Part 1 General terms and conditions

Art. 1 Scope
These General Terms and Conditions apply to the supply of BKW electrical energy to end consumers (hereinafter referred to as “Customer”). They apply to Customers with free grid access within the meaning of Swiss electricity supply legislation.

Art. 2 Definitions
“Customer” means
a. the tenant or lessee who purchases energy for his own consumption,
b. the owner, condominium owner or holder of building rights who purchases energy for his own consumption.
c. a group who form a community for own consumption of energy (“Zusammenschluss zum Eigenverbrauch”) in accordance with the provisions of the power supply and energy legislation. The community must appoint a contact person for BKW for deliveries from and, where applicable, to the distribution grid.

Art. 3 Duration and early termination of the power supply contract
3.1 The duration of the power supply contract is defined in the contract document.
3.2 If the Customer is in breach of his obligations, BKW shall be entitled to terminate the power supply contract by written notice subsequent to issuing a written reminder and allowing the Customer a reasonable period of time in which to remedy such breach.
3.3 If it is clear from the circumstances or the Customer’s conduct that the Customer will not comply with a request to remedy any failure or will be unable to fulfill his obligations, the power supply contract may be terminated in writing with immediate effect.
3.4 Either party may terminate the power supply contract in writing with immediate effect if the continuation of the contract would constitute an unreasonable hardship for that party.

Art. 4 Exchange of information and duty of disclosure
4.1 The Customer shall inform BKW immediately of any changes to his master data, specifying the date on which the change took effect.
4.2 BKW shall be entitled to disclose information regarding consumption, billing and general contract data to third parties particularly to facilitate the recording, accounting and billing of the energy supply. Information shall only be disclosed to the extent required to facilitate the technical and commercial management and execution of the energy supply.

Art. 5 Data protection
5.1 BKW collects data (e.g. customer data and measurement data) that is necessary for the provision of the contractual services, especially for the execution and maintenance of its Customer relationship and for the security of its operations and infrastructure.
5.2 BKW stores and processes this data in order to carry out and further develop the contractual services and to create new offers and offers relating to these services.

5.3 The Customer hereby agrees that all data related to this contract as well as supplemental data available within BKW or from third parties may be used within the BKW Group for analysis of the services provided (customer profile), for personalised advertising campaigns, for customer contacts (e.g. recalls) and for the development and structuring of additional energy services in the liberalized market. BKW Group includes, for example, BKW Energie AG, ISP Group companies, Arnold Group companies and Antec Group companies, as well as all other BKW subsidiaries in Switzerland and abroad, and AEK onyx AG and its subsidiaries. An overview of BKW Group companies can be found on the Group’s home page at www.bkw.ch.

5.4 BKW shall be entitled to involve third parties and to disclose the necessary data to said third parties. Data may also be transmitted abroad in this regard.

5.5 BKW and any third parties must always adhere to the relevant legislation, especially the data protection regulations. They shall take suitable steps to protect the data of the Customer and treat it as confidential.

Art. 6 Invoicing and payment

6.1 Invoices shall be issued to the Customer at regular intervals to be determined by BKW.

6.2 The amount invoiced shall be payable in full within 30 days of the invoice date. Invoices may only be paid in instalments with the express consent of BKW.

6.3 After the final date for payment, the Customer shall be charged any additional costs incurred as result of late payment (postage, debt collection, default interest, default charges, debt collection expenses, interest on late payments, connection and disconnection etc.).

6.4 In the event of persistent non-payment, or BKW has reason to doubt the Customer’s ability or willingness to discharge his payment obligations, BKW may require the Customer to provide a reasonable advance payment or security or may invoice the Customer on a weekly basis. The Customer shall be charged any resulting costs incurred.

6.5 The Customer shall not be entitled to offset any amounts owed to him against amounts invoiced by BKW.

6.6 If any complaints or queries are raised with regard to energy metering, the Customer shall not be entitled to withhold payment of any amounts invoiced or payments on account that may be due to BKW.

6.7 Errors and mistakes relating to invoices and payments may be corrected at any time over a period of 5 years.

6.8 If there is a credit in favour of the Customer against BKW, BKW shall generate an invoice.

Part 2 Supply of energy

Art. 7 Basis for the legal relationship

7.1 The Customer is responsible for meeting the technical and commercial criteria required for the supply of energy.

7.2 The Customer may only use the energy for the agreed purpose. In particular, the Customer shall not transfer energy to third parties, with the exception of subtenants of residential premises, unless specifically authorised to do so by BKW. In the event that BKW agrees that energy may be transferred to third parties, no surcharges may be added to the prices charged by BKW.

Art. 8 Scope of supply

8.1 BKW is solely responsible for the commercial supply of energy.

8.2 BKW shall supply energy to the Customer on the condition that the Customer has made effective use of his right to access the grid and has entered into valid grid connection and grid usage contracts with the distribution system operator.

8.3 To the extent not agreed otherwise in the power supply contract, BKW shall supply the owed quantity of energy by delivery thereof to the balance group to which the Customer’s metering point is assigned under notification of the metering point defined in the power supply contract for the relevant consumption point.

8.4 The benefits and risk of the energy supply are transferred to the Customer at the place of performance.

8.5 The relevant grid operator is therefore responsible for the physical delivery of energy. If physical delivery is interrupted due to an event of force majeure, including but not limited to network faults, the Customer’s obligation to take delivery of the supply shall be suspended, i.e. the Customer shall be entitled to procure the energy required from third parties and shall not owe BKW any payment in respect of energy not supplied. However, BKW shall have the right to supply any unused energy to third parties.

Art. 9 Measuring the energy supplied

9.1 Energy consumption is measured by the relevant distribution grid operator at the metering points. For the purposes of calculating the energy consumption and the invoices to be paid by the Customer, BKW shall rely on the consumption data transmitted directly by the responsible distribution grid operator to BKW the supplier.

9.2 The measurement of energy and the meters and other equipment required for such purpose (ripple control systems), the recording and supply of consumption data (measurement data) relating to grid usage and the accuracy of such data (clearing of measurement...
Part 3 Miscellaneous provisions

Art. 12 Assignment of the legal relationship
12.1 The parties agree to transfer all rights and duties under this power supply contract to any legal successors. The parties are jointly liable for any damages that arise as the result of a breach of this duty.

12.2 A legal succession requires the consent of the other party. Such consent shall only be refused if there is a material reason that justifies the rejection of the third party, namely if the third party does not offer adequate assurance of the proper fulfilment of this power supply contract.

12.3 The transfer of the power supply contract to group companies of BKW does not require the consent of the other party. The term ‘group companies’ refers to companies in which BKW directly or indirectly holds more than a 50% stake or which it controls in any other way.

Art. 13 Amendments
BKW reserves the right to amend the Terms and Conditions at any time. BKW shall inform the Customer in advance in a suitable manner of changes to the Terms and Conditions. If the changes result in a financial disadvantage for the Customer, he may reject the change, stating the reason why, and terminate the power supply contract as at the date when the change enters into effect. Art. 3.6 shall apply. If he fails to do this, the Customer accepts the changes.

Art. 14 Applicable law, disputes
14.1 The power supply contract is subject to Swiss law.

14.2 Any disputes arising out of or in connection with the power supply contract shall be governed by the public authorities with competent jurisdiction.

14.3 The place of jurisdiction shall be Bern.

Art. 15 Entry into force
These Terms and Conditions enter into force on 1 January 2018.