

# OLIVE - TERMS OF USE AND SUPPLY OF GOODS, FUEL AND SERVICES

Welcome to olive, a Service provided by eSmartMetrics Limited ("olive", "We", "Our" or "Us").

We offer an online Service which allows Our customers to Use smart meter and internet technology to understand their heating Fuel (including, without limitation, kerosene 28 second and gas oil 35 second ("Fuel") Use and to order Fuel on Your behalf (**Our Services**) to be delivered to the Supplier of the Fuel as notified to You by Us (**Our Suppliers**) through Our Website at [www.myolive.co.uk](http://www.myolive.co.uk) (**Our Site**). Our Services also allow You to monitor and track Your Fuel use from a Fuel storage tank by purchasing a Smart Meter and attaching to the Fuel tank.

This page (together with Our Privacy Policy) tells You information about Us and the legal terms and conditions (Terms) on which We sell any of the products (Goods) listed on Our Website (Our site) to You. For Fuel we offer an online Service which looks to match customers wishing to buy from Our Suppliers. We act as agent for the Suppliers in carrying out this Service and in administering the ordering process on their behalf including (without limitation) the administration of quotations, customer orders and customer payments as well as issuing order confirmations on behalf of Suppliers. Please read these Terms carefully before You start to Use Our Site or Our Services or place any order with Us, as they will apply to how You may Use them and to any contract between Us for the sale of any of Our Goods listed on Our Site, or for the provision and delivery of Fuel to You via Our Suppliers, and will tell You everything that You need to know about the terms upon which We will deal with each other. "Use" of Our Site includes accessing, browsing or registering to Use Our Services through Our Site.

Please note that before placing an order for Goods or Services with Us, You will be asked to confirm Your agreement to these Terms. If You do not agree to these Terms, You must not Use Our Services and will not be able to order any Goods or Services through Our Site.

We recommend that You print a copy of these Terms for Your future reference.

We may amend these Terms from time to time as set out in clause 6 below. Each and every time You wish to order Goods, please check these Terms to ensure You understand the terms which will apply at that time of that purchase.

These Terms, and any contract between Us as a result of You placing an Order with Us, are only in the English language.

## 1 INFORMATION ABOUT US

1.1 Our Site, [www.myolive.co.uk](http://www.myolive.co.uk), is a site operated by eSmartMetrics Limited ("We" or "Us"). We are registered in England and Wales under company number 09259843 and have Our registered office at Dove Cottage, Carsington, Matlock, Derbyshire, DE4 4DE. Our VAT number is 206480035. We are a limited company.

1.2 Contacting Us if You are a consumer:

(a) To cancel an Order (and the resultant contract between Us) in accordance with Your legal right to do so as set out in clause 7 below, You simply need to let Us know that You have decided to cancel. The easiest way to do this is to e-mail Us at [info@esmartmetrics.com](mailto:info@esmartmetrics.com). We will e-mail You to confirm that We have received Your cancellation. You can also e-mail Us at [info@esmartmetrics.com](mailto:info@esmartmetrics.com) or contact Our Customer Services team by telephone on 01629 706456 or by post to Dove Cottage, Carsington, Matlock, DE4 4DE. If You are emailing Us or writing to Us, please include details of Your order (including Your order number) to help Us to identify it. If You send Us Your cancellation notice by e-mail or by post, then Your cancellation is effective from the date upon which You send Us the e-mail or post the letter to Us.

(b) If You wish to contact Us for any other reason, including because You have any complaints, You can contact Us by telephoning Our customer service team at 01629 706456 or by e-mailing Us at [info@esmartmetrics.com](mailto:info@esmartmetrics.com).

(c) If We have to contact You or give You notice in writing, We will do so by e-mail or by pre-paid post to the address details which You provide to Us in Your order.

1.3 Contacting Us if You are a business:

You may contact Us by telephoning our customer service team on 01629 706456 or by e-mailing Us at [info@esmartmetrics.com](mailto:info@esmartmetrics.com). If You wish to give Us formal notice of any matter in accordance with these Terms, please see clause 25.3 below.

1.4 Please note that You may only purchase Goods from Our Site if You are at least 18 years old.

## 2 OUR GOODS

2.1 The images of the Goods on Our site are for illustrative purposes only. Although We have made every effort to display the colours accurately, We cannot guarantee that Your computer's display of the colours accurately reflect the colour of the Goods. Your Goods may vary slightly from those images.

2.2 Although We have made every effort to be as accurate as possible, all sizes, weights, capacities, dimensions and measurements indicated on Our site have a 10% level of tolerance.

2.3 The packaging of Our Goods may vary from that shown on images on Our site.

## 3 HOW WE USE YOUR PERSONAL DATA

We only Use Your personal data in accordance with Our Privacy Policy, which can be found on our Website. Please take the time to read and understand Our Privacy Policy, as it includes important terms which apply to You. The personal data collected may include, without limitation, Your name, address, telephone and email address and other data obtained from You from time to time.

## 4 CAPACITY

This clause 4 only applies if You are a business.

4.1 If You are not a consumer, You confirm that You have authority to bind any business on whose behalf You Use our site to purchase Our Goods and Services.

4.2 These Terms and any document expressly referred to in them constitute the entire agreement between You and Us and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between Us, whether written or oral, relating to its subject matter.

4.3 You acknowledge that by placing an Order and in entering into any contract between Us, You do not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms or any document expressly referred to in them.

4.4 You and we agree that neither of Us shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

## 5 OUR SERVICES FOR GOODS & FUEL

5.1 For purchase of all non-Fuel Goods You place an order on our Site and You will receive an e-mail from Us acknowledging that We have received Your order. However, please note that this does not mean that Your order has been accepted. Our acceptance of Your order will take place as described in clause 5.13 below.

5.2 We will confirm Our acceptance to You by sending You an e-mail that confirms that the Goods have been dispatched. The contract between Us as a result of You placing an Order with Us will only be formed when We send You the Payment Confirmation.

5.3 If We are unable to supply You with the Goods, for example because the Goods are not in stock or no longer available or because We cannot meet Your requested delivery date or because of an error in the price on Our site as referred to in clause 9 below, We will inform You of this fact by e-mail and will not process Your order. If You have already paid for the Goods, We will refund You the full amount including any delivery costs charged as soon as possible.

5.4 For Fuel we offer an online Service which looks to match customers wishing to buy Fuel with Our Suppliers. We act as agent for Suppliers in carrying out this service and in administering the ordering process on their behalf including (without limitation) the administration of quotations, customer orders and customer payments as well as issuing order confirmations on behalf of Our Suppliers.

5.5 The contract for the supply of Fuel is made between You, and with the relevant Supplier and not with us. Accordingly, We do not accept responsibility for the acts or omissions of Suppliers or for the Fuel supplied (or any services provided) by them. Our role is limited to the operation of Our site and acting as the agent of the Suppliers in the administration of quotations, Customer Orders and Customer payments as well as issuing Order confirmations on their behalf.

5.6 We are not a fuel distribution company and we do not supply the Fuel. We only provide the Services. As part of our Services we facilitate the sale of the Fuel to You by the relevant Supplier through the following process:

5.7 You seek a quote from Our Suppliers by entering Your volume & delivery requirements (including, without limitation any delivery constraints) into our site. We aggregate quotes on a "group" and defined periodic basis to maximise savings. When placing a quote for Fuel, You must complete our online form before the indicated "closing date". Our Site will guide You through the steps You need to take to place an order for Fuel with the Supplier.

5.8 At the closing date we contact Suppliers to find You the best price available to meet Your requirements in the area of Your location and the Price Notification is then emailed to You but the identity of the Supplier with the best price is not shown at this stage. Our quote process allows You to check and amend any errors for 24 hours before the system submits Your order for Fuel.

5.9 If You wish to purchase the Fuel at the price quoted then We will automatically place an order 24 hours after You have received the Price Notification. You will pay us (as agent on behalf of the Supplier) for the Fuel. Placing of Your Order shall be deemed to be an offer by You to purchase the Fuel from the Supplier at the relevant price which is then subject to acceptance by us on behalf of the Supplier.

5.10 We shall hold any payments made by You until such time as a Contract has been formed between You and the Supplier and the Goods are delivered by the Supplier.

- 5.11 We will send You a Payment Confirmation email confirming that Your offer has been accepted by the Supplier and the price, the estimated delivery date and the name and contact details of that Supplier, at which point the Contract between You and the Supplier to purchase the indicated volume of Fuel is formed on the terms of the Supplier Conditions.
- 5.12 We will pass Your details (name, address and contact details, but not payment information) on to the relevant Supplier so that they can affect the relevant delivery of Fuel.
- 5.13 We reserve the right at any time to affect or procure the assignment of or otherwise transfer the Contract to an alternative Supplier and do not act as agent for You.
- 5.14 You acknowledge in entering into the Contract that we do not act as an agent for You but we do act as an agent for the Supplier in forming the Contract between You and the Supplier.
- 5.15 The Contract for the supply of the Fuel is between You and the Supplier. You acknowledge that we are not responsible for the Fuel, including (without limitation) any issues relating to the delivery, quality, safety, accuracy and/or volume of the Goods, all of which are the responsibility of the Supplier (except to the extent that any of such matters are Your responsibility as set out in these Conditions).

**6. OUR RIGHT TO VARY THESE TERMS**

- 6.1 We may amend these Terms from time to time. Please look at the top of this page to see when these Terms Were last updated and which Terms Were changed.
- 6.2 Every time You order non Fuel Goods from Us, the Terms in force at the time of Your order will apply to the contract between You and Us arising from You placing an Order with Us.
- 6.3 We may revise these Terms as they apply to Your order from time to time to reflect the following circumstances:
  - (a) changes in relevant laws and regulatory requirements ; and
  - (b) changes to Our business, or Our Goods or Services.

6.4 If We need to revise these Terms as they apply to Your order, We will contact You to give You reasonable advance notice of any such changes and let You know how to cancel the Order (and the contract between Us) if You are not happy with them. You may cancel either in respect of all the affected Goods or just the Goods You have yet to receive. If You opt to cancel, You will have to return (at Our cost) any relevant Goods You have already received and We will arrange a full refund of the price You have paid, including any delivery charges.

**7. YOUR RIGHT OF RETURN AND REFUND**

7.1 You have a legal right to cancel an Order (and the resultant contract between Us) for Goods during the period set out below in clause 7.3. This means that during the relevant period if You change Your mind or decide for any other reason that You do not want to receive or keep a Goods, You can notify Us of Your decision to cancel the Order (and any resultant contract between Us) and receive a refund. Advice about Your legal right to cancel the Order (and any resultant contract between Us) is available from Your local Citizens' Advice Bureau or Trading Standards office.

7.2 If You need to cancel or amend Your Order with the Supplier for Fuel, You should contact Us as soon as possible. You may cancel an Order for Fuel at any time, provided that You do so before 12pm on the last working day (excluding weekends or bank holidays in England and Wales) prior to delivery. If You do cancel an Order for Fuel, We shall refund to You the amount paid subject to deduction of certain fees, which vary dependent upon when You cancel as follows.

If You cancel before 12pm on the day before the last working day prior to delivery, We will deduct an administrative fee of £10. If You cancel after 12pm on the day before the last working day prior to delivery but before 12pm on the last working day prior to delivery, We will deduct an administrative fee of £25. You will have no right to cancel Your order for Fuel under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.

7.3 Your legal right to cancel an Order for any Goods and other than an order for Fuel (in relation to which Your cancellation rights are set out in clause 7.2 above and any resultant contract between Us) starts from the date of the Dispatch Confirmation (the date on which We e-mail You to confirm Our acceptance of Your Order), which is when the contract between Us is formed. Your deadline for cancelling the Order (and the resultant contract between Us) then depends on what You have ordered and how it is delivered, as set out in the table below:

Your Order	End of the cancellation period
Your Order is for a single Smart Meter Goods (which is not delivered in instalments on separate days).	The end date is the end of <b>14 days</b> after the day on which You receive the Goods.  Example: if We provide You with a Dispatch Confirmation on 1 January and You receive the Goods on 10 January You may cancel at any time between 1 January and the end of the day on 24 January.

7.4 To cancel an Order (and any resultant contract between Us), You just need to let Us know that You have decided to cancel. The easiest way to do this is to contact Us as per the terms of clause 1.2 above. If You Use this method We will e-mail You to confirm We have received Your cancellation. Alternatively You may Use a copy of the form which is attached at the back of these Terms as a schedule.

7.5 If You cancel Your Order, then We will:

- (a) refund You the price You paid for the Goods. However, please note We are permitted by law to reduce Your refund to reflect any reduction in their value, if this has been caused by Your handling them in a way which would not be permitted in a shop. If We refund You the price paid before We are able to inspect the returned Goods and later discover You have handled them in an unacceptable way, You must pay Us an appropriate amount.
- (b) refund any delivery costs You have paid, although, as permitted by law, the maximum refund will be the costs of delivery by the least expensive delivery method We offer (provided that this is a common and generally acceptable method). For example, if We offer delivery of a Goods within 3-5 days at one cost but You choose to have the Goods delivered within 24 hours at a higher cost, then We will only refund what You would have paid for the cheaper delivery option.
- (c) make any refunds due to You as soon as possible and in any event within the deadlines indicated below:
  - (i) if You have received the Goods and We have not offered to collect it from You: 14 days after the day on which We receive the Goods back from You or, if earlier, the day on which You provide Us with evidence that You have sent the Goods back to Us. For information about how to return Goods to Us, see clause 7.8 below;
  - (ii) if You have not received the Goods or You have received it and We have offered to collect it from You: 14 days after You inform Us of Your decision to cancel the Order.

7.6 If You have returned the Goods to Us under this clause 7 because they are faulty or mis-described, We will refund the price of the Goods in full, together with any applicable delivery charges, and any reasonable costs You incur in returning the item to Us.

7.7 We will refund You on the credit card or debit card Used by You to pay or direct to Your nominated bank account.

7.8 If a Good has been delivered to You before You decide to cancel Your Order:

(a) then You must return it to Us without undue delay and in any event not later than 14 days after the day on which You let Us know that You wish to cancel the Order. You can send it back, [return it to Us in-store or hand it to Our authorised carrier.

(b) unless the Goods are faulty or not as described (in this case, see clause 7.6), You will be responsible for the cost of returning the Goods to Us. If the Goods cannot be returned by post, We estimate that if You Use the carrier which delivered the Goods to You, these costs should not exceed the sums We charged You for delivery.

7.9 Because You are a consumer, We are under a legal duty to supply Goods that are in conformity with this Order and the terms of the contract between You and Us. As a consumer, You have legal rights in relation to Goods that are faulty or not as described. These legal rights are not affected by Your right of return and refund in this clause 7 or anything else in these Terms. Advice about Your legal rights is available from Your local Citizens' Advice Bureau or Trading Standards office.

**8. DELIVERY**

8.1 We will contact You with an estimated delivery date for any Goods and for any Fuel Order made with Your Contract with the Supplier, which will be within 14 days after the date of the Dispatch Confirmation in relation to Goods and within 10 working days of Your payment being processed in the case of Fuel. Occasionally Our delivery to You may be affected by an Event Outside Our Control. See clause 13 below for Our responsibilities when this happens.

8.2 Our Suppliers will make every effort to deliver an Order for Fuel in accordance with Your requirements. Please note, however, that no delivery date is guaranteed in relation to Orders for Fuel, and time shall not be of the essence in this regard. All deliveries of Order for Fuel shall be made within normal business hours.

For all deliveries for Orders for Fuel, You must provide safe and suitable:

- (a) access off a public road over a hard metal road;
- (b) storage facilities which comply with all statutory local or other requirements applicable to the storage and handling of the Goods;
- (c) connection points not requiring more than thirty meters (100 feet) of hose;
- (d) supervision for any off-loading operation in accordance with safe practice and in compliance with applicable statutory or other requirements;
- (e) access to the storage facilities for a Standard sized tanker (approx.10ft x 29ft)

and in relation to any delivery of an Order for Fuel with the Supplier, You will indemnify the seller and for that purpose shall maintain appropriate insurance against all third party claims, costs and expenses attributable thereto, including any extra costs or expenses incurred Us arising from any failure by You to make such provisions, together with bearing the responsibility for any accidents loss or damage caused to any property whether Ours, Yours or of any third party resulting directly or indirectly for the transportation of Fuel requested You to premises situated away from a public road.

In the event that the Supplier is unable to effect delivery of an Order for Fuel to You by reason of Your failure to satisfy the conditions set out in this clause 8.2 above or for any other reason (including Your refusal to accept the delivery of the Goods or part thereof), You shall pay to Us a delivery charge equal to £75 or 15% of the value of the relevant Order, whichever is the greater.

You must provide every facility to ensure that any delivery of an Order for Fuel with Our Supplier is promptly discharged or offloaded.

The measurements of Our Supplier or its agents shall be conclusive as to the quantities delivered in relation to an Order for Fuel; in particular:

- (a) at unmanned premises – the driver's confirmation as shown on the reading stated on the invoice/delivery note;
- (b) at manned premises – Your signature, or that of Your agent on the invoice/delivery note, or in the absence of such signature as in accordance with unmanned premises.

You shall ensure that You shall not permit any smoking, the Use of naked lights or electric or gas fires or radiators near to any tank or inlet pipe into which a delivery of an Order for Fuel is being made or in the vicinity of any vent pipe connected to a tank, and will fully indemnify Suppliers against any damage claims or costs arising from Your failure to comply with this condition and shall retain appropriate insurance cover for that purpose.

If no one is available at Your address to take delivery of either Goods or Fuel or specific delivery instructions have not been provided with regard to access to Your Fuel tank, We will leave You a note that the Goods or Fuel have been returned to Our premises, in which case, You must contact Us to rearrange delivery.

Please note that Orders for Fuel are delivered directly by Suppliers to You, as per Your Contract with them, meaning that we do not have the opportunity to inspect and examine any Fuel supplied in relation to such an Order. You must immediately notify Us by telephone or email of any defect or shortfall in the volume of Fuel delivered within 48 hours of delivery and, where practicable, retain an accurate sample of the goods, the name and address of the driver and the vehicle registration number of the delivery vehicle or, if such inspection does not reveal a shortfall or defect and a defect manifests itself after delivery, immediately notify Us with full particulars of such shortfall or defect. You must co-operate with Us in pursuing any claim or claims against Our Supplier in this regard when requested, and promptly provide Us with all information necessary to pursue them.

8.3 Delivery of an Order shall be completed when Our Suppliers deliver the Fuel to the address You gave Us and the Goods will be Your responsibility from that time.

8.4 You own the Goods and/or Fuel once We have received payment in full, including all applicable delivery charges.

8.5 If We miss the 14-day delivery deadline for any Goods set out in clause 8.1 above then You may cancel Your Order immediately if any of the following apply:

- (a) We have refused to deliver the Goods;
- (b) delivery within the delivery deadline was essential (taking into account all the relevant circumstances); or
- (c) You told Us before We accepted Your order that delivery within the delivery deadline was essential.

8.6 If You do not wish to cancel Your order straight away, or do not have the right to do so under clause 8.5 above, You can give Us a new deadline for delivery, which must be reasonable, and You can cancel Your Order if We do not meet the new deadline.

8.7 If You do choose to cancel Your Order for late delivery under clauses 8.6 or 8.7 above, You can do so for just some of the Goods or all of them, unless splitting them up would significantly reduce their value. If the Goods have been delivered to You, You will have to return them to Us or allow Us to collect them, and We will pay the costs of this. After You cancel Your Order We will refund any sums You have paid to Us for the cancelled Goods and their delivery.

8.8 Unfortunately, We do not delivery to addresses outside the UK.

8.9 Please note that We will only deliver to the address which You confirm to Us when placing the relevant Order and that, in the case of Fuel Orders with Our Suppliers, any delivery cannot be redirected either after the Order is placed or at point of delivery.

## 9. PRICE OF GOODS AND DELIVERY CHARGES

9.1 The prices of the Goods will be as quoted on Our site at the time You submit Your order, or, in relation to a quote for Fuel, the price confirmed to You by

Price Notification. We take all reasonable care to ensure that the prices of Goods are correct at the time when the relevant information was entered onto the system. However, please see clause 9.5 below for what happens if We discover an error in the price of Goods You ordered.

9.2 Prices for Our Goods may change from time to time, but changes will not affect any order You have already placed.

9.3 The price of a Good includes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes between the date of Your order and the date of delivery, We will adjust the VAT You pay, unless You have already paid for the Goods in full before the change in VAT takes effect.

9.4 The price of a Good does not include delivery charges, although the price for any Order from Fuel does include delivery charges from the Supplier, which will be notified to You when You place the relevant Order or otherwise as stipulated elsewhere on Our Site. Our delivery charges are as advised to You during the checkout process, before You confirm Your order.

9.5 It is always possible that, despite Our reasonable efforts, some of the Goods on Our site may be incorrectly priced. If We discover an error in the price of the Goods You have ordered, We will contact You in writing to inform You of this error and give You the option of continuing to purchase the Goods at the correct price or cancelling Your order. We will not process Your order until We have Your instructions. If We are unable to contact You Using the contact details You provided during the order process, We will treat the order as cancelled and notify You in writing. Please note that if the pricing error is obvious and unmistakable and could have reasonably been recognised by You as a mispricing, We do not have to provide the Goods to You at the incorrect (lower) price.

## 10. HOW TO PAY

10.1 We only accept online payments for Our Goods, Services and for Fuel through our secure online payment provider by credit or debit card and in Pounds Sterling. Whilst we will take reasonable steps to protect the security of Your payment information, we accept no responsibility or liability in the event of any security breach on the part of our payment provider if You provide Your details in this way. Please note that we will support any prosecution in the event of credit card fraud being committed or attempted against either You or Us.

10.2 We reserve the right to charge a surcharge on any Orders paid for Using a credit card. The rate of the applicable surcharge (if any) will be indicated to You before entering Your card details.

10.3 Payment for Goods and all applicable delivery charges is in advance. Orders for Fuel will not be processed with Our Suppliers until We receive Your payment in full.

10.4 We will Use Your chosen payment card to pay for any Order for Fuel. If we are unable to take payment from Your chosen payment card, You will receive an email requesting an update or to ask You to provide an alternative card for payment. You will then need to make payment for the relevant Fuel Order within 24 hours to ensure that it is included within a relevant "group" Fuel order.

10.5 You hereby authorise Us to take recurring payments from Your chosen payment card for future Orders, whether for Services, Goods or Fuel.

## 11. OUR LIABILITY IF YOU ARE A BUSINESS

This clause 11 only applies if You are a business customer.

11.1 We only supply the Goods for Use by Your business, and You agree not to Use the Goods for any resale purposes.

11.2 Nothing in these Terms limits or excludes our liability for:

- (a) death or personal injury caused by our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- (d) defective Goods under the Consumer Protection Act 1987.

11.3 Subject to clause 11.2 above, we will under no circumstances whatever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with any Order (and any resultant contract between Us) for:

- (a) any loss of profits, sales, business, or revenue;
- (b) loss or corruption of data, information or software;
- (c) loss of business opportunity;
- (d) loss of anticipated savings;
- (e) loss of goodwill; or
- (f) any indirect or consequential loss.

11.4	Subject to clause 11.2 above, our total liability to You in respect of all losses arising under or in connection with any Order and any resultant contract between Us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods or Services supplied to You.	(b)	Your mobile phone, computer or internet browser is not compatible with Our Services and any minimum system requirements in force from time to time; or
		(c)	any subsequent changes to Your broadband internet connection prevent Our Services from working.
11.5	Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Goods are suitable for Your purposes.	12.8	From time to time, We may need to upgrade software related to Our Goods or Our Services. If Your equipment does not support any such upgrade, this may affect the functionality of Our Goods and/or Our Services.
12.	<b>OUR LIABILITY TO YOU IN RELATION TO OUR GOODS, OUR SITE AND OUR SERVICES IF YOU ARE A CONSUMER</b>	12.9	Our Site and Our Services may be temporarily unavailable if We have to carry out emergency or routine maintenance. We will try to inform You in advance, but may not always be able to do so.
12.1	If We fail to comply with these Terms in relation to Our Goods, We are responsible for loss or damage You suffer that is a foreseeable result of Our breach of these Terms or Our negligence, but We are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of Our breach or if it was contemplated by You and Us at the time We entered into this contract.	12.10	We will not be liable to You for any loss or damage caused by a virus, distributed denial-of-Service attack or other technologically harmful material that may infect Your computer equipment, computer programs, data or other proprietary material due to Your Use of Our Site or Our Services or on any Website linked to them.
12.2	We have no liability to You for any loss of profit, loss of business, business interruption, or loss of business opportunity.	12.11	We assume no responsibility for the content of Websites linked on Our Site or Our Services via advertisements. Such links should not be interpreted as endorsement by Us of those linked Websites. We will not be liable for any loss or damage that may arise from Your Use of them.
12.3	We do not in any way exclude or limit Our liability for:	12.12	We assume no responsibility for Our Services provided or promoted by Websites linked to on Our Services. Such links should not be interpreted as endorsement by Us of any such linked Websites. We will not be liable for any loss or damage that may arise from Your Use of them and Our linking to any third party Website does not constitute Our endorsement of them or any Goods or Services which they may provide.
(a)	death or personal injury caused by Our negligence;	13.	<b>EVENTS OUTSIDE OUR CONTROL</b>
(b)	fraud or fraudulent misrepresentation;	13.1	We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under an Order (and any resultant contract between Us) that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 13.2.
(c)	any breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);	13.2	An Event Outside Our Control means any act or event beyond Our reasonable control, including without limitation network or internet failure or unavailability strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, excessive snow or ice rendering delivery and access unsafe, or failure of public or private telecommunications networks or impossibility of the Use of railways, shipping, aircraft, motor transport or other means of public or private transport.
(d)	any breach of the terms implied by section 13 to 15 of the Sale of Goods Act 1979 (description, satisfactory quality, fitness for purpose and samples); and	13.3	If an Event Outside Our Control takes place that affects the performance of Our obligations under an Order (and any resultant contract between Us):
(e)	defective Goods under the Consumer Protection Act 1987.	(a)	We will contact You as soon as reasonably possible to notify You; and
12.4	We do not guarantee or make any representation or warranty:	(b)	Our obligations under an Order (and any resultant Contract between Us) will be suspended and the time for performance of Our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects Our delivery of Goods to You, We will arrange a new delivery date with You after the Event Outside Our Control is over.
(a)	that Our Site or Our Services will always be available or be uninterrupted;	13.4	You may cancel an Order (and any resultant contract between Us) affected by an Event Outside Our Control which has continued for more than 30 days. To cancel please contact Us. If You opt to cancel, You will have to return (at Our cost) any relevant Goods You have already received and We will refund the price You have paid, including any delivery charges.
(b)	that Our Services will meet Your business, professional or any other specific needs; or	14.	<b>INSTALLATION &amp; TECHNICAL REQUIREMENTS</b>
(c)	that We will continue to support any particular feature of Our Services.	14.1	In order to Use the full range of functions offered by Our applications, a working, always-on internet connection must be available at Your home or other place of installation. In order to Use all the features of Our mobile applications, a mobile data connection is required. The availability and functioning of either internet connection is Your sole responsibility.
12.5	To the fullest extent permitted by law, We exclude all conditions, warranties, representations or other terms which may apply to Our Site or Our Services, whether express or implied.	14.2	The installation and the removal of Our Goods are not in general within the scope of services to be rendered under the Order (and any resultant contract between Us).
12.6	We will not be liable to You for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:	14.3	Smart meters are designed to be User installable. Installation is made at the Users own risk and We are not liable for any issues occurring from the Users installation. An installation by a professional installer (installation service) can be ordered separately via Our Site.
(a)	Your Use of or inability to Use Our Services;	15.	<b>OUR SERVICES</b>
(b)	Your Use of Our Goods or Services suffered as a result of not Using them in accordance with Our instructions or as a result of a problem caused by Your mobile phone, computer, internet browser or broadband connection (rather than Our Goods)	15.1	To Use Our Services, You will be asked to create an account and provide Us with certain information in order to create a profile (Your "Information"). Any Information which You submit must be true, accurate, current and complete. You acknowledge and agree that You are solely responsible for the form, content and accuracy of any Information provided to Us. You agree to notify Us of any changes which are relevant to Your registration or Your Information.
(c)	any costs which You incur as a result of exceeding the permitted data limit on Your broadband account or mobile phone;	15.2	You must not Use someone else's name or as Your Username or select a name which violates any third party intellectual property right, is obscene, defamatory, constitutes a breach of privacy, a criminal offence or is otherwise in Our sole discretion objectionable or a breach of these Terms generally.
(d)	any loss or damage caused as a result of downloading or upgrading the software connected to Our Services, unless caused by Our negligence		
(e)	any costs, loss or damage that You suffer as a result of any unauthorised Use of Our Goods or Services (please see clause 14 below in relation to keeping Your Information secure);		
(f)	Use of or reliance on any content displayed on Our Site or Our Services;		
(g)	loss of profits, sales, business or revenue;		
(h)	business interruption;		
(i)	loss of anticipated savings;		
(j)	loss of business opportunity, goodwill or reputation; or		
(k)	any indirect or consequential loss or damage.		
12.7	We will not be responsible, and no refund will be given, if:		
(a)	Your broadband internet connection to Your home cannot support Our Services or Our Goods;		

15.3	You must treat Your Username, password and Information as confidential and must not disclose them to any third party. We reserve the right to disable any account, Username or password, whether chosen by You or allocated by Us at any time if, in Our sole opinion, You have failed to comply with any of the provisions of these Terms.	21.1	The content on Our Site and provided via Our Services is provided for general information only. It is not intended to amount to advice on which You should rely. You must obtain professional or specialist advice before taking, or refraining from, any action on the basis of the content on Our Site or Our Services. Please note that
15.4	If You know or suspect that anyone other than You knows or may have Used Your Username or password, You must notify Us immediately at <a href="mailto:info@esmartmetrics.com">info@esmartmetrics.com</a>	21.2	Although We make reasonable efforts to update the information on Our Site, We make no representations, warranties or guarantees, whether express or implied, that the content on Our Site is accurate, complete or up-to-date save in relation to Our Goods further to clauses 2 and 12 above.
15.5	You understand and acknowledge that You have no ownership rights in Your account, and that if You cancel Your account or Your account is terminated by Us, all of Your account information including bank details, Usage history and personal Information, will be marked as deleted. Your account information may be deleted from Our databases [and will be removed from any public area of the site.] Information may continue to be available for some period of time because of delays in propagating such deletion through Our Web servers. We reserve the right to delete Your account and all of Your Information after a significant duration of inactivity further to the provisions of clause 20 below.	21.3	Please note that We make no guarantee, warranty or representation in relation to the accuracy of information produced by the operation of Our smart metering Goods or Our Services generally, and such information should be Used as a guide only. We expect that tank quantities will be measured via Our Services and Our Goods to an accuracy of approximately 90 - 95% and, as such, any variance in this regard will not substantially affect the volume of Fuel delivered to You further to an Order in most cases. For example, Your Order for Fuel may lead to a delivery of 1000 litres delivered, but Your smart meter or Our Services may reflect an increase of 950 litres due to the accuracy tolerances referred to above.
15.6	Our Services allow Us to check the level and Usage of Fuel at Your home. We can Use this information to contact and supply Fuel to You and may contact You if We think that Our Services are not working, having been installed at Your home, as effectively as they might.	<b>22</b>	<b>YOUR REPRESENTATIONS AND WARRANTIES</b>
<b>16.</b>	<b>CHANGES TO OUR SITE AND OUR SERVICES</b>		By Using Our Services, You represent and warrant that You have the full right and capacity to enter into the contract to purchase Our Goods and Use Our Services as per these Terms. You will be responsible for any and all loss or damage We suffer as a result of any breach of this warranty.
	We may update, alter or otherwise change the content, functionality or availability of Our Services in any way, at any time and at Our sole discretion without prior notice to You. We do not guarantee that Our Site, Our Services, or any content on them, will be free from errors or omissions.	<b>23</b>	<b>VIRES</b>
<b>17</b>	<b>ADVERTISING</b>	23.1	We do not guarantee that Our Site or Our Services will be secure or free from bugs or viruses. You are responsible for configuring Your information technology, computer programmes and platform in order to access Our Site and/or Our Services. You should Use Your own virus protection software.
	Our Services may include advertisements, which may be targeted towards Users or any other information relating to Our Services. The types of advertisements which may feature in Our Services will be subject to change as We evolve and in consideration for Our granting You access to Our Services, You agree that We, Our affiliates and any third-party advertiser may display advertising on Our Services or in connection with the display of content or information from Our Services, whether posted by You or any other User of Our Services.	23.2	You must not misuse Our Site or Our Services by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to Our Site or Our Services, the servers on which Our Site or Our Services are stored or any server, computer or database connected to Our Site or Our Services. You must not attack Our Site via a denial-of-Service attack or a distributed denial-of-Service attack. By breaching this provision, You would commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and We will co-operate with those authorities by disclosing Your identity to them. In the event of such a breach, Your right to Use Our Site and Our Services will cease immediately and permanently.
<b>18</b>	<b>ACCESSING OUR SERVICES</b>	<b>24</b>	<b>OTHER IMPORTANT TERMS</b>
18.1	Our Site and Our Services are made available free of charge. Access to Our Services is permitted on a temporary basis only and We may at Our sole discretion suspend, withdraw, discontinue or change all or any part of Our Services or their functions and features without any prior or subsequent notice to You. We will not be liable to You if for any reason they are unavailable at any time or for any period.		Headings Used in these Terms are for convenience only and shall not be used to construe them.
18.2	Our Site is directed to residents of the United Kingdom. We do not represent that Our Services or any content available on or through Our Site is appropriate or available in other locations. We may limit the availability of Our Site or any service or Goods described on Our Site to any person or geographic area at any time. If You choose to access Our Site from outside the United Kingdom, You do so at Your own risk.	24.1	By Using Our Services and registering as a User or by otherwise providing Your e-mail address or other data which identifies You as an individual, You confirm that You agree and consent to receive all communications including notices, agreements, disclosures, or other information from Us electronically. We may provide all such communications by email to any details which You provide when first registering to Use Our Services, or by posting them on Our Services. For support-related or legal enquiries, You may contact Us at <a href="mailto:info@esmartmetrics.com">info@esmartmetrics.com</a> .
<b>19</b>	<b>YOUR LICENCE TO USE OUR SERVICES</b>	24.2	We may transfer Our rights and obligations under Our contract with You relating to Your Use of Our Services to another organisation, but this will not affect Your rights or Our obligations under these Terms.
19.1	We grant You a limited, non-exclusive licence to access and Use Our Services for Your own purposes. Your licence to Use Our Services granted by these Terms is personal to You and may not be assigned, transferred or sub-licensed to anyone else.	24.3	Our Goods and Services are not for resale and Your licence to use them cannot be assigned to any third party. Your contract and licence to Use Our Services is between You and Us. You may only transfer Your rights or Our obligations under these Terms to another person if We agree to such transfer in writing. No other person shall have any rights to enforce any of its terms as set out in these Terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
19.2	We are the owner or the licensee of all intellectual property rights in Our Services and in their contents, which are protected by copyright laws and treaties around the world. All such rights are reserved. You may download and print one copy of extracts of any page(s) from Our Site for Your personal Use. You must not modify the paper or digital copies of any materials You have printed off or downloaded in any way, and You must not Use any illustrations, photographs, video or audio sequences or any graphics separately from any accompanying text. Our status (and that of any identified contributors) as the authors of content on Our Site must always be acknowledged. You must not Use any part of the content on Our Site or Our Services for commercial purposes without obtaining a licence to do so from Us or Our licensors. If You print off, copy or download any part of Our Site in breach of these Terms, Your right to Use Our Site will cease immediately and You must delete any copies which You may have made.	24.4	Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
<b>20</b>	<b>ACCOUNT SUSPENSION &amp; DELETION</b>	24.5	If We fail to insist that You perform any of Your obligations under these Terms, or if We do not enforce Our rights against You, or if We delay in doing so, that will not mean that We have waived Our rights against You and will not mean that You do not have to comply with those obligations. If We do waive a default by You, We will only do so in writing, and that will not mean that We will automatically waive any later default by You.
20.1	We may, at Our sole discretion, suspend, delete or otherwise terminate Your account to Use Our Services if, in Our sole opinion, it is or is Used in breach of any of these Terms, may expose Us to legal action or legal or criminal liability or penalty or may damage Our reputation.	24.6	These Terms set out the whole agreement between Us and You.
20.2	If We delete, suspend or otherwise terminate Your account for any reason, You may not register for another account to Use Our Services and We may, in Our sole discretion, block Your e-mail address and IP address to prevent any such further registration.	24.7	If You are a consumer, please note that these Terms are governed by English law. This means that Your contract with Us for the Use of Our Site and/or Our Services, the supply of Our Goods (further to any Order) and any dispute or claim arising out of or in connection with them will be governed by English law. You and We both agree to that the courts of England and Wales will have non-exclusive jurisdiction. You acknowledge that, in the event of a breach of this agreement by Us or any third party, the damage or harm, if any, caused to You will not entitle You to seek injunctive or other equitable relief against Us, including with respect to any content which You may post to Our Service, and Your only remedy shall be for monetary damages, subject to the limitations of liability set out in these Terms.
20.3	In the event of Our termination of Your account, any and all licenses granted by Us to You to Use Our Services will immediately terminate.		
<b>21</b>	<b>NO RELIANCE ON INFORMATION</b>		

24.8 If You are a business, any Order and any resultant contract between Us and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. We further both irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with a Contract or its subject matter or formation (including non-contractual disputes or claims).

## 25. COMMUNICATIONS BETWEEN US

25.1 When We refer, in these Terms, to "in writing", this will include e-mail.

25.2 If You are a consumer, You may contact Us as described in clause 1.2 above.

25.3 If You are a business:

- (a) Any notice or other communication given by You to Us, or by Us to You, under or in connection with and Order and any contract between Us shall be in writing and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at Our registered office; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second business day after posting or if sent by e-mail, one business day after transmission.

(c) In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

(d) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## CONTACT US

To contact Us, please email [info@esmartmetrics.com](mailto:info@esmartmetrics.com). Thank You for visiting Our Site.

## MODEL CANCELLATION FORM

(Complete and return this form only if You wish to withdraw from an Order)

To eSmartMetrics Limited,

Carsington,

Matlock, Derbyshire

DE4 4DE

Email: [info@esmartmetrics.com](mailto:info@esmartmetrics.com)

I/We [\*] hereby give notice that I/We [\*] cancel my/our [\*] Order and contract of sale of the following goods [\*]/for the supply of the following service [\*],

Ordered on [\*/received on [\*],

Name of customer(s),

Address of customer(s),

Signature of customer(s) (only if this form is notified on paper),

Date

[\*] Delete as appropriate