.** The Supplier's liability for any damage and/or claims due to interruptions or irregularities in the supply of grid-bound energy are excluded insofar as these are attributable to the breach of obligations incumbent on another electricity market participant such as the grid operator, for example in the event of disruptions to grid operation including grid connection or connection utilisation.
- c.** Unless otherwise agreed, the parties shall be liable to each other exclusively for intent and gross negligence. This does not apply to liability for damages resulting from injury to life, limb or health caused by a negligent breach of duty by the parties or their vicarious agents.
- d.** In the event of a breach of material contractual obligations based on circumstances other than intent or gross negligence, the liability of the Supplier and its vicarious agents shall be limited to damages foreseeable at the time of conclusion of the contract and typical for the contract. Essential contractual obligations are those whose fulfilment is necessary to achieve the objective of the contract and on whose fulfilment the customer has relied and was entitled to rely.

11. Information and notification obligations of the customer

- a.** The customer is obliged to inform the Supplier immediately of any temporary or permanent changes in its consumption behaviour, the grid connection or the consumption metering and to provide it with any other information that is of significance for the procurement and supply of the customer with grid-connected energy at its point of consumption without being asked to do so.
- b.** The customer authorises the Supplier to take all measures and make all necessary or useful declarations and to pass on the above data to third parties (e.g. grid operators, energy Suppliers) that

are necessary or expedient for the fulfilment of this contract and the associated services, in particular the switching or registration process. In particular, to terminate its existing electricity supply contract with its previous Supplier at the next possible or agreed date, to request from the responsible grid operator billing-relevant metering data, load profiles and other customer data required for the execution of this contract regarding the customer's purchasing behaviour in previous purchase or delivery periods and to take all other necessary and expedient actions in connection with this supply contract in order to supply the system(s) with energy.

- c.** The customer shall inform the Supplier whether it is freed from obligations of payment in connection with this contract, in particular levies, duties, taxes and other charges, in whole or in part, and provides evidence of this to the Supplier.

12. Transfer to third parties

- a.** A transfer of the Customer's rights and obligations under this contract to a third party is only permitted with the prior written consent of the Supplier. Consent may only be refused if there are justified concerns about the fulfilment of the contractual obligations, in particular about the technical or economic capability of the party entering into the contract.
- b.** The Supplier is entitled at any time to exercise the rights and obligations arising from this contract to an affiliated company within the meaning of §§ 15 ff. AktG (German Stock Corporation Act) or to commission third parties with the fulfilment of the obligations incumbent on the Supplier.

13. Confidentiality

- a.** The parties undertake to maintain confidentiality regarding all contents of this contract, its individual components and annexes, in particular the price regulation, unless the other party consents to disclosure in writing. This shall not apply if the parties are subject to a statutory, judicial or official obligation to disclose data or the contents of this contract or if disclosure is absolutely necessary for the fulfilment of this contract.
- b.** The Supplier is entitled to make the customer relationship as such public for reference purposes.

14. Data protection

As the controller, the Supplier processes any personal

data insofar as this is necessary for the purpose of fulfilling the contract or, at the request of the customer, for the implementation of pre-contractual measures in accordance with Art. 6 para. 1 sentence 1 lit. b GDPR. In all other respects, the Supplier's data processing principles apply, which can be viewed in its privacy policy at www.scholt.de/service-seiten/datenschutzerklarung/.

15. Exclusion of other balancing groups

The Supplier and the customer agree to exclude the provision of minute reserve and secondary control via another balancing group in accordance with Section 26a (1) sentence 1, 3 StromNZV.