



Agreement Number:

Date:

This agreement is made between:

Positive Energy Limited (registration number 09523048) whose registered office is at Calbron House, Rushmere Close, West Mersea, Colchester, Essex, CO5 8QQ (referred to as 'PE hereafter); and

Company -----(registered number -----) whose principle office of business is at ----- (referred to as the 'TPI' hereafter)

each a 'Party' and together 'the Parties'.

WHEREAS:

PE supplies energy and energy Related services to small and medium enterprise customers throughout Great Britain.

The TPI provides price comparison and Energy related services to Energy Consumers in Great Britain. The TPI shall pass details of Customers who have confirmed that they wish to switch Energy Supplier to PE or renew their supply with PE in accordance with the terms of this Agreement.

DEFINITIONS

Agreement	This agreement together with any annexes incorporated from time to time
Annex	Supplementary Terms and Conditions to this Agreement as agreed between the Parties from time to time and appended to this Agreement
Authority	The Gas and Electricity Markets Authority (GEMA) or the Office of Gas and Electricity Markets (OFGEM)
Business Day	A day other than a Saturday or Sunday or public holiday in England and Wales
CIMPAAS	A CRM with a PE owned database which holds contract status information
Commission	The charge payable to the TPI in respect of services provided to the customer, and repaid to the TPI based on added uplift on PE price list
Customer	A business customer who has entered into an energy supply agreement with PE
Data Controller	As defined in the Data Protection Act (DPA) 1998
Data Processor	As defined in the Data Protection Act (DPA) 1998

DPA	Means the Data Protection Act 1998
Effective Date	The date specified in Clause 3
Energy	Electricity and or Gas
Energy Related Services	Services provided by PE to Customers in connection with Energy
Brand Features	The trademarks, service marks, logos, and trade names
Force Majeure	An act of god, industrial action (except where solely restricted to employees of the Party claiming a Force Majeure event), an act of the public enemy or terrorist, war declared or undeclared, sabotage or act of vandalism, civil commotion, lightning, earthquake, hurricane, fire, storm, flood, drought, accumulation of snow or ice, explosion, exceptional breakage or accident to machinery or pipelines, governmental restraint, any Act of Parliament or directive of a competent authority and any other cause which is beyond the reasonable control of the affected Party
Good Industry Practice	The exercise of such skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a prudent operator engaged in the same type of business under the same or similar conditions
Initial Term	A period of 12 months from the Effective Date

In this Agreement:

A reference to any Party includes a reference to its affiliates, permitted successors and assigns in such capacity.

A reference to any agreement or document (including this Agreement) shall be construed as a reference to such agreement or document as amended, modified or supplemented and in effect from time to time and shall include a reference to any agreement or document which amends, modifies or supplements it, or is entered into, made or given pursuant to or in accordance with its terms.

Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

Where applicable, references to the singular include references to the plural and vice versa.

Scope of Agreement

In consideration of payment by PE of the Commission in accordance with the provisions of this Agreement the TPI agrees to provide PE with opportunities to provide quotes for supplies of Energy to the TPI's clients. The Parties may also agree to develop, in



conjunction with one another, Energy products and/or Energy related services to the mutual benefit of business users and the Parties. Terms and Conditions relating to such products and/or services shall be provided in Annexes appended to this Agreement from time to time.

Each Party agrees that the Agreement shall be non-exclusive and shall not in any way hinder or prevent the other Party from entering into a contract with a third party relating to services which are the same as or similar to the Services.

Duration of Agreement

This Agreement shall commence on the last date of signature above (the Effective Date) and shall continue in effect for the Initial Term unless terminated in accordance with the provisions of this Agreement.

Upon completion of the Initial Term either Party may terminate this Agreement upon 28 days' prior written notice to the other Party. If no such notice is served the provisions of this Agreement will continue until terminated by either Party serving written notice thereof, of not less than 28 days upon the other Party.

This Agreement shall with effect from the Effective Date replace any previous agreement or arrangements between the Parties

TPI's Obligation

The TPI agrees to comply at all times and in all respects with the terms and conditions of this Agreement.

The TPI will not, by any act or omission cause PE to be in material breach of any legal or regulatory obligation.

The TPI will use all reasonable steps to comply with those principles of OFGEM's Standard of Conduct

The TPI agrees that it will agree to and comply with those principles set out in the TPI Code of Conduct.

The TPI agrees that all Customers are Business Customers

The TPI shall agree with each Customer the Commission it will apply in respect of services provided to the Customer. The TPI shall ensure the Customer is aware that any quotation provided by PE shall be inclusive of the TPI's Commission and that PE shall pay all Commission payments it collects to the TPI.

The TPI agrees to comply at all times and in all respects with PE's Responsible Procurement Policy



The TPI shall at all times during the term of this Agreement use all reasonable skill and care in undertaking its obligations under this Agreement and shall undertake its obligations in accordance with Good Industry Practice.

The TPI shall take security measures in connection with its Website in accordance with Good Industry Practice.

The TPI shall ensure that for the duration of this Agreement and for 12 months thereafter none of its employees, servants or agents under any circumstances directly target Live Customers to change, alter or move from the current energy contract that you have placed them in before the end of the Customers energy supply agreements, unless as part of an Approved Renewals Programme.

The TPI shall refer all complaints relating to the Energy supply or other PE obligations to PE.

The TPI shall use its best endeavours to ensure the factual accuracy of any statements made by the TPI, its employees, servants or agents in connection with:

Data provided to POZITIVE ENERGY as part of the Supply Application or any other data reasonably requested by PE in order to provide a quotation; and

Quotations or Energy related services provided by PE to Customers;

And whether by act or omission will ensure that any such statements made by the TPI, its employees, servants or agents are not misleading or deemed to be damaging to the PE brand or reputation in any way.

The TPI shall use its best endeavours to ensure the factual accuracy of customer data submitted in all Supply Applications.

The TPI will carry out checks to ensure the factual accuracy of the prices that it publishes and promotes.

The TPI shall not in any circumstances knowingly act in such a way or procure that any third party acts in such a way as to cause PE to be in breach of its obligations under its supply Licence.

During this Agreement the TPI shall comply with reasonable requirements from PE in relation to PE's health and safety policies and be responsible for the good conduct of its Staff.

The TPI may subcontract any of the services under this Agreement providing that PE receives prior notification.

The TPI warrants and undertakes that:

It will at all times comply with all applicable English and EU laws and regulations;



It will notify POZITIVE ENERGY before entering into this contract if a supply licence is held currently. If a supply licence is later applied for and granted, the TPI must notify PE immediately. In such circumstances PE will only discuss with the TPI on matters relating to the Agreement and Services. Any matters relating to the holding of a supply licence by the TPI are outside of the scope of this Agreement.

it shall obtain and maintain all necessary equipment and communications networks, software, hardware and other facilities necessary to perform its obligations;
it has full capacity and authority to enter into this Agreement

PE's Obligations

PE agrees to comply at all times and in all respects with the Terms and Conditions of this Agreement.

PE shall, at its own expense, provide the TPI with all information in electronic format which it reasonably requires or requests in order to carry out the Services, including but not limited to up to date and accurate price and product information and PE's current terms and conditions.

PE may amend the Energy details at any time including the prices and either make additional products available or remove products as appropriate in the normal course of its business. In the event of changes to its product portfolio, PE will give the TPI reasonable notice of the change.

PE shall provide contact details to the TPI of individual and/or teams to represent PE in the various aspects of this Agreement.

POZITIVE ENERGY warrants and undertakes that:

It will at all times comply with all applicable English and EU laws and regulations;

It has and will maintain all appropriate Licences; and

It has full capacity and authority to enter into this Agreement.

6. Commission and Payments

If, pursuant to the Supply Application PE enters into a supply agreement with a Customer, PE agrees to pay commission to the TPI according to the added uplift.

PE will make payment to the TPI for all Supply Applications counted as reaching Net Gain Status.

PE shall not pay commission to the TPI for Supply Applications where the Customer has entered into the Supply Application other than as a consequence of the actions of the TPI



If any Party is paid in error for any reason whatsoever and the Parties agree that there has been an error, the relevant Party shall, as soon as reasonably practicable upon receipt of a request for repayment, repay the relevant payment to the other Party.

If on the termination of this Agreement any sums remain due to PE from the TPI pursuant to this clause then PE shall be entitled to recover such sums as a debt.

All payments made by the Parties under this Agreement unless otherwise stated are exclusive of VAT and other duties or taxes.

After termination of this Agreement PE shall not make commission payments to the TPI in respect of any Energy supply agreement entered into by a Customer after the termination of this Agreement unless the Supply Application was completed prior to such termination.

Relationship

Nothing in the Agreement shall be construed as authorising the TPI to negotiate or conclude Energy supply agreements as an agent of PE.

Nothing in this Agreement shall be so construed as to constitute either Party to be the agent of the other, nor shall it operate so as to create a partnership or joint venture of any kind between the Parties. Each Party shall act hereunder only on an individual basis and shall not, unless otherwise authorised in writing by the other Party, be authorised to act as agent of the other Party nor have the power to bind the other Party. No Party shall so bind the other Party, or represent to anyone that it has the authority to bind such other Party, or make any other representation about or on behalf of such other Party.

The TPI shall not do or have authority to do on behalf of PE that could be construed as:

Making a legal offer on behalf of PE

Making, varying or amending any contracts on behalf of PE

Giving any warranties, representations, guarantees or statements on behalf of PE unless stated within the verification of the sale;

Pledging the credit of PE or otherwise committing PE to any legal obligation or liability of any nature.

The TPI is permitted to discuss with any potential Customer a range of prices which PE are able to provide and as such they act as an intermediary.. The TPI is also authorised to obtain a signed offer from the potential Customer that it shall pass this to PE. It is PE's decision whether to accept the Customer offer.

Nominated Representatives



The Parties shall designate individuals or department contacts to representing them (the “Nominated Representatives”) to oversee the day-to-day aspects of this Agreement and keep the Parties up to date of all material aspects of, and developments in connection with, this Agreement.

The Parties shall inform the other of any change in identity of any such person(s) or department in writing

Intellectual Property

All rights in pre-existing Intellectual Property (including in relation to the PE Brand Features and the TPI’s Brand Features) shall remain with the owner of such pre-existing Intellectual Property.

The TPI acknowledges that the Intellectual Property rights in all Publication Material passed to it by PE pursuant to this Agreement belong to PE and remain vested in PE, and the TPI shall not seek to register or acquire title to such rights by virtue of this Agreement. The ownership of all rights in all databases, lists and any other information generated relating to Customers or the operation of this Agreement shall vest in the party creating such databases, lists and other information.

PE grants to the TPI with effect from the date of this Agreement a royalty-free non exclusive licence to use PE Brand Features in accordance with any instructions and guidelines submitted to the TPI from time to time for the purposes of Publication and performance of obligations under this Agreement but for no other purpose whatsoever. The TPI acknowledges that it shall have no further rights in POZITIVE ENERGY Brand Features whatsoever.

Upon termination of this Agreement the non-exclusive licence shall, except as otherwise expressly agreed, immediately terminate and the TPI shall return all documents and comply with all reasonable requests of PE to ensure that PE Brand Features and other intellectual property of PE are no longer used.

Data Protection

For the purpose of this agreement both Parties are considered to be joint Data Controllers under the provisions of the DPA regarding any of the personal data associated with this Agreement,

Both Parties will ensure that they comply with the principles set out in the DPA.

The TPI will ensure that they have appropriate technical and security measures in place to protect the Personal Data processed as part of this Agreement.



The TPI will only process Personal Data for the purpose of this Agreement

The TPI will provide information to PE on the key measures and regular manner.

The TPI shall provide any and all Personal Data required to be transmitted by it to PE pursuant to this Agreement in a format and medium and at times reasonably agreed by the Parties from time to time.

The TPI shall obtain all necessary data protection consents required from Customers or prospective Customers to allow the Parties to perform their obligations under this Agreement.

Confidentiality

Neither Party shall at any time during or for a period of five years after the Term of this Agreement disclose or allow to be divulged to any person any information relating to this Agreement, other than as required to perform their obligations under this Agreement or to comply with the relevant law, or at the request of a statutory regulatory authority, to any third party without the prior written consent of the other Party.

Upon termination of this Agreement each party will send back to the other or dispose of within 30 days all advertising or any other documents within its possession or control in any manner relating to the business of the other or referring to it by name

Neither Party shall make any announcement relating to this Agreement or its subject matter without the prior written approval of the other Party except as required by law or by any legal or regulatory authority.

The obligations contained in this agreement shall continue in force for a period of two years from the date of termination of this Agreement however arising.

Access

Where pursuant to or in consequence of performing its obligations under this Agreement either Party gains access to any computer system belonging to the other Party including (without limitation) any software, hardware or firmware, whether directly or remotely then: All access shall be strictly limited to that part of the computer system, software, hardware or firmware, (as the case may be) as is required for the proper provision of the Party's obligations under this Agreement;

The accessing Party shall comply with all security audit and other procedures and requirements notified to it by the other from time to time in relation to such access;

All information obtained from time to time in consequence of access is deemed to be confidential information and the relevant party shall comply with the provisions of this



agreement in relation thereto. The granting Party may remove access if conditions of access are breached.

Change Management

No modifications or alterations to this Agreement will be valid unless such modifications or alterations are in writing and signed by a duly authorised representative of each Party.

Termination

In the event of either Party committing a material breach of this Agreement, the Party not in breach shall be entitled to notify the occurrence of the relevant breach to the Party in breach as an issue requiring resolution. If the breach is not remedied to the reasonable satisfaction of the injured Party within 10 Working Days of notice being served, this Agreement may be terminated forthwith.

The Parties agree that any breach of this agreement is a fundamental breach and either Party shall be entitled to terminate this Agreement on written notice.

Either Party may terminate this Agreement immediately on Notice to the other if:

The other Party convenes a creditors' meeting or an order is made or effective resolution passed for their winding up;

A receiver, administrator or trustee for creditors is appointed for all or a major part of its assets of the other Party; or

The other Party is unable to pay its debts (within the meaning of Section 123(1) of the Insolvency Act 1986) or the other Party threatens or ceases to pay its debts as they fall due.

Any termination of this Agreement shall be without prejudice to any other rights or remedies a Party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either Party nor the coming into or continuance in force or any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

Upon termination of the Agreement each Party shall promptly execute and deliver such documents, agreements as the Nominated Representatives of the other Party may reasonably request in order to give effect to the termination of this Agreement.

Liabilities



Neither Party limits its liability for death or personal injury arising from its negligence or that of its employees, agents or sub-contractor or for fraud or fraudulent misrepresentation.

Neither Party will be liable to the other for any indirect or consequential loss (both of which include, without limitation, pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) under this Agreement.

Subject to the above, the liability of each party under this Agreement for any damage or direct loss howsoever caused will be limited to £100,000 for each incident or series of incidents.

The TPI shall indemnify PE against any fines that may be imposed by the Authority or another regulatory, industry or trade body or recognised association in relation to a breach of any of PE's licence conditions, codes of practice or guidelines where such a breach, following a reasonable process of investigation by PE and the TPI, can be clearly and directly attributed to the TPI or the sales activities of any member of the TPI's Staff, unless the TPI is acting as instructed by PE or in accordance with the terms and conditions of this Agreement.

In the event that the TPI is able to demonstrate that the Commercial Agents (Council Directive) Regulations 1993 ("Regulations") apply it shall be entitled to indemnity on the termination of this Agreement for reasons other than a breach of the terms of this Agreement by the Supplier, or termination of this Agreement by the TPI. The Parties agree that the indemnity payable to the TPI, if any, shall be assessed equitably by applying regulations 17 and 18 of the Regulations to allow the TPI the minimum indemnity as permitted by the Regulations. Subject thereto, the TPI shall have no claim against PE for compensation for loss of agency rights, loss of goodwill, loss of profit or any other loss.

Force Majeure

Neither Party shall be liable to the other for failure to fulfil their obligations under this Agreement to the extent that the performance of the affected Party is prevented due to Force Majeure. The affected Party shall notify the other in writing as soon as reasonably practicable of the Force Majeure event and take all reasonable steps to mitigate its effects. A further written notification shall be issued immediately the circumstance of Force Majeure end.

Audit



PE and/or PE appointed auditor will have the right to audit the quality and compliance of the TPI in connection with its obligations under this Agreement at any time during the Term of this Agreement and thereafter until all the TPI's rights, obligations and duties have come to an end under this Agreement.

During the course of any audit carried out by PE the TPI shall make available one or more of its managers or senior officials with the appropriate level of expertise and authority to answer any reasonable enquiries of PE.

The TPI shall promptly allow Nominated Representatives of PE access to any of its offices at any time for these purposes.

The TPI shall co-operate fully with any such audit and supply promptly such information, data and records (whether stored electronically or otherwise) relating to the performance of the TPI's duties and obligations under this Contract.

PE shall be entitled to make copies or take extracts. The TPI shall provide copying facilities at no charge to PE.

The TPI hereby grants PE, on seven (7) days notice or such other shorter notice period as may be appropriate in order to comply with any regulatory investigations or requests for information by a regulator, the right to enter upon its premises during normal office hours for the purpose of such access to make copies and the TPI shall give PE reasonable assistance to make such copies.

The TPI shall take all necessary steps to ensure that its Nominated Representatives shall:

Offer all necessary assistance to the auditor;

Make reasonable endeavours to ensure that the information the TPI holds relating to the Services are complete, accurate and up to date; and

Consider any recommendations made by PE and use reasonable endeavours to ensure that recommendations agreed between the parties are implemented within an agreed timescale.

Any information obtained by PE, or an auditor appointed by PE, shall be subject to the confidentiality

Disaster and Contingency Arrangements

The TPI will maintain adequate systems to ensure the proper performance of the obligations under this Agreement and that such systems have adequate back-up and disaster contingency facilities and procedures in place to ensure the continuous provision of the TPI obligations under this Agreement.



Suspension

PE reserves the right to suspend the TPI from performing all or any of the Services, and upon service of notice (the "Suspension Notice") from PE requiring it to do so and the TPI shall forthwith cease to provide all or any of the Services for such period as is stated in the Suspension Notice if:

OFGEM makes a provisional or final order pursuant to Section 29 of the Gas Act 1986 or Section 25 of the Electricity Act 1989 respectively requiring POZITIVE ENERGY to cease the provision of Energy or Energy Related Service; or

OFGEM requires PE to provide an undertaking to cease the provision of gas services, dual services and/or electricity services; or

OFGEM indicates or informs PE and the Senior Management of PE considers in their reasonable opinion, that the standard of the TPI performance of the Services is such that OFGEM may take such action; or

If there are systems security issues with the TPI's systems that PE reasonably believes gives rise to a material risk to PE.

The TPI shall not be entitled to any Payment in respect of any Supply Application with a Customer procured after service of the Suspension Notice and the TPI shall discontinue all or any of the Services forthwith until notified by PE that the period of suspension has expired.

PE shall notify the TPI of such expiration of any period of suspension within two (2) days of that expiration.

The period of suspension stated under any Suspension Notice shall be no longer than is necessary for the Parties to resolve the matter.

PE shall include in the Suspension Notice reasons for the issuance of the Suspension Notice and the action required in order to resolve the matter.

Miscellaneous

This Agreement forms the entire agreement between the Parties and contains all agreed representations, warranties and undertakings.

Neither Party shall transfer or assign any rights or obligations under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably delayed or withheld.

If there is a waiver, it shall be agreed by each Party in writing. A waiver of a specific breach shall not entitle any further breach.



In case, a provision is declared invalid, the remaining provisions of this Agreement shall continue in full force and effect.

Any notice to be given under this Agreement shall be in writing and delivered by hand or sent by email, recorded delivery or registered letter to the Notice Address.

If a dispute arises, the Parties shall endeavour in good faith to resolve any dispute by mutual agreement. Either Party may request that the dispute be submitted to the respective senior management of the Parties for resolution. If the Senior Management fail to resolve the dispute within 14 days of the date on which the matter was first submitted to the Senior Management for resolution (or such later time period as they agree), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction in relation to any dispute.

Any person who is not a Party to this Agreement shall not acquire or have any rights under this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

This Agreement shall be interpreted in accordance with English law and references to any statute, statutory provision, statutory instrument, regulation or code include any amendments, extensions or re-enactments. No legal proceedings in respect of this Agreement shall be brought or conducted outside England and Wales.

Signed as a duly authorised representative for and on behalf of Pozitive Energy Limited (PE)	Signed as a duly authorised representative for and on behalf of ----- (TPI)
Designation: Director	Designation:
Signature:	Signature:
Date:	Date:
Name:	Name:
Witness:	Witness:
Name:	Name:
Company name:	Company name:
Signature:	Signature:
Date:	Date:



ANNEXURE 1

The following will apply unless otherwise notified either in writing or via email:

The uplift allowed for acquisitions and renewals is between 0.1p to 1.0p.

Commissions will be paid monthly in arrears.

The TPI will get login credentials to our portal.

All price changes, commissions and sales status reports will be provided through the portal.

PE reserves the right to change any of the above at its own discretion.