

# Online Services

## Conditions of Use

May 2018



If You have signed a separate agreement with Npower relating to the Online Services, that agreement shall prevail over these Conditions of Use.

We shall provide You with the Online Services set out in these Conditions of Use in consideration for the Online Charges that You pay Us under as part of Your Npower Agreement. These Conditions of Use form part of Your Npower Agreement and therefore forms a binding agreement between Us and You for the use of the Online Services. Your use of the Online Services is deemed acceptance of these Conditions of Use.

### 1. Definitions

1.1 In Conditions of Use the following words have the following meanings:

**Additional Charges** – charges for Additional Services, in each case the charges shall be the amount that either are agreed in advance or that We reasonably determine are current and applicable for the work and materials performed;

**Additional Services** – any services provided by Us to You other than those expressly stated to be provided as part of the Online Services in these Conditions of Use;

**Affiliates** – means any company that is either a holding company or a subsidiary company of a Party, or a subsidiary company of one of a Party's holding companies. The terms 'holding' and 'subsidiary' have the meanings given to them in section 1159 of the Companies Act 2006;

**Business Day** – any week-day other than public or bank holidays in England;

**Cancel, Cancellation** – to cancel or terminate all or part of the Online Services (but not terminate Your Npower Agreement);

**Data** – any data recorded by a Meter at a Metering Point;

**Energy** – the energy (electricity or gas as applicable) supplied to You under Your Npower Agreement;

**Equipment** – Your equipment which either You use in relation to the Online Services or which We are dependent upon for You to Access them or to receive the benefit of them in each case which comply with Our minimum requirements (including compatibility with the Minimum IT Requirements) and which shall include modem, cabling or other equipment or Telecommunications or links in each case used or required for the purpose of permitting Data flows and/or remote communication with a Meter (or Third Party Meter);

**Industry Agreements** – as defined in Your Npower Agreement;

**Maximum Number of Users** – five (5);

**Minimum IT Requirements** – internet browsers: Internet Explorer versions 10 and above; Chrome 39 and above and Firefox 34 and above;

**Metering System** – any devices for measuring Energy consumption at Your Sites together with such ancillary equipment, the Telecommunications and any ancillary equipment including all pipe work, apparatus or other related equipment in Your possession and control and in each case which You use in relation to Your Energy supply at Your Sites including measuring and recording the flow of Energy and retrieving, collecting and/or aggregating Data;

**Online Charges** – the charges payable by You under Your Npower Agreement for Intelligent Analytics which will be listed in Your Npower Agreement as forming part of the "Included Charge", a "Standing Charge" or a "Metering Reading Charge" depending on the type of agreement You have with Us;

**Online Go Live** – has the meaning given in Condition 3.2 of these Conditions of Use;

**Online Service** – means the provision of access to the configuration of the on-line services that You have selected and as set out in Your Npower Agreement and as We may amend and vary from time to time;

**Other Data** – means any data or information other than the Data and which is to be provided by You that We agree to upload into the Online Service subject to it being sent to Us by You in the timescales and format required by Us;

**Party** – either You or Us

**Personnel** – in relation You or Us, Our or Your respective personnel, directors, agents, sub-contractors and/or employees;



**Business Solutions**

**Service End Date** – has the meaning given in Condition 4.2 of these Conditions of Use

**Service Start Date** – has the meaning given in Condition 4.1 of these Conditions of Use

**Sites** – your sites as identified in Your Npower Agreement;

**Telecommunications** – the technology, data communication lines, network connections and telecommunications links and access from Your Metering System to Our Data centres and that enables the remote retrieval of Data from Your Metering System in each case pursuant to minimum requirements and specification(s) prescribed by Us and/or by Industry Agreements and notified to You by Us from time to time;

**Working Hours** – the hours between 08:00- 17:00 on a Business Day

**Your Npower Agreement** – the Agreement You have with Us for the supply of electricity or gas to Your Sites. If You have an agreement with Us for the provision of metering services (MOP Services, MAP Services or DC Services, each as defined in that agreement) these Conditions of Use shall not apply unless that agreement does not contain a schedule relating to Online Services.

## 2. On-Line Services

- 2.1 The Online Services that will be made available include: :-
- For Intelligent Analytics (Monitor):
    - Energy consumption Data collected from multiple sources for remote analysis;
    - the visualisation of Energy consumption profiles; and
  - For Intelligent Analytics (Manager):
    - the services that are available for Intelligent Analytics (Monitor): and
    - the construction of user defined reports and targets using advanced analysis and alarming.
- The Online Services will also provide Us with the necessary information to provide Energy management services as Additional Services if requested or be used by You to undertake Your own Energy analysis and reporting.
- 2.2 Your chosen configuration is set out in Your Npower Agreement And We shall provide You with access to the Online Services via a web portal.
- 2.3 We shall use reasonable endeavours to facilitate Your access to the Online Services on a 24 hours a day, 7 days a week basis subject always to You making sure that You and Your Equipment comply with Minimum IT Requirements from the Service Start Date to the Service End Date.
- 2.4 We shall, as part of the Online Services and at no additional cost to You, provide or procure for You access to Our standard customer support services during Working Hours on Business Days in accordance with any of Our Online Services support policies in effect from time to time. We may amend Our Online Services support policy in Our sole and absolute discretion from time to time.

## 3. Set-Up And Testing

- 3.1 You will provide us with the information, collaboration and if relevant Equipment or Telecommunications links and interfaces We need within the reasonable time scales We request in order to set up the Online Services and test its operation for Your Sites, Metering Points, Telecommunications, Data (and where relevant, Your Other Data) ( Online Testing ).
- 3.2 Our obligation to supply the Online Service to You does not commence until the information, collaboration and if relevant Equipment or Telecommunications We request (and meeting all relevant Minimum IT Requirements) have all been given to Us and the Online Testing is complete to Our reasonable satisfaction (Online Go Live).

## 4. Services Start Date And End Date

- 4.1 The date on which We confirm to You that You are Online Go Live is the Service Start Date or the date upon which You are first able to access the Online Services, whichever is sooner.
- 4.2 The date on which Your Npower Agreement ends is the Service End Date.

## 5. Data Availability

- 5.1 We shall use reasonable endeavours to make available the Data and where relevant Your Other Data for each Metering Point from the relevant Service Start Date for a period ending on the earlier of (i) the date falling three (3) years from the day to which such Data relates or (ii) the Service End Date.

## 6. Exclusions and Limits

- 6.1 We do not warrant that Your use of the Online Services will be uninterrupted or error-free and You acknowledge and agree that the Online Services may not be available for planned or unplanned maintenance and testing and for failures beyond Our reasonable control (which include failures or delays to communications and the system hosting the website). We shall use reasonable endeavours to notify You in advance of any reason why the Online Services may be interrupted or otherwise not working.
- 6.2 We shall have no liability and shall not be deemed to be in breach of these Conditions of Use if You cannot use the Online Services if there is Failure to Comply by You.
- 6.3 We accept no liability and shall not be in breach of these Conditions of Use for any delay or non-performance if there is a fault with the Meter not caused by us, if the Data received is inaccurate or if the delay or non-performance is caused by Our inability to communicate with a Metering System or receive Data for any Metering Point or Site through no fault of Our own.
- 6.4 Save to the extent of any obligations We may have under Your Npower Agreement:-
- the Data and, where applicable, Your Other Data will be raw, non-validated data; and
  - We do not warrant that it will be accurate, complete or up-to-date; and
  - We shall have no responsibility for:-
    - interpretation of the Data; and
    - analysis or commentary on the content of the reports generated by the Online Services.
    - Your or any other person's reliance on it
    - the Data or the Online Services not meeting Your expectations.
- 6.5 Any breach by Us of these Conditions of Use shall not be a material breach by Us of Your Npower Agreement.

## 7. Maximum Numbers of Users

- 7.1 We shall provide You with sufficient passwords to enable the Maximum Number of Users of Your Personnel to access the Online Services, and You shall not allow the Online Services to be accessed by more than the Maximum Number of Users of Your Personnel at any one time and You will not give Your password(s) to anyone other than Your Personnel. You shall all reasonable steps so as to prevent any unauthorised access to or use of the Online Services.

## 8. Restrictions on Use

- 8.1 Except to the extent that may be permitted by these Conditions of Use or by any applicable Law which is incapable of exclusion by this Contract You shall not (and you shall not allow or assist any other person):-
- reproduce, redistribute, use, store or download all or any part of the Online Services or any associated applications ; or
  - reverse compile, disassemble or reverse engineer or otherwise all or any part of the Online Services or the software or hardware that relates to it; or

- (c) transfer all or any part of the Online Services or the data obtained from them to any third party except as permitted under Condition 8.2; or
- (d) use or make available the On-line Services to provide services to third parties whether for commercial gain or otherwise, or to build a product or service which competes with the On-line Services; or
- (e) use the On-line Service in any manner that could interfere with Our or any other person's use and enjoyment of any services We provide to others.

8.2 You may transfer data obtained through the Your use of the Online Services to Your professional advisors and Your Affiliates provided always that that transfer is:

- (a) for the purposes of obtaining advice or assistance from that person in relation to Your use of Energy; and
- (b) only of that part of the data that is necessary to obtain that advice.

8.3 In addition to our rights and remedies under these Conditions of Use and Your Npower Agreement, in the event of any breach by You or any other person of Conditions 7 or 8 of these Conditions of Use ("Unauthorised Use") that You:

- (a) become aware of, You shall promptly notify Us and ask for Our consent for that Unauthorised Use. We may at Our absolute discretion permit the Unauthorised Use and if We do permit it, to the extent that We do, We may do so as Additional Services for Additional Charges: or
- (b) either do not become aware of when You (acting as a reasonable economic operator) should have become aware of or that You become aware of but do not notify Us or ask for Our consent for such Unauthorised Use and We discover it, We assume each Unauthorised Use is an Additional Service and We shall charge You Additional Charges.

## 9. Changes

9.1 We may upgrade, modify, replace or reconfigure or change the way We provide the Online Services (including for example changing software, platforms or other systems which We or Our Personnel use to supply the Online Services) or We may need to change the Minimum IT Requirements (in each case an "Online Services Upgrade") at any time provided always that We shall use reasonable endeavours to mitigate the impact on You or Your use of the Online Services.

9.2 In the event any such Online Services Upgrade may impact the way that You or Your authorised Personnel use or interface with the Online Services then We shall notify You in a timely manner of the expected nature and extent of such impact.

9.3 If the Online Services Upgrade:

- (a) is or includes a change to the Minimum IT Requirements and following the Online Services Upgrade You will not be able to comply with the revised Minimum IT Requirements You may Cancel the Online Services and You will pay us an amount equivalent to the Online Charges for the remainder of Your Npower Agreement (as determined by Us) ; or
- (b) has a material adverse impact on Your use of the Online Services but Condition 8.3(a) of these Conditions of Use do not apply then either Party may Cancel the Online Services and from the start of the month following that Cancellation taking effect, You shall not pay the Online Charges for the remainder of Your Npower Agreement.

For the avoidance of doubt an Online Services Upgrade shall not be a breach of the Conditions of Use or Your Npower Agreement by Us and neither Party may terminate Your Npower Agreement. We shall have no liability to You for such Cancellation.

9.4 In the event that You wish to change the functionality of the Online Services, You shall notify Us of the nature, type and extent of change that You seek to make. In the event that We consider that We are able to accommodate such a change, for example via an Online Services Upgrade, then You and We shall seek to agree appropriate amendments to Your Npower Agreement (whether to these Conditions of Use or otherwise) in writing. In the event that We do not agree with You in writing to any changes, no change to the Online Services shall be made and these Conditions of Use shall continue to apply.

## 10. Data Protection

10.1 If We receive any Personal Data (as defined in the EU General Data Protection Regulation ("GDPR")) in relation to this Agreement, the npower Business Solutions Privacy Notice will set out the way in which We use such Personal Data. The npower Business Solutions Privacy Notice is subject to change and the current version is published at [npower.com/Privacy-Policy-nBS](http://npower.com/Privacy-Policy-nBS). You confirm that in respect of any Personal Data You transfer to Us, You are entitled to transfer it and have provided a copy of the npower Business Solutions Privacy Notice to the subject of the Personal Data. You shall indemnify Us in full for any fines, damages, costs, losses or penalties that We suffer as a result of any breach by You of this Clause 10.1 including where any such loss results from a claim against Us by or enforcement action relating to a third party.