

## ENERGY SUPPLY COMMERCIAL GENERAL TERMS AND CONDITIONS

These terms and conditions, (as updated or amended from time to time) (the 'General Terms and Conditions') together with the Energy Supply Contract, the Schedules attached thereto if any, and any Special Conditions, constitute the entire Agreement between LCC Power Limited trading as Go Power (Go Power) and the Customer. A reference to this Agreement is a reference to these General Terms and Conditions (as updated or amended from time to time), the Energy Supply Contract and includes the Schedules, Special Conditions, or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of these General Terms and Conditions) from time to time.

GO Power may issue revised General Terms and Conditions from time to time and will notify the Customer of same in the next invoice issued to the Customer following the date any Revised Terms and Conditions are issued. The General Terms and Conditions applicable from time to time are available on request. Any revised General Terms and Conditions will be deemed incorporated into this Agreement from the date that the revised General Terms and Conditions are specified to come into effect.

**Subject to the satisfaction of the Conditions Precedent to this Agreement it is agreed between the parties that:**

- (A) With effect from the Supply Period Start Date, Go Power shall supply or shall procure the supply of Energy to the Customer at the Supply Point, during the Supply Period.
- (B) The Customer shall take delivery of and pay for such Energy supplied to the Supply Point and comply with the terms set out in the Agreement.

### 1 DEFINITIONS.

<b>Accrued Charges:</b>	any costs, expenses, liabilities of any kind incurred by GO Power as a result of Go Power fixing or unfixing the price of gas for electricity supply with reference to NBP natural gas futures for any period within the Supply Period.
<b>Applicable Laws:</b>	all applicable laws, statutes, regulations and codes from time to time in force
<b>Billing Period:</b>	each calendar month, or part thereof
<b>Business Day:</b>	any day, other than a Saturday, Sunday or public holiday on which the banks in Northern Ireland and Republic of Ireland are open for business
<b>Control:</b>	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
<b>Charges:</b>	the sums payable by (he Customer to GO Power for (he supply of Energy as outlined in the Energy Supply Contract including the Passthrough Charges and any other charges or costs specified in this Agreement or imposed from time to time, as may be varied in accordance with the terms of this Agreement.
<b>Connection Agreement</b>	an agreement between the Customer and Relevant System Operator providing for the Customer to be connected to the electricity transmission and distribution system.
<b>Customer:</b>	a company, entity or party requesting a supply of Energy.
<b>Data Protection Legislation:</b>	up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and

secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

<b>Deemed Contract:</b>	a contract that is deemed to have automatically been formed on a rolling calendar month basis if a supply of Energy is taken at the Supply Address without there being in place a valid Energy Supply Contract. The Parties shall be bound by this Agreement until such time as this Agreement is terminated in accordance with the provisions of Clause 12, and repeat any representations and warranties given under this Agreement as at the commencement of any such extended period.
<b>De-energise(d):</b>	in relation to any Supply Point any action which prevents the flow of electricity through the Supply Point.
<b>Early Cancellation Fee:</b>	in respect of any Agreement for a Fixed Term terminated before the Expiry Date, a sum payable by the Customer to GO Power calculated as follows: the daily average of the Charges paid by the Customer in respect of the Supplier Management Sum (as detailed on the Energy Supply Contract, or varied in accordance with this Agreement from time to time) in the 3 months preceding date of notice of termination multiplied by the Early Cancellation Period.
<b>Early Cancellation Period:</b>	the period of time from: (a) the earlier of (1) the date that this Agreement is terminated by GO Power in accordance with Clauses 12.1 or 12.3 or (2) the date upon which the Customer vacates the Supply Address in accordance with Clause 7.1; until (b) the Expiry Date
<b>Energy:</b>	electricity and/or gas. as the circumstances require.
<b>Energy Supply Contract:</b>	GO Power's document of that name for non- domestic Customers and any schedules or Special Conditions issued with it.
<b>Expiry Date:</b>	where a fixed term is specified in the Energy Supply Contract, the last day of such fixed term starting on the Supply Period Start Date.
<b>Fixed Term</b>	the period identified in the Energy Supply Contract as being the Fixed Term.
<b>Force Majeure:</b>	as defined in Clause 15.
<b>GDPR:</b>	General Data Protection Regulations ( <i>EU</i> ) 2016/679).
<b>Insolvency Event:</b>	(a) the stopping or suspension of making payments (whether of principal or interest) with respect to all or any of its debts or the announcement of an intention to do so: or (b) the suspension or cessation or the threatening to suspend or cease to carry on its business: or (c) the appointment of, or presentation of a petition for the appointment of, a liquidator, provisional liquidator, examiner, administrative receiver or receiver to or over the whole or any part of its assets; or (d) the entering into of any reorganisation, moratorium, scheme of arrangement or composition with or for the benefit of creditors generally or any class of its creditors; or (e) suffering any distress, sequestration, attachment or execution; or

	(f) the proposal or passing of a resolution to wind it up (other than in circumstances of a solvent voluntary winding-up as part of a reorganisation or restructuring); or
	(g) becoming unable to pay its debts or being deemed to be unable to pay its debts pursuant to the Companies Act 2006; or
	(h) taking any similar or analogous action to items above in any jurisdiction in consequence of debt.
<b>Maximum Import Capacity:</b>	the maximum amount of electricity expressed in W or kVA to be supplied to the Customer at the Supply Point
<b>Metering Equipment:</b>	the meter and ancillary equipment (including communication equipment where appropriate) used to measure the flow of Energy supplied to each Supply Point
<b>Microbusiness:</b>	a business that employs 10 or less employees.
<b>NBP:</b>	means the National Balancing Point fixed on a daily basis by the On-the-day Commodity Market on the ICE Endex operated by the National Grid.
<b>OFGEM:</b>	the Office of Gas and Electricity Markets Authority defined in section 1 (1) of the Utilities Act 2000
<b>Party:</b>	a party to this Agreement.
<b>Passthrough Charges:</b>	any applicable third party costs or charges relating to the supply of Energy to the Supply Point, including without limitation transportation and distribution use of system charges.
<b>Personal Data:</b>	includes information the Customer has provided to GO Power, or which GO Power has collected from the Customer or a third party including name, address, e-mail address, phone number, credit card, business function. Metering Data, invoice data and other information.
<b>Registered Supplier:</b>	the supplier of Energy to a Supply Point following successful registration of that supplier as the supplier of Energy in respect of a Supply Point.
<b>Regulatory Authority:</b>	either or both of the Commission for Regulation of Utilities and the Utility Regulator or any other competent authority.
<b>Relevant System Operator:</b>	any person or body who owns or operates the gas or electricity transmission or distribution system through which electricity is delivered to the Supply Point.
<b>Security Deposit:</b>	a reasonable sum determined by GO Power from time to time, to be paid by the Customer to GO Power as security for the provision of Energy by Go Power. Such sum may be reviewed throughout the duration of the Agreement and additional sums be required to be paid by the Customer.
<b>Standing Charge:</b>	the charge specified as such in the Energy Supply Contract.
<b>Supply Address:</b>	the address of the property at which Energy is to be supplied at the Supply Point and which is more particularly detailed in the Energy Supply Contract.
<b>Supplier Capacity Charge:</b>	as defined in the TSC
<b>Supplier Equipment:</b>	any equipment, including tools, systems, cabling or facilities, provided by GO Power to the Customer and used directly or indirectly in the supply of Energy.

<b>Supply Period:</b>	the period commencing on the Supply Period Start Date and ending on the Termination Date.
<b>Supply Period Start Date:</b>	the date the Supply Point Is confirmed as registered to GO Power by the Relevant System Operator and a valid Energy Supply Contract is entered into with the Customer, irrespective of the Energy Supply Contract date.
<b>Supply Point:</b>	the point of delivery of the supply of Energy to a property from the electricity distribution system of the Relevant System Operator (as more particularly detailed In the Energy Supply Contract).
<b>Termination Date:</b>	the date on which this Agreement is validly terminated in accordance with Clause 12.
<b>TSC:</b>	the Trading and Settlement Code as amended from time to time or such relevant successor as may be published.
<b>Vacation Date:</b>	the date on which the Customer physically vacates the Supply Address.
<b>VAT:</b>	value added tax chargeable in the UK or Ireland.

## 2 CONDITIONS PRECEDENT TO THE SUPPLY OF THE SERVICES

- 2.1 The obligations of GO Power under this Agreement are conditional upon:
- 2.1 (a) The Metering Equipment being installed and connected in accordance with this Agreement;
  - 2.1 (b) The Customer having in place a Connection Agreement;
  - 2.1(c) GO Power being successfully registered as being responsible for the supply of Energy at the relevant Supply Point
  - 2.1(d) The Customer having completed a credit check organised by GO Power and having passed same to the satisfaction of GO Power at their sole discretion entirely;
  - 2.1(e) The Customer paying to GO Power the Security Deposit;
  - 2.1(f) The Customer completing and providing to GO Power a valid and effective direct debit mandate;
  - 2.1 (g) The Customer completing and providing to an Energy Supply Contract with Go Power; and
  - 2.1 (h) The Customer providing to GO Power an opening meter reading verified by contemporaneous photograph
- 2.2 GO Power shall be entitled in its sole discretion by notice in writing to the Customer to waive in whole or in part satisfaction of all or any of the conditions set in Clause 2.1.
- 2.3 GO Power reserves the right to request further sums to be paid as additional security throughout the course of the Agreement in the event that GO Power believes that the Customers creditworthiness has deteriorated or any direct debit payment is refused. The balance (if any) of any Security Deposit or additional security will be repaid to the Customer when the Customer's account is closed, provided that all sums due to GO Power have been paid.
- 2.4 If the Customer is using the services of a third party intermediary the Customer will be required to furnish to Go Power directly authorisation in writing confirming that the third party intermediary is instructed to liaise with Go Power.
- 2.5 The obligation on Go Power to supply Energy shall cease in relation to any or all of the Supply Points if any of the conditions set out in Clause 2.1 are not satisfied or cease to be satisfied in any respect.

### **3 COMMENCEMENT AND DURATION**

- 3.1 GO Power shall supply Energy to the Customer at the Supply Point(s) and the Customer shall take delivery of and pay for such Energy in accordance with this Agreement. This Agreement shall only end when it is terminated in accordance with the provisions of Clause 12.
- 3.2 Except in the case of a Deemed Contract, supply of Energy is to commence on the Supply Period Start Date. GO Power shall not be required to supply Energy to the Supply Point prior to the Supply Period Start Date. The Supply Period Start Date may not be the same date as the Energy Supply Contract, provided always that GO Power will procure that the Supply Period Start Date will commence within a reasonable time after the date of the Energy Supply Contract.
- 3.3 The Customer shall be liable for and shall hold GO Power harmless in respect of any and all Energy usage by the Customer prior to the Supply Period Start Date, irrespective of the reason or reasons that the Supply Period Start Date has failed to occur and whether such failure was the fault of the Customer, GO Power, a third party or otherwise.
- 3.4 In the event of a Deemed Contract the supply will be taken to have commenced on the earlier of either
- (a) the Expiry Date; or
  - (b) the date that any new occupant of the Supply Address takes Energy from the Supply Point without a valid Energy Supply Contract being in place with Go Power.
- 3.4.1 The Customer will be notified in writing that a Deemed Contract has been entered into as soon as reasonably practicable and in any event no later than the date of the invoice in which Deemed Contract charges are first applied to the Customer.
- 3.4.2 When a Deemed Contract has commenced the Customer shall remain bound by the terms of this Agreement until the final day of the Supply Period.

### **4 GO POWER'S RESPONSIBILITIES**

- 4.1 GO Power shall supply or procure the supply of Energy to each Supply Point up to the relevant Maximum Import Capacity and/or Nominated Annual Consumption (as applicable), during the Supply Period.
- 4.2 GO Power shall use reasonable endeavours to ensure that the Relevant System Operator limits any variations in the supply of Energy to the Customer but GO Power does not guarantee that the supply will be free from variations in voltage or frequency.
- 4.3 If GO Power's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, Go Power will be entitled to:
- (a) terminate this Agreement without notice and De-energise the Supply Address and claim all associated costs of such action from the Customer together with the Early Cancellation Fee (if appropriate) and such other incidental costs or expenses as are occasioned by GO Power at their discretion entirely; Or
  - (b) Charge a Penalty sum calculated by the Maximum Input Capacity KVA multiplied by a factor of €50.00 per day, or part thereof, until such time as GO Power are able to commence, continue or complete performance of its obligations under this Agreement.
- 4.4 GO Power will comply with the relevant provisions of the Transmission, Grid Distribution and other Industry Codes and all statutory instruments, regulations and orders applicable to them

- 4.5 Upon written request from a Customer for a supply of Energy to be procured from renewable sources. GO Power shall use their best endeavours to comply with such request provided always that at all times they shall not be precluded from supplying Energy from non-renewable sources in order to satisfy the general obligation to supply Energy under this Agreement.
- 4.6 On 23 June 2016, the UK voted to leave the EU. This will undoubtedly have an impact on the economy and market forces generally. GO Power will monitor the progress of BREXIT and its effect on its ability to provide the supply of Energy under this Agreement. GO Power reserves the right at all times to alter, amend or vary any part of Ms Agreement or to terminate this Agreement on reasonable notice to the Customer if in the opinion of GO Power, acting reasonably, to continue with the current Agreement would cause unnecessary duress or financial hardship on GO Power as a result of any changes caused by or contributed to by BREXIT.

## **5 CUSTOMER'S OBLIGATIONS AND WARRANTIES**

### **5.1 The Customer;**

- (a) will co-operate with GO Power in all matters relating to the supply of Energy and this Agreement generally;
- (b) will provide GO Power with such true and reasonably accurate Information as GO Power may reasonably request from time to time (including but not limited to historic and forecast consumption data);
- (c) will provide GO Power with not less than 28 days prior written notice of any proposed or likely change of Control (within the meaning of section 1124 of the Corporation Tax Act 2010);
- (d) will notify GO Power no later than 30 days prior to month of any supply, of any electricity generating equipment, electricity storage equipment or demand side management equipment installed at any Supply Address from time to time;
- (e) will provide, GO Power and/or its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Supply Address and in particular the Metering Equipment, as required by GO Power from time to time and will ensure that such access is safe and reasonable;
- (f) shall be liable for all costs Incurred if GO Power and/or its agents, subcontractors or appointees (including any Relevant System Operator) is prevented from exercising its rights to access the Metering Equipment;
- (g) use reasonable endeavours to ensure that no Metering Equipment is intentionally or negligently damaged or permitted to be damaged as a result of any act of or omission by the Customer and will promptly notify GO Power of any damage or interference with the Metering Equipment;
- (h) will provide to GO Power within 7 days of request (or in the case of emergency such shorter time as Go Power may request) such information as GO Power may request to enable it to comply with applicable laws and must continue to provide GO Power with all such information as soon as it is reasonably practicable.
- (i) must notify GO Power immediately upon:
  - (i) the Customer's credit rating being downgraded (where it has one);
  - (ii) any of the Customer Warranties ceasing to be true in any material particular
  - (iii) the occurrence of an Insolvency Event.

#### **5.1.1 Customer Warranties**

The Customer Warrants as follows:

- (a) that no Supply Address is used wholly or predominantly for domestic purposes;
- (b) that any Supply Address is fitted with a meter which is compliant with law;
- (c) that it will keep, maintain and insure the Supplier's Equipment (if any) and shall not dispose of or use the Supplier's Equipment other than in accordance with Go Power's written instructions or authorisation;
- (d) that it is not now nor is it likely to be in the future subject to an Insolvency Event;
- (e) that it will keep, maintain and insure the Metering Equipment;
- (f) that it has the legal power and authority to enter into, perform and deliver and has taken all necessary action to authorise the entry into, performance and delivery of this Agreement and the transactions contemplated by it;

## **6 METERING**

- 6.1 GO Power does not expressly or by implication confirm that the Customer's Metering Equipment is adequate and does not accept any responsibility for ensuring its adequacy, safety and suitability to utilise the supply of Energy.
- 6.2 The Customer shall indemnify GO Power in full against any loss, liability, damages, expenses or costs (including Legal costs) which GO Power suffers or incurs as a consequence of or in connection with the Customer's failure to provide uninterrupted service for the Supply Point during the Supply Period.
- 6.3 GO Power or the Relevant System Operator shall be entitled to install metering or monitoring equipment in addition to any Metering Equipment already at the Supply Address.,
- 6.4 If the Customer asks GO Power to change or reprogram Metering Equipment, GO Power shall be entitled to make a reasonable charge to the Customer. Details of any such charges will be made available to the Customer upon written request.
- 6.5 Unless the accuracy of the Metering Equipment is disputed by either Party (and such disputes are to be subject to Clause 14) the Metering Equipment will be deemed to be accurate.
- 6.6 If either Party reasonably believes that any Metering Equipment is registering inaccurately, it may require a test of the Metering Equipment by giving the other Party at least 14 days written notice. The test shall be carried out properly and by a competent person to be determined by GO Power and in accordance with any applicable laws or regulations. If no defect is identified in the Metering Equipment, the costs of such test shall be borne by the Customer.
- 6.7 The Customer shall pay to GO Power or GO Power shall pay to the Customer, (as the case may be) in respect of Energy supplied and not registered or incorrectly registered an amount calculated by GO Power and based, so far as can be reasonably ascertained, on what the Customer would have been charged had the Metering Equipment not been defective. If the Parties fail to agree on the amount due GO Power may require the dispute to be determined in accordance with Clause 14.

## **7 CUSTOMER VACATION OF SUPPLY PREMISES**

- 7.1 In the event that the Customer seeks or proposes to vacate the Supply Premises and terminate the Agreement they must comply with the following obligations:
  - 7.1.1 provide in writing in advance of such vacation to GO Power:

- (a) notification of the intended vacation and confirmation of Vacation Date, no later than 20 days in advance of such vacation; and
- (b) the identity of any new occupier of the Supply Premises after the Vacation Date; and
- (c) confirmation of the date and time any new occupier goes into occupation of the Supply Premises; and
- (d) confirmation of whether any new occupier will require Energy to be supplied by Go Power;

7.1.2 provide a closing meter reading to GO Power on the Vacation Date.

7.1.3 use its best endeavours to procure that any new occupant of the Supply Premises enters into a new agreement for the supply of Energy with GO Power on terms similar to this Agreement or such other agreement as is in place with the Customer immediately prior to the Vacation Date.

7.2 In the event that the Customer fails to comply with all its obligations pursuant to Clause 7.1 above, this Agreement will not be terminated and the Customer will remain liable to GO Power for all charges and any other costs incurred by GO Power in relation to the Energy supplied to the Supply Address, howsoever occasioned, until the earliest of the following events occurs:

- (a) a third party enters into an agreement for the provision of Energy at the Supply Premises; or?
- (b) the Supply Premises are de-energised.

## **8 CHARGES AND PAYMENT**

8.1 In consideration of the provision of the supply of Energy by GO Power to the Supply Point, the Customer shall pay the Charges.

8.2 From the Supply Period Start Date the Charges will be as detailed In the Energy Supply Contract as may be varied from time to time by GO Power in accordance with this Agreement.

8.2.1 In the event that accurate data is not available to GO Power for billing purposes, the Charges will be based on historical or estimated data. If accurate data subsequently becomes available GO Power reserves the right to recalculate the Charges using the accurate data. Any recalculation may take place up to 13 months after the month of consumption in accordance with market settlement rules. GO Power will not be liable to the Customer for any interest on any overpayment made by the Customer as a result of a billing error.

8.2.2 GO Power may charge a late payment fee on any overdue invoices or refused Direct Debit payments

8.3 When a supply of Energy is used by the Customer prior to the Supply Period Start Date or on a Deemed Contract, the Charges shall be an accumulation of the following:

8.3.1 The cost of Energy purchased from any of the following markets at GO Power's discretion entirely:

- (a) Day-Ahead;
- (b) Intra-Day; or
- (c) Balancing;

8.3.2 All Regulator approved charges; AND

- 8.3.3 A margin charge calculated at the rate of 620.00/MWh from the date Energy is supplied to the Supply point until the Supply Period Start Date.
- 8.4 When a supply of Energy is used after the Termination date, the Charges shall be an accumulation of the following:
- 8.4.1 The cost of Energy purchased from any of the following markets at GO Power's discretion entirely:
- (a) Day-Ahead;
  - (b) Intra-Day; or
  - (c) Balancing;
- 8.4.2 All Regulator approved charges: AND
- 8.4.3 A margin charge calculated at the rate of €20.00/MWh from the Termination or Expiry Date
- 8.5 The Charges may be varied by GO Power at any time during this Agreement:
- 8.5.1 with immediate effect:
- (a) if the Customer exceeds the Maximum Import Capacity, which may also result In GO Power changing the Customer to a tariff which, in the opinion of GO Power, is appropriate to the power use profile of the Customer;
  - (b) from time to time to reflect any changes in wholesale electricity prices, commodity prices or other input costs including but not limited to commodity fuel cost, financial cost, cost items included in wholesale electricity prices (including but not limited to renewable or gas capacity costs and any costs relating to carbon) or any other input costs or resulting from any change in Law or as a result of any action by any Government or Regulatory Authority, The amount charged may include any costs, expenses or loss incurred by GO Power in connection with any associated agreement with a broker, introducer, consultant, agent or other intermediary. GO Power shall be entitled to vary the Standing Charge, the Pass Through Charges and/or any other cost or charge component of the Charges from time to time to reflect any change in Law eras a result of any action by the Government, a Regulatory Authority, a Relevant System Operator or otherwise, including but not limited to any changes in third party charges incurred by GO Power in connection with the supply of Energy under this Agreement and/or any changed or discontinued rebates and energy efficiency related costs or charges; or
  - (c) In the event that any bulk power source used by GO Power to supply Energy is reduced or becomes unavailable as a result of Force Majeure as defined in Clause 9.1. Go Power may supply the Customer using an alternative source and in such circumstance Go Power shall be entitled to increase the Charges payable by the Customer to reflect any such increase in costs occasioned to GO Power as a result of such event.
- 8.5.2 In accordance with clause 16 Variation:
- (a) to reflect any increase in any element of the costs to GO Power of providing the supply of Energy that are not within GO Power's reasonable control. Including but not limited to:
    - (i) any variation in the use of system charges or transportation charges made by the Electricity Distributor and/or Gas Transporter;
    - (ii) where there are abnormal or excessive costs incurred in meter reading; or

(b) if any of the registration details of any Supply Point materially differs from that specified in the Energy Supply Contract; or

(c) if the Customer adds or removes Supply Points;

8.5.3 in accordance with Clauses 4.5. 8.9.

8.5.4 if Charges are varied in accordance with Clauses 8.5.1(a) or 3.5.1(b) or 8.5.1(c) GO Power will:

(a) notify the Customer of the changes to the Charges (or any component thereof) as soon as reasonably practicable on the next issued invoice after the increase comes into effect. Such changes shall take effect from the date specified by GO Power in such notification.

(b) use its best endeavours to ensure that any increases are only applied in circumstances where increased costs, expenses or charges, not within the contemplation of the Parties at the time this Agreement was entered into, are incurred by GO Power in supplying Energy.

(c) use its best endeavours to ensure that such variations are reasonable and fair and are reflective and proportionate to the additional costs, expenses or charges incurred by GO Power, if any. in supplying electricity.

(d) only increase Charges for such period or periods of time as any additional costs, expenses or charges as are incurred by GO Power such as to cause the variation In Charges for the Customer, persist.

8.6 The Customer shall pay each invoice submitted to it by GO Power by cleared funds on or before the 21<sup>st</sup> day of the month following the end of the relevant billing period.

8.7 Without prejudice to any other right or remedy that GO Power may have, if the Customer fails to pay GO Power any sum due under this Agreement on the due date:

(a) The Customer shall pay interest on any overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 8.8(a) will accrue each day at a default rate that is 10% points per annum above GBP 1 month LIBOR;

(b) GO Power may suspend all or part of the supply of Energy until payment has been made in full.

8.8 All sums payable to GO Power under this Agreement:

(a) are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

(b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required bylaw).

## **9 FORCE MAJEURE**

9.1 For the purposes of this Agreement, Force Majeure means, in relation to a Party, any of the following events or circumstances not within a Party's reasonable control which prevents the performance of this Agreement by that Part:

(a) acts of terrorists;

(b) war declared or undeclared, threat of or preparation for war, civil war, civil commotion, blockade, imposition of sanctions, embargo, or breaking off of diplomatic relations, revolution, riot, insurrection, invasion or armed conflict;

- (c) sabotage or acts of vandalism, criminal damage or the threat of such acts;
- (d) natural disasters and phenomena including flood, drought, earthquake, or any other significant adverse weather phenomena, or any epidemic or pandemic;
- (e) acts of national, local or foreign governmental authorities or courts;
- (f) Labour, trade dispute, strikes, industrial action and other similar actions involving or affecting supply of the service, provided same is not occasioned by the Party seeking to rely on this clause or companies in the same group as that Party;
- (g) nuclear, chemical or biological contamination or sonic boom;
- (h) collapse of buildings, fire, explosion or accident;
- (i) any law or any action taken by any government or public authority affecting the supply of Energy, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (j) events affecting a supplier of the Party that would have constituted Force Majeure under this Agreement.
- (k) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
- (l) interruption or failure in the supply of Energy of any relevant Relevant System Operator.

9.2 If the Force Majeure continues for more than thirty (30) calendar days, either Party may terminate this Agreement by giving seven (7) calendar days' written notice to the affected Party, If such termination is effected during a Fixed Term period there will be no requirement to pay an Early Cancellation Fee.

9.3 Neither Party shall be responsible for failure or delays in carrying out any of its duties under this Agreement to the extent to which the failure is caused by Force Majeure, provided that the affected Party;

- (a) has taken reasonable steps to prevent or avoid the Force Majeure:
- (b) carries out its duties to the best level reasonably achievable in the circumstances of the Force Majeure;
- (c) takes all reasonable steps to overcome and mitigate the effects of the Force Majeure as soon as reasonably practicable, including actively managing any problems caused or contributed to by third parties and liaising with them;
- (d) on becoming aware of the Force Majeure promptly informs the other Party in writing that something has happened which is a Force Majeure, giving details of the Force Majeure, together with a reasonable estimate of the period during which the Force Majeure will continue; and
- (e) provides written confirmation of the occurrence of a Force Majeure event;

## **10 DATA PROTECTION AND CONFIDENTIALITY**

10.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation and in particular the GDPR. This is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. Personal Data will be used for the purposes of this Agreement and may be used by GO Power and its affiliates for the purpose of marketing other products and services which may be of interest to the Customer,

- 10.2 Without prejudice to the generality of Clause 10.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to GO Power for the duration and purposes of this Agreement.
- 10.3 Without prejudice to the generality of Clause 10.1, GO Power shall, in relation to any Personal Data processed in connection with the performance by GO Power of its obligations under this Agreement:
- (a) process that Personal Data only on the written instructions of the Customer unless GO Power is required by the laws of any member of the European Union or by the laws of the European Union applicable to GO Power to process Personal Data (Applicable Data Processing Laws). Where GO Power is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, GO Power shall promptly notify the Customer of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit GO Power from so notifying the Customer;
  - (b) process that Personal Data only to the extent necessary for the legitimate interest of GO Power and its specified third parties, and as required for the performance of this Agreement and the rights of GO Power under it;
  - (c) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - (d) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
  - (e) not transfer any Personal Data outside of the European Economic Area unless the consent of the Customer has been obtained and the following conditions are fulfilled:
    - (i) the Customer or GO Power has provided appropriate safeguards in relation to the transfer;
    - (ii) the data subject has enforceable rights and effective legal remedies;
    - (iii) GO Power complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
    - (iv) GO Power complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
  - (f) assist the Customer, at the Customer's cost, In responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (g) notify the Customer without undue delay on becoming aware of a Personal Data breach; AND
  - (h) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Data Processing Law to store the Personal Data;

- 10.4 GO Power may share the Personal Data provided by the Customer with selected third parties including:
- (a) business partners, suppliers and subcontractors for the performance of any contract we enter into with them or the Customer
  - (b) in the event that GO Power sells or buys any business or assets, in which case they may disclose the Customers Personal Data to the prospective seller or buyer of such business or assets or if GO Power, or substantially all of its assets, are acquired by a third party, in which case the Customers Personal Data held by GO Power will be one of the transferred assets; and/or
  - (c) if GO Power is under a duty to disclose or share the Customers Personal Data In order to comply with any legal obligation, or in order to enforce or apply this Agreement and/or other agreements, or to protect the rights, property or safety of GO Power, its customers or others. This includes exchanging information with other companies and organisations for the purposes of fraud protection and credit risk reduction,
  - (d) to OFGEM and its agents to monitor developments in the energy market;
  - (e) to credit reference agencies; or
  - (f) if GO Power suspects that the Customer has committed theft, fraud, tampered with the Metering Equipment or diverted the energy supply for personal gain.
- 10.5 GO Power may record any telephone calls.

- 10.6 Each Party undertakes that it shall not at any time during this Agreement, and for a period of two years after termination of this Agreement, except as permitted by Clause 10.7, disclose to any person any confidential information concerning:
- (a) the business, affairs, customers, clients or suppliers of the other Party or of any member of the group of companies to which the other Party belongs;
  - (b) this Agreement and all information provided in connection with this Agreement

- 10.7 Each Party may disclose the other Party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this Clause 10;
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; or
  - (c) where the prior written consent of the other Party has been obtained

## 11 LIMITATION OF LIABILITY

- 11.1 The maximum liability of either Party to the other Party (whether for breach of contract, tort or otherwise) under or in connection with this Agreement shall not exceed the lower of:

11.1.1 an amount equal to Charges payable in the immediately preceding six months; or

11.1.2 €100,000.00

Per incident or series of related incidents, save that this shall not limit the Customers liability to pay for the Charges.

- 11.2 Nothing in this Agreement shall limit or exclude GO Power's liability for:
- (a) death or personal injury caused by its negligence;
  - (b) fraud or fraudulent misrepresentation, wilful deceit or gross negligence;
- 11.3 Subject to Clause 11.1, GO Power shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement for:
- (a) loss of profits;
  - (b) loss of sales or business;
  - (c) loss of agreements or contracts;
  - (d) loss of anticipated savings;
  - (e) loss of or damage to goodwill;
  - (f) loss of use or corruption of software, data or information;
  - (g) any indirect or consequential loss; or
  - (h) physical damage to property whether or not same was reasonably foreseeable, at the time of entry into this Agreement, as a likely result of any breach.
- 11.4 Neither Party shall be liable to the other for any breach of this Agreement directly or indirectly caused by Force Majeure.
- 11.5 The Customer acknowledges that the express obligations and warranties made by GO Power in this Agreement are in lieu of and to the exclusion of any other warranty, condition, term, undertaking or representation of any kind, explicit or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with this Agreement including (without limitation) as to the condition, quality, performance, merchantability or fitness for purpose of the Energy supplied under this Agreement.
- 11.6 The Customer acknowledges that given the nature of the relationship between the customer and GO Power, the complex nature of the services to be provided and the availability of insurance, the exclusions and limitations of liability and warranties as set out in this Agreement are fair and reasonable in all the circumstances.

## **12 TERMINATION**

- 12.1 Without affecting any other right or remedy available to, either Party may terminate this Agreement;
- 12.1.1 If the Customer is a Microbusiness, on providing 30 Business Days written notice to the other Party specifying the date of termination in the following circumstances:
- (a) if a fixed term is specified in the Energy Supply Contract and/or Special Conditions;
    - (i) no more than 90 Business Days prior to the Expiry Date; or
    - (ii) at any time after the Expiry Date.
  - (b) if no fixed term is specified in the Energy Supply Contract and/or Special Conditions, at any time by giving no less than 90 Business Days' notice of Termination Date.
- 12.1.2 If the Customer is not a Microbusiness, on providing 90 Business Days written notice to the other Party specifying the date of termination in the following circumstances:
- (a) If a fixed term is specified in the Energy Supply Contract and/or Special Conditions;
    - (i) no more than 120 Business Days prior to the Expiry Date; or
    - (ii) at any time after the Expiry Date.
  - (b) If no fixed term is specified in the Energy Supply Contract and/or Special Conditions, at anytime by giving no less than 150 Business Days' notice of Termination Data

- 12.2 Either Party may terminate this Agreement with immediate effect on written notice to the other Party where the other Party.
- (a) commits a material breach of any term of this Agreement which breach is irremediable or if such breach is remediable fails to remedy that breach within a period of 30 days after being notified in writing to do so;
  - (b) suffers an Insolvency Event;
  - (c) suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Provided always that it is hereby acknowledged and accepted by the Customer that any notice to terminate will only be valid and acceptable to GO Power if it is served directly by the Customer, Any notice served by a third party intermediary will not be validly served and GO Power will be entitled to refuse to accept same.

- 12.3 Without affecting any other right or remedy available to it, GO Power may terminate this Agreement and/or arrange for the Supply Point(s) to be De-energised with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under this Agreement; or
  - (b) the Customer, in GO Power's reasonable belief, has made unauthorised use of electricity, tampered with the Metering Equipment for personal gain and/or committed a theft of electricity; or
  - (c) GO Power ceases to hold the electricity licence or to be a party to any other licence, consent, approval or agreement necessary to allow GO Power to provide the supply of Energy; or
  - (d) any of the warranties set out In Clause 5 are held to have been or to become false, inaccurate or misleading at any time; or
  - (e) any of the Conditions Precedent set out in Clause 2 ceases to be satisfied in respect of any Supply Point; or
  - (f) the customer sells or otherwise vacates a Supply Address otherwise than in accordance with Clause 7.1; or
  - (g) a Supply Address ceases to be premises to which GO Power is able to or may supply Energy

12.4 The requirement for GO Power to provide notice under Clause 12.3 shall not apply where, in the opinion of GO Power, such De-energisation is required to prevent damage to property or personal injury.

12.5 In the event that GO Power varies this Agreement in accordance with Clause 16, the Customer may terminate this Agreement by giving written notice to GO Power of no less than 7 calendar days, provided that such written notice is received by GO Power not later than the date falling 14 days after the date upon which the Customer is notified of the variation by GO Power,

12.6 No right to terminate this Agreement by the Customer shall arise as a result of Charges being varied in accordance with Clauses 8.5.1 (a), 8.5.1 (b) or 8.5.1 (c).

12.7 If the Customer has terminated this Agreement In accordance with Clauses 12.1,12.2 or 12.5 but on the Termination Date, GO Power is still the Registered Supplier for the Supply Point, this Agreement shall remain in force and the Customer shall remain liable to pay GO Power for all Charges until such time as a new supplier becomes the Registered Supplier or the Supply Address is De-energised.

## **13 CONSEQUENCES OF TERMINATION**

### **13.1 On termination of this Agreement:**

- (a) the Customer shall immediately pay to GO Power on demand all sums then due and payable together with any Accrued Charges due under this Agreement. The Customer shall indemnify GO Power in full, on demand. In respect of any costs, losses or expenses incurred by GO Power as a result of such termination or the De-energisation of any Supply Point;
- (b) the Customer shall, not take any further delivery of Energy from GO Power
- (c) the Customer shall and shall procure that its employees and agents shall provide reasonable access to the Supply Address to Go Power or any of their agents, representatives in order to remove any

property or equipment belonging to GO Power or GO Powers agents and the Customer will be responsible for any associated costs of such action.

(d) The Customer will provide closing meter reading from the Supply Point;

13.2 The Customer shall Indemnify and pay to GO Power:

13.2.1 in full, on demand, all Charges due to GO Power as a result of De-energisation and any subsequent resumption of the supply (including any payments which GO Power is required to make to any Relevant System Operator).

13.2.2 in full and on demand (the Charges for any Energy taken at the Supply Point calculated in accordance with Clause 8.2, 8.3 or 8.4 as the circumstances require;

13.3 During a Fixed Term if either (1) this Agreement is terminated prior to the Expiry Date or (2) the Customer vacates the Supply Address prior to the Expiry Date, the Customer shall pay to GO Power:

13.3.1 the Early Cancellation Fee: and

13.3.2 any costs, expenses or loss incurred by GO Power in connection with any associated agreement with a broker, introducer, consultant, agent or other intermediary; and

13.3.3 the cost of cancelling any related energy trade that GO Power could not supply during the remainder of the fixed period and/or the loss of income that would otherwise have become due for the Energy that GO Power could not supply during the remainder of the fixed period; and

13.3.4 any other losses incurred by GO Power; and

13.3.5 any Charges for any Energy supplied to the Supply Point after the Expiry Date as calculated in accordance with Clause 8.3. until the earlier either;

(a) the Supply Address is De-energised; or

(b) the Supply Period Start Date for any subsequent new Agreement entered into In respect of the Supply Address

13.4 The following clauses shall continue in force: *Clause 10 (Confidentiality), 11 (Limitation of liability), Clause 13 (Consequences of termination), Clause 17 (Waiver), Clause 19 (Severance), Clause 14 (dispute resolution procedure). Clause 24 (Governing law and Jurisdiction).*

13.5 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

## **14 DISPUTE RESOLUTION**

14.1 All complaints shall be dealt with in accordance with the Code of Practice on Complaints which is available on the website [www.gopower.co.uk](http://www.gopower.co.uk) or a hard copy can be provided on request by the Customer. Either Party may refer for consideration to the other Party's senior manager or director, any dispute arising out of or in connection with this Agreement that remains unresolved between the Parties for a period of 30 days. Any such referral must be in writing and include a clear summary of the facts and issues relevant to the dispute.

14.2 Following receipt of a referral pursuant to Clause 14.1, the Parties shall meet to resolve the dispute in good faith within 15 days.

- 14.3 If the Parties fail to resolve the dispute in accordance with Clauses 14.1 and 14.2 the Parties may require the dispute to be determined by one of the following experts;
- (a) the Consumer Council for Northern Ireland the independent statutory body for electricity and gas complaints may be able to help and give you further advice at no cost to you. They can be contacted on 0800 121 6022, or e-mail: [contact@consumercouncil.org.uk](mailto:contact@consumercouncil.org.uk) or in writing to the Consumer Council at Floor 3, Seatem House, 28-32 Alfred Street, Belfast, BT2 8EN. (Your right to go to court if you deem the solution unsatisfactory is not affected by this procedure).:
  - (b) the Utility Regulator in respect of billing complaints; or
  - (c) The courts of Northern Ireland whose decision will be final and binding on both Parties and whose cost will be paid as determined by the court.
- 14.4 Save in respect of a dispute regarding termination of this Agreement, performance of the Agreement by both Parties will continue during the period of dispute resolution process.
- 14.5 Once a dispute is resolved, whether by agreement between the Customer and GO Power or by an appointment under Clause 14.3. any amount payable by the Customer to GO Power, or by GO Power to the Customer, shall be paid within 3 business days together with interest incurred due to the delay in payment from the date the original disputed invoice was due, to the date on which payment for the actual amount determined in accordance with this Clause 14 is paid.

## **15 ASSIGNMENT AND OTHER DEALINGS**

- 15.1 This Agreement is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 15.2 GO Power may at anytime assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement.

## **16 VARIATION**

- 16.1 GO Power may vary this Agreement at any time by notifying the Customer in writing of any new terms with not less than 30 days notice before such changes take effect.
- 16.2 No variation of this Agreement by the Customer shall be permitted unless consented to and confirmed in writing by Go Power, at their own discretion entirely.

## **17 WAIVER**

- 17.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 17.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **18 RIGHTS AND REMEDIES**

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **19 SEVERANCE**

If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision to the minimum extent necessary, so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision. Failing such agreement, the provision shall be determined by GO Power acting in good faith, in such a way as to give effect to the commercial intent of the parties as set out in this Agreement.

## **20 ENTIRE AGREEMENT**

20.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

20.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement-

## **21 NO PARTNERSHIP OR AGENCY**

21.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

21.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

21.3 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **22 NOTICES**

22.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the address specified in the Energy Supply Contract,

22.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- (c) if sent by email, the same day as successful transmission.

22.3 This clause does not apply to the service of any proceedings or any documents in any legal action which must be served by post to

- (a) the Registered address of LCC Power Limited trading as GO Power, OR
- (b) the Customer's address.

## **23 ANTI-BRIBERY**

GO Power conduct all business in an honest and ethical manner and (take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all business dealings and relationships, GO Power shall;

- (a) Comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- (b) Not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) Comply with the Customer's ethics and anti-bribery policy (if any);
- (d) Have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with all relevant legislation and regulations, and will enforce them where appropriate;
- (e) Promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by GO Power in connection with the performance of this Agreement.

## **24 GOVERNING LAW**

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Northern Ireland and each Party irrevocably agrees that the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.