

## DEEMED GAS SUPPLY TERMS

Paragraph 8 of Schedule 2B to the Act provides for certain circumstances in which the owner or occupier of premises will be deemed to have contracted with the Supplier for the supply of gas to those premises. Paragraph 8 of Schedule 2B to the Act also provides for the Supplier to make a scheme for determining the terms and conditions which are to be incorporated into the resulting deemed contracts. These are the terms and conditions that apply pursuant to that scheme with effect from 12 December 2022.

The Charges payable under these Deemed Supply Terms will likely be more expensive than those available under written contracts with the Supplier or other energy suppliers.

Please also note that the Charges payable under these Deemed Supply Terms are subject to change without notice, and may be changed frequently to reflect market conditions.

### **1 Status**

1.1 These Deemed Supply Terms form part of the Supply Contract, and govern the supply of gas by the Supplier to the Customer at each of the Premises.

1.2 The Customer represents and undertakes to the Supplier that the Premises:

- (a) are not Domestic Premises or Micro Business Premises or Green Deal Premises; and
- (b) are connected to the Local Network or to the Transmission System.

### **2 Commencement of Supply**

2.1 The Supplier shall supply gas to each of the Premises with effect from the Supply Start Date.

2.2 The Supplier may, at the start of or any time during the Supply Contract, check or assess the Customer's creditworthiness. If the Supplier is of the opinion that it is reasonable in the circumstances to do so, the Supplier may require the Customer to provide Credit. The Customer shall provide any and all such Credit as from time to time required by the Supplier within 5 Business Days of the Supplier's request.

### **3 Connection Terms**

- 3.1 The Customer shall notify the Supplier of those Premises for which the Customer has a Network Exit Agreement (as defined in the UNC), and shall (where applicable) provide a copy of each such agreement to the Supplier.
- 3.2 The Customer shall notify the Supplier if the Premises are interruptible sites. If the sites are interruptible sites, the Customer shall comply with the interruption arrangements agreed with the Network Operator, and shall reimburse the Supplier for any and all costs incurred as a result of any interruption.
- 3.3 The gas supplied under the Supply Contract will be delivered to the Premises by the Network Operator. The Network Operator is responsible for maintaining the Network (and the connection of the Premises to the Network), and the Network Operator may interrupt or cut-off the supply of gas in accordance with its legal rights to do so.
- 3.4 Information about the guaranteed standards of performance that the Network Operator may provide can be found on the Energy Networks website at [www.energynetworks.squarespace.com/standards-ofperformance](http://www.energynetworks.squarespace.com/standards-ofperformance).

### **4 Supply of Gas**

- 4.1 The Supplier shall supply gas to each Premises from the Supply Start Date until the end of the Contract Period.
- 4.2 The Supplier may isolate or disconnect the supply of gas to any or all of the Premises at any time:
- (a) if a Material Reason (as defined in Clause 13 below) occurs in respect of the Customer and is continuing;
  - (b) where it is permitted or required to do so in accordance with law or the Industry Rules;
  - (c) the Supplier reasonably believes that the Metering System has been subject to damage or interference (otherwise than by the Meter Agents (unless in case of Clause 5.3), the Supplier or the Network Operator); and/or
  - (d) where the Customer is in breach of the Supply Contract (including where the Customer has failed to make any payment due in accordance with the Supply Contract, or to provide Credit in accordance with the Supply Contract).

- 4.3 If the supply of gas to any Premises is isolated or disconnected pursuant to Clause 4.2, the Customer shall pay all reasonable costs incurred or suffered by the Supplier in:
- (a) isolating or disconnecting the supply to the Premises; and
  - (b) where applicable, in subsequently reconnecting the supply to the Premises,
- whether incurred before, during or after the Contract Period.
- 4.4 The Supplier shall supply gas with a standard of pressure and purity in accordance with the Act and any associated regulations.
- 4.5 Where the Customer believes that there is (or may have been) an escape of gas, the Customer shall immediately telephone the Network Operator on the number provided for that purpose from time to time and shall promptly inform the Supplier.

## **5 Metering System**

- 5.1 The volume of gas supplied to each Premises will be measured by the Metering System installed at that Premises.
- 5.2 Subject to Clause 5.3, the Supplier shall, in respect of each Premises, ensure that the Metering System is provided, installed, operated, read and maintained in accordance with Good Industry Practice and the Industry Rules (and may replace each such Metering System at any time).
- 5.3 Where the Supplier consents, the Customer may contract directly with a Meter Agent, in which case the Customer shall, in respect of each Premises, ensure that the Metering System is provided, installed, operated, read and maintained in accordance with Good Industry Practice and the Industry Rules (and may replace each such Metering System at any time). Furthermore the Customer must ensure that the meter is tested and stamped in accordance with section 17 of the Act or conforms with the requirements of the Directive.
- 5.4 The Customer shall not (and shall take all reasonable precautions to ensure that no other person is able to) cause damage to, or tamper or interfere with, the Metering System.
- 5.5 The Customer shall:
- (a) ensure the Metering System is at all times protected from the risk of damage and is clearly accessible by the Supplier (and the Meter Agents and the Network Operator), such that it can be inspected, maintained and read in a safe and secure manner; and

- (b) provide such information about the Metering System as may be reasonably requested from time to time by the Supplier for the purpose of maintaining or updating the Customer's account.
- 5.6 If either Party disputes the accuracy of the Metering System, the Party responsible under Clause 5.2 or 5.3 shall arrange for the Metering System to be inspected and tested, and:
  - (a) where the Metering System is found to be operating outside of the tolerance as defined by the Industry Rules applying to the Metering System, all costs arising from or associated with the inspection and test shall be paid by the Party responsible under Clause 5.2 or 5.3; and
  - (b) where the Metering System is found to be working within the tolerance as defined by the Industry Rules applying to the Metering System, all costs arising from or associated with the inspection and test shall be paid by the Party disputing the accuracy of the Metering System.
- 5.7 The Customer shall notify the Supplier, as soon as is reasonably practicable, of any queries or disputes regarding the Metering System or the operation of the Metering System.
- 5.8 Where the Customer appoints the Meter Agent in accordance with Clause 5.3, the Customer shall:
  - (a) procure that the Meter Agent provides the Supplier with all information required, and in the form required, by the Supplier (or its authorised representative) in order to fulfil its obligations under the Supply Contract or under a relevant Industry Rule;
  - (b) enter into, and procure that the Meter Agent enters into, any additional agreements that the Supplier may reasonably require;
  - (c) pay for and indemnify the Supplier against any loss or damage, or additional cost incurred or suffered by the Supplier as a result of the Meter Agent's acts or omissions or failures; and
  - (d) give the Supplier at least 28 days' notice of (and obtain the Supplier's consent to) any proposed change of the Metering System installed at a Premises or of the identity of the Customer's Meter Agent.

## **6 The Premises**

- 6.1 The Customer shall allow the Supplier (and its contractors and agents, including the Meter Agents) and the Network Operator (and its contractors and agents) such access to the Premises as may be required by any such person for purposes related to the Supply Contract, including in respect of the:
  - (a) installation, removal, maintenance, reading and testing of the Metering System; and

- (b) the isolation, disconnection or reconnection of the supply to the Premises.
- 6.2 Where practicable to do so, a person requiring access to the Premises will endeavour to give reasonable advance notice to the Customer of such required access.
- 6.3 The Customer shall:
- (a) maintain each Premises (and the gas equipment and pipes at each Premises) in good and safe working order and in compliance with law; and
  - (b) ensure that each Premises remains connected to the Network, and maintain and comply with all necessary agreements and consents relating to such connection (including in respect of the maximum daily quantities and maximum hourly quantities for each Premises).
- 6.4 The Customer shall pay the Supplier, and keep the Supplier fully and effectually indemnified against any costs, losses or charges suffered or incurred by the Supplier as a result of the Customer's breach of this Clause 6.

## **7 Variation**

- 7.1 The Supplier may vary these Deemed Supply Terms from time to time (subject to the requirements of the Act). Unless expressly stated otherwise, all such variations shall apply to Supply Contracts created prior to such variation (as well as to those created after such variation).
- 7.2 The Parties may at any time agree in writing to vary any provision of the Supply Contract.

## **8 Limitation of Liability**

- 8.1 The Supplier shall not be liable to the Customer (under or in relation to the Supply Contract) for:
- (a) any loss of profit or anticipated profit, loss of revenue, damage to reputation, loss of use, loss of goodwill, loss of contract (whether direct or indirect);
  - (b) any indirect loss (being loss that was not reasonably foreseeable at the date of the Supply Contract as likely to arise in the ordinary course of events);
  - (c) any loss resulting from the liability of the Customer to any other person howsoever arising;
  - (d) any loss, damage or corruption caused by loss of data stored electronically; or
  - (e) any loss or damage arising from any interruption in or to the supply of gas.

- 8.2 Neither Party excludes or limits its liability in respect of death or personal injury resulting from its negligence. Each Party shall indemnify the other against all such liability incurred by the other on account of death or personal injury resulting from the first Party's negligence.
- 8.3 The Supplier is not responsible or liable for the maintenance of the connection between the Network and the Premises and does not guarantee that gas delivered to the Premises is free from variations in pressure or quality or from interruption.
- 8.4 In any event, the liability of the Supplier to the Customer under or in relation to the Supply Contract is (if not otherwise excluded under this Clause 8) limited to the lesser of: (a) one million pounds (£1,000,000); or (b) an amount equal to six times the average monthly Charges during the Contract Period that has expired prior to the liability arising, (in either case) in respect of each incident or series of related incidents or in respect of all incidents in any calendar year.
- 8.5 The Supplier may deduct from any payment that would otherwise be due to the Customer in accordance with this Clause 8 (or, where such payment has been made, recover from the Customer) any amount the Customer has received, or is entitled to receive, in respect of the same loss from the Network Operator.
- 8.6 No provision of this Supply Contract affects the statutory rights of either Party; provided that all warranties and conditions that would otherwise be implied by law are hereby excluded to the fullest extent permitted by law.

## **9 Confidentiality**

- 9.1 The Supply Contract is confidential between the Parties and shall not be disclosed by either Party to any third party. All technical and commercial information supplied by either Party to the other in connection with the Supply Contract shall remain the property of the furnishing Party, shall be kept confidential and shall not be copied, modified, disclosed or used by the receiving Party otherwise than for the purposes required to perform its obligations and enforce its rights under the Supply Contract.
- 9.2 Notwithstanding any other provision of the Supply Contract the provisions of this Clause 9 shall continue to bind a Party for a period of 2 years after the Termination Date (or after the date a person ceases to be a Party for whatever reason).
- 9.3 The restriction on disclosure under Clause 9.1 shall not apply to information that is:
- (a) disclosed with the other Party's prior written consent;

- (b) disclosed by a Party to a Network Operator, or to the Party's directors, employees, Affiliates, agents, professional advisers, bank or other financing institution, insurer, rating agency or intended purchaser or assignee (provided that each Party shall be liable for any onward disclosure by such persons in breach of this Clause 9);
  - (c) disclosed to comply with any applicable law, regulation, or rule of any exchange, Network Operator or regulatory body, or in connection with any court or regulatory proceeding; provided that each Party shall, to the extent practicable and permissible under such law, regulation, or rule, use reasonable efforts to prevent or limit the disclosure and to give the other Party prompt notice of it;
  - (d) in or lawfully comes into the public domain other than by a breach of this Clause 9; or
  - (e) disclosed to price reporting agencies or for the calculation of an index provided that such disclosure shall not include the identity of the other Party.
- 9.4 The Customer shall provide relevant information regarding consumption and metering to the Supplier if so required by the Supplier.
- 9.5 The Supplier undertakes to process any personal data it obtains under the Supply Contract in accordance with the Data Protection Act 2018. The Supplier shall be entitled to use any data it obtains under the Supply Contract for the purposes of checking credit references and seeking to detect and prevent fraud and/or theft of energy. The Supplier shall be entitled to share any data it obtains under the Supply Contract with third parties in relation to credit checking and fraud and/or theft detection and prevention.

## **10 Force Majeure**

- 10.1 Where either Party is unable to perform (or is delayed in performing) its obligations by reason of Force Majeure, the Supply Contract shall remain in effect but both Parties' affected obligations shall be suspended without liability for the period of the Force Majeure provided that:
- (a) such suspension is of no greater scope or duration than is reasonably necessary;
  - (b) the non-performing Party uses its reasonable endeavours to remedy its inability to perform; and
  - (c) no obligations accruing before the Force Majeure occurred are excused.

10.2 Where the obligations of a Party have been adversely affected by Force Majeure on each day for a consecutive period of thirty (30) days or for a period of sixty (60) days in aggregate, then such Party which is not the affected Party shall have the right to terminate the Supply Contract forthwith by written notice to the affected Party. There shall be no obligation for the affected Party to pay damages with respect to those quantities not delivered or received.

## **11 Charges and Payment Terms**

11.1 The Customer will pay the Supplier the Charges, and any other amounts required to be paid or reimbursed to the Supplier under the Supply Contract.

11.2 The Charges are exclusive of VAT which, where applicable, will be paid by the Customer upon receipt of a valid VAT invoice. Should a special regime be applicable for the respective transaction (tax exemption, reverse charge etc.), the Parties are obliged to provide each other with a valid VAT invoice and any documentation legally needed to make it possible to comply. In case the applicable tax regime foresees a shift of the liability to account for the tax to the recipient (e.g. reverse charge), the receiving Party confirms that it will comply with its respective obligations.

11.3 The Supplier shall invoice the Customer for the Charges on a weekly or monthly basis (as the Supplier from time to time determines). The Supplier shall ordinarily invoice the Customer in arrears, but may (if the Supplier is of the opinion that it is reasonable in the circumstances to do so) opt to invoice the Customer in advance based on a reasonable estimate of the likely Charges for the given period (such estimate to be reconciled by the Supplier after the end of such period, and any under or over payment accounted for by the Supplier in a subsequent invoice).

11.4 The Customer shall pay each invoice within 3 Business Days from the date of the invoice.

11.5 The Customer shall make each such payment by BACS to the bank account specified in the relevant invoice.

11.6 Where the Customer does not pay the Charges by the payment date, the Supplier may (without prejudice to its other rights) charge interest on the overdue amount at the rate prescribed by the Late Payment of Commercial Debts (Interest) Act 1988 (or such lower rate as the Supplier may decide).

11.7 The Customer shall pay the Charges in full without any deduction or set-off.

11.8 If meter readings for the Supply Start Date or any period of the Contract Period are not available, the Supplier shall use estimated data. The Supplier shall also use estimated data where the Supplier



reasonably considers that the meter readings are inaccurate. Any such estimates shall be subject to reconciliations as actual or more accurate information becomes available.

- 11.9 Where the Customer is, becomes or ceases to be, entitled by law to an exemption in respect of the Climate Change Levy or any other pass-through element of the Charges, then the Customer shall promptly notify the Supplier and provide any evidence or documentation the Supplier may require in relation to the same. Unless and until the Customer provides the Supplier with this evidence and documentation, the Supplier shall not be obliged to apply the exemption.
- 11.10 The Parties shall be mindful in their relations to other counterparties to comply with VAT requirements; the Parties represent not to knowingly deal with counterparties being involved in VAT frauds.
- 11.11 If allowed by applicable law and in case the Parties agree in writing that, instead of the Supplier raising a commercial/sales invoice to the Customer, the Customer shall issue a self-billed invoice, then (notwithstanding Clause 11.3) it shall be the Customers/self-biller's obligation to issue the self-billed invoice in accordance with applicable law. Having said this, the self-billing invoice shall contain the Supplier's name, address, VAT registration number together with all other details which constitute a full VAT invoice according to applicable VAT legislation. The Supplier/self-billee accepts invoices raised by the Customer and at the same time agrees not to issue invoices for the supplies covered by the Supply Contract. The Supplier shall immediately notify the Customer/self-biller if the VAT registration number of the Supplier changes or if the Supplier ceases being VAT registered or if the Supplier sells its business or part of it, or other legal changes relevant for invoicing. In addition, the Supplier shall notify the Customer/self-biller if relevant details are missing on the self-billing invoice in order to constitute a valid VAT invoice according to the Supplier's jurisdiction. Each Party is responsible for its own VAT compliance. In particular, the Customer/self-biller assumes no responsibility for the correct VAT treatment of the self-billing invoices issued by him. If the Customer/self-biller intends to outsource the responsibility for issuing self-billing invoices, the Supplier has to agree in writing beforehand.
- 11.12 If the Supplier took over the supply of gas to the Premises under a 'Last Resort Supply Direction' (as defined in the Supply Licence), then the Supplier shall honour any credit balance which the Customer had with the previous supplier, if the Supplier agreed to do so as part of its appointment as supplier.

## **12 Termination**

- 12.1 The Supply Contract will automatically terminate on the Expiry Date.

- 12.2 If a Material Reason (as defined in Clause 13 below) with respect to the Customer has occurred and is continuing, then the Supplier may terminate the Supply Contract ("Early Termination") by giving the Customer notice. A notice of Early Termination may be given by telephone if that notice is confirmed in writing within two (2) Business Days.
- 12.3 A notice of Early Termination shall specify the relevant Material Reason for the Early Termination and shall designate a day as an early termination date (the "Early Termination Date"). The Early Termination Date may not be earlier than the day the notice is deemed to have been received under the Supply Contract.
- 12.4 With effect from the Early Termination Date all further payments and performance in respect of the Supply Contract shall be released (and not merely suspended).
- 12.5 If notice designating an Early Termination Date is given, the Early Termination Date shall occur on the date so designated even if the applicable Material Reason is no longer continuing.
- 12.6 The right to designate an Early Termination Date under this Clause 12 is in addition to any other remedies available under the Supply Contract or at law.

### **13 Material Reason**

- 13.1 A Material Reason means, with respect to the Customer (the "Affected Party"):
- (a) *Breach of Agreement*: the failure by the Affected Party to make payment when due, or a breach by the Affected Party of any other obligation under the Supply Contract, and such failure continues for 3 Business Days after receipt of notice thereof;
  - (b) *Cross Default*:
    - (i) any default, event of default or other similar condition or event (however described) in respect of the Affected Party or the Affected Party's Credit Support Provider (if such Party has a Credit Support Provider) under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) which has resulted in such Specified Indebtedness becoming due and payable under such agreements or instruments before it would had been otherwise due and payable, or
    - (ii) the default of the Affected Party or its Credit Support Provider or (individually or collectively) to make one or more payments on the due date thereof under one or

more agreements or instruments relating to Specified Indebtedness (after giving effect to any applicable notice requirement or grace period);

- (c) *Material Adverse Change*: the occurrence of a Material Adverse Change with respect to the Affected Party, and the Affected Party fails to provide a guarantee, letter of credit or other credit support in a form and amount satisfactory to the Supplier for the performance of the Affected Party's financial obligations within 3 Business Days of the Supplier's written request for such credit support;
- (d) *Representations and Undertakings*: breach by the Affected Party of the representations and undertakings under Clause 1.2 in respect of one or more Premises; and/or
- (e) *Insolvency etc*: the Affected Party (or its Credit Support Provider, if any): (i) makes an assignment or arrangement for the benefit of creditors; (ii) files a petition or commences a proceeding under any bankruptcy or similar law (including administration, insolvency or moratorium); (iii) has such a petition filed against it; (iv) becomes insolvent; and/or (v) is unable to pay its debts as they fall due.

13.2 The Supply Contract will end automatically and with immediate effect if the Supply Licence is revoked, or if a 'Last Resort Supply Direction' (as defined in the Supply Licence) is given to another supplier in respect of the supply of gas to the Premises. Such termination shall be on a non-fault basis, and shall not entitle either Party to any compensation in respect of losses arising as a result of such termination.

13.3 The occurrence of the Termination Date shall be without prejudice to each Party's rights and obligations which have accrued on or prior to the Termination Date. The Termination Date shall also be without prejudice to the continuing validity of any provision of the Supply Contract which expressly or by implication is intended to come into or remain in force on or after the end of the Supply Contract (including the Customer's obligation to pay the Charges).

#### **14 Objection to Transfer**

14.1 The Supplier may, in relation to a Premises object to, and thereby prevent, the Customer transferring to another supplier where:

- (a) the Customer has failed to pay any Charges which are overdue; or
- (b) the Supplier is otherwise able to do so in accordance with the Supply Licence.

## 15 Miscellaneous

- 15.1 The Supply Contract constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes and extinguishes any representations previously given or made other than those included in the Supply Contract, provided that nothing in this Clause 15.1 shall limit or exclude any liability for fraud in relation to those representations. Nevertheless, the Supply Contract is without prejudice to the saving provisions of any other supply contract between the Parties that terminated immediately prior to the Supply Contract coming into effect.
- 15.2 All notices, declarations or invoices sent by one Party to the other under or in connection with the Supply Contract shall be in writing and shall be delivered by letter (recorded mail or courier) to the registered office of the respective Party (or, in the case of notices to the Customer, the Premises) or to such email address as either Party may have notified to the other. Each Party may change its notice information by written notice to the other. All legal notices to the Supplier must also be copied to [Axpouklegalnotices@axpo.com](mailto:Axpouklegalnotices@axpo.com). Written notices, declarations and invoices shall be deemed received and effective:
- (a) if delivered by recorded mail or courier, on the Business Day of delivery (or, if not delivered on a Business Day or delivered after 17.00 hours on a Business Day, on the next Business Day);  
or
  - (b) if delivered by email, on the Business Day of delivery (or, if not delivered on a Business Day or delivered after 17.00 hours on a Business Day, on the next Business Day).
- 15.3 The Parties agree that a person who is not a party to the Supply Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 15.4 Neither Party shall be entitled to assign its rights and/or transfer its obligations under the Supply Contract to a third party without the prior written consent of the other Party. Such consent shall not be unreasonably delayed, refused or withheld.
- 15.5 The Parties agree that should any provision of the Supply Contract be declared invalid or unenforceable by any Competent Authority:
- (a) they shall forthwith enter into good faith negotiations to amend such provision in such a way that, as amended, it is valid and legal and to the maximum extent possible carries out the original intent of the Parties as to the point or points in question; and

(b) any such declaration shall not prejudice or affect any other provision of the Supply Contract which shall continue in full force and effect.

15.6 Any failure or delay by a Party in enforcing any of its rights under the Supply Contract shall not be treated as a waiver of those rights, unless that Party expressly waives such rights by giving written notice.

15.7 The Customer undertakes to comply with the Supplier's requests in relation to the supply of gas provided under the Supply Contract at no cost to the Supplier where such requests are necessary for the Supplier's compliance with the Industry Rules.

15.8 Each Party shall ensure that it complies with all applicable laws from time to time concerning bribery, corruption, facilitation of tax evasion and/or money laundering.

## **16 Applicable Law and Jurisdiction**

16.1 The Supply Contract (and all contractual and non-contractual matters arising in relation to the Supply Contract) shall in all respects be governed by and interpreted in accordance with the Laws of England.

16.2 Any dispute arising out of or in connection with the Supply Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this Clause 16.2. The number of arbitrators shall be three, each Party having the right to nominate one arbitrator. The place of arbitration shall be London, England where all hearings and meetings shall be held, unless the Parties agree otherwise. The language to be used in the arbitral proceedings shall be English and the Parties hereby expressly waive any right of appeal to any court having jurisdiction on any question of fact or law.

## **17 Definitions and Interpretation**

17.1 Unless otherwise specified, words and expressions used in the Supply Contract shall bear the meaning as ascribed to them in this Clause 17:

**Act:** means the Gas Act 1986 and any legislation made under such Act;

**Affiliate:** means with respect to a Party, any entity Controlled, directly or indirectly, by that Party, any entity that Controls, directly or indirectly that Party or any entity directly or indirectly under the common Control of a Party;

**Business Day:** means a day (other than a Saturday or a Sunday) on which commercial banks are open for general business in London (UK);

**Charges:** means the unit prices, standing charges and pass-through amounts applicable to the Supplier's deemed contracts, as published by the Supplier on its website from time to time (and currently <https://www.axpo.com/gb/en/business/energy-supply.html>), as such rates, charges and amounts may be revised from time to time. Updates to the Charges will be published on the Supplier's website, and shall have effect as described in the update. Specific notice to the Customer is not required;

**Competent Authority:** means any regional, national or supranational court, authority, inspectorate, department, regulator or other governmental or administrative body (in each case to the extent having jurisdiction over either or both of the Parties, the Supply Contract and/or its subject-matter);

**Contract Period:** means the period from the Supply Start Date until the Termination Date;

**Control:** means ownership of more than fifty per cent (50%) of the voting power of a Party or entity;

**Credit:** means cash collateral (transferred on the basis of an outright title transfer), guarantees, bonds, letters of credit or any other credit support (in each case) as specified by the Supplier from time to time and deemed appropriate by the Supplier to cover, or provide assurance for covering, the financial obligations of the Customer under the Supply Contract;

**Credit Support Provider:** means, in respect of any Credit, the person providing the Credit;

**Customer:** means the person, firm or company that has been deemed to have contracted with the Supplier for the supply of gas to the Premises pursuant to Schedule 2B to the Act;

**Domestic Premises:** means premises at which a supply of gas is taken wholly or mainly for domestic purposes (as further defined in the Supply Licence);

**Expiry Date:** means, in respect of the Premises, the earlier of the date on which:

- (a) a contract for the supply of gas to the Premises by the Supplier (other than the Supply Contract) comes into effect; or
- (b) a contract for the supply of gas to the Premises by a gas supplier other than the Supplier comes into effect and once that gas supplier has become Registered;

**Force Majeure:** means, in respect of a Party, any event or circumstance which is beyond the reasonable control of such Party (other than a lack of funds, or strikes only of a Party's own

employees, agents or contractors); provided that such event or circumstance could not have been prevented or overcome had such Party acted in accordance with Good Industry Practice;

**Good Industry Practice:** means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

**Green Deal Premises:** means premises that are subject to a green deal arrangement as further described in the Supply Licence;

**Industry Rules:** means the Act, the Supply Licence, the Uniform Network Code, any other network code of any gas transporter, and any other agreement or code referred to in the Supply Licence;

**Local Network:** means, in respect of each Premises, the local gas distribution system (if any) to which the Premises is (or is intended to be) connected;

**Material Adverse Change** means for the Customer as Affected Party, if in the reasonable and good faith opinion of the Supplier, the ability of the Customer to perform its obligations under the Supply Contract, is materially impaired;

**Meter Agent:** means a meter asset provider, meter installer, meter asset manager, and/or a meter reader (in each case approved as such under the Industry Rules where and to the extent necessary);

**Metering System:** means any meters, data loggers, mains, pipes, telecommunications, automatic meter reading device or other equipment provided for the purpose of supplying and ascertaining the quantity of gas supplied to the Customer (and, in respect of a Premises, means the Metering System for that Premises);

**Micro Business Premises:** means premises at which a supply is taken by a 'relevant consumer', as defined in section 2(1) of the Gas and Electricity Regulated Providers (Redress Scheme) Order 2008;

**Network:** means, in respect of each Premises, the Local Network or the Transmission System (as applicable to that Premises);

**Network Operator:** means, in respect of each Premises, the operator of the Local Network (or, where the Premises is or is intended to be connected to the Transmission System, the Transmission Company);

**Party:** means each party to the Supply Contract, namely the Supplier and the Customer;

**Premises:** means the premises in respect of which the Customer has been deemed to have contracted with the Supplier for the supply of gas pursuant to Schedule 2B of the Act;

**Registered:** means either the Supplier, or where the context requires another supplier, being registered, in accordance with Industry Rules, as the supplier responsible for supplying gas to the Premises;

**Specified Indebtedness:** means any financial indebtedness (whether present or future, contingent or otherwise, as principal or surety or otherwise) for borrowed money (which includes debts payable to Affiliates as well as debt instruments to financial institutions);

**Supplier:** means Axpo UK Limited, a company incorporated in England with company number 06600942.

**Supply Contract:** means the deemed contract for the supply of gas in respect of the Premises between the Customer and the Supplier (comprising these Deemed Supply Terms);

**Supply Licence:** means the gas supply licence granted to the Supplier in accordance with section 7A of the Act;

**Supply Start Date:** means the date on which the Supplier commences supply to the Customer at the Premises pursuant to the Supply Contract;

**Termination Date:** means, in relation to a Premises, the date from which the Contract is terminated (or expires) in respect of those Premises, in accordance with Clause 10.2 or 12;

**Transmission Company:** means the holder of a gas transporter licence granted under the Act and designated as transmission system operator for Great Britain;

**Transmission System:** means the national high-pressure pipeline system of the Transmission Company;

**Uniform Network Code or UNC:** means the agreement of that name governing the transportation of gas over the Transmission System and over the Local Networks of the regional licensed distribution gas transporters; and

**Value Added Tax (VAT):** has the meaning given to that term in the Value Added Tax Act 1994 and any tax of a similar nature which may be substituted for or levied in addition to it.

17.2 In the Supply Contract (unless the context otherwise requires):



- (a) words expressed in the singular shall include the plural and vice versa; words referring to a particular gender include every gender; and references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership, joint venture, government, state or agency of state;
- (b) references to Clauses are to the clauses of these Deemed Supply Terms;
- (c) the headings are inserted for convenience only and shall not affect interpretation;
- (d) the words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words, or limit any following words to the same class as any preceding words where a wider construction is possible;
- (e) references to any statute or statutory provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification); and
- (f) references to any document (including the Supply Contract) are references to it as amended, supplemented or novated from time to time, and include any document which amends, is supplemental to, novates, or is entered into pursuant to it.