

General Terms & Conditions

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 at any time;

“Act” means the Energy Act 1976, the Electricity Act 1989, the Utilities Act 2000, the Energy Act 2004 and any regulations made hereunder both as amended or re-enacted from time to time;

“Authority” means the Gas and Electricity Markets Authority established pursuant to section 1 (1) of the Utilities Act 2000;

“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 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);

“Charges” means the charges specified in these Terms and Conditions and the Quotation Document, which shall be charged during the Supply Period;

“Consumption Data” means data from the Customer or a Service provider recorded by measuring the consumption of electricity;

“Default Contract Rate” means the rates and charges published on our website at www.gdfsuezuk.com, which shall be payable by you where you continue to consume electricity after the Termination Date and which shall include and comprise (a) charges for the electricity consumed, (b) an administration charge per Supply Point, (c) the pass through of specific costs incurred by us for Transportation and Metering in respect of the relevant Supply Point(s) and (d) any other reasonable charges and costs incurred by us in respect of the Supply Points after the Termination Date;

“De-energise” means the taking of action to stop the flow of electrical current from the distribution or transmission system to any structure switchgear equipment line or device used by you at the Supply Point;

“Disconnect” means the permanent electrical disconnection of any structure switchgear equipment line or device used by you at the Supply Point from the distribution or transmission system;

“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;

“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 Supply Contract, including circumstances described in clause 11.3 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 attached to and forming part of this

Supply Contract, or subsequently agreed in writing between the parties to be part of this Supply Contract setting out certain matters which amend or are supplementary to the Terms and Conditions;

“Industry Agreements” means:

- the Master Registration Agreement and Data Transfer Agreement;
- the Balancing and Settlement Code; and
- any agreements into which it has been 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 Licence, the Industry Agreements or any other code agreement or arrangement which we and other authorised electricity suppliers are obliged by the Act, Industry Agreements or any Licence to be a party to or to comply with;

“Initial Consumption Forecast” means the first set of best estimates for the half-hourly consumption of electricity the total of which is set out in the Quotation Document excluding the impact of any Supply Points added or removed after the original Start Date, which shall comprise forecast information provided by you to us or our historical consumption data of the Supply Point(s);

“Licence” means any Licence under section 6(1)(c) or section 6(2) of the Electricity Act 1989;

“Local Electricity Network Operator” means the distribution licence holder (or exempt operator) who owns or operates the electricity distribution system through which electricity is conveyed to your premises;

“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 Local Electricity Network Operator or Transmission Network Operator from time to time;

“Meter Point” means the point at which a Supply from a distribution system or transmission system is or is intended to be measured, identified by a specific Meter Point Administration Number (MPAN) in the Quotation Document;

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

“Metering Costs” means a component (if any) of the Charges, comprising any charges relating to the installation, provision, maintenance of your Equipment in situ at the Signature Date at the Supply Point and specified as “Fixed” or “Pass Through” in the Quotation Document;

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

“Payment Date” means (a) in relation to monthly consumption invoices, the date as defined in the Quotation Document and (b) the date as specified on the invoice in respect of all other invoices;

“Product Appendix” means the appendix detailing the product type and mechanism, attached to the Quotation Document;

“Quotation Document” means your offer to enter into the Supply Contract, accepted by us in accordance with these Terms and Conditions which shall include the Supply Point details and the Charges;

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“Reconciliation Invoice” means an invoice debiting or crediting your account as a result of a calculation by us of the difference between the Charges which ought to have been levied, and 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;

“Registration” means the successful registration of all electricity supplies required under this Supply Contract to a Supply Point in our name;

“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 2002 (SI 2002/0914), as amended, restated, re-enacted and/or replaced from time to time;

“Renewal Date” the date detailed in the Quotation Document and each anniversary thereafter until terminated in accordance with the terms of this Supply Contract;

“Revised Consumption Forecast” means your (or, pursuant to clause 4.5, our) ongoing written best estimate of your projected half-hourly 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 ongoing basis and which we agree to use to purchase and/or sellback any electricity;

“Security Deposit” means at our option either (i) a cash amount equivalent to the charges which we reasonably consider would constitute the likely charges for four calendar months calculated on a reasonable estimate of consumption 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. Where we initially choose (ii) above but are not satisfied with the form of wording or institution proposed by you, then we may alternatively invoke (i) above;

“Service Providers” means any data collector, meter operator or data aggregator or any agent as defined in the Industry Agreements from time to time;

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

“Signature Date” means the date on which we accept your offer on the terms of the Quotation Document, by our signature and dating of the Quotation Document;

“Start Date” means the date on which you intend to start to receive Supply as set out in the Quotation Document;

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

“Supply Contract” means the terms and conditions set out in the Quotation Document together with these Terms and Conditions and any Side Letter(s);

“Supply Period” means for a Supply Point, the period beginning on the Start Date and ending on the relevant Renewal Date where triggered pursuant to clause 3;

“Supply Point” means the location specified in the Quotation Document where GDF SUEZ ENERGY UK provides a Supply to the Customer;

“Termination Date” means the Renewal Date determined by us or you serving notice in line with clause 3 or such earlier other 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;

“Transmission Network Operator” means as defined in the Industry Agreements from time to time;

“Transporter” means National Grid plc, any Service Provider or any other person or body licensed under the Act that transports electricity in connection with this Supply Contract, but excluding the Local Electricity Network Operator;

“Transportation Costs” means a component of the Charges, comprising those charges payable to the Transporter and/or Local Electricity Network Operator for the use of their networks as applicable from time to time under the Industry Agreements and specified as “Fixed” or “Pass Through” in the Quotation Document;

“We” or “us” means GDF SUEZ ENERGY UK, the trading name of GDF SUEZ Marketing Limited (Registered No. 4236804) whose registered offices are at 1 City Walk, Leeds, West Yorkshire LS11 9DX;

“Working Day” means Monday to Friday inclusive but excluding Bank Holidays

“you” or “your” means the person or organisation who offered to enter into this Supply Contract as identified as the “Customer” in the Quotation Document;

2 Interpretation

- 2.1 References to statutory or regulatory provisions or Industry Laws include any amendments, variations, consolidations or replacements.
- 2.2 The expression “including” shall be construed without limitation.
- 2.3 Words and expressions used in this Supply Contract, where not defined in clause 1, shall where appropriate be construed:
 - 2.3.1 as they are defined in the Act or in the Industry Agreements; or
 - 2.3.2 in accordance with their wider usage in the electricity industry generally.
- 2.4 Words and expressions used in these Terms and Conditions but not defined in clause 1 are instead defined in the Quotation Document.

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- 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 (as defined in clause 6.17.2 below).
- 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 the Side Letter; then
 - 2.7.2 Framework Agreement; then
 - 2.7.3 the Product Appendices; then
 - 2.7.4 the Quotation Document, then
 - 2.7.5 the Terms and Conditions.

3 Contract Period

Duration of Supply

- 3.1 You make an irrevocable offer to be bound by this Supply Contract in relation to all Supply Points from the date of your signature on the Quotation Document.
- 3.2 This Supply Contract becomes binding in relation to all Supply Points on both Parties on the Signature Date.
- 3.3 We shall provide a Supply in relation to all Supply Points in accordance with this Supply Contract for the Supply Period.
- 3.4 Our Supply to you pursuant to clause 3.3 is conditional upon; 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, where we are unable to obtain and/or retain an acceptable credit insurance policy you providing a Security Deposit within 10 Working Days of receiving our request for the same pursuant to this clause.
- 3.5 Where you fail to consume any of the Supply 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 when consumption commences, including but not limited to costs incurred by us in selling electricity at a price lower than that price for which it was originally purchased.
- 3.6 Subject to clause 3.7, this Supply Contract shall remain in full force and effect for successive periods of 12 months or such other period as notified in writing by us no less than 9 weeks prior to the Renewal Date ("**Renewal Period(s)**"), each such Renewal Period to begin on the next Renewal Date.
- 3.7 The Charges and Terms and Conditions applicable during each Renewal Period shall be those in effect immediately preceding the relevant Renewal Date unless we write to you no less than 9 weeks prior to the Renewal Date providing notice to vary the Charges or Terms and Conditions for the next Renewal Period.

- 3.8 Either you or we may issue a notice to terminate this Supply Contract on the next Renewal Date, by providing written notice no less than 8 weeks prior to the Renewal Date.

Consumption after Termination or Expiry

- 3.9 In the event that you continue to consume electricity at any Supply Point after the Termination Date then, until such time as another electricity supplier authorised under the Act has been registered as the supplier to that Supply Point, any consumption after the Termination Date shall be charged at our Default Contract Rate (and not the Charges) but to all other extents shall continue to be subject to the Terms of this Supply Contract. In addition, we shall be entitled, at our discretion, to do any one, or a combination of the following:
- 3.9.1 invoice you on a weekly basis, thereby varying the Invoicing Period;
 - 3.9.2 request a Security Deposit be provided within 10 Working Days of such a request.
 - 3.9.3 arrange for the Supply Points (or any one or combination of the Supply Points) to be disconnected 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 disconnections;

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 supplier from registering the Supply Point if:
- 3.10.1 you arrange to transfer to an alternative supplier before the Termination Date; and/or
 - 3.10.2 there are any overdue invoices not paid by their Payment Date, such invoices not being subject to a bona fide dispute; and/or
 - 3.10.3 an alternative supplier attempts to register a single Meter Point where we are the registered supplier for one or more related Meter Points.

4 Your Consumption Information and other obligations

- 4.1 You agree that:
- 4.1.1 title and risk in the electricity shall pass to you at the Meter Point;
 - 4.1.2 your Supply Points comply with the Licence and any other relevant agreements or authorisations necessary to permit or continue the Supply;
 - 4.1.3 you have informed 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 demand-side agreements, at any time during the Supply Period; and

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4.1.4 you shall always contact us in writing at the contact details set out in clause 13.9 below and any failure to do so shall make any attempted written contact invalid; and

4.1.5 the Supply shall have the electrical characteristics at which the Local Electricity Network Operator/ Transporter supplies electricity and that we have no control or liability in relation to this.

4.2 If you require us to register Service Providers on your behalf, you shall indemnify us against all costs incurred 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.

Consumption Forecasts

4.3 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 6.17.

4.4 You will provide a new forecast as soon as possible on each occasion that you become aware of any likely change of more than 10% to your consumption in any month 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) and we may agree that this is a Revised Consumption Forecast.

4.5 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.

4.6 Where you or we provide a Revised Consumption Forecast pursuant clauses 4.4 and 4.5 above then:

4.6.1 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;

4.6.2 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 recover from you and shall be indemnified by you for all costs and losses incurred by us as a result of such revision including but not limited to costs incurred by us in selling electricity at a price lower than that price for which it was originally purchased; and

4.6.3 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 to reflect any resulting changes in the cost of supply.

5 Supply Points

New Supply Points

5.1 You may request that Supply Points in addition to those in the Quotation Document are added to the Supply Contract by providing notice in writing.

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 Product Appendix (if applicable) and these Terms and Conditions 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 6.17.

Removal of Supply Points

5.4 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 Supply Contract then such Supply Point shall only be removed from this Supply Contract where:

5.4.1 you have provided us with at least 45 days notice in writing;

5.4.2 we have provided written consent to such removal;

5.4.3 you have provided us with written details of the new or remaining lessee, lessor, owner or occupier of the Supply Point; and

5.4.4 we are satisfied that the new or remaining lessee, lessor, owner or occupier of the Supply Point;

(a) is of equal or better financial standing as you or has provided alternative security acceptable to us; and

(b) has entered into a supply contract with us for the supply of electricity to that Supply Point on terms satisfactory to us.

5.5 Until all of the provisions of 5.4 are satisfied;

5.5.1 this 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 Supply Contract unless we agree otherwise in writing; and

5.5.2 Clause 3.8 shall apply to such Supply Points where the Termination Date has passed; and

5.5.3 we shall be entitled to recover from you and shall be indemnified by you for all costs and losses incurred as a result of the removal of a Supply Point including but not limited to costs incurred by us in selling electricity at a price lower than that price for which it was originally purchased.

5.6 Following the removal of a Supply Point, the Initial Consumption Forecast (or any previous Revised Consumption Forecast) may be substituted with a further Revised Consumption Forecast. The further Revised Consumption Forecast shall take account of the volume of any electricity we choose to sell back pursuant to clause 5.5.3. and, such Revised Consumption Forecast shall be effective only for the period following the date of the removal of the Supply Point.

Discontinuance of Supply

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- 5.7 If you wish to discontinue consumption of electricity at any Supply Point during the term of this Supply Contract then whilst you continue to occupy or own such Supply Point, you shall indemnify us in respect of:
- 5.7.1 all ongoing Transportation, Metering and other ancillary costs associated with such Supply Point, including for the avoidance of doubt, 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 of our costs and losses, including but not limited to costs incurred by us in selling electricity at a price lower than that price for which it was originally purchased, as a result of the Supply Contract not being performed in respect of such Supply Contract as originally intended.
- 5.7.4 all costs and losses, including but not limited to costs incurred by us in selling electricity at a price lower than that price for which it was originally purchased, as a result of the Supply Contract not being performed in respect of such Supply Contract as originally intended.
- 5.8 Where any Supply Point is added or 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 of, termination of use or addition of a Supply Point.
- 5.9 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.
- 5.10 If electricity is not used at any Supply Point for a consecutive period in excess of six (6) calendar months we may, at our discretion, arrange for the Disconnection or De-energisation of that meter and you shall indemnify us for a reasonable administration fee and all costs incurred by such isolation.
- 5.11 You shall indemnify us for all costs, losses and expenses we reasonably incur (including administration costs) where the Supply Contract includes Supply Points which you provided to us in error.
- ### 6 Charges and Payment
- 6.1 You shall be invoiced on the basis of Consumption Data (available at the time, subject to clause 6.9) on a monthly basis unless otherwise agreed in writing with us.
- 6.2 In consideration of the Supply in accordance with this Supply Contract you shall pay us all Charges without set off, deduction or counterclaim by the Payment Date.
- 6.3 If payment is not made by the Payment Method then we shall be entitled to charge you an administration fee in respect of each invoice.
- 6.4 We shall use our reasonable endeavours to send you an invoice for the Charges by the Invoicing Date. In the event that an 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 judgement) charge you interest at 4% above Bank of England's base lending rate from time to time, compounded daily, on any overdue amount.
- 6.6 Where you have paid three 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 Contract 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 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.
- 6.9 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 but not obliged to issue Reconciliation Invoices.
- 6.10 Where 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 Reconciliation Invoices.
- 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 12 months, we shall be entitled but not obliged to issue Reconciliation Invoices annually.
- 6.12 You are entitled to request a Reconciliation Invoice of the Charges provided that:
- 6.12.1 there has been no previous Reconciliation Invoice issued in respect of that element of the Charges for the period in question; and
- 6.12.2 such request is received within 12 months of (a) the Termination Date or (b) the date of the last invoice or (c) our receipt of fully validated Consumption Data, whichever is the later.
- 6.13 Following the issue of any Reconciliation Invoice we shall be entitled to vary the Charges so as to minimise the need for future Reconciliation Invoices.
- 6.14 If Transmission Network Use of System (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). With the account for March of each year we are entitled but not obliged to issue Reconciliation Invoices in respect of the TNUoS charges incurred.
- 6.15 Where Balancing Services Use of System (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 calendar month in arrears. Therefore BSUoS Charges will be invoiced based on the current annual estimate of charges

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recovered from us by National Grid plc. 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 National Grid plc. 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.

- 6.16 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 ("Costs") which are incurred by us in supplying the electricity including, but not limited to, where such Costs arise in the following circumstances:
- 6.16.1 from the imposition, or variation in the rate, of any energy-related tax, levy or duty;
- 6.16.2 where there is an increase to our cost of supply (including but not limited to Transportation Costs or distribution costs) 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;
- 6.16.3 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;
- 6.16.4 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;
- 6.16.5 where amounts are payable by us to any Service Provider appointed by us (or by you if clause 4.2 applies);
- 6.16.6 where charges we incur change or arise due to changes in the "Measurement Class", as defined in the Industry Agreements;
- 6.16.7 where you exceed the Maximum Supply Capacity
- 6.16.8 where the Meter Points are half-hourly, changes occur in the Transmission Loss Factor mechanism as defined under the Industry Agreements;
- 6.16.9 where the Meter Points are non half-hourly, the cost of installing mandatory half hourly meters at any of the Supply Points;
- 6.16.10 changes to any of your MPAN details;
- 6.16.11 costs incurred in programming inaccurate metering equipment, or default by the Service Provider;
- 6.16.12 relevant Elexon charges in accordance with the Industry Agreements; and
- 6.16.13 all costs whatsoever incurred by us pursuant to the terms of our Licence, including, without limitation, costs incurred in connection with the scheme to assist areas with high electricity distribution costs.

Consumption Tolerance

- 6.17 At the end of the Supply Period or, for contracts greater than 12 months, on an annual basis, we will compare Invoiced Consumption against the Consumption Tolerance Forecast (defined below). If over each annual period the total Invoiced Consumption is outside the Consumption Threshold, 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:
- 6.17.1 $(\text{Invoiced Consumption} - \text{Consolidated Consumption Forecast}) * (\text{Market Price} - \text{Reference Price})$ where;
- 6.17.2 **Consumption Threshold** means the percentage levels of the Consumption Tolerance Forecast as prescribed in the Quotation Document;
- 6.17.3 **Consumption Tolerance Forecast** means the Initial Consumption Forecast excluding, for the avoidance of doubt, the impact of any Supply Points added or removed during the Supply Period;
- 6.17.4 **Invoiced Consumption** means the consumed volume of electricity invoiced in each Invoicing Period;
- 6.17.5 **Consolidated Consumption Forecast** means the Initial Consumption Forecast as replaced by any and all Revised Consumption Forecasts pursuant to clauses 4 and 5;
- 6.17.6 **Market Price** means the unweighted arithmetic average of half hourly APX Power UK reference prices (as defined at www.apxgroup.com or any successor index) during the Invoicing Period ;
- 6.17.7 **Reference Price** means the 'baseload' wholesale market price that was used by us for the calculation of the Charges.

7 Meters and Equipment

- 7.1 You shall ensure that your Equipment complies with all relevant certification requirements throughout the terms of this Supply Contract.
- 7.2 You shall ensure that there is a contract between you and a meter operator for each Supply Point and where no such contract is in place then we shall be entitled to recover from you all costs and expenses incurred by us as a result of being the default meter operator.
- 7.3 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.
- 7.4 You shall ensure that every meter installed at the Supply Points is kept in proper order for registering the quantity of electricity supplied to each Supply Point.
- 7.5 We are entitled to require that a meter 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.
- 7.6 If either Party requires the meter operator to examine any meter provided for the purposes of ascertaining the quantity of electricity supplied under this Supply Contract, then

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where the meter when so examined is found to register inaccurately then you shall pay any invoice we issue or receive any credit for the additional cost or overcharge respectively established by such investigation.

- 7.7 If a meter is installed, removed for examination, maintained, inspected or renewed, any expenses we incur in removing, examining and re-installing the meter or substituting meter, shall be paid by you upon receipt of invoice.
- 7.8 You shall allow the Access Rights without charge. We shall give to you reasonable notice (except in the case of emergencies when notice will not be required) for the purposes of installation, maintenance, operation, inspection or renewal of the Equipment or for the purposes of De-energising or Disconnecting the supply of electricity to the Supply Point where, in our or the Transporter's reasonable opinion, it is necessary to do so for the purpose of averting danger of damage to life and/or property.
- 7.9 You shall comply with and act in accordance with best industry practice in relation to the appointment of Service Providers.
- 7.10 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 a reasonable administration fee and all additional costs which arise from your choice of Service Provider.
- 7.11 We shall make any necessary arrangements with the Transporter or any Service Provider for the installation, operation, maintenance and renewal of the Equipment.
- 7.12 You shall ensure insofar as it is required by law that the Equipment installed to supply all apparatus with electricity connected to it is appropriate and meets all the appropriate standards. 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.
- 7.13 You shall properly maintain and be responsible for all Equipment and its safety.
- 7.14 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.
- 7.15 You shall report any failure or suspected failure of Equipment or supply of electricity to us and the Transporter'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 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, 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;
- 8.2.4 any action, inaction or default by the Local Electricity Network Operator, Transporter or a Service Provider, including the Local Electricity Network Operator or Transporter 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 Act to the extent only that the Act expressly prevents any limitation of liability for failure to perform that obligation; or
- 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.
- 8.4 We shall pay to you any monies we receive from the Transporter which are specifically paid to us by the Transporter for the purpose of refunding you pursuant to the terms of the Industry Agreements.
- 8.5 Where any of the Industry Agreements requires the Transporter and/or us to do anything which may affect the supply of electricity to the Supply Points, neither we nor the Transporter shall have any liability for any loss or damage suffered by you for complying with that requirement.
- 8.6 The rights and remedies provided for by this Supply Contract are exhaustive, and exclude and replace all substantive (but not procedural) rights or remedies expressed or implied by law.

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 it is directly due to Force Majeure and provided that a Party seeking to claim that a Force Majeure has occurred shall notify the other Party within 24 hours of it occurring of 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 obligations to indemnify or make payment under this Supply Contract save that, subject to clauses 9.3 and 9.4, in the event of electricity not being supplied 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:
- 9.3.1 subject to clause 9.3.2 we shall not charge you the unit rates for electricity supplied in respect of that period; and

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9.3.2 we shall be entitled to recover from you all Charges set out as "Pass-Through" in the Quotation Document in respect of that period.

9.4 Where an event of Force Majeure subsists for a period exceeding 40 days then either Party shall have the right to terminate the Supply Contract and upon such termination we shall have the right to sell any unconsumed electricity and you shall be responsible for and indemnify us for any losses incurred as a result of our selling volumes at a price lower than that price for which they were originally purchased.

9.5 The Party claiming to be affected by Force Majeure shall take 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 in accordance with clause 11.3.

10.2 You shall notify us of the content of any directions received from the Transporter requiring you to reduce or cease electricity consumption.

10.3 Where you fail to comply with clauses 10.1 and 10.2 you shall indemnify us in respect of all costs, losses or expenses incurred by us as a result of such breach.

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 supply by (a) us in accordance with clauses 10.1 to 10.3 inclusive, unless this Disconnection, De-energisation or restriction is unlawful, or (b) by the Transporter; or

10.4.2 any action taken by you in consequence of any direction given or request made by us or the Transporter, in any of the circumstances contemplated in clauses 10.1 to 10.3 inclusive.

Your right to Terminate

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 28 days following receipt of written notice from you of such breach we have not remedied the breach; or

10.5.2 we become unable to pay our 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 our assets or we enter into any arrangement with our creditors.

Our right to terminate

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 7 days of being given notice in writing from us of such breach you have not remedied the breach;

10.6.2 you persistently default in paying amounts due to us by the Payment Date;

10.6.3 if the credit insurance policy obtained at the start, or put in place at any time before or 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 10 Working days of the request being made;

10.6.4 if we have been unable to register any Supply Point within 40 Working Days of the Start Date caused by you providing incorrect data;

10.6.5 in the event that any authorisation or consent granted pursuant to the provisions of the Act terminates or is withdrawn or is amended in a manner that materially affects our ability to perform our obligations;

10.6.6 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;

10.6.7 you unlawfully interfere with a meter or Supply Point;

10.6.8 the Transporter is entitled to and/or has already acted pursuant to powers under the Act to discontinue the transportation of electricity to you at any of the Supply Points;

10.6.9 any relevant Licence, permission or consent, which permits the Supply, terminates or is revoked.

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, namely to:

10.7.1 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;

10.7.2 terminate this Supply Contract for any or all of the Supply Points under the Supply Contract immediately on written notice to you;

10.7.3 recover from you and shall be indemnified by you for all costs and losses incurred as a result of such breach

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including but not limited to costs incurred by us in selling electricity at a price lower than that price for which it was originally purchased, when terminating the Supply Contract or Disconnecting or De-energising all or any of the Supply Points pursuant to clauses 10.7.1 and 10.7.2;

- 10.7.4 invoke the take or compensate mechanism set out in clause 6.17 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 being outside the Consumption Threshold for both the period of the Supply Contract prior to the breach and thereafter on an ongoing monthly basis;
- 10.7.5 vary the product so as to mitigate our risk including, but not limited to, restricting your right to purchase forward until such time as any breach is remedied;
- 10.7.6 increase our Charges so as to reflect any increased risk and/or unavoidable costs to us;
- 10.7.7 invoice you on a weekly basis, thereby varying the Invoicing Period; and
- 10.7.8 request a Security Deposit to be provided within 21 days of such a request.
- 10.8 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 Local Electricity Network Operator or the Transporter prior to the date of termination.

Resumption of Supply

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

11 Terms of Supply

- 11.1 Subject to clauses 9, 10, and, 12 the Supply will be provided at your Supply Point. The Supply to a Supply Point is delivered through infrastructure operated by third parties (such as the Local Electricity Network Operator and the Transporter).
- 11.2 Except to the extent otherwise expressly agreed in writing by your Local Electricity Network Operator and/or the Transporter, clauses 11.3 to 11.13 shall apply.
- 11.3 The Local Electricity Network Operator and/or the Transporter will maintain, and may interrupt, and shall be entitled to cut off any connection to a Supply Point in accordance with and subject to the provisions of the Acts and any other legal requirements or rights that apply from time to time (including those arising under any code or agreement with which the Local Electricity Network Operator and/or the Transporter is respectively obliged by its distribution/transmission licence to comply) and Force Majeure shall apply.
- 11.4 Neither the Local Electricity Network Operator nor the Transporter guarantee that they will deliver electricity to the

connection at all times nor that the electricity delivered will be free of brief variations in voltage or frequency.

- 11.5 The obligations of the Local Electricity Network Operator and/or the Transporter under this Supply Contract are subject to the Maximum Supply Capacity and any other design feature of your connection.
- 11.6 You must contact the Local Electricity Network Operator and/or the Transporter in advance if you propose to make any significant change to your Maximum Supply Capacity, connection, electric lines or electrical equipment, install or operate generating equipment or do anything else that could affect the Local Electricity Network Operator's electricity distribution system or the Transporter's electricity transmission system or require alterations to your connection.
- 11.7 The Local Electricity Network Operator and/or the Transporter shall not be liable to you under this Supply Contract or otherwise for any loss or damage which is:
 - 11.7.1 beyond the reasonable control of the Local Electricity Network Operator and/or the Transporter; or
 - 11.7.2 consequential or indirect or arises from or amounts to Economic Loss.
- 11.8 The Local Electricity Network Operator and the Transporter will only be liable to you in accordance with the limitations in this clause 11 and up to a maximum of £100,000 per calendar year.
- 11.9 Clauses 11.7 and 11.8 will continue to apply regardless of the termination of this Supply Contract.
- 11.10 The terms of this clause 11 will be changed automatically to incorporate any changes that are approved and published by the Authority.
- 11.11 The Local Electricity Network Operator or the Transporter shall be entitled and have the ability to enforce the provisions of this clause 11 by virtue of the Agreements (Rights of Third Parties) Act 1999 and such clauses may not be varied without the prior written consent of the Local Electricity Network Operator or Transporter respectively. No other person shall be entitled to enforce any terms of this Supply Contract under that act.
- 11.12 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.
- 11.13 Any Supply Point that has a direct connection to the transmission system will be governed by the applicable industry codes and terms of your connection agreement with National Grid plc.

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;

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“**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 you and us.

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 in clauses 12.3 and 12.4 pursuant to paragraphs 19 (1) B and 20A (3) of the Finance Act 2000. Such declarations impose no obligations upon you.

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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 Contract, 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 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.

13.3 If you receive an information request responding to which might include disclosing any of the details of this Supply Contract or our information without prejudice to clause 13.2, prior to disclosure, you shall 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 Supply Contract without the prior written consent of the other; such consent will not be unreasonably withheld or delayed.

13.6 Subject to the provisions of clause 11.11, this 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 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.

13.9 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:

13.9.1 facsimile transmission to 0113 245 7921, marked for the attention of “Contract Management” – notice is deemed effective on completion of transmission, provided that a copy of the notice is also sent by first class mail recorded delivery on the same Working Day;

13.9.2 first class mail to “Contract Management, GDF SUEZ ENERGY UK, P.O Box 215, Leeds, LS11 1BX” - notice is deemed effective two Working Days after despatch;

13.9.3 recorded delivery to our registered office marked for the attention of “Contract Management” - notice is deemed effective two Working Days after despatch; or

13.9.4 email to the following email address - contractmanagement@gdfsuezuk.com – notice is deemed effective two Working Days after despatch.

13.10 This Supply Contract constitutes the entire agreement between both Parties.

13.11 We may amend this Supply Contract without liability in the event that any authorisation or consent granted pursuant to the provisions of the Act terminates or is withdrawn or is amended in a manner that materially affects our ability to

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perform our obligations. We shall provide to you as much notice as is practicable of such amendment.

- 13.12 We and you hereby acknowledge and confirm that this Supply Contract has not been entered into in reliance on any representation, warranty or other undertaking. Nothing excludes the liability of either Party for any fraudulent misrepresentation.
- 13.13 Any rights or remedies arising from this Supply Contract do not preclude any rights or remedies provided by law.
- 13.14 This Supply Contract shall be construed and governed by the laws of England and subject to the exclusive jurisdiction of the English Courts.
- 13.15 If any Party wishes to pursue a dispute with the other then where mediation is agreed the procedures of the Centre for Dispute Resolution ("CEDR") shall apply where arbitration is agreed, the Rules of the London Court of Arbitration shall apply.
- 13.16 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.