

GENERAL TERMS AND CONDITIONS

Effective 1 September 2017

1. Introduction

Kea Energy Limited (“we”, “us” or “our”) is a family owned company based in Canterbury New Zealand that generates and sells environmentally friendly power. Our contact details are available at <http://keaenergy.nz/contact>.

2. About these terms

2.1 These are the terms on which we supply power to our customers, except to the extent we have agreed otherwise in writing with you.

2.2 In these terms:

- (a) “you” or “your” means you, our customer. Where more than one person is our customer these terms will apply to you jointly and severally. This means that you are each responsible for the full amount of our invoices; and
- (b) capitalised words have the meaning given to them in clause 22.

2.3 These terms are effective from 1 September but if you are an existing customer these terms are effective from 1 October 2017 and replace the previous terms that applied to your agreement with us. In becoming or remaining our customer you agree that these terms apply.

2.4 Where these terms benefit the Lines Company and/or the Meter Owner the terms are enforceable by the Lines Company and/or the Meter Owner (as applicable) in accordance with the Contracts Privity Act 1982.

2.5 We may change these terms by giving you at least 30 days’ notice in writing of the change. We will explain our reasons for the change.

2.6 If any of these terms are ruled invalid in a court, the ruling does not affect the rest of these terms.

3. Becoming our customer

3.1 You may apply to become our customer by contacting us at <http://www.keaenergy.nz/contact> or by calling us on 03 390 0009. We will respond to your application within 5 Working Days. We may in our discretion decline your application and we do not have to provide you with our reasons for doing so.

3.2 An agreement between you and us is formed on these terms if we accept your application to become our customer and you will be liable to pay our charges and fees from that date.

3.3 We will start supplying power to you within 30 days of accepting your application, unless your connection requires a line upgrade or extension or new Meters or Equipment to be installed in which case we will agree a time frame with you.

3.4 If we already supply power to Premises you move into you will still need to apply to us to become a customer. If you do not do so, we may disconnect the power from the Premises and we may charge you the cost of any power consumed by you at the Premises and a disconnection fee.

3.5 You may nominate other people to make decisions for you under these terms, but you will remain liable as our customer.

4. You can cancel at any time

4.1 You can cancel your agreement with us at any time by giving us at least 30 days’ notice by email or phone. You will be required to pay all fees and charges incurred by you, or relating to power used by you up to the time that we stop supply.

4.2 If you are transferring to another supplier we will cooperate with your new supplier to make sure the transfer takes place as soon as reasonably practical.

5. Moving?

5.1 We may be able to move with you. You must call us at least 4 days prior to your move and tell us your moving date and your new address. If we agree to supply you at your new address:

- (a) we will arrange for an initial Meter reading at the new address and a final Meter reading at your old address (we will tell you at the time you tell us you are moving if any fees apply); and
- (b) this agreement will continue.

5.2 If we cannot move with you, we will arrange for a final Meter reading (we will tell you at the time you tell us you are moving if any fees apply). We will send your final invoice to you at your new address and this agreement will end once all amounts owing by you to us have been paid in full.

5.3 If you do not give us at least 4 days’ notice of your move, or you fail to give us notice of your move you will be liable to pay for any power used at your old Premises until the latest of:

- (a) the date that is 4 days after the date you gave us notice of the move;
- (b) the date we stop supplying power to your old Premises; or
- (c) the date we start supplying another customer at your old Premises.

5.4 If you are leaving a flat but other people are staying you must cancel your account with us. If you do not do so, you will remain liable for power used at the Premises (including after you leave). We may agree to transfer this agreement to your flatmate(s), but they will need to apply to become our customer.

6. Information and your privacy

6.1 You need to give us with certain information to become a customer including personal information if you are an individual. If you do not provide us with the information we request we may not be able to supply power to you. You must tell us if this information changes.

6.2 We will hold, use, disclose and deal with your personal information in accordance with our privacy policy which is available at <http://keaenergy.nz/privacy>. You have a right to request access to and correction of any personal information that we hold. You can do this by calling us on 03 390 0009.

6.3 We may disclose information about you or your account to the Electricity Authority for the purposes of the Electricity Authority assigning our rights and obligations under these terms to another power supplier as permitted by clause 21.3 and you agree to the Electricity Authority providing this information about you to another power supplier if required under the Code.

6.4 We may request information about you from third parties (including credit agencies, Lines Companies and other energy retailers) for the purposes of checking your credit history or providing power to you. We may do this prior to you becoming our customer and at any time while you remain a customer.

7. We prefer contact by email

7.1 We aim to be environmentally responsible. Unless we have agreed otherwise in writing with you:

- (a) you must provide us with your email address and you authorise us to send all notices and communications under these terms and other information about our business and services to you by email. We are entitled to assume that an email sent to you has been received by you on the next day unless we have received an automated undeliverable message generated by your email server. You must keep your email address with us up to date.
- (b) you agree to contact us by email to admin@keaenergy.co.nz or phone on 03 390 0009.

8. Meters and Meter readings

- 8.1 Your power use is measured by a Meter. Where possible we base our invoices on your actual power use rather than estimated use. This means that we need you to have smart Meters so that we can read the Meters remotely.
- 8.2 If you don't have a smart Meter, we will arrange for one to be installed at no cost to you, unless additional work is required to install the Meters (e.g. additional wiring, wiring that does not comply with all applicable laws, or relocating the position of the Meters), in which case we may charge you for the additional work. We will provide you with an estimate for the additional work before we carry it out and if you rent or lease your Premises you confirm that you have all necessary approvals for us to install the Meters and carry out any additional work.
- 8.3 If we are unable to obtain a remote reading (e.g. the Meter is faulty, there is a communications fault or the mains is switched off) we may need to read your Meters manually. We may pass on the cost of a manual Meter reading to you if you caused or contributed to the fault.
- 8.4 We may require an initial reading of the Meter at your Premises before we supply power to you. We will tell you at the time we accept your application how this reading will be done and if any fees apply.
- 8.5 You may request a Meter reading at any time by calling us (we will tell you at the time you call if any fees apply).
- 8.6 You must not tamper with the Meter (tampering includes by-passing). Tampering with Meters is dangerous and may be a criminal offence. If your Meters have been tampered with we may invoice you for the power we reasonably consider you have used, disconnect your power, end our agreement with you and notify the police.
- 8.7 The Meter Owner retains ownership of the Meter installed at your Premises and has no liability to you under this agreement.

9. Estimated readings

- 9.1 If we are unable to obtain a reading from your Meter we will estimate your use of power based on your use history in our records (if available) or on the power use of an average customer. You may read your Meter and provide us with the reading and we will send you a new invoice based on your reading. You must pay the amount shown on the new invoice. We may refuse to accept your Meter reading if your reading is inconsistent with our records.
- 9.2 We will arrange to test any Meter that you or we think is faulty. If testing shows that the Meter is faulty and you did not cause or contribute to the fault we will arrange to repair or replace the Meter, pay the cost of testing and debit or credit your account with us for our reasonable assessment of the error in any charges in accordance with clause 13.7.

10. Access to your Premises

- 10.1 You must provide us, our service providers and the Lines Company safe and unobstructed (including from dogs or other animals on your property) access to any of our or their Equipment so that we or they can:
- turn the power on or off;
 - read the Meters;
 - inspect, test, install, operate, maintain, repair, replace, read, verify or remove Equipment;
 - investigate the cause of any interference with your power supply;
 - to clear trees, vegetation or other obstacles from lines and Equipment (if you fail to do so in accordance with clause 16.1(i));
 - protect or prevent danger or damage to people or property;

- maintain the integrity of the network; or
- as otherwise required under this agreement or requested by the Lines Company.

- 10.2 We or our service providers will agree with you a time to access your premises but we are not required to agree a time for access with you where access is required for routine reasons (e.g. regular meter reading, in which case access will be during normal working hours) or for safety reasons.
- 10.3 You may refuse access if we, our service provider or the Lines Company are not able to show proper identification on request.
- 10.4 Where we or our service providers access your property will take reasonable steps to ensure that we or they act in a courteous considerate and professional manner, minimise any impact on your Premises or inconvenience to you and comply with your reasonable instructions to us (e.g. to close gates or not disturb livestock).
- 10.5 If you give us a key for access purposes we agree to keep the key safe and return it to you at your request.
- 10.6 If you do not provide us, our service providers or the Lines Company with safe and unobstructed access:
- we may charge you for any additional costs we incur in relation to accessing your Premises; and
 - your power supply may be interrupted or disconnected.
- 10.7 The Lines Company may at any time take all reasonable steps to gain immediate access to your Premises without your permission where it reasonably believes there is immediate danger to persons or property.

11. Interruptions to your power supply

- 11.1 We will supply power to you with power and we will ensure that the power we supply complies with this agreement and all applicable laws, regulations and codes of practice, but we rely on third parties (e.g. the Lines Company) to get our power to you. We cannot and do not guarantee that your supply will be uninterrupted or fault free.
- 11.2 You can report supply interruptions by contacting the Lines Company on the phone number or at the web address set out in your invoices or at www.keaenergy.nz/contact.
- 11.3 Where we or the Lines Company plan an outage, we or the Lines Company will provide you with at least 4 days' of the planned outage.
- 11.4 We cannot warn you or give you notice of sudden unplanned outages. If there is an unplanned outage we will endeavour to minimise any inconvenience to you. Notices may be given by email, mail, or public notice in a newspaper or via our or the Lines Company's website.
- 11.5 In the event of a local or national energy shortage, or in circumstances of extreme wholesale prices, your power may be rationed or restricted. Power may also be rationed as part of an energy industry rationing plan.
- 11.6 Your supply may be interrupted without notice to you if you are on a pricing plan that allows the supply of power to some of your electrical appliances (e.g. hot water cylinders or night store heaters) to be switched off from time to time.
- 11.7 If someone at the Premises is medically dependent you should ensure alternative arrangements are made in preparation for planned and unplanned power outages.
- 11.8 If you have sensitive equipment which may be affected by outages, we recommend that you arrange insurance that covers damage from power fluctuations, install your own back-up devices and/or make other arrangements to protect your equipment. Surge protectors may help reduce such fluctuations and can be plugged into appliances or wired into your house mains.

- 11.9 We are not liable to you for any failure to perform our obligations, to the extent that such failure is caused by Force Majeure or third party. We will resume our obligations once the Force Majeure or third party event no longer prevents us doing so.
- 11.10 We take no responsibility for any loss or damage caused to your equipment or appliances, including loss of data, arising from these kinds of fluctuations.
- 12. Our prices and fees**
- 12.1 We offer a range of pricing plans and can help you choose the most appropriate plan for you. Our pricing plans are available online at <http://www.keaenergy.nz/pricing-and-rates> or by phone on 03 390 0009.
- 12.2 Unless we have agreed otherwise in writing with you, our pricing plans may change from time to time. If you are on a fixed price pricing plan we will send you an email to tell you of any increase in our pricing plans as soon as possible (and in any event at least 30 days' prior to the increase taking effect) and we will explain our reasons for the increase. We may increase our flexible pricing plans and/or decrease any pricing plan at any time without prior notice to you.
- 12.3 We also charge fees for services that we provide to you under this agreement. The fees applicable to your pricing plan are available at <http://www.keaenergy.nz/pricing-and-rates> or by phone on 03 390 0009. Our fees may change from time to time.
- 12.4 We may also require you to pay for other services that you ask us to supply which are not included in our pricing plans or fees list. Where this is the case we will tell you at the time you ask us to provide the services what the charges are (if known), or (if not known), we will provide you with an estimate.
- 12.5 The low user pricing plan is only available to you if you meet the eligibility requirements in the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004. If you are on our low user plan and you cease to be eligible for that plan we may move you to a different plan. We will tell you before we make the change.
- 12.6 You can apply to change your plan at any time by contacting us. Provided that we have capacity to on that plan and/or you meet any regulatory criteria for that plan we will make the change as soon as practical.
- 13. Invoices and payment**
- 13.1 Unless we have agreed otherwise in writing with you, we will send an invoice each month for your actual or estimated power use to the email address provided by you.
- 13.2 Your invoice will separately show:
- the amount of power we are charging you for (and we will clearly state if an estimate has been used);
 - the price you are being charged for that power (in accordance with your pricing plan);
 - the fees for services requested by you;
 - the due date for payment;
 - the billing period to which the invoice relates;
 - the identifier number(s) of all installation control points on your Premises; and
 - the name of your lines company; and
 - 24 hour contact details for you to use if you think there is a fault or problem in the supply of power to you.
- 13.3 We may add any amount owing by you for power supplied at your previous premises to your next invoice. The amount owing must be paid in accordance with the terms that applied to your previous account unless we agree otherwise, but a default in payment may be treated by us as a default under this agreement.
- 13.4 You must pay the total amount specified in each invoice (together with GST) in full on or before the due date for payment specified in the invoice. You are required to pay our invoice even if it is based on an estimated reading.
- 13.5 If you do not pay any amount when due, we may charge a late payment penalty of 15% on the outstanding amount from the due date for payment until the date on which payment is actually received by us and we may disconnect or suspend supply of power for unpaid invoices.
- 13.6 We may take action to recover overdue amounts. Any costs incurred in collecting money owed to us by you, including our legal fees and court costs are payable by you.
- 13.7 Please contact us if you think there is an error in our invoice. If we have charged you an incorrect amount:
- we will credit you for any amount we have overcharged you on your next invoice (or where we have overcharged you on a final invoice we will promptly refund the overcharged amount to you); or
 - we may invoice you for any underpayments if we consider it reasonable to do so (we will take into account whether we or you contributed to the error or could reasonably be expected to know of the error).
- 13.8 If we send an invoice that is received by you more than 2 months after the end of the period for which the invoice was issued we will negotiate with you a payment plan (which may include us providing you with extended payment terms and/or an appropriate discount) provided that you did not cause or contribute to the late invoicing (including by changing your email address and failing to tell us of the change).
- 13.9 If you dispute any amount payable to us, you must:
- tell us at least 4 days' prior to the due date for payment specified in the invoice;
 - tell us the amount in dispute and the reasons for the dispute (and we may ask you to put this in writing); and
 - pay the undisputed amount by the due date for payment.
- 13.10 We will investigate your claim as quickly as possible. We will not stop supplying you with power if we believe your dispute is genuine and you have complied with your obligations in clause 13.9 above.
- 13.11 Within 10 days of resolving the dispute, we will credit your account with any amount that we owe you and you will pay us any amount that you owe us.
- 13.12 No interest will be paid or charged on amounts overpaid or underpaid in relation to incorrect or late invoices or in respect of amounts we believe are subject to a genuine dispute.
- 14. Payment options**
- 14.1 You may pay your invoice by direct debit or by internet payment transfer from your bank account or by telephone transfer from your bank account. Our bank account details for this purpose are 06-0801-0580092-00. Please contact us on 03 390 0009 if you would like us to provide you with a direct debit form.
- 14.2 We do not currently offer a pre-payment option. We will provide you with the names and contact details of electricity retailers in your area that offer pre-payment if you ask us to.
- 14.3 Please call us if you are having difficulty meeting your payment obligations to us. We may be able to agree a payment arrangement with you and if you are a low-income customer there may be payment alternatives available to you.
- 15. Disconnections**
- 15.1 Your power may be disconnected:
- to protect health and safety or prevent damage to property;

- (b) if you do not pay amounts owing to us when due;
 - (c) if you do not comply with any other obligation under these terms, but before we disconnect your supply under this clause, we will give you notice of the breach and 7 days to remedy the breach before disconnecting you. We will also give you a further notice 24 hours before disconnecting you for breach and we will take reasonable steps to ensure that you have received our final warning;
 - (d) if we reasonably believe that the Meter, lines Equipment on your property has been tampered with;
 - (e) if you move into Premises we supply power to and you do not apply or we do not accept your application to become a customer of ours;
 - (f) if you prevent us or the Lines Company from accessing your Premises for a continuous period of 30 days;
 - (g) you have asked for your supply to be disconnected or this agreement ends and you have not switched to another retailer; or
 - (h) the Lines Company requires the supply to be disconnected under its agreement with you or with us.
- 15.2 We will not disconnect your power supply if there is a medically dependent customer at your Premises (and have provided us with a notice of potential medically dependent consumer status form available from a primary health provider to verify this). We will contact you and arrange a payment plan with you. We may ask you to re-verify the a medically dependent customer status, but not more than once in any 12-month period.
- 15.3 If your power is disconnected you are still liable to pay us for all amounts as they become due (including any amounts incurred after disconnection such as a disconnection fee, final reading or our debt collection costs).
- 15.4 If you want to be reconnected we may require you to:
- (a) pay all amounts owing to us (including any disconnection fees and debt collection costs);
 - (b) pay a reconnection fee (we will tell you if one applies when you ask to be reconnected);
 - (c) agree to changes to these terms, your pricing plan and/or your method of paying us; and
 - (d) provide us with a certificate that meets the requirements of clause 16.2.
- and if you satisfy our requirements we will reconnect you as soon as reasonably practical.
- 16. Equipment, safety and your obligations**
- 16.1 In relation to all Equipment on property owned by you, you must (at your cost):
- (a) provide suitable space for the safe and secure housing of all Equipment we of the Lines Company decide is needed for your supply;
 - (b) repair and maintain the Equipment (if it is not owned or supplied by us);
 - (c) ensure the Equipment not owned by us complies with relevant legislation, electricity technical standards and codes of practice;
 - (d) protect Equipment from damage or interference and tell us if the Equipment is damaged or interfered with as soon as you become aware of it (we may charge you the cost of repairing or replacing Equipment that has been damaged or interfered with together with the estimated cost of any unmeasured supply and our investigation costs);
 - (e) not permit the Equipment to be the subject of any security;
 - (f) not (and not allow anyone else to) interfere with the supply of power to you or anyone else or sell or transfer or attempt to sell or transfer to any person any power supplied to you;
 - (g) not connect any generation assets to the network or use power or Equipment unsafely.
 - (h) ensure that only qualified persons carry out any work on or affecting Equipment or your power supply;
 - (i) ensure that any trees and vegetation on your property are kept trimmed away from all power lines and Equipment. If you do not do so, the Lines Company may undertake the trimming or removal work and recover the costs of such work from you.
- 16.2 If you have a new or connection, or if your supply has been disconnected, for safety reasons we may require you to provide a certificate of compliance or certificate of verification from a certified service provider at your cost before we can supply you with energy. We may request a copy of this certificate at any time.
- 16.3 You must not interconnect the supplies from two or more separate connections without the Lines Company's written consent.
- 17. Lines Company and compensation**
- 17.1 As noted in clause 11.1 we rely on third parties, including the Lines Company in order to supply our power to you.
- 17.2 You may have an agreement for network services directly with the Lines Company, in which case you must comply with that agreement. If you do not have any agreement with the Lines Company we will charge you for network services provided by the Lines Company. These charges are set by the Lines Company. We pass these costs on to you in our prices either at cost, or at an average cost.
- 17.3 We will pass on to you, as a credit on your next invoice from us, any payments we receive from the Lines Company (less our reasonable administrative costs) for a failure by the Lines Company to satisfy any guarantees they give us in relation to its services.
- 18. Liability limitations**
- 18.1 The Consumer Guarantees Act (CGA) applies if you buy power or power supply services for personal, domestic or household use and you will have the rights and remedies set out in the CGA. But if you using the power supplied by us in trade or in a manufacturing or production process you agree that are buying power from us under these terms we contract out of the CGA, you agree that it is fair and reasonable for us to do so and accordingly, nothing in the CGA applies.
- 18.2 If we cause physical damage to your property by breaching these terms or because we were negligent and the loss or damage was reasonably foreseeable, we will pay for the loss or damage, or repair or replace the property (at our discretion), up to a maximum of \$10,000 for any single event or series of related events.
- 18.3 Without limiting clause 18.2, to the maximum extent permitted by law, you agree that the we and the Lines Company will not be liable to you (whether in contract, tort (including negligence) or otherwise) for any amount in excess of \$15,000 in connection with any complaint (including through the Utility Complaints scheme) relating to the delivery of power to you through the Lines Company's network.
- 18.4 To the maximum extent permitted by law, we will not be liable to you for any other loss or damage (whether in contract, tort (including negligence) or otherwise) for any indirect or consequential loss or for any loss of profits, loss of revenue, loss of use, loss of data, loss of opportunity or loss of goodwill.
- 19. You indemnify us**

19.1 You indemnify us for all costs, losses, claims and damages that we may suffer or incur:

- (a) in recovering amounts owed by you under these terms; and
- (b) as a direct or indirect result of your negligence or breach of these terms.

20. Complaints

20.1 If you have a complaint, please call us on 03 390 0009 or email us at admin@keaenergy.nz. Our complaints resolution process is free and we are committed to delivering a fair and effective outcome in good faith and you will be treated courteously and with respect.

20.2 If we are unable to resolve your complaint straight away we will give you a written response within 10 Working Days of the date on which we received your complaint advising you of the steps we are taking.

20.3 We are a member of the Utilities Disputes scheme and will deal with any complaints you have in accordance with that scheme. You may refer your complaint to the scheme by calling 0800 22 33 40 or visiting www.utilitiesdisputes.co.nz if:

- (a) you are not happy with the way we propose to resolve your complaint;
- (b) your complaint is not resolved within 20 Working Days of us receiving it and we have not written to you explaining why we need further time; or
- (c) your complaint is not resolved within 40 Working Days of us receiving it.

20.4 Although not free, you can also take your dispute to the Disputes Tribunal or to the Courts.

21. Assignment and subcontracting

21.1 You may not transfer or assign your rights and/or obligations under these terms to any person unless we agree.

21.2 We can transfer or assign all or any of our rights and obligations under these terms. We will tell you if we do this as soon as reasonably practical. We can also subcontract or delegate all or any of our obligations. If you are not happy with the person performing our obligations you may switch to another supplier and end your agreement with us.

21.3 If we commit an "event of default" (as defined in the Code), the Electricity Authority may assign our rights and obligations under these terms to another electricity supply. If that occurs these terms will be amended to:

- (a) the standard terms that the other supplier would normally have offered you immediately before the event of default occurred; or
- (b) such other terms that are more advantageous to you as the other supplier and the Electricity Authority agree; and
- (c) include a minimum term in respect of which you must pay an amount for cancelling the agreement with the other supplier before the expiry of the minimum term,

and we may provide information about you to the Electricity Authority and it may provide that information to the other retailer if required under the Code.

22. Definitions

22.1 Code means the Electricity Industry Participation Code 2010 as amended from time to time.

22.2 Equipment means lines, Meters, transformers, switchers, relays, fuses, wiring and any other equipment used to supply power to your Premises.

22.3 Force Majeure means an event beyond our reasonable control that prevents us from performing our obligations under these terms and includes your acts or omissions and the acts of

omissions of third parties (including the Lines Company or Meter Owner) and acts of god or war.

22.4 Lines Company means the owner of the local lines network to which your Premises are connected.

22.5 Meter means a remotely read interval meter and all associated equipment used to measure and communicate information about your use of power to us or our service providers and includes any cover or housing for that equipment.

22.6 Meter Owner means the person that owns the Meters situated on your Premises.

22.7 Premises means the premises to which power is supplied (or intended to be supplied) by us to you.

22.8 Working Days means a day other than a Saturday or a Sunday that registered banks are open for normal business in Christchurch.