

Electricity Supply Contract (Fixed Term)

General Terms & Conditions

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1 Definitions

The following definitions shall apply:

“**Access Rights**” means our right or our subcontractors' or agents' right to all reasonable access to all Supply Points (subject only to your reasonable requirements as to health and safety and site security) at any time;

“**Acts**” means the Energy Acts, the Electricity Act and the Utilities Act and any regulations made hereunder both as amended or re-enacted from time to time;

“**Associated Companies**” means any wholly owned subsidiary of GDF SUEZ Energy UK Limited, including GDF SUEZ Marketing Limited, GDF SUEZ Sales Limited and GDF SUEZ Solutions Limited;

“**Authority**” means the Gas and Electricity Markets Authority established pursuant to section 1 (1) of the Utilities Act;

“**BSUoS Charges**” means as defined in Clause 6.17 of this Supply Contract;

“**Buy-Out Fund**” means as is set out in the Renewables Obligation Order (but for the avoidance of doubt shall include for the purposes of this Supply Contract any fund established on the same or similar principles as the Buy-Out Fund to hold payments which are made late to the Buy-Out Fund and any fund established to hold payments made to compensate the Buy-Out Fund in respect of payment defaults);

“**Buy-Out Price**” means the amount in £/MWh which Registered Suppliers must pay the Authority towards their Renewable Obligation. This amount is updated annually, subject to indexation in accordance with RPI and is published on the Authority's website;

“**CFD FIT**” means the Contracts for Difference: Feed in Tariff mechanism introduced pursuant to Schedule 2 of the Energy Act 2013;

“**Charges**” means the Commodity Charges and other charges specified in the Supply Contract, which shall be charged in respect of the Supply Period plus the applicable Value Added Tax (“**VAT**”) and Climate Change Levy (“**CCL**”);

“**Commodity Charges**” means the element of the Charges charged in respect of the volume of electricity consumed at each Meter Point;

“**Consumption Data**” means actual meter readings from the Equipment received by us from you, or the appointed Service Provider, during the Supply Period showing the actual consumption of electricity in respect of each Meter Point;

“**Consumption Invoice**” means the invoice we shall send to you on the Invoicing Date setting out the Charges, in relation to the Invoicing Period;

“**Consumption Threshold**” means as defined in Clause 6.24.2;

“**Default Contract Rate**” means the rates and charges published on the Website, which shall be payable by you where you continue to consume electricity after the Termination Date;

“**De-energise**” means the taking of action to stop the flow of electrical current from the DNO or TNO to any structure, switchgear, equipment, line or device used by you at the Supply Point and “**De-energisation**” shall be construed accordingly;

“**Disconnect**” means the permanent electrical disconnection of any structure, switchgear, equipment, line or device used by you at the Supply Point from the DNO or TNO and “**Disconnection**” shall be construed accordingly;

“**Distribution Network Operator (DNO)**” means the distribution licence holder (or exempt operator) who owns and/or operates the electricity distribution system through which electricity is conveyed to the Supply Point where the Supply Point is not connected directly to the Transmission Network Operator;

“**Domestic Sites**” means any premises occupied as a private dwelling (including any garden, yard, garage, outhouse, or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling). Where this definition is used to apply to Supply Points located in Scotland, such definition shall be extended to include the word “stair”;

“**Economic Loss**” means loss of profits, interest, business, goodwill or commercial, market or economic opportunity, whether direct or indirect and whether or not foreseeable. For the avoidance of doubt, our margin or management and administration fees and any Mark to Market Loss are not Economic Losses and shall not be construed as such;

“**EFA Calendar**” means the calendar for the trading of wholesale power within the UK as set by the Futures and Options Association (FOA);

“**Electricity Act**” means the Electricity Act 1989;

“**Energy Acts**” means the Energy Act 1976 and the Energy Act 2004;

“**End Date**” means the anticipated end of the supply Period as set out in the Quotation Document.

“**Equipment**” means any meters, data loggers, mains, telecommunications, automated meter readers or other equipment provided for the purpose of supplying and ascertaining the quantity of electricity supplied hereunder;

“Erroneous Transfer” means as defined in the Master Registration Agreement;

“Force Majeure” means any circumstances or event beyond the reasonable control of either Party which directly causes the affected Party to be unable to comply with all or a significant part of their obligations under this Supply Contract, but excluding strikes, lockouts, labour disputes, changes to economic conditions and lack of funds;

“Framework Agreement” means any joint, multi-party, or consortium framework agreement, in all cases forming part of the Supply Contract, whether agreed at the same time as this Supply Contract or subsequently agreed in writing between the Parties and setting out certain matters which vary, amend or are supplementary to the Supply Contract;

“Independent Network” means any supply network where the Supply Point is not directly connected to the DNO or TNO;

“Industry Agreements” means:

- the Master Registration Agreement and Data Transfer Agreement (MRA and DTA);
- the Distribution Connection and Use of System Agreement (DCUSA);
- the Balancing and Settlement Code (BSC);
- our Licence;
- the Acts; and
- any other code, agreement or legally binding obligation imposed on us, or into which it is, or becomes necessary, for us to enter in order to supply electricity;

“Initial Consumption Forecast” means your first set of best estimates for the consumption of electricity as set out in the Quotation Document (and in respect of flexible products, also in Table A of the Product Appendix), which may be either annual or monthly figures, or cover some other specified time period, (but excluding the impact of Supply Points added or removed after the original Start Date) which shall comprise forecast information either provided by you to us or our historical consumption data, or the estimated annual consumption of the Supply Point(s);

“Invoice(s)” means Consumption Invoices, Reconciliation Invoices or invoices in respect of any other Charges due to us from you pursuant to this Supply Contract;

“Invoicing Date” has the meaning given in the Quotation Document;

“Invoicing Period” has the meaning given in the Quotation Document;

“Irrevocable Offer” means your irrevocable offer to enter into the Supply Contract by your signing and dating of the Quotation Document;

“Licence” means any Licence under section 6(1) (d) of the Electricity Act;

“Maximum Supply Capacity” means the maximum amount of electricity, expressed in kVA, that each Supply Point can accept by way of a volume of electricity at any given time and as determined by the DNO or TNO from time to time;

“Mark to Market Loss” means the negative difference between the wholesale market price at the date we were contractually obliged or entitled to purchase the electricity and the wholesale market price on the date we were contractually obliged or entitled to sell it back to market, after adding all transaction fees and other costs directly associated with the sell back;

“Mark to Market Gain” means the positive difference between the wholesale market price at the date we were contractually obliged or entitled to purchase the electricity and the wholesale market price on the date we were contractually obliged or entitled to sell it back to the wholesale market after deducting all transaction fees and other costs directly associated with the sell back;

“Meter Point” has the meaning given to such expression in the Industry Agreements (including Half Hourly (HH) and Non-Half Hourly (NHH) Meter Points) and identified by a specific Meter Point Administration Number (MPAN) in the Quotation Document;

“Metering Costs” means a component (if any) of the Charges, comprising any charges relating to the installation, provision and, maintenance of your Equipment in situ at the Supply Point on the signature Date;

“Meter Reading Costs” means the cost of reading, and obtaining Consumption Data from, your Equipment;

“Micro Business Consumer” means a company supplied or requiring to be supplied with gas or electricity at non-domestic sites which has any or all of the following; (i) an annual consumption of electricity of not more than 100,000 kWh; or (ii) an annual consumption of gas of not more than 293,000 kWh; or (iii) fewer than ten (10) employees (or their full time equivalent) and an annual turnover or annual balance sheet total not exceeding €2 million;

“Micro Business Terms” means the additional terms and conditions which will be appended to this Supply Contract and applicable to the Supply where you are a Micro Business Consumer;

“NTC” means the National Terms of Connection conferred by DCUSA Limited;

“Parties” means both us and you and **“Party”** is either one of us;

“Payment Date” means unless amended in accordance with Clauses 10.7.8 and 10.7.9; (a) in relation to Consumption Invoices, the date as defined in the Quotation Document; and (b) in relation to all other Invoices the date as specified on the Invoice;

“Payment Method” means the method of payment set out on your Quotation Document;

“Product Appendix” means the appendix detailing the product type, and purchasing and sell back mechanism, and forming part of the Supply Contract;

“Quotation Document” means the document detailing the Supply Point details, Initial Consumption Forecast and the Charges and forming part of the Supply Contract;

“Reconciliation Invoice” means an invoice debiting or crediting your account as a result of a calculation by us of the difference between (a) the Charges which ought to have been levied; and (b) the actual Charges that were levied during the Reconciliation Period;

“Reconciliation Period” means the period to which a Reconciliation Invoice refers, the beginning and end dates of which are stated on the Reconciliation Invoice;

“Registered Supplier” means an electricity supplier licensed under the Electricity Act and registered with the Authority;

“Relevant Transfer Date” means:

- (a) the day after the date on which you enter into an electricity supply contract (including if relevant this Supply Contract) with any Registered Supplier; or
- (b) if after entering into an electricity supply contract there is a period of time within which you may decide not to proceed with the contract (a **“Cooling Off Period”**), the Relevant Transfer Date shall be the earlier of –
 - (i) the day after the date on which that Cooling Off Period ends;
 - (ii) fourteen (14) days after the date on which you entered into a new contract.

For the avoidance of doubt there is no such Cooling Off Period applicable to this Supply Contract and your entry into this Supply Contract is as set out at Clause 3.1.

“Renewables Obligation” means the obligation, set out in the Renewables Obligation Order, on Registered Suppliers in the United Kingdom to ensure a growing proportion of their electricity sales are from eligible renewable sources of electricity;

“Renewables Obligation Level” means for each obligation period (as defined in the Renewables Obligation Order) the level of Renewables Obligation determined by the Secretary of State for the obligation period and published on the Authority’s website;

“Renewables Obligation Order” means the Renewables Obligation Order 2009 (SI 2009/785) and the Renewables Obligation Order (Scotland) 2009 (SSI 2009/140) as these are amended, restated, re-enacted and/or replaced from time to time;

“Review Date” means the date as specified on the Quotation Document and each subsequent anniversary of that date;

“Revised Consumption Forecast” means your (or, pursuant to Clause 4.4, our) on-going written best estimate of your projected future electricity consumption for each remaining period (i.e. day/month) after the date of such forecast, estimating electricity consumption for each such future period of the Supply Period on an on-going basis (and including for the avoidance of doubt, the impact of any Supply Points added or removed after the Start Date) and which we agree to use to purchase and/or sellback any electricity;

“Security Deposit” means at our option either (i) a cash amount, together with you and us entering into a deposit agreement in a form acceptable to us; or (ii) a letter of credit from such financial institution and in such form of wording as is acceptable to us; or (iii) such other form of security as we may request or accept, including but not limited to any form of third party guarantee or indemnity; or (iv) a pre-payment or other form of payment plan and in the case of (i) to (iii) inclusive, in an amount which we reasonably consider would constitute the Charges for four (4) calendar months calculated on a reasonable estimate of consumption;

“Service Providers” means any meter reading agent, data collector, meter operator, meter asset maintainer, meter asset provider, data aggregator, automated meter reading providers and any other third party appointed to act for or on behalf of either Party;

“Settlement” means the determination and settlement of amounts payable in respect BSUoS Charges in accordance with the BSC;

“Settlement Day” means the period from 00:00 hours to 24:00 hours on each calendar day;

“Settlement Final” means the first run of BSUoS Charges published by Elexon which occurs fourteen (14) months after the Settlement Day;

“Side Letter” means any side letter forming part of this Supply Contract, or subsequently agreed in writing between the Parties to be part of this Supply Contract and setting out certain matters which vary, amend or are supplementary to the terms of the Supply Contract;

“Signature Date” means the date on which we accept your Irrevocable Offer to enter into the Supply Contract by our signing and dating of the Quotation Document;

“Start Date” means the date on which you intend to start to receive a supply of electricity from us on the terms of the Supply Contract as set out in the Quotation Document;

“STOR” means the Short Term Operating Reserve balancing service provided by the TNO which, should you elect to participate in, we will manage for you;

“Supply” means the provision of electricity by us to you under this Supply Contract;

“Supply Contract” means the Quotation Document and where applicable, the Product Appendix and any Side Letter(s), Framework Agreement(s) and Variation or Amendment Agreements, together with these Terms and Conditions;

“**Supply Costs**” means the cost, charge, amount or value at any given time, of each of the following items; (1) wholesale energy costs, (2) shape costs, (3) BSUoS Charges, (4) imbalance charges, (5) Elexon charges, (6) management or administration fee, (7) cash flow costs, (8) Renewables Obligation, (9) transmission losses and any other items which impact on, or affect, the cost of the supply of Electricity to you;

“**Supply Period**” means for a Supply Point, the period beginning on the Start Date and ending on the Termination Date;

“**Supply Point**” means a combination of one or more Meter Points at the same location as set out in the Quotation Document;

“**Termination Date**” means either (a) the End Date; or (b) such earlier date where the Supply Contract is terminated in accordance with these Terms and Conditions;

“**Terms and Conditions**” means the terms and conditions set out in this document;

“**TNUoS Charges**” means as defined in Clause 6.16;

“**Transmission Network Operator**” (**TNO**) means National Grid Electricity Transmission plc (or its successor as national electricity transmission system operator for Great Britain);

“**Transportation Costs**” means a component of the Charges, comprising those charges payable to the TNO and/or DNO for the use of their networks as applicable from time to time under the Industry Agreements including those charges more specifically referred to as “DUoS” and “TNUoS” and specified as “Included in the Unit Rate”, “Fixed” or “Pass-Through” in the Quotation Document;

“**Unit Rate**” means as set out in the Quotation Document;

“**Utilities Act**” means the Utilities Act 2000;

“**Variation or Amendment Agreement**” means any variation or amendment agreement entered into by the Parties during the Supply Period which varies or amends the terms of the Supply Contract;

“**Website**” means our website at www.gdfsuezuk.com or www.gdfsuez-energy.co.uk or such other address as we notify you of in writing and in each case as updated or amended from time to time;

“**We/us/our**” means GDF SUEZ Marketing Limited (Registered No 4236804) whose registered offices are at No 1 Leeds, 26 Whitehall Road, Leeds, West Yorkshire LS12 1BE;

“**Working Day**” means Monday to Friday inclusive but excluding days identified as Bank Holidays in England;

“**you**” or “**your**” means the person or organisation who makes the Irrevocable Offer as identified as the “Customer” in the Quotation Document.

2 Interpretation

- 2.1 References to statutory or regulatory provisions or Industry Agreements include any amendments, variations, consolidations or replacements, regulations made there under, re-instatements, or re-enactments made from time to time.
- 2.2 The expression “including” shall be construed without limitation.
- 2.3 Words and expressions used in these Terms and Conditions but not defined in Clause 1 are instead defined in the Quotation Document or Product Appendix.
- 2.4 Words and expressions used in this Supply Contract but not defined shall where appropriate be construed:
 - 2.4.1 as they are defined in the Acts or in the Industry Agreements; or
 - 2.4.2 in accordance with their wider usage in the electricity industry generally.
- 2.5 Should any conflict arise between the content of this Supply Contract and the Industry Agreements then the Industry Agreements shall take precedence.
- 2.6 Where there is more than one Supply Point in the Quotation Document, then reference to a Supply Point is deemed to mean all the Supply Points each on an individual basis and the Supply Points shall have a combined Initial Consumption Forecast, Revised Consumption Forecast and Consumption Threshold.
- 2.7 The Supply Contract documents shall be construed in the following order of priority in the event of a conflict of terms:
 - 2.7.1 any Variation or Amendment agreement; then
 - 2.7.2 any Side Letter; then
 - 2.7.3 any Micro Business Terms; then
 - 2.7.4 any Framework Agreement; then
 - 2.7.5 any Product Appendix; then
 - 2.7.6 the Quotation Document, then

2.7.7 these Terms and Conditions.

2.8 Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.

3 Contract Period

Commencement of Supply Contract

3.1 We shall accept your Irrevocable Offer and this Supply Contract shall become binding on both Parties in relation to all Supply Points on the Signature Date.

Transfer of Supply from your previous Supplier

3.2 We shall use our reasonable endeavours to become the Registered Supplier to the Meter Points on the Start Date and in any event, we shall co-operate with your existing supplier to enable the transfer to be completed within twenty one (21) days of the Relevant Transfer Date unless:

3.2.1 you request that the transfer takes place over a longer time period; or

3.2.2 one or more of the conditions in Clause 3.2.3 applies.

3.2.3 The conditions applicable to Clause 3.2.2 are that, on or after the Relevant Transfer Date:

(a) we do not have all of the information required in order to complete the transfer and:

(i) we have taken all reasonable steps to obtain the missing information from you and you have not provided that information, or the information you provided is incorrect; and

(ii) that information is not readily available to us from another source; or

(b) we are prevented from completing the transfer in accordance with this Clause 3.2 due to any other circumstance caused by you; or

(c) you are receiving electricity supply by a distribution exemption holder as defined in section 64 of the Electricity Act; and

(i) you or the supply exemption holder has required a physical connection to be made in accordance with paragraph 7(2) of Schedule 2ZA of the Electricity Act and that physical connection has not yet been made; or

(ii) the distribution exemption holder has specified, in a notice under paragraph 1(5)(6)(a)(i) of Schedule 2ZA of the Electricity Act, a metering arrangement which it considers would be required for access to be given to us and that metering arrangement is not yet in place; or

(d) your existing supplier enters an objection under the customer transfer process in accordance with the Industry Agreements to prevent us from registering the Supply Point. In this case the twenty (20) Working Day period will commence when the objection is removed.

3.2.4 we will not charge you for the transfer of the Supply Point from your existing supplier. However, and for the avoidance of doubt, all other Charges, including any Security Deposit due under the terms of this Supply Contract will be, and will remain, due and payable on the transfer of the Supply Point to us.

Conditions of Supply at the Start Date

3.3 Subject to Clauses 9, 10, and 12, we shall use our reasonable endeavours to provide a Supply of electricity to all Meter Points for which we become the Registered Supplier in accordance with this Supply Contract for the Supply Period.

3.4 Our supply to you pursuant to Clause 3.3 is conditional upon:-

3.4.1 us having in place for the full duration of the Supply Period, a credit insurance policy on terms which are acceptable to us, in relation to your account with us; or

3.4.2 where we are unable to obtain and/or retain an acceptable credit insurance policy, as detailed in Clause 3.4.1 above, you providing a Security Deposit within ten (10) Working Days of receiving our request for the same pursuant to this Clause.

3.5 Where you fail to consume electricity from any or all Meter Points from the Start Date then we shall be entitled to recover from you and shall be indemnified by you for all costs and losses incurred by us as a result of such failure for the period up to the date on which the consumption commences, or the Termination Date, whichever is the sooner, and in either case such costs to include any Mark to Market Loss.

3.6 You shall indemnify us for all costs, losses and expenses we reasonably incur where the Supply Contract includes Supply Points which you provided to us in error, including administration costs and any Mark to Market Loss.

Charges after the Termination Date

3.7 After the Termination Date and until such time as another Registered Supplier has been registered as the supplier to your Meter Point, you recognise and agree that any consumption shall be automatically charged at our Default Contract Rate without any further notification to you from us, but to all other extents the terms of this Supply Contract, including the recovery by us of all Transportation Costs, Meter Reading Costs and Metering Costs, shall continue in full force and effect. In addition, we shall be entitled, at our

discretion, to do any one, or a combination of the following:

- 3.7.1 vary the Invoicing Period, the Invoicing Date and the Payment Date from those specified in the Quotation Document. Such variation may include invoicing you in advance of delivery based on your estimated consumption;
 - 3.7.2 revoke or vary the terms of any applicable Product Appendix;
 - 3.7.3 request a Security Deposit be provided within ten (10) Working Days of such a request; and/or
 - 3.7.4 arrange for the Meter Points (or any one or combination of the Meter Points) to be De-Energised, Disconnected and/or removed immediately (and we shall be entitled to exercise Access Rights in doing so) together with being entitled to recover from you the costs incurred in such actions.
- 3.8 To the extent that electricity has been forward purchased for delivery beyond the Termination Date we shall be entitled to sell the additional electricity on the wholesale market.
- 3.9 Where the sell back pursuant to Clause 3.8 results in a Mark to Market Loss, we shall provide you with a separate Invoice for that amount, such Invoice to be payable fourteen (14) days after the date of Invoice.

Transfer of Supply

- 3.10 Where you wish to transfer any Supply Point we may enter an objection under the customer transfer process in accordance with the Industry Agreements to prevent an alternative Registered Supplier from registering the Supply Point if:
- 3.10.1 you arrange to transfer to an alternative Registered Supplier before the Termination Date; and/or
 - 3.10.2 there are any overdue Invoices not paid by their Payment Date (including, Reconciliation Invoices and Invoices for interest) such Invoices not being subject to a bona fide dispute; and/or
 - 3.10.3 the new supplier has made an Erroneous Transfer in relation to the Meter Point; and/or
 - 3.10.4 an alternative supplier attempts to register a single Meter Point where we are the Registered Supplier for one or more related Meter Points.
- 3.11 Where we do not enter an objection, or where we enter an objection when that objection is removed, we shall co-operate with any new supplier to enable the transfer to be completed within twenty one (21) days of the Relevant Transfer Date unless:
- 3.11.1 you request that the transfer takes place over a longer time period; or
 - 3.11.2 you withdraw your request for a transfer by notifying the new supplier that you do not wish to switch to that supplier; or
 - 3.11.3 one or more of the conditions in Clause 3.12 applies.
- 3.12 The conditions applicable to Clause 3.11.3 are that, on or after the Relevant Transfer Date:
- (a) we do not have all of the information required in order to complete the transfer and:
 - (i) we have taken all reasonable steps to obtain the missing information from you and you have not provided that information, or the information you provided is incorrect; and
 - (ii) that information is not readily available to us from another source; or
 - (b) we are prevented from completing the transfer in accordance with Clause 3.11 due to any other circumstance caused by you.
- 3.13 We will not charge you for the transfer of the Supply Point to a new Registered Supplier. However, and for the avoidance of doubt, all other Charges, including if relevant any termination payment due under the terms of the Supply Contract will be, and will remain, due and payable on the transfer of the Supply Point.

4 Your Consumption Information and other obligations

- 4.1 You agree that:
- 4.1.1 you will provide us with a true and accurate opening and closing meter reading (which is acceptable for Settlement purposes) for each Meter Point in the Supply Contract as at the Start Date and any added or removed during the Supply Period;
 - 4.1.2 if you do not provide us with such opening and/or closing meter reads we shall be entitled to rely on estimated reads and to treat them as actual reads for the purposes of calculating your first and last Consumption Invoices and any associated Reconciliation Invoices;
 - 4.1.3 title and risk in the electricity shall pass to you at the Meter Point;
 - 4.1.4 your Supply Points comply with the Licence and any other relevant agreements or authorisations necessary to permit or continue the Supply;
 - 4.1.5 save for ancillary services (including STOR) or demand side agreement which you provide through us, you have informed us and shall continue to inform us immediately if you have or use or intend to have or use any on-site generation facilities or are party to any ancillary service or commercial demand-side agreements, at any time during the Supply Period;
 - 4.1.6 the Supply shall have the electrical characteristics at which the DNO and/or TNO supplies electricity and that we have no control or liability in relation to this;

- 4.1.7 you shall indemnify us against all costs and losses we incur should your Service Providers, in our reasonable opinion, fail to provide their services adequately. In such circumstances we may de-appoint that Service Provider and appoint another ourselves and you shall indemnify us for all costs and losses we incur in doing so; and
- 4.1.8 the Supply shall be for your consumption during the Supply Period and that you shall not on-supply to any third party without our prior written consent.

Consumption Forecasts

- 4.2 You agree that the Initial Consumption Forecast and, in relation to the period after their provision, any Revised Consumption Forecasts provided pursuant to Clauses 4 and 5, shall be contractually binding in relation to the consumption tolerance mechanism in Clause 6.23.
- 4.3 You will provide a Revised Consumption Forecast as soon as possible on each occasion that you become aware of any likely change of more than the lower of (a) 10% to your consumption in any month; or (b) 5MW baseload per day compared to your Initial Consumption Forecast, or any previous Revised Consumption Forecast (including periods of zero consumption for any Meter Point under this Supply Contract).
- 4.4 Where we reasonably consider the Initial Consumption Forecast or any Revised Consumption Forecast to be materially inaccurate, then we shall be entitled to substitute the Initial Consumption Forecast (or, if any, the most recent Revised Consumption Forecast) with a reasonable Revised Consumption Forecast on your behalf. At your request we shall provide you with reasonable evidence to demonstrate why the Initial Consumption Forecast or any Revised Consumption Forecast is materially inaccurate and to support our Revised Consumption Forecast.
- 4.5 Where you or we provide a Revised Consumption Forecast pursuant Clauses 4.3 and 4.4 above then:
 - 4.5.1 the Initial Consumption Forecast (or, if any, the most recent Revised Consumption Forecast) shall be substituted with the new Revised Consumption Forecast with effect from the date of the provision of the Revised Consumption Forecast and that Revised Consumption Forecast shall be effective only for the period following the date it is provided;
 - 4.5.2 where there is a reduction in the Initial Consumption Forecast (or, if any, the most recent Revised Consumption Forecast), to the extent that electricity has already been forward purchased in excess of any Revised Consumption Forecast, we shall be entitled to sell the additional electricity on the wholesale market;
 - 4.5.3 where the Supply Contract contains a Product Appendix with a sellback provision, any sellback required under Clause 4.5.2 shall, if your Product Appendix permits, be dealt with and invoiced in accordance with the terms of the Product Appendix;
 - 4.5.4 where the Supply Contract does not contain a Product Appendix and the sell back pursuant to Clause 4.5.2 results in a Mark to Market Loss, we shall provide you with a separate Invoice for that amount, such Invoice to be payable fourteen (14) days after the date of Invoice; and
 - 4.5.5 where there is an increase in the Initial Consumption Forecast (or, if any, the most recent Revised Consumption Forecast) and additional electricity is purchased, then we shall be entitled to vary the Charges by a reasonable amount to reflect any resulting changes in the cost of the Supply.

5 Supply Points

New Supply Points

- 5.1 We may, in our absolute discretion, agree in writing to your written request that Supply Points in addition to those in the Quotation Document are added to the Supply Contract.
- 5.2 The Charges for any new Supply Points that we agree to add to the Supply Contract will be as set out in an additional Quotation Document. In all other respects the terms of the Supply Contract shall apply.
- 5.3 Any Supply Points added during the Supply Period which were not included in the first Quotation Document shall be subject to a separate calculation under Clause 6.25.

Removal of Supply Points

- 5.4 If you wish to remove a Supply Point from this Supply Contract you shall:
 - 5.4.1 provide us with at least thirty (30) days' notice in writing; and
 - 5.4.2 provide us with written details of the meter reading at the date of removal (having regard to the timescales in Clause 5.4.1), valid contact details for the new or remaining lessee, lessor, owner or occupier of the Supply Point, or premises which contains the Supply Point, including full address and contact information and satisfactory evidence of this change.
- 5.5 Notwithstanding the notice requirements in Clause 5.4 above, this Supply Contract shall remain in full force and effect with respect to all Supply Points and you shall remain liable for payment of all invoices applicable to all Supply Points, unless and until we have provided our written consent to such removal, such consent not to be unreasonably withheld or delayed.
- 5.6 Where we agree to the removal of a Supply Point from the Supply Contract:
 - 5.6.1 the Initial Consumption Forecast (or, if any, the most recent Revised Consumption Forecast) shall be substituted with a new Revised Consumption Forecast with effect from the date of the Supply Point removal and that Revised Consumption Forecast shall be effective only for the period following the date it is provided;
 - 5.6.2 to the extent that electricity has already been forward purchased in excess of any Revised Consumption Forecast, we shall be entitled to sell the additional electricity on the wholesale market;

- 5.6.3 where the Supply Contract contains a Product Appendix with a sellback provision, any sellback required under Clause 5.6.2 shall be dealt with and invoiced in accordance with the terms of the Product Appendix; and
- 5.6.4 where the Supply Contract does not contain a Product Appendix and the sell back pursuant to Clause 5.6.2 results in a Mark to Market Loss, we shall provide you with a separate Invoice for that amount, which Invoice will be payable within fourteen (14) days of the Invoicing Date.

Discontinuance of Supply

- 5.7 If you wish to discontinue consumption of electricity at any Supply Point during the term of this Supply Contract whilst you continue to lease, occupy or own such Supply Point then, until such time as the relevant Meter Point(s) is/are Disconnected and the Equipment is removed you shall indemnify us in respect of:
 - 5.7.1 all on-going Transportation Costs, Metering Costs, Meter Reading Costs and other ancillary costs associated with such Supply Point, including those accruing to the Supply Point after Disconnection or De-energisation;
 - 5.7.2 all Disconnection or De-energisation costs; and
 - 5.7.3 all meter removal costs.
- 5.8 Where you discontinue the consumption of electricity at any Supply Point, we shall be entitled to sell any electricity forward purchased by us for delivery to that Supply Point on the wholesale market.
- 5.9 Where the Supply Contract contains a Product Appendix with a sellback provision, any sellback required under Clause 5.8 shall, where your Product Appendix permits, be dealt with and invoiced in accordance with the terms of that Product Appendix.
- 5.10 Where the Supply Contract does not contain a Product Appendix and the sell back pursuant to Clause 5.8 results in a Mark to Market Loss, we shall provide you with a separate Invoice for that amount, which Invoice will be payable fourteen (14) days after the date of Invoice.
- 5.11 You shall not be entitled to remove a Supply Point from this Supply Contract where such Supply Point is the only remaining Supply Point under this Supply Contract.
- 5.12 If electricity is not used at any Supply Point for a consecutive period in excess of six (6) calendar months we may, at our sole discretion, arrange for the Disconnection or De-energisation of the Equipment at that Supply Point and you shall indemnify us for a reasonable administration fee and all costs incurred by such Disconnection or De-energisation.
- 5.13 Where any Supply Point is removed pursuant to this Clause 5 the provisions of the Quotation Document shall, to the extent agreed to by us, be amended or be deemed to be amended as appropriate to take account of such sale, disposal or termination of the use of the Supply Point.

Domestic Sites

- 5.14 You acknowledge and accept that we do not have a licence to supply Domestic Sites and that as such:-
 - 5.14.1 we will not accept the addition of a Domestic Site to the Supply Contract under Clause 5.1; and
 - 5.14.2 we will not accept the removal of a Supply Point from the Supply Contract under Clause 5.4 if the site would thereafter be for domestic use and/or if the new owner, occupier or lessee would be a Domestic Site; and
 - 5.14.3 we will not accept any change to the use and/or ownership of any Supply Point included in the Supply Contract to a Domestic Site; and
 - 5.14.4 in the case of Clause 5.14.2 and 5.14.3 you will remain liable for the Charges and all and any other costs associated with that Supply Point as if it were and remained in your commercial and/ or industrial use and ownership.

Micro Business Consumer

- 5.15 We have taken reasonable steps to identify whether your business is a Micro Business Consumer on the Signature Date based on the information you have provided to us.
- 5.16 If during the Supply Period, your business changes such that you become a Micro Business Consumer or you hold any information which we may deem relevant for the purposes of determining whether you are a Micro Business Consumer, you shall notify us immediately.

6 Charges and Payment

- 6.1 In consideration of the Supply in accordance with this Supply Contract you shall pay us all Charges detailed in the Invoices without set off, deduction or counterclaim using the Payment Method and by the Payment Date.
- 6.2 We may at any time without notice, set off any of your liabilities to any of our Associated Companies against any liability of us to you, whether such liability is present or future, liquidated or unliquidated and whether or not either liability exists under this Supply Contract. Any exercise by us of our rights under this Clause 6.2 shall not limit or affect any other rights or remedies available to us under this Supply Contract or otherwise.
- 6.3 We shall be entitled to charge you an administration fee in respect of each invoice if payment is not made by the Payment Method, including for the avoidance of doubt, where you make payment by credit card.
- 6.4 We shall use our reasonable endeavours to send you a Consumption Invoice by the Invoicing Date. In the event that a Consumption Invoice is not posted to you or sent to you by other customary means by the Invoicing Date, the Payment Date will be extended by the number of days such invoice is posted or sent late.
- 6.5 We may (both before and after judgment) charge you interest at 4% above the Bank of England's base lending rate from time to time, compounded daily, on any overdue amount.
- 6.6 Where you have paid three (3) or more Invoices late during the Supply Period then we shall be entitled to invoice you in advance for the last month of consumption of the Supply Period based on our estimate of consumption.

- 6.7 We reserve the right to charge you an administration fee for each copy Invoice you request.
- 6.8 Should you wish a purchase order number to be added to an Invoice, you must notify us by email to the email address detailed in Clause 11.11 no later than thirty (30) days ahead of the Invoice Date, failing which no purchase order number will be added to that Invoice. We shall be entitled to charge you an administration fee for the addition of a purchase order number to an Invoice.
- 6.9 If any overdue amount is the subject of a bona fide dispute, then you shall still pay any undisputed portion of an Invoice by the Payment Date.
- 6.10 We will use reasonable endeavours to invoice you for your consumption using validated Consumption Data. However, where we receive non-validated, incomplete or, in our reasonable opinion, inaccurate Consumption Data we will be entitled to charge you on the basis of our estimate of consumption. We will be entitled but not obliged to issue Reconciliation Invoices at any time after receipt of validated Consumption Data, whether during or after the end of the Supply Period. For the avoidance of doubt, this Clause 6.10 survives termination of this Supply Contract.
- 6.11 If at any time during or after the Supply Period, one or more elements of the Charges are found to have been incorrectly calculated or wrongly omitted or included in any Invoice, then we shall be entitled but not obliged to issue a Reconciliation Invoice in respect of the same. For the avoidance of doubt, this Clause 6.11 survives termination of the Supply Contract.
- 6.12 In addition to the provisions of Clause 6.11, we are entitled but not obliged to issue Reconciliation Invoices during or after the Supply Period in respect of any or all elements of the Charges which are set out as "Pass-Through" in the Quotation Document. For Supply Periods greater than twelve (12) months, we will usually issue Reconciliation Invoices annually, but may do so more or less frequently.
- 6.13 You are entitled to request a Reconciliation Invoice of the Charges provided that:
- 6.13.1 there have been no previous Reconciliation Invoices issued in respect of that element of the Charges for the period in question within the last twelve (12) months; and
- 6.13.2 such request is received within twelve (12) months of (a) the Termination Date; (b) the date of the last Invoice; or (c) our receipt of fully validated Consumption Data, whichever is the later.
- For the avoidance of doubt, this Clause 6.13 shall survive termination of the Supply Contract.
- 6.14 We shall be entitled to vary any component of the Charges by a reasonable and proportionate amount, at any time during the Supply Period, so as to minimise the amount of any Reconciliation Invoices. At your request we shall provide reasonable evidence to demonstrate why the Charges have been varied and to support our substitute Charges.
- 6.15 If over the whole of the Supply Period, the total invoiced consumption is outside the Consumption Threshold, we may recover additional Transportation Costs incurred even if Transportation Costs are expressed as being either "Included in the Unit Rate" or "Fixed" in the Quotation Document.
- 6.16 If Transmission Network Use of System charges ("**TNUoS Charges**") are specified as "Pass-Through" in the Quotation Document, payment will be in equal staged payments up to and including March of each year of this Supply Contract (based on forecast demand during times of peak system demand). We are entitled but not obliged to issue Reconciliation Invoices in respect of the TNUoS Charges incurred.
- 6.17 Where Balancing Services Use of System charges ("**BSUoS Charges**") are specified as "Pass-Through" in the Quotation Document, they shall be charged on the basis of this Clause. Actual BSUoS Charges are normally only known one (1) calendar month in arrears. Therefore BSUoS Charges will be invoiced based on the current annual estimate of charges recovered from us by the TNO. We are entitled but not obliged to issue Reconciliation Invoices in respect of these provisional charges monthly in arrears against the actual Settlement Final charges imposed by the TNO. At the end of the Supply Period a final Reconciliation Invoice will be issued in respect of any period not covered during the Supply Contract once the actual BSUoS Charges are known for the complete Supply Period.
- 6.18 Where the Renewables Obligation is specified as "Pass-Through" in the Quotation Document, it will be charged to and recovered from you on the basis of this Clause:-
- 6.18.1 where the Renewables Obligation is included in the Unit Rate, it will be determined by us and a Charge made to you based on our forecast of the Renewables Obligation Level and Buy-Out Price for each obligation period within the Supply Period. Where required an adjustment will be made by us and applied in the relevant Invoices to reflect the difference between our forecast of the Renewables Obligation Level and the actual Renewables Obligation Level and/or our forecast of the Buy-Out Price and the actual Buy-Out Price for an obligation period within the Supply Period ; or
- 6.18.2 where the Renewables Obligation is not included in the Unit Rate, a Charge to you will be added to each Invoice to reflect the actual Renewables Obligation Level and Buy-Out Price for the relevant obligation period within the Supply Period.
- 6.19 We will be entitled to include a Charge payable by you on each Invoice based on our forecast of the estimated impact of the implementation and existence of the CFD FIT scheme on your Supply. We shall be entitled to issue you with a Reconciliation Invoice on a quarterly basis in arrears where there is a discrepancy between the amount we have charged you in respect of the CFD FIT scheme over the previous calendar quarter and the amount that, after our reconciliation, we have calculated as reflective of the costs we have incurred on your behalf.
- 6.20 In addition to the Metering Costs you shall be liable to pay any costs incurred by us where any Equipment not in situ at the Signature Date is fitted at a Supply Point during the Supply Period, including any installation and rental charges.
- 6.21 Transportation Costs are still payable by you for any Meter Points which remain energised even if they are not consuming electricity and regardless of whether the relevant costs are referred to as "included in the Unit Rate", "Fixed" or "Pass-Through" in the Quotation Document. Metering Costs and Meter Reading Costs are still payable by you for any meters which remain on site, even if they are not connected and regardless of whether the relevant costs are referred to as "included in the Unit Rate", "Fixed" or "Pass-Through" in the Quotation Document.
- 6.22 We shall be entitled to recover from you and you shall indemnify us in respect of a proportionate amount of any additional costs, charges, expenses or liabilities (collectively for the purposes of this clause, the "**Costs**") which are incurred by us in supplying the electricity or are levied against us including, where such Costs arise in the following circumstances:
- 6.22.1 from the imposition, or variation in the rate, of any energy-related tax, levy or duty;
- 6.22.2 as a result of (a) any imposition, revision, variation, amendment or change in interpretation, of any statute, statutory instrument, regulation, law, directive ("**Legislation**") or the Industry Agreements; (b) any new Legislation or new Industry Agreements; or (c) any decision, direction, order or interpretation of Legislation or the Industry Agreements by the Authority or any other relevant regulatory body;

- 6.22.3 arising from compliance with the Renewables Obligation including Costs levied upon us in respect of defaults of other suppliers in making payments to the Buy-Out Fund;
 - 6.22.4 as a result of, us fulfilling our or your obligations, or your failure to comply with your obligations, under any of the Industry Agreements in relation to safety issues or investigations in connection with any of the Supply Points;
 - 6.22.5 where amounts are payable by us to any Service Provider, whether appointed by you or by us on your behalf;
 - 6.22.6 where charges we incur change or arise due to changes in the Measurement Class, as defined in the Industry Agreements;
 - 6.22.7 where you exceed the Maximum Supply Capacity;
 - 6.22.8 where the Meter Points are Half-Hourly, changes occur in the Transmission Loss Factor mechanism, as defined in the Industry Agreements;
 - 6.22.9 where the Meter Points are Non-Half Hourly, the cost of installing mandatory Half Hourly meters at any of the Supply Points;
 - 6.22.10 changes to any of your MPAN details;
 - 6.22.11 programming inaccurate metering equipment or due to default by the Service Provider;
 - 6.22.12 relevant Elexon charges in accordance with the Industry Agreements;
 - 6.22.13 the introduction of Feed in Tariffs (or any similar mechanism of whatever name or description); and
 - 6.22.14 pursuant to the terms of our Licence, including, Costs incurred in connection with the scheme to assist areas with high electricity distribution costs.
- 6.23 You recognise and agree that we shall not be required to obtain your consent to any change in Measurement Class or to the status of any Meter Points.

Consumption Tolerance

- 6.24 For the purposes of Clauses 6.24, 6.25 and 6.26 the following expressions shall have the following meanings:-
- 6.24.1 Consolidated Consumption Forecast means the Initial Consumption Forecast as replaced by any and all Revised Consumption Forecasts pursuant to Clauses 4 and 5;
 - 6.24.2 Consumption Threshold means the minimum and maximum percentage levels applicable to the Consumption Tolerance Forecast set out in the Quotation Document;
 - 6.24.3 Consumption Tolerance Forecast means the Consolidated Consumption Forecast apportioned monthly excluding, for the avoidance of doubt, the impact of any Supply Points added or removed during the Period;
 - 6.24.4 Invoiced Consumption means the volume of electricity invoiced in each Invoicing Period;
 - 6.24.5 Market Price means the unweighted arithmetic averages of half hourly APX Power UK reference prices (as defined at www.apxindex.com or any successor index) during the Invoicing Period;
 - 6.24.6 Minimum Consumption Threshold and Maximum Consumption Threshold shall mean respectively the minimum and maximum volumes of electricity calculated as percentages of the Consolidated Consumption Forecast in accordance with the Consumption Threshold; and
 - 6.24.7 Reference Price means the "baseload" wholesale market price that was used by us for the calculation of the Charges.
- 6.25 At the end of the Supply Period or, for Supply Contracts for longer than twelve (12) months, on an annual basis, we will be entitled to compare monthly Invoiced Consumption against the Consumption Tolerance Forecast apportioned monthly (defined below). If over each period of comparison the total Invoiced Consumption is outside the Consumption Threshold (calculated to three (3) decimal places), we shall be entitled to recover the additional costs of Supply calculated by reference to differences in volume and price as follows for each month:
- 6.25.1 where the Invoiced Consumption is less than the Minimum Consumption Threshold, the additional Costs of Supply shall be calculated as follows:-

$$(\text{Invoiced Consumption} - \text{Minimum Consumption Threshold}) \times (\text{Market Price} - \text{Reference Price}) = \text{the additional costs of Supply payable by you};$$
 - 6.25.2 where the Invoice Consumption exceeds the Maximum Consumption Threshold, the additional Costs of Supply shall be calculated as follows:-

$$(\text{Invoiced Consumption} - \text{Maximum Consumption Threshold}) \times (\text{Market Price} - \text{Reference Price}) = \text{the additional costs of Supply payable by you}.$$
- 6.26 You agree that the additional costs of Supply calculated with reference to the Consumption Tolerance calculation set out above is a genuine pre-estimate of the loss we are likely to suffer in circumstances where your consumption is outside of the Consumption Threshold.

7 Meters and Equipment

Ownership of Equipment

- 7.1 Unless otherwise agreed with you in writing, or provided for in the Supply Contract, we do not own and are not responsible for the installation, operation, maintenance, renewal, De-Energisation, Disconnection or removal of any Equipment at your Supply Points.
- 7.2 Equipment may be installed up to the Meter Point, which shall remain the property of the DNO and/or the TNO or the Service Provider.

Maintenance of Equipment

- 7.3 You shall ensure that there is a contract in place between you and appropriate Service Provider for each Supply point and where no contract is in place then we shall be entitled to appoint an alternative Service Providers and recover from you all costs and expenses incurred by us as a result of doing so.
- 7.4 You shall be responsible for maintaining the Equipment and shall ensure that throughout the Supply Period the Equipment:
- 7.4.1 meets all the appropriate standards and relevant certification requirements;
 - 7.4.2 is kept safe and secure, including from weather damage and third party interference; and
 - 7.4.3 is maintained in proper order to enable the Equipment to register the quantity of Electricity supplied to each Supply Point.
- 7.5 We shall not be responsible for checking the suitability of Equipment. You will pay for any work deemed necessary and undertaken by us to ensure that the Equipment is appropriate and meets the appropriate standards.
- 7.6 You shall report any failure or suspected failure of the Supply or Equipment to us and the DNO's and/or the TNO's emergency service, as appropriate.
- 7.7 You shall pay agreed contributions towards the installation, maintenance, inspection, operation and renewal of all or part of the Equipment belonging to the DNO and/or the TNO or Service Provider without being able to claim any rights of ownership over that Equipment.
- 7.8 We shall, at your cost, make any necessary arrangements with the DNO and/or the TNO or Service Provider for the installation, operation, maintenance, renewal, De-Energisation, Disconnection or removal of the Equipment.
- 7.9 We shall use our reasonable endeavours to make arrangements for the reading of your Meter Point in accordance with the reading cycles.
- 7.10 Subject only to Clauses 4.1.1 and 4.1.2, the register of a Meter Point shall be conclusive evidence of the quantity of electricity supplied through that Meter Point.
- 7.11 Where the Meter Points are Non-Half Hourly, the product structures (e.g. day/night) referred to in the Quotation Document are based on the MPAN details provided, and are hence offered subject to the appropriate metering being in place to record consumption on the same basis as the Charges contained in the Quotation Document.

Examination and Removal of Equipment

- 7.12 We are entitled to require that equipment be removed, repaired or replaced where we consider it to be damaged, incorrectly recording data, past its certification date or incorrect for the product structure and you shall notify us immediately where you become aware of or suspect any such circumstances.
- 7.13 If, in accordance with the relevant provisions of the Electricity Act, either Party requires a meter examiner to examine any Meter Point provided for the purposes of ascertaining the quantity of electricity supplied under this Supply Contract, then where the equipment is found to register inaccurately to a degree exceeding that permitted by regulations under the said provision;
- 7.13.1 the Meter Point shall be assumed to have registered inaccurately to the degrees so found since the penultimate date on which (otherwise than in connection with the examination) the Meter Point was read or some other date as determined for this purpose under the relevant regulations except in a case where it is proved to have begun to register inaccurately as described on some later date; and
 - 7.13.2 the amount of allowance to be made to, or the surcharge to be made on you as a result of the inaccurate registration shall be paid to or by you within fifteen (15) days of notification of the adjustment.
- 7.14 If a Meter Point is installed, removed for examination, maintained, inspected or renewed, any expenses we incur in removing, examining and re-installing the equipment or substituting equipment, shall be paid by you upon receipt of Invoice.
- 7.15 We shall give to you reasonable notice (except in the case of emergencies when notice will not be required) and you shall allow us to exercise the Access Rights without charge, for the purposes of installation, maintenance, operation, inspection or renewal of the Equipment or for the purposes of De-energising or Disconnecting the Supply to the Supply Point where, in our or the DNO's and/or the TNO's reasonable opinion, it is necessary to do so for the purpose of averting danger of damage to life and/or property.

Service Providers

- 7.16 You shall comply with and act in accordance with best industry practice in relation to the appointment of Service Providers.
- 7.17 Where you wish to use a Service Provider other than those which we recommend then you shall notify us of any such preferred Service Provider(s) which you wish to use and you shall indemnify us in respect of all costs which arise from your choice of Service Provider.
- 7.18 You shall ensure that there is a contract between you and appropriate Service Providers for each Supply Point and where no such contract is in place then we shall be entitled to appoint an alternative Service Provider and recover all costs and expenses incurred by us as a result of doing so.

8 Liability

- 8.1 Subject to the terms of Clause 8.3, the liability of either Party to the other in connection with this Supply Contract shall not exceed £1,000,000 (one million pounds) per incident or series of related incidents.
- 8.2 Subject to the terms of Clause 8.3, and unless otherwise expressly provided for elsewhere in the Supply Contract, neither Party will be liable to the other for:
- 8.2.1 Economic Loss;
 - 8.2.2 any indirect or consequential loss;
 - 8.2.3 loss resulting from the liability of either Party to any other person; or
 - 8.2.4 any action, inaction or default by the DNO, TNO or a Service Provider, including the DNO or TNO De-energising any Supply Point.
- 8.3 Nothing in this Supply Contract shall exclude or limit the liability of either Party to the other for:
- 8.3.1 death or personal injury resulting from negligence;
 - 8.3.2 any obligation owed by either Party under the Acts to the extent only that the Acts expressly prevent any limitation of liability for failure to perform that obligation;
 - 8.3.3 any obligation to pay monies due under this Supply Contract or under any liability arising from any indemnity contained in this Supply Contract including for the avoidance of doubt and without limitation, any Mark to Market Loss or Mark to Market Gain; or
 - 8.3.4 its fraud, or fraudulent misrepresentation, misstatement, act or omission.
- 8.4 You acknowledge and agree that, where applicable to any elements of the Charges, the prevailing time limits in the relevant Industry Agreements shall apply to any claim you make from us and any consequential liability on our part to you in respect of any reconciliations for industry or other charges previously levied by us on you and whether as a charge (pass through or otherwise), a reconciliation or a refund in respect of any charges from the DNO or TNO. Subject to Clause 8.3, nothing in this Clause 8 shall operate to restrict this position.
- 8.5 We shall pay to you any monies we receive from the DNO and/or the TNO which are specifically paid to us by the DNO and/or the TNO for the purpose of refunding you pursuant to the terms of the Industry Agreements.
- 8.6 Where any of the Industry Agreements requires the DNO and/or the TNO and/or us to do anything which may affect the Supply to the Supply Points, neither we nor the DNO and/or the TNO shall have any liability for any loss or damage suffered by you for complying with that requirement.

9 Force Majeure

- 9.1 Neither Party shall be liable to the other for delays or failures to fulfil all or a material part of its obligations under this Supply Contract if they are directly due to Force Majeure and provided that the Party seeking to claim that a Force Majeure has occurred shall notify the other Party within twenty four (24) hours of the Force Majeure occurring such notification to include its nature, its expected duration, the measures they are taking to remedy and/or mitigate the effects and when its effect ceases or is likely to cease.
- 9.2 Force Majeure shall not relieve any Party from its obligations to indemnify or make payment under this Supply Contract.
- 9.3 During the continuance of a Force Majeure:
- 9.3.1 you may obtain temporary supplies of electricity from an alternative source or supplier; and
 - 9.3.2 we shall not charge you for the Commodity Charges in respect of that period; and
 - 9.3.3 we shall be entitled to recover from you recover all costs from you which are levied on us by a third party in relation to your Supply, including for the avoidance of doubt Transportation Costs, Meter Reading Costs and Metering Costs arising in respect of that period.
- 9.4 Where an event of Force Majeure subsists for a period exceeding thirty (30) days then either Party shall have the right to terminate the Supply Contract immediately on the provision of written notice to the other.
- 9.5 Upon termination in accordance with Clause 9.4, we shall be entitled to sell back any undelivered electricity and invoice or credit you respectively for any Mark to Market Loss or Mark to Market Gain arising.
- 9.6 The Mark to Market Loss or Mark to Market Gain shall be included in the final Invoice and paid by the paying Party to the other within fourteen (14) days of the trading position being settled in the market for the relevant period.
- 9.7 The Party claiming to be affected by Force Majeure shall use all reasonable measures to mitigate and/or remedy the effects of the Force Majeure as soon as possible.

10 Suspension, Termination and Breach

Suspension

- 10.1 Your Supply may be interrupted or disrupted by the DNO and/or TNO.
- 10.2 You shall notify us of the content of any directions received from the DNO and/or the TNO requiring you to reduce or cease electricity consumption.

- 10.3 In the event that the circumstances set out in Clauses 10.1 and/or 10.2 apply, and/or you fail to comply with clause 10.2 you shall indemnify us in respect of all costs, losses or expenses incurred by us as a result.
- 10.4 We shall not be liable to you for any loss or damage arising from:
- 10.4.1 any Disconnection, De-energisation, discontinuance or restriction of the Supply by (a) us acting in accordance with Clause 10.2, unless this Disconnection, De-energisation, discontinuance or restriction is unlawful, or (b) the DNO and/or the TNO; or
- 10.4.2 any action taken by you in consequence of any direction given or request made by us or the DNO and/or the TNO.

Your right to Terminate for our breach

- 10.5 You may terminate this Supply Contract upon written notice to us where:
- 10.5.1 we are in material breach of any of our obligations under this Supply Contract, such breach has a material adverse impact on your business and within fourteen (14) days following receipt of written notice from you of such breach we have not remedied the breach; or
- 10.5.2 we become Insolvent (as such term is defined in Section 123 of the Insolvency Act 1986) or a receiver, administrator, administrative receiver or liquidator is, or applies to be, appointed over any of our assets or we enter into any arrangement with our creditors.

Our right to terminate for your breach

- 10.6 You shall be in breach of this Supply Contract and we shall be entitled to all or any combination of the remedies set out in Clause 10.7, at our absolute discretion, in the following circumstances:
- 10.6.1 Notwithstanding the specific circumstances set out below, if you are in repeated or material breach of any of your obligations under this Supply Contract (which shall include non-payment of a material sum of money) and within fourteen (14) days of being given notice in writing from us of such breach you have not remedied the breach;
- 10.6.2 you default in paying amounts due to us by the Payment Date three (3) times in any twelve (12) month period;
- 10.6.3 if the credit insurance policy, Security Deposit, or other form of credit support obtained on or before the Start Date, or put in place at any time during the Supply Period is withdrawn, reduced, amended, shortened, the terms are breached, or conditions which are unacceptable to us are applied, or if the credit standing, rating or scoring given to you by our credit insurer or such other credit reference agency we use from time to time to assess your creditworthiness is withdrawn, reduced, shortened or falls below a level which is acceptable to us;
- 10.6.4 if we have been unable to register any Supply Point within forty (40) Working Days of the Start Date caused by you providing incorrect data;
- 10.6.5 you become unable to pay your debts (as such term is defined in Section 123 of the Insolvency Act 1986) or a receiver, administrator, administrative receiver or liquidator is, or applies to be, appointed over any of your assets or you enter into any arrangement with your creditors, or where any such appointment or arrangement terminates or ceases;
- 10.6.6 you unlawfully interfere with any Equipment or Meter Point; or
- 10.6.7 the DNO and/or the TNO is entitled to and/or has already acted pursuant to powers under any of the Acts to discontinue the Supply to you at any of the Supply Points.

Consequences of Breach

- 10.7 Where you are in breach of the Supply Contract in accordance with any of the provisions of Clause 10.6 then we shall be entitled to all or any combination of the following remedies:
- 10.7.1 terminate this Supply Contract for any or all of the Supply Points under the Supply Contract immediately on written notice to you;
- 10.7.2 arrange for the Supply Points (or any one or combination of the Supply Points) to be Disconnected or De-energised immediately (and we shall be entitled to exercise Access Rights in doing so) and while any breach persists we shall be entitled to Disconnect or De-energise Supply Points on more than one occasion, together with being entitled to recover from you the costs incurred in such Disconnections or De-energisations;
- 10.7.3 sell any electricity forward purchased for delivery to any or all of the Supply Points after the date of the breach on the wholesale market;
- 10.7.4 recover from you and be indemnified by you for all costs and losses incurred as a result of such breach including any Mark to Market Loss;
- 10.7.5 invoke the take or compensate mechanism set out in Clause 6.23 but on a monthly basis, so that such calculation is not over the whole of the Supply Period but is instead on the basis of monthly Invoiced Consumption outside the Consumption Threshold for both the period of the Supply Contract prior to the breach and thereafter on an on-going monthly basis;
- 10.7.6 vary the Product Appendix so as to mitigate our risk, including by restricting your right to purchase forward until such time as any breach is remedied;
- 10.7.7 increase our Charges by a reasonable and proportionate amount (which may include placing you on our Default Contract Rates). In determining any such increase we will give consideration to potential and other increased risks and/or costs to us that may arise as a result of your breach;
- 10.7.8 invoice you on a weekly basis and the Invoicing Date shall automatically become the weekly anniversary of the date on which we issue a first invoice to you and the Payment Date shall be automatically amended to the date seven (7) days after the Invoicing Date;
- 10.7.9 invoice you in advance of your consumption, such invoice to be based on our reasonable estimate of your electricity consumption over a full month in advance of the start of the applicable consumption period to which that invoice relates. For the avoidance of doubt, we will then have the right to reconcile that invoice to your actual consumption of electricity following that consumption period; and

- 10.7.10 request a Security Deposit to be provided within ten (10) Working Days of such a request.
- 10.8 Where you fail to comply with Clause 4.1.5 you shall indemnify us in respect of all costs, losses or expenses incurred by us as a result of such breach.
- 10.9 The termination of this Supply Contract and/or the termination of the Supply to any Supply Point shall not affect any rights or obligations which may have accrued to either Party, the DNO and/or the TNO prior to the Termination Date.

Removal of Authority to Supply

- 10.10 In the following circumstances;
- 10.10.1 any authorisation or consent granted pursuant to the provisions of the Acts or the Industry Agreements terminates, or is withdrawn, or is amended in a manner that materially affects our ability to perform our obligations; or
- 10.10.2 any relevant Licence, permission or consent, which permits us to supply you with electricity, terminates or is revoked;
- 10.11 we shall be entitled at our discretion to:
- 10.11.1 amend this Supply Contract to the extent possible and/or necessary to accommodate the change; or
- 10.11.2 terminate the Supply Contract.
- 10.12 Following termination in the circumstances set out in Clauses 10.10 and 10.11;
- 10.12.1 you shall use all reasonable endeavours to transfer your supply to an alternative Registered Supplier as soon as practicable; and
- 10.12.2 we will be entitled to sell all forward purchased electricity on the wholesale market and invoice or credit you respectively for any Mark to Market Loss or Mark to Market Gain arising as a result of such sell back.
- 10.12.3 The Mark to Market Loss or Mark to Market Gain detailed in Clause 10.12.2 shall be included in the final Invoice and paid by the paying Party to the other within fourteen (14) days of the trading position being settled in the market.

Resumption of Supply

- 10.13 Where a Supply Point has been Disconnected or De-energised, we will resume any Supply provided you pay us in advance for (i) all reconnection or re-energisation charges; and (ii) any other costs which we notify you will be reasonably incurred by us and all other conditions are met (iii) and outstanding sums are paid to us in full.

11 General Terms

- 11.1 We may keep a record of e-mails and any messages you or we send and record telephone conversations.
- 11.2 The Parties shall not, at any time during or after the Supply Period, divulge to any person other than any of its or their respective advisers, officers or employees who require the same to enable them to properly carry out their duties, any of the contents of this Supply Contract or any other confidential information, trade secrets or information whose disclosure is likely to adversely affect a Party's commercial or economic interests, without the written consent of the other Party other than to the extent:
- 11.2.1 required by law except where disclosure is in response to a request for information made to you under either the Freedom of Information Act 2000 (FOI) or the Environmental Information Regulations 2004 (EIR) (an "**information request**"); or
- 11.2.2 it is already in the public domain other than by reason of a breach of contract.
- 11.3 If you receive an information request and your response might include disclosing any of the details of this Supply Contract or any of our information (without prejudice to Clause 11.2), you shall prior to disclosure notify us immediately and apply all relevant exemptions permissible under the FOI or the EIR (as applicable) to resist disclosure.
- 11.4 If the Euro is introduced as mandatory legal tender in the United Kingdom, then all invoicing and payment shall be amended to Euros in line with government timetables and Sterling values will be converted using the prescribed rates.
- 11.5 Neither Party will assign or hold on trust for any person (other than a 100% owned subsidiary) the whole or any part of this Supply Contract without the prior written consent of the other and; such consent will not be unreasonably withheld or delayed.
- 11.6 You acknowledge and agree that we may revise the terms of your Product Appendix to reflect any industry changes, including without limitation a migration from the EFA Calendar to the Gregorian calendar.
- 11.7 Subject to the provisions of Clause 12, this Supply Contract does not create any right enforceable by any person who is not a Party.
- 11.8 No waiver by a Party of any default by the other shall operate or be binding unless made in writing.
- 11.9 If any provision of this Supply Contract shall be declared invalid, unenforceable or illegal it shall not prejudice or affect the remaining provisions of this Supply Contract, which shall continue in full force and effect.
- 11.10 Unless otherwise set out in the Product Appendix, notice or communication required under this Supply Contract from you to us shall be by any one or more of the following methods and shall be deemed effective as set out below. Failure to comply with this Clause shall make any attempted written contact invalid:

- 11.10.1 first class mail to "GDF SUEZ Marketing Limited, No 1 Leeds, 26 Whitehall Road, Leeds LS12 1BE" - and for the commercial notices marked for the attention of "Contract Management" and for Legal notices, marked for the attention of "Head of Legal Services – in each case notice is deemed effective two (2) Working Days after despatch;
 - 11.10.2 recorded delivery to our registered office detailed at Clause 11.10.1 above and for commercial notices marked for the attention of "Contract Management" and for Legal notices marked for the attention of "Head of Legal Services". In both cases notice is deemed effective two (2) Working Days after despatch; or
 - 11.10.3 email to the following email address – contract.management@gdfsuezuk.com – notice is deemed effective two (2) Working Days after despatch.
- 11.11 The Supply Contract constitutes the entire agreement between both Parties. We and you hereby acknowledge and agree that this Supply Contract has not been entered into in reliance on any representation, warranty or other undertaking and neither Party has any right or remedy in relation to any such representation, warranty, or other undertaking.
 - 11.12 The rights and remedies provided for by this Supply Contract are exhaustive, and exclude and replace all substantive (but not procedural) contractual rights or remedies expressed or implied by law.
 - 11.13 This Supply Contract shall be construed and governed by the laws of England and subject to the exclusive jurisdiction of the English Courts.
 - 11.14 If any Party wishes to pursue a dispute with the other then where mediation is agreed the procedures of the Centre for Dispute Resolution shall apply or where arbitration is agreed, the Rules of the London Court of Arbitration shall apply.
 - 11.15 We may issue a revised Supply Contract to you to the extent reasonably required to take account of changes to the Acts, Industry Laws or Industry Agreements.
 - 11.16 Any Supply Point that has a direct connection to the TNO will be governed by the applicable industry codes and terms of your connection agreement with the TNO.
 - 11.17 Any Supply Point that falls within an Independent Network and any terms and definitions contained within this Supply Contract relating to such Supply Point shall be dealt with in accordance with the Industry Agreements.
 - 11.18 Both Parties accept the terms of and agree that they are bound by and will comply with all relevant legislation, including the Bribery Act 2010.

12 DNO/TNO Terms of Supply

- 12.1 The Supply to a Supply Point is delivered through infrastructure operated by third parties (such as the DNO and the TNO).
- 12.2 The DNO and the TNO will only be liable to you in accordance with the limitations in this Clause 12 and up to the prevailing maximum per calendar year contained in the NTC at the relevant time.
- 12.3 The DNO or the TNO shall be entitled and have the ability to enforce the provisions of this Clause 12 by virtue of the Contracts (Rights of Third Parties) Act 1999 and such clauses may not be varied without the prior written consent of the DNO or TNO respectively. No other person shall be entitled to enforce any terms of this Supply Contract under that act.
- 12.4 Any Supply Point that has a direct connection to the TNO will be governed by the applicable industry codes and terms of your connection agreement with the TNO.
- 12.5 Save for where the provisions of Clause 12.4 apply, this Supply Contract is subject to the NTC and we agree to act on behalf of your DNO and agree with you that you accept the NTC and shall keep to its conditions. The NTC will apply from the time that you enter into this Supply Contract and it affects your legal rights. The NTC is a legal agreement. It sets out rights and duties in relation to the connection at which your DNO delivers electricity to your Supply Point(s). If you want a copy of the NTC or have any questions about it, please write to: Energy Networks Association, 6th Floor, Dean Bradley House, 52 Horseferry Road, London SW1P 2AF: phone 0207 706 5137, or see the website at www.connectionterms.co.uk

13 Good Quality CHP & Renewable Supply

- 13.1 The following definitions shall apply to this clause:

"Averaging Period" means as is given in paragraph 20 of Schedule 6 of the Finance Act 2000;

"Climate Change Levy" means as set out and defined in the Finance Act 2000 and all and any subsequent amending legislation from time to time;

"Good Quality CHP" means electricity produced in a combined heat and power station that is exempt from the Climate Change Levy in accordance with paragraph 20A of Schedule 6 of the Finance Act 2000;

"Levy Exempt Energy" means electricity generated from Renewable Energy sources (sources other than fossil fuel) or Good Quality CHP that is exempt from the Climate Change Levy;

“Renewable Energy” means electricity generated from “eligible renewable electricity sources” as set out in and defined from time to time in the Renewables Obligation Order.

- 13.2 We reserve the right to supply a proportion (any absolute volume or percentage) of your requirements for a Supply with Good Quality CHP, Levy Exempt Energy or Renewable Energy. Where we do so, we shall include in the Charges an amount equivalent to the Climate Change Levy due on such supplies plus any other amount as agreed in writing between The Parties.
- 13.3 The amount of Renewable Energy supplied by us in each Averaging Period shall not exceed the difference between:
- 13.3.1 the total amount of Renewable Energy acquired or generated by us during that period; and
 - 13.3.2 so much of that amount as is allocated by us otherwise than to supplies of Renewable Energy made by us in that period.
- 13.4 The amount of Good Quality CHP supplied by us in each Averaging Period shall not exceed the difference between:
- 13.4.1 the total amount of Good Quality CHP acquired or generated by us during that period; and
 - 13.4.2 so much of that amount as is allocated by us otherwise than to supplies of Good Quality CHP made by us in that period.
- 13.5 We make declarations pursuant to paragraphs 19 (1) B and 20A (3) of Schedule 6 of the Finance Act 2000. Such declarations impose no obligations upon you.