

Deemed Electricity Supply Contract

General Terms & Conditions

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1 Definitions

The following definitions shall apply to this Deemed Supply Contract:

“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 ENGIE Supply Holding UK Limited, including ENGIE Power Limited, ENGIE Gas Limited and ENGIE Gas Shipper Limited;

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

“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 Deemed 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;

“Capacity Market” means the capacity market mechanism introduced pursuant to Schedule 2 of the Energy Act 2013;

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

“Charges” means the rates and charges published on the Website from time to time, which shall comprise (a) charges for the electricity consumed; (b) an administration charge per Supply Point; (c) Transportation Costs; (d) Metering Costs; (e) any other reasonable charges and costs incurred by us in respect of the Supply Points, including for the avoidance of doubt, Meter Reading Costs; (f) the charges set out in Clause 6 of these Terms and Conditions, which shall be charged during the Supply Period; and (g) the applicable Value Added Tax (**“VAT”**) and Climate Change Levy (**“CCL”**);

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

“Deemed Supply Contract” means the Charges together with these Terms and Conditions, each which may be supplemented or amended by us on our Website from time to time;

“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 or Disconnected”** 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, revenues, 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 are not Economic Losses and shall not be construed as such;

“Electricity Act” means the Electricity Act 1989;

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

“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;

“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 Deemed Supply Contract, but excluding strikes, lockouts, labour disputes, changes to economic conditions and lack of funds;

“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;

“Industry Laws” means any legally binding obligations imposed on us and other authorised electricity suppliers under the Industry Agreements or any other code agreement or arrangement which we and other authorised electricity suppliers are obliged by the Acts, Industry Agreements or any Licence to be a party to or to comply with;

“Invoices” means the invoices we shall issue to you under this Deemed Supply Contract, including reconciliation invoices issued in accordance with Clause 6.1;

“Invoicing Date” means the date on which we shall issue the Invoices to you;

“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;

“Meter Point” has the meaning given 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”**);

“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 Start 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 premises which has any or all of the following; (i) an annual consumption of electricity of not more than 100,000 kWh; (ii) an annual consumption of gas of not more than 293,000 kWh; and/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 Deemed 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 the date fourteen (14) days from the date of any Invoice issued to you by us;

“Payment Method” means Direct Debit, BACs payment or Cheque;

“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 licenced 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 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 the new electricity supply contract.

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

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

“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;

“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 or bank guarantee 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 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. Where we initially choose (ii) (iv) inclusive above but are not satisfied with the form of wording or institution proposed by you, then we may alternatively invoke (i) above;

“Service Provider” means any meter reading agent, data collector, meter operator, or meter asset maintainer, data aggregator, automated meter reading providers or any agent as defined in the Industry Agreements from time to time and any other third party appointed to act for or on behalf of either Party;

“Start Date” means the date on which you start to receive Supply and as further set out in Clause 3.1;

“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 Deemed Supply Contract;

“**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 where we are the Registered Supplier in order to be able to provide a Supply to you in accordance with this Deemed Supply Contract;

“**Termination Date**” means the date on which the Deemed Supply Contract is terminated in accordance with these Terms and Conditions;

“**Terms and Conditions**” means the terms and conditions set out in this document as amended by us and published on the Website from time to time;

“**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 from us pursuant to this Deemed Supply Contract;

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

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

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

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

“**You**” or “**Your**” means the person or organisation who has received the Supply at the Supply Point and has thereby become a Party to this Deemed Supply Contract.

2 Interpretation

- 2.1 References to statutory or regulatory provisions, Industry Agreements or Industry Laws include any amendments, variations, consolidations or replacements, regulations made there under, re-instatement 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 this Deemed Supply Contract, where not defined in Clause 1, shall where appropriate be construed:
 - 2.3.1 as they are defined in the Acts or in the Industry Agreements/ Industry Laws; or
 - 2.3.2 in accordance with their wider usage in the electricity industry generally.
- 2.4 Should any conflict arise between the content of this Deemed Supply Contract and the Industry Agreements or Industry Laws then the Industry Agreements or Industry Laws shall take precedence.
- 2.5 Where there is more than one Supply Point receiving a Supply, then reference to a Supply Point is deemed to mean all the Supply Points each on an individual basis.
- 2.6 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 and Duration of this Deemed Supply Contract

- 3.1 This Deemed Supply Contract binds both Parties from the date you take ownership, control or occupation of the Supply Point and shall not terminate in relation to the Supply Point until such time as:
 - 3.1.1 you enter into an express formal electricity supply contract with us; or
 - 3.1.2 the Supply Point(s) are registered with another supplier authorised under the Act; or
 - 3.1.3 the Supply Points (or any one or combination of the Supply Points) are Disconnected.

Transfer of Supply

- 3.2 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 supplier from registering the Supply Point if an alternative Registered Supplier attempts to register a single Meter Point where we are the registered supplier for one or more related Meter Points.
- 3.3 Where we do not enter an objection of the type detailed in Clause 3.2, or where we do 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 (20) Working Days of the Relevant Transfer Date unless:
 - 3.3.1 you request that the transfer takes place over a longer time period; or
 - 3.3.2 you withdraw your request for a transfer by notifying the new supplier that you do not wish to switch to that supplier; or
 - 3.3.3 one or more of the conditions in Clause 3.4 applies.

- 3.4 The conditions applicable to Clause 3.3.3 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 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 3.4 due to any other circumstance caused by you.
- 3.5 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, due under the terms of this Deemed Supply Contract will be, and will remain due and payable on the transfer of the Supply Point.
- 3.6 Where you fail or refuse to enter into an express formal electricity supply contract with us, or to transfer your supply to an alternative Registered Supplier, we may at our discretion terminate this Deemed Supply Contract on written notice to you and/or 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 recover from you all costs incurred in such Disconnection or De-energisation.

4 Your Consumption Information and Other Obligations

- 4.1 You acknowledge and agree that:
- 4.1.1 title and risk in the electricity shall pass to you at the Meter Point;
 - 4.1.2 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;
 - 4.1.3 your Supply Points comply with the Licence and any other relevant agreements or authorisations necessary to permit or continue the Supply;
 - 4.1.4 save for any ancillary services (including STOR) or demand side agreement which you provide through us, 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;
 - 4.1.5 where you fail to provide us with regular actual readings from your Meter, we shall be entitled to rely on estimated Meter reads for the purposes of calculating your Invoices, including any associated Reconciliation invoices;
 - 4.1.6 we will take reasonable steps to obtain an actual meter reading at the Start Date, including by asking you to provide such a reading;
 - 4.1.7 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.

5 Supply Points

Removal of Supply Points

- 5.1 If you wish to dispose of or sell any Supply Point to a third party or cease to lease, own or occupy a Supply Point during the term of this Deemed Supply Contract then such Supply Point shall only be removed from this Deemed Supply Contract where you have provided us with:
- 5.1.1 at least forty five (45) days' notice in writing; and
 - 5.1.2 written details of the Meter reading at the date of removal (having regard to the timescales in Clause 5.1.1), valid contact details for the new or remaining lessee, lessor, owner or occupier of the Supply Point, or premises which contain the Supply Point, including full address and contact and satisfactory evidence of this change.
- 5.2 Notwithstanding the notice requirements in Clause 5.1 above, this Deemed Supply Contract shall remain in full force and effect with respect to such Supply Point and any Supply delivered to it and we shall be under no obligation whatsoever to remove such Supply Point from this Deemed Supply Contract unless and until we have provided our written consent to such removal.

Discontinuance of Supply

- 5.3 If you wish to discontinue consumption of electricity at any Supply Point during the Supply Period then whilst you continue to lease, own or occupy such Supply Point then you shall indemnify us in respect of:
- 5.3.1 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;
 - 5.3.2 all Disconnection or De-energisation costs; and
 - 5.3.3 all of our costs and losses incurred as a result of the Disconnection, De-energisation or meter removal.
- 5.4 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 as a result of such Disconnection or De-energisation.

Domestic Sites

- 5.5 You acknowledge and accept that our Licence does not entitle us to supply Domestic Sites and that as such:-
- 5.5.1 we will not accept the addition of any Domestic Site to the Deemed Supply Contract; and
 - 5.5.2 we will not accept the removal of a Supply Point from the Deemed Supply Contract under Clause 5.1 if the site would thereafter be a Domestic Site and/or if the new owner, occupier or lessee would be a domestic customer; and
 - 5.5.3 we will not accept any change to the use and/or ownership of any Supply Point included in the Deemed Supply Contract to a Domestic Site; and
 - 5.5.4 in the case of Clause 5.5.2 and 5.5.3 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

- 5.6 You shall notify us immediately after the Start Date as to whether you are a Micro Business Consumer and keep us notified on an on-going basis.

6 Charges and Payment

- 6.1 You shall be invoiced on the basis of Consumption Data (available at the time, subject to Clause 6.10) on a monthly basis unless otherwise notified in writing by us.
- 6.2 In consideration of the Supply in accordance with this Deemed 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.
- 6.3 We may at any time without notice to you, 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 Deemed Supply Contract. Any exercise by us of our rights under this Clause 6.3 shall not limit or affect any other rights or remedies available to us under this Deemed Supply Contract or otherwise.
- 6.4 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.
- 6.5 We shall use our reasonable endeavours to send you an Invoice for the Charges once we have been notified of your occupation of the Site.
- 6.6 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.
- 6.7 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 13.9 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. Upon receipt of validated Consumption Data we will then be entitled to then be entitled but not obliged to issue Reconciliation Invoices, whether during or after the end of the Supply Period. For the avoidance of doubt, this Clause 6.10 survives termination of this Deemed Supply Contract.
- 6.11 If at any time during or after the Supply Period, one or more elements of the Charges are 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 Deemed Supply Contract.
- 6.12 Following the issue of any Reconciliation Invoice we shall be entitled but not obliged to vary the Charges so as to minimise the need for future Reconciliation Invoices.
- 6.13 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 that Reconciliation Period and the amount that, after our reconciliation, we have calculated as being reflective of the costs we have incurred on your behalf.
- 6.14 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 Capacity Market scheme in respect of your Supply. We shall be entitled to issue you with a Reconciliation Invoice where there is a discrepancy between the amount we have charged you in respect of the Capacity Market scheme over that Reconciliation Period and the amount that, after our reconciliation, we have calculated as being reflective of the charges due under the Capacity Market scheme in respect of your Supply.
- 6.15 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:
- 6.15.1 from the imposition, or variation in the rate, of any energy-related tax, levy or duty;
 - 6.15.2 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;
 - 6.15.3 a charge in respect of 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;
 - 6.15.4 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;
 - 6.15.5 where amounts are payable by us to any Service Provider;
 - 6.15.6 where charges we incur change or arise due to changes in the "Measurement Class", as defined in the Industry Agreements;
 - 6.15.7 where you exceed the Maximum Supply Capacity;
 - 6.15.8 where the Meter Points are half-hourly, changes occur in the Transmission Loss Factor mechanism as defined under the Industry Agreements;
 - 6.15.9 where the Meter Points are non-half-hourly, the cost of installing mandatory half hourly meters at any of the Supply Points;
 - 6.15.10 changes to any of your MPAN details;
 - 6.15.11 incurred in programming inaccurate metering equipment, or default by the Service Provider;
 - 6.15.12 relevant Elexon charges in accordance with the Industry Agreements; and
 - 6.15.13 all costs whatsoever incurred by us pursuant to the terms of our licence, including costs incurred in connection with the scheme to assist areas with high electricity distribution costs.
- 6.16 You recognise and agree that we shall not be required to obtain your consent to any change in the Measurement Class or to the status of any Meter Points.

7 Meters and Equipment

Ownership of Equipment

- 7.1 Unless otherwise agreed with you in writing, or provided for in this Deemed 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.

Appointment of Services Providers and Maintenance of Equipment

- 7.3 You shall ensure that there is a contract in place between you and appropriate Service Providers for each Supply Point and where no contract is in place then we shall be entitled to appoint an alternative Service Provider and recover from you all costs and expenses incurred by us as a result of doing so.
- 7.4 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.
- 7.5 You shall be responsible for maintaining the Equipment and shall ensure that throughout the Supply Period the Equipment;
 - 7.5.1 meets all the appropriate standards and relevant certification requirements;
 - 7.5.2 is kept safe and secure, including from weather damage and third party interference; and
 - 7.5.3 is maintained in proper order to enable the Equipment to register the quantity of Electricity supplied to each Supply Point.
- 7.6 You acknowledge and agree that we shall not be responsible for checking the suitability of any Equipment and you will pay for any work deemed necessary and undertaken by us to ensure that the Equipment is and remains appropriate and meets the appropriate standards.

Examination and Removal of Equipment

- 7.7 We are entitled to require that a Equipment be removed, repaired or replaced where we consider it to be damaged, incorrectly recording data or past its certification date and you shall notify us immediately where you become aware of or suspect any such circumstances.
- 7.8 If, in accordance with the relevant provisions of the Electricity Act, either Party requires a meter examiner to examine any Meter Point for the purposes of ascertaining the quantity of electricity supplied under this Deemed Supply Contract, then where the Equipment is found to register inaccurately to a degree exceeding that permitted by the Act:-
 - 7.8.1 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 provided to have begun to register inaccurately as described on some later date; and
 - 7.8.2 you shall pay any invoice we issue or receive any credit for the additional cost or overcharge respectively established by such investigation; and
 - 7.8.3 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.
- 7.9 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. You acknowledge and agree that this will not entitle you to claim any rights of ownership over that Equipment.
- 7.10 You shall allow the Access Rights without charge to enable us, our agents or the Service Provider to undertake the actions outlined at Clause 7.9 above and we shall give you reasonable notice (except in the case of emergencies when notice will not be required) of our intention to enter your site to enable us to install, maintain, operate, inspect or renew the Equipment or for the purposes of De-energising or Disconnecting the Supply.
- 7.11 We shall at your cost make any necessary arrangements with the DNO/TNO or any Service Provider for the installation, operation,

maintenance, renewal, De-energisation, Disconnection or removal of the Equipment.

- 7.12 Where the meter status or classification changes during the Supply Period then we shall be entitled to recover any costs which arise as a result of such changes.
- 7.13 You shall promptly report any failure or suspected failure of Equipment or supply of electricity to us and the DNO/ TNO's emergency service.

8 Liability

- 8.1 Subject to the terms of Clause 8.3, the liability of either Party to the other in connection with this Deemed 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, we will not be liable to you for:
- 8.2.1 Economic Loss;
 - 8.2.2 any indirect or consequential loss;
 - 8.2.3 loss resulting from the liability of you to any other person; or
 - 8.2.4 any action, inaction or default by the DNO, TNO or any Service Provider, including the DNO or TNO De-energising or Disconnecting any Supply Point.
- 8.3 Nothing in this Deemed 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 Deemed Supply Contract or under any liability arising from any indemnity contained in this Deemed Supply Contract; 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/TNO for the purpose of refunding you pursuant to the terms of the Industry Agreements.
- 8.6 Where any of the Industry Agreements require 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 TNO shall have any liability for any loss or damage suffered by you for complying with that requirement.

9 Force Majeure

- 9.1 We shall be not be liable to you for any delays or failures to fulfil all or a material part of our obligations under this Deemed Supply Contract if they are directly due to Force Majeure and provided that we shall notify you within twenty four (24) hours of the Force Majeure occurring of its nature, expected duration, the measures we are taking to remedy and/or mitigate the effects and when its effects cease or are likely to cease.
- 9.2 Force Majeure shall not relieve you from your obligations to indemnify or make payment to us under this Deemed Supply Contract save that, subject to Clauses 9.3 and 9.4 in the event of electricity not being supplied by us for reasons of Force Majeure you:
- 9.2.1 shall be under no obligation to pay the Charges for a supply of electricity that is not supplied by us; and
 - 9.2.2 may obtain temporary supplies of electricity to the extent of the time that the Force Majeure takes effect.
- 9.3 Where an event of Force Majeure results in us not being able to supply you with electricity then during that period we shall still be entitled to recover from you all Charges set out as in respect of that period, except for the commodity cost element of the unit rates, for the electricity as set out on the Website.
- 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 this Deemed Supply Contract on the provision of written notice to the other.
- 9.5 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 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 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 or restriction of the Supply by (a) us in accordance with Clauses 10.1 to 10.2 inclusive, unless this Disconnection, De-energisation or restriction is unlawful, or (b) by the DNO and/or 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 TNO, in any of the circumstances contemplated in Clauses 10.1 to 10.2 inclusive.

Our right to terminate for your breach

- 10.5 You shall be in breach of this Deemed Supply Contract and we shall be entitled to all or any combination of the remedies set out in Clause 10.6, at our absolute discretion, in the following circumstances:
- 10.5.1 notwithstanding the specific circumstances set out below, if you are in repeated or material breach of any of your obligations under this Deemed Supply Contract (which shall include non-payment of a material sum of money) and within seven (7) days of being given notice in writing from us of such breach you have not remedied the breach;
 - 10.5.2 you persistently default in paying amounts due to us by the Payment Date;
 - 10.5.3 if any credit insurance policy, Security Deposit or other form of credit insurance put in place at any time during the Supply Period is withdrawn, reduced, amended, shortened 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, and any Security Deposit requested is not provided within ten (10) Working Days of the request being made;
 - 10.5.4 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;
 - 10.5.5 you unlawfully interfere with any Equipment or Meter Point;
 - 10.5.6 the DNO and/or 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

- 10.6 Where you are in breach of the terms of this Deemed Supply Contract in accordance with any of the provisions of Clause 10.5 then we shall be entitled to all or any combination of the following remedies:
- 10.6.1 terminate this Deemed Supply Contract for any or all of the Supply Points under the Deemed Supply Contract immediately on written notice to you;
 - 10.6.2 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 the Supply Points on more than one occasion, together with being entitled to recover from you the costs incurred in such Disconnections or De-energisations;
 - 10.6.3 recover from you and be indemnified by you for all costs and losses incurred as a result of such breach when terminating the Deemed Supply Contract or Disconnecting or De-energising all or any of the Supply Points pursuant to Clauses 10.6.1 and 10.6.2;
 - 10.6.4 vary the terms of this Deemed Supply Contract so as to mitigate our risk;
 - 10.6.5 increase our Charges by a reasonable and proportionate amount so as to reflect any increased risk and/or unavoidable costs to us;
 - 10.6.6 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;
 - 10.6.7 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
 - 10.6.8 request a Security Deposit to be provided within twenty one (21) days of such a request.
- 10.7 The termination of this Deemed 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.

Resumption of Supply

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

11 DNO/TNO Terms of Supply

- 11.1 The Supply to a Supply Point is delivered through infrastructure operated by third parties (such as the DNO and the TNO).
- 11.2 The DNO and the TNO will only be liable to you in accordance with the limitations in this Clause 11 and up to the prevailing maximum per calendar year contained in the NTC at the relevant time.
- 11.3 The DNO or the TNO shall be entitled and have the ability to enforce the provisions of this Clause 11 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 Deemed Supply Contract under that act.

- 11.4 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.
- 11.5 Save for where the provisions of Clause 11.4 apply, this Deemed Supply Contract is subject to the NTC and you agree to accept the NTC and keep to its conditions. The NTC will apply from the time that you enter into this Deemed 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.

12 Good Quality CHP & Renewable Supply

12.1 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.

12.2 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.

12.3 The amount of Renewable Energy supplied by us in each Averaging Period shall not exceed the difference between:

12.3.1 the total amount of Renewable Energy acquired or generated by us during that period; and

12.3.2 so much of that amount as is allocated by us otherwise than to supplies of Renewable Energy made by us in that period.

12.4 The amount of Good Quality CHP supplied by us in each Averaging Period shall not exceed the difference between:

12.4.1 the total amount of Good Quality CHP acquired or generated by us during that period; and

12.4.2 so much of that amount as is allocated by us otherwise than to supplies of Good Quality CHP made by us in that period.

12.5 We make the 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.

13 General Terms

13.1 We may keep a record of e-mails and any messages you or we send and record telephone conversations.

13.2 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 officers or employees who require the same to enable them to properly carry out their duties, any of the contents of this Deemed 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:

13.2.1 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

13.2.2 it is already in the public domain other than by reason of a breach of contract.

13.3 If you receive an information request and your response might include disclosing any of the details of this Deemed Supply Contract or our information without prejudice to Clause 13.2, 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.

13.4 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.

13.5 Neither Party will assign or hold on trust for any person (other than a 100% owned subsidiary) the whole or any part of this Deemed Supply Contract without the prior written consent of the other, such consent not to be unreasonably withheld or delayed.

13.6 Subject to the provisions of Clause 11.3, this Deemed Supply Contract does not create any right enforceable by any person who is not a Party.

- 13.7 No waiver by a Party of any default by the other shall operate or be binding unless made in writing.
- 13.8 If any provision of this Deemed Supply Contract shall be declared invalid, unenforceable or illegal it shall not prejudice or affect the remaining provisions of this Deemed Supply Contract, which shall continue in full force and effect.
- 13.9 Any notice or communication required under this Deemed 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 and for the avoidance of doubt, you recognise and agree that contact by any other method shall render such communication invalid;-
- 13.9.1 first class mail to "ENGIE Power Limited, No 1 Leeds, 26 Whitehall Road, Leeds, LS12 1BE" – and for commercial notices marked for "Contract Management" and for Legal notices marked for "Head of Legal Services" - notice is deemed effective two (2) Working Days after dispatch;
 - 13.9.2 recorded delivery to our registered office address detailed Clause 13.9.1 above for commercial notices, being marked for the attention of "Contract Management" and Legal notices being marked for the attention of "Head of Legal Services". In both cases, notice is deemed effective two (2) Working Days after dispatch; or
 - 13.9.3 email to the following email address – contract.management@engie.com – notice is deemed effective two (2) Working Days after dispatch.
- 13.10 This Deemed Supply Contract constitutes the entire agreement between both Parties. We and you hereby acknowledge and agree that this Deemed 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.
- 13.11 We may amend this Deemed Supply Contract, the Terms and Conditions and the Charges at our absolute discretion from time to time by publishing the changes or revised versions on the Website.
- 13.12 Any rights or remedies arising from this Deemed Supply are exhaustive, and exclude and replace all substantive (but not procedural) contractual rights or remedies expressed or implied by law.
- 13.13 This Deemed Supply Contract shall be construed and governed by the laws of England and subject to the exclusive jurisdiction of the English Courts.
- 13.14 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 where arbitration is agreed, the Rules of the London Court of Arbitration shall apply.
- 13.15 Any Supply Point that falls within an Independent Network and any terms and definitions contained within this Deemed Supply Contract relating to such Supply Point shall be dealt with in accordance with the Industry Agreements.
- 13.16 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.