

## STANDARD TERMS AND CONDITIONS

### v.1.8

#### 1 DEFINITIONS AND INTERPRETING THIS DOCUMENT

1.1 These standard terms and conditions apply to the Agreement between:

1.1.1 You, the customer named on the Order Form (“**You / Your**”); and

1.1.2 Us, Phoenix Renewables Ltd, trading as “**Egg**” (“**We / Us / Our / Egg**”),

for the Equipment and Services set out in the Order Form.

1.2 The Agreement between You and Egg is made up of:

1.2.1 These Standard Terms and Conditions;

1.2.2 The Special Conditions, to the extent they apply to your order; and

1.2.3 The Order Form.

1.3 Where the following words are used in the Agreement, they have the meanings set out below.

“**Acceptance Tests**” means the standard tests Egg carry out to check that the Service Equipment is ready for use in accordance with the Handover Report & Acceptance Certificate.

“**Additional Obligations**” means all obligations, undertakings, conditions, representations and warranties (as applicable) of Egg under the Agreement, other than its obligation to perform or provide the Managed Service.

“**Additional Works Approval Form**” means Egg’s standard approval form for additional works.

“**Affiliate**” means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity from time to time, provided that “Affiliate” shall also include, in the case of Egg, Liberty Global Ltd. (incorporated in Bermuda) and any entity or undertaking in respect of which Liberty Global Ltd. or any of its Affiliates owns or controls (directly or indirectly) at least 50% of the issued share capital or other ownership interest or at least 50% of the voting rights.

“**Agreement**” has the meaning given to it in clause 1.2 of these Standard Terms and Conditions.

“**Ancillary Hardware**” means any cabling, ducting, enclosures and other hardware and/or consumables supplied by Egg that are required to complete the Installation of the Equipment.

“**Annual Service**” means, in respect of any Equipment, the annual service described in the relevant Special Conditions.

“**Back-Office Platform**” means the communication platform provided by Egg from time to time that allows the Equipment to be configured and Egg to provide remote monitoring and assistance (if applicable).

“**Business Day**” means Monday to Friday, except bank holidays and public holidays in the relevant part of the United Kingdom.

“**Business Essentials**” has the meaning given to it in clause 7.2 of these Standard Terms and Conditions.

“**Business Plus**” means has the meaning given to it in clause 7.3 of these Standard Terms and Conditions.

“**Cancellation Charges**” means the charges that apply if the Service is cancelled or ends, as set out in clause 13.11 of these Standard Terms and Conditions.

“**Charges**” means the Purchase Price, Installation Charges and Recurring Charges, as applicable.

“**Contract Year**” means the 12-month period starting on the date of the Agreement and each 12-month period thereafter starting on each anniversary of the date of the Agreement.

“**Control**” means the beneficial ownership of more than 50% of the issued share capital or the legal power to direct or cause the direction of the general management of the company, partnership or other entity in question (including the right to appoint or remove the majority of the board of directors of the company).

**“Customer Affiliate”** means an Affiliate of You.

**“Customer Materials”** all documents, information, items and materials in any form, whether owned by You or a third party, which You provide to Egg in connection with the Agreement.

**“Customer Apparatus”** means any apparatus owned by You (other than the Equipment and any Ancillary Hardware) which You use to use the Equipment and/or receive a Service, including cabling, wiring, network, connectivity and power apparatus or infrastructure and personal computers and any software incorporated in them.

**“Customer Default”** has the meaning set out in clause 9.6 of these Standard Terms and Conditions.

**“Data Controller”** has the meaning set out in the EU GDPR.

**“Data Processor”** has the meaning set out in the EU GDPR.

**“Data Protection Legislation”** means any law, enactment, regulation or order concerning the processing of data relating to living persons each to the extent applicable to the activities or obligations under or pursuant to the Agreement, including the UK GDPR (as defined in the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019), the UK Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 (e-Privacy Directive), and the EU GDPR.

**“Delivery”** means completion of delivery of Purchased Equipment in accordance with clause 4.3 of these Standard Terms and Conditions .

**“Design Services”** means the provision by Egg of a Detailed Design in accordance with clause 5 of these Standard Terms and Conditions.

**“Detailed Design”** means a detailed design of the installation of Equipment at the Site that is prepared by Egg following the date of the Agreement.

**“Distribution Network Operator”** or **“DNO”** means the entity that operates the electricity distribution network relevant to the Site(s).

**“Egg Event of Default”** means any of the following:

- (a) We commit a material breach of any term of the Agreement and (if such breach is remediable) fail to remedy that breach within a period of 30 days after being notified in writing to do so.
- (b) Egg:
  - (i) is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986);
  - (ii) enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation of Egg with one or more other companies or the solvent reconstruction of Egg; and/or
  - (iii) has a liquidator, administrative receiver, administrator or receiver appointed over all or some of its assets or business other than for the sole purpose of a scheme for a solvent amalgamation of Egg with one or more other companies or the solvent reconstruction of Egg.

**“Egg’s Website”** means [www.egg.com](http://www.egg.com) or any other web address We tell You about from time to time.

**“Enabling Works”** has the meaning given to it in the relevant Special Conditions.

**“End User”** means the person who uses the Equipment once installed.

**“Equipment”** means both Purchased Equipment and Service Equipment.

**“EU GDPR”** means the regulation (EU) 2016/679 of the European Parliament and of the Council of 12 July 2002.

**“EV”** means electric vehicle.

**“Funder”** means any third party which provides or may provide financing to Egg from time to time in connection with the Agreement.

**“Group Company”** means an Affiliate of Egg.

**“Handover Report & Acceptance Certificate”** means Egg’s standard handover checklist and acceptance certificate for the relevant Equipment.

**“Hardware Management Services”** means, in respect of any Equipment, the Remote Management Services, Annual Service and On-Site Maintenance Services.

**“Hardware Management Services Package”** means either Business Essentials or Business Plus, as specified in the Order Form.

**“Holding Company”** means any other company or corporation in respect of which You are a Subsidiary.

**“Installation Charges”** means all charges payable by You in respect of Egg installing and commissioning the Equipment (which may include the Purchase Price) and for the provision and installation of any Ancillary Hardware, as set out in the Order Form (subject to amendment in accordance with these terms).

**“Installation”** means the installation of the Equipment at the Site(s) in accordance with clause 6 and the applicable Special Conditions.

**“Intellectual Property Rights”** means any rights and interest in patents, trademarks, service marks, trade and business names, rights in design, copyright, database rights, know-how and any other similar right (whether existing or applied for, or there is a right to apply to be registered) and any similar rights to those rights under any other jurisdiction.

**“Intellectual Property Rights Claim”** has the meaning given to it in clause 14.8 of these Standard Terms and Conditions.

**“Initial Service Term”** means the agreed minimum Service Term starting on the Service Start Date during which Egg shall provide the relevant Service to You, as specified in the Order Form.

**“Law”** means any relevant law, regulation, guideline or code of conduct (whether or not they are legally binding) which applies to You or Egg in any jurisdiction.

**“Loan Agreement”** means Egg’s standard form fixed sum credit facility agreement to be entered into between You and Egg (or one of Egg’s Affiliates).

**“Maintenance Services”** means the Annual Service and/or On-Site Maintenance Services.

**“Managed Service”** means:

- (a) Service Equipment Supply; and
- (b) the Support Services.

**“Materials”** means any material, in whatever form, including Service Literature, designs, specifications, schematic drawings, technical architecture, processes, reports, manuals, drawings, information, and instructions.

**“On-Site Maintenance Services”** means, in respect of any Equipment, those on-site maintenance services described in the Special Conditions.

**“Out of Plan Maintenance Charges”** means any charges You are obliged to pay pursuant to clauses 7.2.2, 7.3.2 and/or 7.4 of these Standard Terms and Conditions.

**“Order Form”** means the order form substantially in the form appended to these Standard Terms and Conditions, as amended by Egg from time to time.

**“Personal Data”** has the meaning set out in the Data Protection Legislation.

**“Preliminary Design”** means a desktop design generated based on satellite imagery of the Site and information supplied by You in response to the initial consultation.

**“processing”** has the meaning set out in the **Data Protection Legislation** and **process, processes** and **processed** shall be construed accordingly.

**“Purchased Equipment”** means any hardware, equipment or apparatus that You buy from Egg.

**“Purchase Price”** means the price payable for the Purchased Equipment as set out in the Order Form.

**“Quotation”** means the quotation provided to you by Egg and which is referenced in the Order Form.

**“Recurring Charges”** means all charges payable by You in respect of the Hardware Management Services or Managed Service, as appropriate, as set out in the Order Form, as revised from time to time in accordance with clause 3.5 of these Standard Terms and Conditions).

**“Remote Management Services”** means, in respect of any Equipment, those remote management services described in the relevant Special Conditions.

**“Sanctioned Entity”** means an entity who is a designated target of Sanctions or is otherwise a subject of Sanctions (including without limitation as a result of being (a) owned or controlled directly or indirectly by any person or entity that is a designated target of Sanctions, or (b) organised under the laws of any country that is subject to general or country-wide Sanctions).

**“Sanctions”** means any economic or financial sanctions, trade embargoes or similar measures enacted, administered or enforced by one of the following (or by any agency of any of the following): the United Nations, the United States of America, the United Kingdom, South Africa, the European Union or any present or future member state thereof.

**“Service”** means a service We provide to You under the Agreement.

**“Service Credits”** means the amounts (if any) set out in the Service Level Agreement or as otherwise specified in the applicable Special Conditions which We will credit against the Charges or otherwise account to You for if We fail to meet the levels of service set out in the Service Level Agreement.

**“Service Equipment”** means the equipment (other than any Purchased Equipment) and associated Materials (including software forming part of the equipment) as set out in the relevant Order Form and specifically identified in the Handover Report & Acceptance

Certificate (including all replacements, additions and renewals of the same).

**“Service Equipment Supply”** means the obligation of Egg to grant You quiet possession of the Service Equipment, pursuant to and subject to the terms of the Agreement.

**“Service Equipment Supply Charge”** means, in respect of a Managed Service, the part of the Recurring Charge that is payable in respect of the Service Equipment Supply, as set out in the Order Form.

**“Service Level Agreement”** means Egg’s service level agreement applying to the Service(s), if any, as set out in the relevant Special Conditions.

**“Service Literature”** means any up-to-date specifications, brochure, user guide, instructions or other information that We publish in connection with the Service.

**“Service Start Date”** means:

- (a) in respect of Managed Service, the date of completion specified in the applicable Handover Report & Acceptance Certificate; and
- (b) in respect of all other Services, the date on which We first provide the Service to You or such other date as agreed with You in writing.

**“Service Term”** means, in respect of a Service, the period from the Service Start Date until the Agreement is terminated in accordance with clause 3.3.1 of these Standard Terms and Conditions.

**“Service Ticket”** means a request for support submitted in accordance with the terms of the Agreement.

**“Site”** means any site where We deliver Equipment and/or provide a Service.

**“Special Conditions”** means the additional terms and conditions that are specific to the Equipment and/or Services that you receive from Egg and any additional special conditions set out in the Order Form.

**“Specification”** means the latest specification document for the Purchased Equipment

supplied to You by Egg prior to the Agreement coming into force.

“**Subsidiary**” has the meaning given to it in section 1159 of the Companies Act 2006.

“**Support Services**” means all Services to be provided by Egg under the Agreement, other than Service Equipment Supply.

“**Support Services (Termination) Default**” means any of the following:

- (a) Egg fails to meet a Service Level provided for under the relevant Service Level Agreement on more than five separate occasions in any rolling six-month period during the Service Term (for the avoidance of doubt, each failure within the period must be in relation to the same Service Level and an aggregate of failures in respect of different Service Levels shall not be sufficient to trigger this termination right; or
- (b) Egg fails to rectify a fault with the Service Equipment within a period of 90 days from the date on which the Service Ticket is raised (provided that the relevant fault has not been caused by Your breach of these Standard Terms and Conditions or any of the events set out in clause 7.3.2 of these Standard Terms and Conditions); or
- (c) an Egg Event of Default occurs.

“**Support Services Charge**” means the part of the Recurring Charge that is payable in respect of the Support Services (being the part of the Recurring Charge that is not payable in respect of Service Equipment Supply).

“**Survey**” means any survey or other investigations We believe are necessary to carry out at the Site prior to Installation.

“**Territory**” means the mainland of Great Britain and Northern Ireland, excluding the Scottish Highlands, and specifically excludes the Channel Islands, Isle of Man, Isle of Wight, Hebrides, Orkney, Shetland and all other Scottish Isles.

“**Working Hours**” means 9.00am to 5.00pm on a Business Day.

- 1.4 In the Agreement, any reference to:
  - 1.4.1 ‘person’ includes any person, partnership, firm, company, business, government, organisation, government agency, trust, association;
  - 1.4.2 You includes your employees and agents, any person who takes over your business, and any person who we reasonably believe is acting for you;
  - 1.4.3 Egg includes our employees and agents, any person acting for us, any person who takes over our business; and
  - 1.4.4 except for references to Egg in paragraph 9 of the Managed Service Special Conditions and without prejudice to the generality of clauses 1.4.2 and 1.4.3 above, any reference to a person shall include that person's successors and permitted assignees (but, for the avoidance of doubt, Egg's assignees, including any Funder, shall not have any obligations under the Agreement);
- 1.5 In the Agreement, general words introduced or followed by ‘other’, ‘including’ or ‘in particular’ do not have a restrictive meaning because examples are also used.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.7 The headings of clauses are for convenience only and do not affect the meaning of the clauses.
- 1.8 Where these terms and conditions say that You must not do something, You must not allow any other person to do it either. You must do everything reasonably possible to prevent any other person doing it.
- 1.9 If there are any inconsistencies between the documents making up the Agreement, unless We state otherwise in writing, the documents will take priority in the following order:
  - 1.9.1 the Special Conditions;
  - 1.9.2 these Standard Terms and Conditions;
  - 1.9.3 the Order Form.

## 2 ORDERING EQUIPMENT AND/OR SERVICES

- 2.1 You may place an order for the Equipment and/or Services by completing, signing and submitting an Order Form.
- 2.2 If We agree to accept an order (either in writing or through our conduct) where You have not provided a completed Order Form or where You have provided an alternative order form, the Equipment and/or Services shall be provided in accordance with these Standard Terms and Conditions and any relevant Special Conditions. No terms and conditions set out in any alternative order form or provided, or referred to, by You will be incorporated into the Agreement. The signed Order Form shall (if and where required) constitute a purchase order and We shall not be required to wait for any additional purchase order from You in order to commence supply of the Equipment and/or Services or to issue invoices to you for any Charges in accordance with terms of the Agreement.

## 3 DURATION

- 3.1 Subject to clause 3.2, the Agreement shall come into force and be legally binding upon the earlier of the date on which:
- 3.1.1 You and Egg have both signed an Order Form; and
- 3.1.2 We deliver any Equipment or make any Service available to You.
- 3.2 If Your Order Form includes Purchased Equipment and states that you wish to make payment by means of a loan, the Agreement will be conditional upon You signing Your Loan Agreement within 14 days of returning Your signed Order Form. Egg shall be entitled to terminate the Agreement where you fail to sign Your Loan Agreement before the end of this period.
- 3.3 Unless terminated earlier in accordance with its terms, the Agreement will stay in force:
- 3.3.1 where We are providing a Service to You, until it is terminated by either party on 3 months' written notice (subject to clauses 3.4 and 3.5 below); and
- 3.3.2 in all other cases, until such time as our respective obligations have been performed or expired.
- 3.4 Where We are providing Hardware Management Services or a Managed Service, if You wish to terminate the Agreement before the

expiry of the Initial Service Term then You shall be obliged to pay the Cancellation Charges in accordance with clause 13.11 of these Standard Terms and Conditions. We will send You an invoice following Your request for cancellation and You must pay the invoice as set out in clause 13 of these Standard Terms and Conditions. For the avoidance of doubt, the Initial Service Term and the Agreement shall not terminate until We receive payment of the Cancellation Charges in full and cleared funds.

### 3.5 Following the expiry of the Initial Service Term:

3.5.1 In respect of Hardware Management Services, we may increase or add to the relevant Recurring Charges on 30 days' written notice to You, such notice not to expire prior to the end of the Initial Service Term. You may terminate the Agreement on the date the changes to the Recurring Charges are to come into effect (or such other later date as may be specified in Your notice) by serving written notice on Egg within 10 Business Days of receipt of Egg's notice. If You do not serve notice to terminate the Agreement within 10 Business Days of receipt of Egg's notice, You will be deemed to have accepted the changes to the Recurring Charges and clause 3.3.1 above shall apply; and

3.5.2 In respect of a Managed Service, the Recurring Charge shall remain the same unless and until We agree a new monthly payment and/or fixed service term with You in writing.

## 4 SUPPLY OF EQUIPMENT

### PURCHASED EQUIPMENT

- 4.1 We shall supply and You shall purchase such quantities of Purchased Equipment as are set out in the Order Form.
- 4.2 The Purchased Equipment supplied to You by Egg pursuant to the Agreement shall:
- 4.2.1 conform to the agreed Specification in all material respects; and
- 4.2.2 comply with all applicable statutory and regulatory requirements in force as at the date of Delivery.
- 4.3 Delivery:
- 4.3.1 We shall use reasonable endeavours to meet the estimated delivery date

- communicated to You for each item of Purchased Equipment.
- 4.3.2 Delivery is completed when We place the Purchased Equipment at Your disposal at the Site address stated in the Order Form.
- 4.3.3 Egg may deliver orders of Purchased Equipment in instalments, which may be invoiced separately.
- 4.3.4 If You fail to take Delivery of an any Purchased Equipment on the agreed delivery date, then, except where that failure or delay where this is caused by Egg's failure to comply with its obligations under the Agreement:
- (a) Delivery of the Purchased Equipment shall be deemed to have been completed at 9.00 am on the delivery date; and
- (b) We may store the Purchased Equipment until delivery takes place and charge You for all costs and expenses (including insurance) relating to such storage.
- 4.3.5 We shall have no liability for any failure to deliver Purchased Equipment to the extent that any failure or delay is caused by Your failure to comply with Your obligations under the Agreement.
- 4.4 Subject to the relevant Special Conditions, You may reject any Purchased Equipment that does not comply with clause 4.2 above, provided that:
- 4.4.1 notice of rejection is given to Egg, time being of the essence:
- (a) in the case of visible damage to the packaging, immediately upon Delivery;
- (b) in the case of a defect in any Purchased Equipment that is apparent on normal visual inspection, prior to installation and in any event within 3 Business Days of Delivery; and
- 4.4.2 none of the events listed in clause 4.6 below apply.
- 4.5 We shall not be liable for the Purchased Equipment's failure to comply with the warranty set out in clause 4.2 above in any of the following events:
- 4.5.1 You, or a third party, make any further use of the Purchased Equipment after giving notice in accordance with clause 4.4 above or repair the Purchased Equipment without Egg's written consent;
- 4.5.2 the defect arises as a result of fair wear and tear, wilful damage, negligence or because You failed to follow Egg's instructions for the storage, commissioning, installation, use and maintenance of the Purchased Equipment or (if there are none) good trade practice regarding the same;
- 4.5.3 the defect arises as a result of Egg following any drawing, design or specification supplied by You; or
- 4.5.4 the Purchased Equipment differs from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 4.6 If You reject any Purchased Equipment under clause 4.4 above then We shall be entitled to (at Our sole discretion):
- 4.6.1 repair or replace the rejected Purchased Equipment; or
- 4.6.2 to repay the Charges paid in relation to the rejected Purchased Equipment in full.
- Once We have complied with this clause 4.6, We shall have no further liability to You for the rejected Purchased Equipment's failure to comply with clause 4.2 above.
- 4.7 The Purchased Equipment shall be provided with all applicable manufacturer warranties and/or guarantees. Save where you elect to receive Business Plus Hardware Management Services, You shall be solely responsible for ensuring that compliance with any conditions or requirements to which such warranties and/or guarantees are expressed to be subject.
- 4.8 Risk in the Purchased Equipment shall pass to You on Delivery. Title to the Purchased Equipment shall not pass to You until We receive payment in full for the Purchased Equipment.
- 4.9 Unless required by Law, You may not undertake any recall or withdrawal of the

Purchased Equipment without Egg's written permission and only then in strict compliance with Egg's instructions about the process of implementing the withdrawal. If You are the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Purchased Equipment from the market (a "Recall Notice") You shall immediately notify Egg in writing enclosing a copy of the Recall Notice.

#### **SERVICE EQUIPMENT**

- 4.10 We shall grant You quiet possession of any Service Equipment, pursuant to and subject to the terms of the Agreement.

#### **5 DESIGN**

- 5.1 We will produce a Preliminary Design for the purposes of providing You with the Quotation which will be based on a remote survey of the relevant Site and the initial requirements and/or documentation provided by You in response to an initial consultation. .

- 5.2 Upon the Agreement coming into effect, We will complete a Detailed Design of the installation.

- 5.3 In relation to the Detailed Design:

5.3.1 We will produce a Detailed Design based on detailed site information (which may be collected during an on-site Survey) and supporting information provided by, and from further consultation with, You;

5.3.2 You must let Egg know within a reasonable time if the information provided to Egg for the purposes of producing the Detailed Design changes or is incorrect; and

5.3.3 the Detailed Design will include, inter alia, the recommended hardware, cable route, ground works (if required), point of connection, electrical schematic, details of required permissions (e.g. DNO applications), and any limitations or required power supply capacity upgrades, as well as the price for such works.

- 5.4 Where the Detailed Design confirms that no material deviations to the Preliminary Design are required, the Charges shall be as set out in the Order Form.

- 5.5 Where the Detailed Design confirms that material deviations to the Desktop Design are required in order to deliver the project then We

will provide an amended Order Form to You for approval. If You do not accept the amended Order Form by signing and returning the same within 15 Business Days then either party shall be entitled to terminate the Agreement without liability to the other by serving written notice.

- 5.6 You may request a change to the Detailed Design in writing to Egg at any time before We commence work on Site.

5.7 Where You have requested a change to the Detailed Design, Egg shall provide an amended Order Form to You for approval. If You do not approve the amended Order Form by signing and returning the same or confirm your wish to continue on the basis of the original Detailed Design within 15 Business Days then either party shall be entitled to terminate the Agreement without liability to other, save that if you exercise the this right You shall be obliged to pay an amount in respect of Egg's reasonable costs incurred up to the date of termination to Egg upon receipt of an invoice,

5.8 Where required, Egg will engage with the DNO on your behalf in order to procure any necessary consents to the Detailed Design and reserves the right to invoice You for any costs or charges that Egg incurs on Your behalf with respect to this process. The Agreement will be subject to any requirements or conditions attaching to permissions granted by the DNO and any additional works that may be required to enable the installation in accordance therewith. If additional works are required due to the requirements of the DNO then, save to the extent these are set out and priced for in the Order Form, the provision and cost of these works will be outside the scope of the Agreement, but Egg can act as Your agent for obtaining quotations for and facilitating the execution of these works if agreed to in writing.

5.9 If due to circumstances beyond Our control (including but not limited to those events covered by clause 19 of these Standard Terms and Conditions) or as a result of circumstances unknown to Egg at the time that We prepare the Detailed Design and/or the Order Form was accepted by You, unexpected works are required in addition to those upon which the Order Form was based, We will inform You of the additional costs as soon as reasonably practicable and ask how You want Egg to proceed. Where the additional works do not require a material change to the Detailed Design, We will ask you to sign an Additional Works Approval Form to confirm your approval

of the additional costs. Where the unexpected works necessitate a material change to the Detailed Design, this will be deemed a change to the Agreement and clause 5.5 above will apply, save that if You choose to terminate the Agreement in this scenario this right shall be subject to an obligation to pay Egg's reasonable costs incurred up to the date of termination.

- 5.10 Unless otherwise agreed with You in writing, Egg will carry out the role of the principal designer under the Construction (Design and Management) Regulations 2015 (SI 2015/51).

## 6 INSTALLATION

- 6.1 We will install the Equipment in accordance with the Detailed Design. Subject to the provisions of this clause 6 and Your compliance therewith, We will use our reasonable endeavours to complete the installation and commissioning of the Equipment by such date as we agree with You in writing.

- 6.2 We shall only be obliged to undertake the Installation where:

6.2.1 You provide in a timely manner all documents, information, items and materials in any form (whether owned by You or a third party) reasonably required by Egg in connection with the order and ensure that they are accurate and complete;

6.2.2 any necessary or requested material deviations to the Preliminary Design have been agreed and the new Order Form signed in accordance with clause 5.5 and/or 5.7 of these Standard Terms and Conditions;

6.2.3 where applicable, the Enabling Works have been completed to Egg's reasonable satisfaction; and

6.2.4 You have provided Egg with such reasonable access to the Site as We require to fully perform Egg's obligation under the Agreement (see clause 11 of these Standard Terms and Conditions).

- 6.3 Where any of requirements of clause 6.2 above are not met, Egg may terminate the Agreement immediately by giving You written notice, without any liability to You.

- 6.4 Other than where it is expressly stated in these Standard Terms and Conditions or the Order Form that Egg will obtain any necessary permission or consent, You must (at Your own

expense) obtain all necessary consents and permissions for the Installation and provide appropriate space, power and environment and such other reasonable assistance as may be required for Egg to install and maintain the Equipment at the Site. You must make sure that You make any necessary preparations before the Equipment is connected, and You must follow any instructions We give You on making those preparations.

- 6.5 Where any approval, consent or permission is required from the DNO in respect of the proposed installation or where any works are required to be carried out by the DNO prior to completion of the installation, Egg cannot be held liable for any delay to the completion of the Installation where such delay results from the DNO failing to act or withholding the necessary approval, consent or permission.

- 6.6 If You do not keep an agreed appointment for Egg to enter the Site in connection with carrying out a Survey or the Installation, We may charge You a call-out fee.

- 6.7 If any Equipment or other Ancillary Hardware needed to complete the Installation Services are delivered to the Site(s) before the Installation Services take place, You agree to ensure that these items are stored in a safe, dry environment and to take care not to damage or permit any damage to any such items. You agree to assume responsibility for all risks including any damage, or loss of any parts of the Equipment once they are delivered to You and before We install them.

- 6.8 Upon completion of the Installation, We will carry out Acceptance Tests to make sure that the Equipment is fully commissioned and ready for use at the Site. If the Equipment is not ready for use, Egg will carry out any necessary work and repeat the Acceptance Tests within a reasonable period of time. You can ask for all Acceptance Tests to be carried out in the presence of Your representative, as long as they are available at reasonable times, as specified by Egg.

- 6.9 When the Acceptance Tests have been passed, We will ask You to sign the Handover Report & Acceptance Certificate to confirm this. Within 2 Business Days of receipt of the Handover Report & Acceptance Certificate, You must either sign and return the relevant Handover Report & Acceptance Certificate to confirm that the Equipment has been installed successfully and is satisfactory to You in all respects or You must notify Egg if you believe

the Installation has not been satisfactorily completed and confirm the perceived issue(s) and the parties shall meet to discuss in good faith how to address any issues raised. If You do not notify Egg of an issue within 2 Business Days of receipt of the Handover Report & Acceptance Certificate, the Equipment will be considered to have been installed successfully and be satisfactory to You in all respects from the date of completion of the Acceptance Tests.

## 7 HARDWARE MANAGEMENT SERVICES

7.1 Subject to You paying the Recurring Charge, We will provide you with the Hardware Management Services in the Territory in accordance with the relevant Special Conditions and the Hardware Management Services Package You have selected in the Order Form (as detailed below).

### 7.2 Business Essentials

7.2.1 Business Essentials includes Remote Management Services but does not include an Annual Service or On-Site Maintenance Services.

7.2.2 You can request On-Site Maintenance Services by raising a Service Ticket and We will charge you a call-out fee and an hourly rate in accordance with Egg's then current rate card in respect of those services.

7.2.3 It is Your responsibility to ensure that any applicable manufacturer's warranty or guarantee is maintained and remains valid and that any conditions of such warranty or guarantee (such as regular servicing) are complied with, including that any other person You may have engaged to install and/or service the Equipment is approved by the relevant manufacturer. We may require You to provide us with evidence of such compliance prior to carrying out any On-Site Maintenance Services.

### 7.3 Business Plus

7.3.1 Business Plus includes Remote Management Services, an Annual Service and unlimited On-Site Maintenance Services, and also provides an improved Service Level Agreement over Business Essentials.

7.3.2 Subject to clauses 7.3.3 and 7.4 below, all labour and site visits are

included within the Recurring Charge, provided that We reserve the right to charge additional labour and call-out fees in line with Egg's then current rates where, in our reasonable opinion, any disrepair or damage to the Equipment has been caused by:

- (a) You or any third party misusing, neglecting or abusing the Equipment or carrying out any alteration, repair, update or upgrade or failing to follow Egg's or the manufacturer's operation or maintenance instructions;
- (b) theft, vandalism, malicious or accidental damage of Equipment;
- (c) a power failure;
- (d) You or any third party accidentally or intentionally disconnecting the Equipment;
- (e) You committing a breach of any part of the Agreement; or
- (f) a fault in, or other problem associated with, Your own equipment or any system not run by Egg.

7.3.3 Subject to clause 7.4 below, where Egg's On-site Maintenance Team deem that an element of the Equipment is beyond economical repair, then Egg shall have the right to carry out a complete replacement of the Equipment.

## 7.4 General

7.4.1 We will not charge you for replacement parts or Equipment where the defective parts and/or Equipment are covered by a valid manufacturer's warranty. However, We reserve the right to charge You for any transportation costs for the return of components or for re-shipment of any repaired or replaced components and for replacement parts and/or Equipment where the manufacturer rejects the warranty claim.

7.4.2 If You do not allow Egg to attend the Site on any agreed date to repair or maintain the Equipment or provide

the Annual Service or any On-Site Maintenance Services, We may charge You an additional call-out fee.

- 7.4.3 In instances where a first-time repair is not possible (e.g. major damage, vehicle collision, civil works, etc.) Egg will make the Site safe and provide a quote for the repair works to You within 2 Business Days.

## 8 USING THE SERVICES

- 8.1 You must not re-sell the Services or any Service Equipment or any part of them without Egg's permission in writing.
- 8.2 You must only use the Services and/or Service Equipment in line with:
- 8.2.1 the terms of the Agreement (including any applicable Special Conditions);
- 8.2.2 any conditions and instructions We give You in writing from time to time; and
- 8.2.3 any relevant Laws.
- 8.3 You must not use the Services and/or any Service Equipment:
- 8.3.1 to infringe (break, limit or undermine) the legal rights of any person (including copyright and rights of privacy or confidentiality); or
- 8.3.2 in any way that breaks the Law.
- 8.4 If You breach clause 8.1, 8.2 or 8.3 above, We may immediately suspend the Services and this shall be deemed to be a material breach by You (which is not remediable) for the purposes of clause 17.1.2 below. You shall indemnify Egg against any liabilities, claims, damages, losses and proceedings arising out of or in connection with any use of the Service that breaks the Law or this clause 8.
- 8.5 You must not use the Services in excess of any capacity or other restriction under the Agreement (or otherwise agreed in writing) or change the settings of any Service Equipment without Egg's prior written consent. If You breach this clause 8.5, We may, without affecting Our other rights, increase the Recurring Charges as We reasonably think fit.
- 8.6 We may give You a password (which may be a code, PIN number, user ID, account number, access card or other security device), to allow You to use a Service. You must keep the password safe and confidential and tell Egg immediately if it becomes aware that any third

party has access to it. You must not copy or try to copy any access card or other security device. We can change the password without giving You notice. If We think You have breached this clause 8.6, or suspect that there has been a security breach by a third party, We may temporarily suspend the Services at that affected site until a satisfactory outcome can be agreed between the parties. If the parties are unable to agree upon a mutually satisfactory outcome within a reasonable timeframe, We may terminate the Agreement, or part thereof, in Our sole discretion, and reimburse You for any pro-rata advanced payments that may have been made.

- 8.7 We may (but shall not be obliged to) agree to any request You makes to alter a password. You may be required to pay a charge for this.
- 8.8 You are responsible for the use of the Services (whether by You or by any other person, even without Your permission), including all charges that arise and any use that breaches the Agreement.

## 9 SUPPLY OF SERVICES

- 9.1 We will only provide the Services (or any part of it) if We are happy with the credit check We carry out (see clause 13.7 of these Standard Terms and Conditions).
- 9.2 We will provide the Services using the reasonable skill and care expected of a competent service provider in Egg's industry. However, it is practically impossible to provide the Services entirely free of faults, and We do not guarantee to do so.
- 9.3 We will meet Our obligations as set out in the Agreement, the Special Conditions and any relevant Service Level Agreement, as applicable. If We fail to meet Our obligations under any Service Level Agreement You may be entitled to claim Service Credits. Subject to any relevant Special Conditions, Service Credits shall be Your sole and exclusive remedy if We fail to meet service levels.
- 9.4 Service Credits will not be available to You if Egg's failure to meet any service levels is a result of:
- 9.4.1 Egg suspending or terminating the Agreement under clause 8.4, 16 or 17 of these Standard Terms and Conditions;
- 9.4.2 any circumstances beyond Egg's control, as described in clause 19 of

these Standard Terms and Conditions; and/or

9.4.3 anything You have done or have failed to do properly.

9.5 This clause is subject to any applicable Special Conditions, Egg will provide monthly reporting regarding its performance against the relevant Service Level Agreement which will include a calculation of any Service Credits to which You are entitled. To claim any Service Credits to which you are entitled You must submit a written request to [support@egg.com](mailto:support@egg.com) referring to the relevant report and requesting that the Service Credits be applied to your next invoice for Recurring Charges. Following receipt of Your request, Egg will apply the Service Credits to the relevant invoice up to a maximum of 15% of the total invoiced amount. Any residual Service Credits shall be applied to the next invoice/s on the same basis until all accrued Service Credits are exhausted. Service Credits shall in no circumstances be paid to You in cash.

9.6 If Egg's performance of any of its obligations under the Agreement is prevented or delayed by Your act or omission or Your failure to perform any relevant obligation in connection with the Agreement ("**Customer Default**"):

9.6.1 without limiting or affecting any other right or remedy available to Egg, We shall have the right to suspend the supply of Services until You remedy the Customer Default, and to rely on the Customer Default to relieve Egg from the performance of any of Egg's obligations, in each case to the extent the Customer Default prevents or delays Egg's performance of any of Egg's obligations;

9.6.2 We shall not be liable for any costs or losses sustained or incurred by You arising directly or indirectly from the Customer Default; and

9.6.3 You shall reimburse Egg on written demand for any costs or losses sustained or incurred by Egg arising directly or indirectly from the Customer Default.

## 10 CUSTOMER APPARATUS

10.1 If We agree to use any Customer Apparatus already installed at the Site, You must have full rights for the Customer Apparatus to be used for the purpose of Egg providing the Services,

and You guarantee that it meets all relevant standards and any specifications that We notify to You.

10.2 We will not be liable for any loss or damage arising directly or indirectly from any use of Customer Apparatus in connection with the Services. You are entirely responsible for the security of the Customer Apparatus.

10.3 Before We install the Equipment, You must take all necessary steps to secure the Customer Apparatus, including backing up its information and data (if applicable). You must follow all Egg's reasonable instructions on preparing Customer Apparatus and the Site. We will not be liable for any loss or damage arising from You failing to follow Egg's instructions.

10.4 You are responsible for making sure that Customer Apparatus is appropriately programmed, equipped, compatible and connected for use with the Equipment and/or Services, in line with Egg's reasonable instructions (if any) and any other instructions or procedures that apply to using Customer Apparatus or the Services.

10.5 Unless We agree otherwise in writing, Egg is not responsible for repairing and maintaining Customer Apparatus.

10.6 You must make sure that Customer Apparatus is in good working order and meets all standards, regulations, approvals and Laws that apply. We may refuse to connect or at any time disconnect, or instruct You to disconnect, any of Customer Apparatus if, in Egg's reasonable opinion it:

10.6.1 does not meet any standard, approval or Law that applies at the time;

10.6.2 may cause injury to any person or significant damage to property; or

10.6.3 is incompatible with, or may reduce the quality of any service Egg provides.

10.7 We will have no liability resulting from You not being able to use the Services if this is due to:

10.7.1 Customer Apparatus not being compatible with the Equipment or the Services; or

10.7.2 Customer Apparatus failing to function correctly or breaking down; or

10.7.3 Customer Apparatus being improperly installed, commissioned

or not being suitable for the intended purpose.

## 11 ACCESS TO THE SITE

11.1 In order to meet Egg's obligations under the Agreement, after giving You reasonable notice (except in an emergency, when Egg will not be required to give notice), You must let Egg do the following, to the extent applicable:

11.1.1 enter those parts of the Site, Your other premises or Your land (as necessary) in connection with providing the Services or carrying out any survey;

11.1.2 carry out work in connection with installing, maintaining, adjusting, repairing, moving, replacing, renewing or removing the Equipment at or on the Site, premises or land; and/or

11.1.3 install any other infrastructure or equipment that is reasonably necessary for the Service or the work set out in clause 11.1.2 above.

11.2 You must, at Your own expense, get or provide any permission Egg may need to exercise Egg's rights under clause 11.1 above or to enable Egg to provide the relevant Services. We will have no liability to You if You cannot get the necessary permission.

11.3 You must make sure that Your employees and authorised representatives follow all Egg's or a third party's reasonable instructions in connection with any permission given in line with this clause 11. We will have the same responsibility to make sure that Egg's employees and authorised representatives follow all Your or a third party's reasonable instructions in connection with any permission given in line with this clause 11.

11.4 Any person who allows Egg to enter the Site or other premises or land, as referred to in clause 11.1 above, will be considered to have Your authority to grant Egg entry.

11.5 Notwithstanding You carrying out Your normal course of business, You must not use, or permit others to use, the Site or other adjoining premises or land under Your control in any way that would make it significantly more difficult or expensive for Egg to exercise any of the rights they have under clause 11.1 above.

11.6 When exercising any of Egg's rights under clause 11.1 above Egg will cause as little

damage as reasonably possible and will make good any damage that We cause at the Site.

11.7 You must provide a safe and suitable working environment for Egg's personnel (and those of its subcontractors) at the Site, other premises or land referred to in clause 11.1 above, including informing Egg of all health and safety and security requirements that apply at any of the Sites.

11.8 Where applicable, this clause 11 will apply for as long as necessary for Egg to exercise its rights to disconnect any Service Equipment and remove it from the Site, other premises or land, even if the Agreement has ended.

## 12 CHARGES

12.1 The Charges shall be as set out in the Order Form, subject to amendment in accordance with these Standard Terms and Conditions.

12.2 The Charges are exclusive of amounts in respect of VAT. You shall, on receipt of a valid VAT invoice from Egg, pay to Egg any additional amounts in respect of VAT as are chargeable on a supply of the Equipment and/or Services.

12.3 All disputes concerning the Charges shall be resolved in accordance with clause 29 of these Standard Terms and Conditions.

## 13 PAYMENT

13.1 Subject to any contrary provision in the Special Conditions, all payments expressed to be due from You to Egg under the Agreement must be paid in pounds sterling in full without any set-off, counterclaim, deduction, appropriation or withholding of any amount or setting any restriction or condition, unless required by law in which event You will pay to Egg such additional amount to ensure that the net amount received by Egg is equal to the amount Egg would have been entitled to receive in the absence of any requirement to make any such set-off, deduction, appropriation or withholding.

13.2 To the extent that any Recurring Charges are payable under the Agreement, the first Recurring Charge must be paid without prior demand on the date falling 30 days after the Service Start Date and subsequent Recurring Charges must be paid thereafter without prior demand at the frequency set out in the Order Form for the Service Term. Unless We have agreed otherwise in writing, You must pay Egg (or any of Egg's Group Companies appointed by Egg) all other charges within 30 days of the date of the relevant invoice. Payment shall be

made by BACS transfer to the following account (or such other bank account nominated in writing by Egg from time to time):

Bank: Barclays PLC  
 Account name: Phoenix Renewables Ltd T/A Egg  
 Account: 13778762  
 Sort code: 20-00-00

- 13.3 If You make a payment by a different method, We may refuse to accept it or charge an extra administration fee.
- 13.4 Unless Egg has agreed otherwise in writing, Egg (or one of its Group Companies, acting on Egg's behalf) will invoice Charges on or after the dates set out below. Invoices will be sent to the address specified in the Order Form marked for the attention of the specified contact.
- 13.4.1 Purchase Price – Either, at Egg's sole discretion:
- (a) within 7 Business Days of Delivery; or
  - (b) at the same time as the Installation Charges;
- 13.4.2 Installation Charges – within 7 Business Days of completion of the Installation;
- 13.4.3 Recurring Charges – the Service Start Date and then in accordance with the frequency set out in the Order Form for the Service Term (provided that You must pay the Recurring Charges in accordance with clause 13.2 above even if You have not received an invoice for the same);
- 13.4.4 Out of Plan Maintenance Charges - within 7 Business Days of the date of attendance at the Site.
- 13.5 Regardless of any other term or condition in the Agreement, We may delay sending invoices, or bring forward the date invoices are sent, to coincide with Egg's billing cycles. The first and last invoice relating to the Services may include charges due for more or less than one complete billing cycle depending on when the Service starts or ends.
- 13.6 If You pay the Charges by direct debit, We may alter Your direct debit instruction to reflect the Recurring Charges for the Services at that time. You will be responsible for cancelling any direct debit instruction or other payment arrangement at the end of the Agreement. If You cancel any direct debit instructions in any other

circumstance We may then suspend the Services and this shall be deemed to be a material breach by You (which is not remediable) for the purposes of clause 17.1.2 below.

- 13.7 We can carry out credit checks on You at any time. We accept no liability for the accuracy of information We receive from credit-reference agencies. If, at any time before or during the term of the Agreement, You do not meet the standard of creditworthiness We consider to be acceptable:
- 13.7.1 this shall be deemed to be a material breach by You (which is not remediable) for the purposes of clause 17.1.2 below;
  - 13.7.2 We can require You to make a pre-payment or pay regular instalments towards future Charges;
  - 13.7.3 We can set limits on the Charges You can owe Egg, and suspend deliveries or Services from the time until You has paid the Charges due; and
  - 13.7.4 We can apply any other restrictions on Your right to use the Serviced Equipment and/or Services, as Egg consider appropriate.
- 13.8 If You do not make a payment when it is due, We may, without affecting Our other rights, charge You:
- 13.8.1 a late-payment administration fee; and
  - 13.8.2 interest on the overdue amount, at 4% above Barclays Bank plc's base rate for lending, from the date the payment became due until the date it is paid in full, even if the Agreement ends before then.
- 13.9 You must pay Egg all costs and expenses (including legal costs) of collecting any overdue amounts. Egg's costs and expenses will continue to build up until You have paid Egg all amounts owed, even if the Agreement ends before then.
- 13.10 If You ask Egg to delay the date for Installation for a Site, or it is delayed because You have failed to meet Your obligations under the Agreement, We shall have the right to charge You for any Installation Charges that have been delayed as a direct result of such delay or failure.

- 13.11 If You have to pay Cancellation Charges under clauses 3.4, 17.3 or 19.1 of these Standard Terms and Conditions or any provision of any applicable Special Conditions, they will be equal to the following:
- 13.11.1 all arrears of Charges and other sums due under the Agreement; plus
  - 13.11.2 a sum equal to all the Service Equipment Supply Charges that were, but for such termination or cancellation, scheduled to become due and payable under the Agreement until the end of the Initial Term (less a discount for early payment on each such Service Equipment Supply Charge at the rate of 2% a year from the date of termination or cancellation to the date the Service Equipment Supply Charge would have been due); plus
  - 13.11.3 all Support Service Charges that were, but for such termination or cancellation, scheduled to become due and payable under the Agreement until the end of the Initial Term (less a discount for early payment on each such Support Service Charge at such rate as Egg considers (acting reasonably) reflects the fact that it will no longer have to perform certain of the Support Services); plus
  - 13.11.4 all costs, expenses and losses incurred by Egg in liquidating or redeploying the proceeds of any funding or other financial arrangement Egg has entered into for the purposes of funding its investment in the Service Equipment and/or the Agreement; plus
  - 13.11.5 damages for any breach of the Agreement and all expenses and costs incurred by Egg in decommissioning, retaking possession of, storing, insuring and selling or attempting to sell the Service Equipment (unless Egg agree otherwise) and enforcing its rights under the Agreement; plus
  - 13.11.6 any other termination or cancellation charges referred to in the relevant Special Conditions;  
less
  - 13.11.7 if Egg recovers and sells any Service Equipment, the net proceeds of sale of such Service Equipment (which shall be an amount equal to the proceeds of sale of such Service Equipment received by Egg (excluding any VAT).
- 13.12 Unless agreed otherwise in writing by Egg, if You ask Egg to carry out any work at a time which is not entirely during Working Hours, You must pay Egg's charges for the work, calculated at Egg's standard hourly rate at the time, as communicated to You from time to time.
- 13.13 If You ask Egg to carry out billing administration work (including changing how and when Egg invoices You and providing extra invoice details, reports or copies of bills) and Egg agrees to Your request, We reserve the right to charge You the billing administration work, as communicated to You from time to time.
- 13.14 If, as part of the supply of Equipment and/or Services, Egg provides You with an electronic invoice, We may charge You for providing a paper invoice.
- 14 INTELLECTUAL PROPERTY RIGHTS**
- 14.1 Subject to the rest of this clause, neither party, shall acquire any rights to any Intellectual Property Rights owned by the other party and/or its licensors which pre-existed the date of the Agreement.
- 14.2 In relation to the supply of Equipment and/or Services pursuant to the Agreement:
- 14.2.1 Egg and/or its licensors shall retain ownership of all Intellectual Property Rights in the Equipment and/or Services, excluding Customer Materials; and
  - 14.2.2 We grant You, or shall procure the direct grant to You of, a UK territory, non-exclusive, non-sublicensable, non-transferable licence strictly for the purpose of receiving the benefit of any Equipment and/or Services We provide You under and in accordance with the Agreement; and
  - 14.2.3 where Egg has been granted a licence by a third party for its Intellectual Property Rights ("**Egg's Licensor**") and consequently We have granted You a UK territory, non-exclusive, non-sublicensable, non-transferable licence to use such Intellectual Property Rights strictly for

- the purpose of receiving the benefit of any Equipment and/or Services We provide You under and in accordance with the Agreement, You agree to keep to Egg's Licensor's terms and conditions relating to its use of such Intellectual Property Rights.
- 14.3 In relation to Customer Materials, You:
- 14.3.1 and Your licensors shall retain ownership of all Intellectual Property Rights in Customer Materials; and
- 14.3.2 grants to Egg and its Group Companies a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify Customer Materials for the purpose of providing the Equipment and/or Services to You.
- 14.4 If during the provision of any Equipment and/or Services the parties create any new Intellectual Property Rights (including without limitation in any Materials) then such Intellectual Property Rights shall vest in and be owned by Egg. We will grant You a UK territory, non-exclusive, non-sublicensable, non-transferable licence to use any such Intellectual Property Rights strictly for the purpose of receiving the benefit of any Equipment and/or Services Egg provide You under and in accordance with the Agreement.
- 14.5 Without prejudice to the generality of clause 14.2 above, Intellectual Property Rights in all software (in whatever form) We provide You with in connection with the Equipment and/or Services will remain Egg's property, or the property of the person who has granted Egg a licence for that software (i.e. Egg's Licensor). We will grant You a UK territory, non-exclusive, non-sublicensable, non-transferable licence to use the software strictly for the purpose of receiving the benefit of any Equipment and/or Services Egg provide You under and in accordance with the Agreement. You agree to keep to Egg's Licensor's terms and conditions relating to its use of the software.
- 14.6 You must:
- 14.6.1 unless confirmed in writing by Egg, treat the Materials and any software referred to in clause 14.5 above as confidential information, as defined in clause 22 of these Standard Terms and Conditions;
- 14.6.2 comply with clause 22 of these Standard Terms and Conditions in connection with any Materials and software; and
- 14.6.3 when the Agreement ends, for whatever reason, and subject to anything to the contrary in any applicable Special Conditions, immediately return all copies of the Materials and software to Egg and delete any copies from any computer, word processor or other storage device You have control over.
- 14.7 You must not:
- 14.7.1 copy, reproduce, duplicate republish, distribute or otherwise make available to any third party the software, except for archiving or back-up purposes (and in those circumstances You must make sure that each copy contains all of the original software's proprietary notices);
- 14.7.2 adapt, modify, translate, reverse engineer, decompile, disassemble, alter or otherwise tamper or interfere with the software (except where the Law allows this); or
- 14.7.3 create work derived from or based on any of the software or any document accompanying it.
- 14.8 Except where clause 14.10 below applies, We will indemnify You against any damages (including reasonable costs) awarded against You in a final, non-appealable court judgment or We agree in writing to be paid to a third party in connection with any claim or action against You as a result of a Service infringing the Intellectual Property Rights of a third party (an Intellectual Property Rights Claim), as long as You do the following:
- 14.8.1 give Egg notice of any such claim or action promptly after You become aware of it (and in any event no later than 3 Business Days after becoming aware of it);
- 14.8.2 give Egg, and only Egg, authority to defend the claim or action, and at no time admit liability or otherwise try to settle the claim or action (unless We have given You written instructions to do so); and
- 14.8.3 follow Egg's reasonable instructions and give Egg any help We may

reasonably need with the defence, including completing and filing court papers and providing relevant documents.

- 14.9 We will refund reasonable costs You have to pay in order to comply with clause 14.8 above.
- 14.10 We will have no liability to You in connection with an Intellectual Property Rights claim against You if it has resulted from:
  - 14.10.1 Your negligence or misconduct;
  - 14.10.2 You failing to comply with any of Your obligations under the Agreement;
  - 14.10.3 You combining, operating or using the Equipment and/or Service with services, content, designs, specifications, software, devices or equipment (including without limitation Customer Apparatus) We have not supplied or authorised;
  - 14.10.4 the use of Customer Materials in the development of, or the inclusion of Customer Materials in, the Equipment and/or Services;
  - 14.10.5 compliance with Your specifications or instructions;
  - 14.10.6 You using the Equipment and/or Service for a purpose other than that which the Equipment and/or Service were provided for and/or other than in accordance with the Agreement;
  - 14.10.7 any alteration or adjustment to the Equipment and/or Service if the alteration or adjustment was not made or authorised by Egg;
  - 14.10.8 in respect of any Intellectual Property Rights claim against You in relation to any software which We make available to You, (I) to the extent that You fail to use any non-infringing version of such software which We make available to You; or (II) such claim is in respect of any open source software and such claim from a third party is based on the fact that the underlying code covered by the open source software breaches that third party's copyright;
  - 14.10.9 any claim and/or allegation that any Equipment and/or Service (including without limitation any provision, use and/or receipt of any Equipment

and/or Service) infringes any patent of any third party; or

- 14.10.10 You breaking the Law.
- 14.11 If there is an Intellectual Property Rights claim against You, We will be entitled, at Our own expense, to:
  - 14.11.1 gain the right for You to continue using the relevant Equipment and/or Service; or
  - 14.11.2 alter or adjust the relevant Equipment and/or Service so it no longer infringes the third party's Intellectual Property Rights, as long as the alteration or adjustment does not significantly reduce the effectiveness or performance of the Equipment and/or Service; or
  - 14.11.3 replace the relevant Equipment and/or Service with substitutes that do not infringe the third party's Intellectual Property Rights, as long as the substitutes do not significantly reduce the effectiveness or performance of the Equipment and/or Service.
- 14.12 If We reasonably believe that We cannot exercise any of the options set out in clause 14.11 above, We will be entitled to end the Agreement by giving You 30 days' notice in writing.
- 14.13 You must indemnify Egg against any damages (including reasonable costs) awarded against Egg in a final, non-appealable court judgement or which You agree in writing to pay in connection with any claim or action against Egg as a result of any Equipment and/or Service infringing the Intellectual Property Rights of a third party (an Intellectual Property Rights claim against us) if that claim or action arose from:
  - 14.13.1 work Egg carried out in line with instructions or specifications provided by You; or
  - 14.13.2 You connecting or using Customer's Apparatus (excluding Purchased Equipment) with the relevant Equipment and/or Service.
- 15 LIMITS OF LIABILITY**
- 15.1 Nothing in the Agreement will limit or exclude Your or Egg's liability for:
  - 15.1.1 fraud or fraudulent misrepresentation;

- 15.1.2 death or personal injury resulting from Your or Egg's own negligence (as defined in section 1 of the Unfair Contract Terms Act 1977);
  - 15.1.3 not meeting the requirements of section 12 of the Sale of Goods Act 1979;
  - 15.1.4 a breach of clause 22 (Confidentiality) of these Standard Terms and Conditions;
  - 15.1.5 matters which cannot, by Law, be restricted or excluded; or
  - 15.1.6 Your obligation to pay any sums expressed to be due from You under the Agreement.
- 15.2 Except where the Agreement states otherwise, all warranties, guarantees, assurances, conditions, undertakings and terms (whether expressed or implied) relating to the Equipment and/or Services (including any software used in them), are excluded to the fullest extent allowed by Law.
- 15.3 Except as set out in clauses 15.4 and 15.6 below, We accept liability for direct physical damage to Your property and the Site only if the damage arises solely and directly from Egg's negligence or the negligence of Egg's employees, agents or contractors acting in the course of their employment. We accept no liability for any effect that drilling, grouting, trenching or other ground works may have on foundations, services or structures at or near the Site or that works to install Equipment on a roof may have on the structure of the roof or the building, and if applicable You should arrange for suitable architects, engineers and other contractors to advise on the potential impact of such works and approve the position and construction of such works. Egg shall be entitled to rely on the information provided by You, Your architects, engineers and other contractors in relation to the Site and the Installation Services, and We accept no liability for the inadequacy or incorrectness of such information or advice, nor are We responsible for verifying the advice provided to You by such third parties
- 15.4 You shall indemnify Egg against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Egg arising out of or in connection with any claim made against Egg by a third party (including Your end customers and/or users) arising out of or in connection with Your use of the Equipment and/or Services and/or You making the Equipment and/or Services available to any third party, unless such claim arises as a result of a defect in the Equipment and/or Services caused by Egg and/or in relation to an Intellectual Property Rights Claim against You in accordance with clause 14.8 of these Standard Terms and Conditions.
- 15.5 Except in connection with indemnifying Egg for any amounts under clauses 8.4, 14.13 or 15.4 of these Standard Terms and Conditions or under any applicable Special Conditions, and except where clause 15.1 above applies, during any Contract Year Your or Egg's total liability to the other under or in connection with the Agreement (except for Your liability to pay Egg's charges), whatever the type of claim (including in respect of contract, tort (including negligence), breach of statutory duty or otherwise) for that Contract Year will be limited to:
- 15.5.1 100% of the total charges You have paid Egg during that Contract Year; or
  - 15.5.2 £100,000;
- whichever is higher.
- 15.6 Subject to clauses 15.1 and 15.4 above, neither You nor Egg will have any liability (except for Your liability to pay Egg's charges) arising out of or in connection with the agreement, for the following:
- 15.6.1 any direct or indirect loss of or damage to:
    - (a) business, production, working time, data or expected savings; or
    - (b) goodwill, opportunity or contracts; or
    - (c) revenue; or
    - (d) profits;
    - (e) whether or not that loss or damage could have been anticipated;
  - 15.6.2 any direct or indirect loss or damage arising from:
    - (a) data being destroyed, or corrupted; or

- (b) business interruption; or
- (c) increased staff time; or
- (d) wasted expense; or
- (e) liability to third parties;
- (f) whether or not that loss or damage could have been anticipated; and/or

15.6.3 any indirect, special or consequential loss or damage, whether or not that loss or damage could have been anticipated.

15.7 If a number of claims give rise to what is essentially the same loss, they will be considered together as only one claim under the Agreement.

15.8 Clauses 15.1 to 15.7 set out Your and Egg's entire liability to the other in connection with the Agreement.

15.9 You agree that the limits of Egg's liability under the Agreement are reasonable.

15.10 This clause 15 will stay in force after the Agreement terminates for any reason.

## 16 SUSPENDING THE SERVICES

16.1 We can suspend all or part of the supply of the Services:

- 16.1.1 if You fail to make any payment that you are obliged to pay to Egg or any of its Group Companies in respect of the supply of the Services when it becomes due;
- 16.1.2 if We have good reason to suspect that You may have committed, or may be committing, any fraud against Egg;
- 16.1.3 if You have committed a breach of the Agreement; or
- 16.1.4 in any circumstance where We are entitled to terminate the Agreement.

Where We exercise Our rights under this clause 16.1, We shall be relieved from the performance of Our obligations. We shall not be liable for any costs or losses sustained or incurred by You arising as a result of the suspension and You shall be obliged to reimburse Egg on reasonable written demand for any reasonable costs or losses sustained or incurred by Egg arising as a result of the suspension and/or Egg agreeing to re-start supply of the Services.

16.2 We can temporarily suspend all or part of the Services in order to:

- 16.2.1 change the technical specification of the Equipment and/or Services;
- 16.2.2 carry out repairs, maintenance work or improvements; or
- 16.2.3 prevent injury to people or damage to property.

16.3 We can suspend all or part of the supply of the Services, or take any other action We reasonably believe is necessary, to comply with any instructions issued by the Government, a regulatory authority, an emergency service or other relevant authority.

16.4 Except in an emergency or where We suspect You have committed or may be committing fraud against Egg or if We are restricted at Law from giving You prior notice, if We are going to suspend all or part of the supply of the Services We will give You as much notice as is reasonably possible. You will have no claim against Egg for suspending all or part of the supply of the Services under clauses 16.1 to 16.3 above. If Egg exercises its right to suspend all or part of the supply of the Services, this will not affect Egg's right to end the Agreement.

16.5 You will continue to be liable for (and must continue to pay) the Charges during any period of suspension. If We suspend all or part of the supply of the Equipment and/or Services because You have failed to make any payment due to Egg, You must also refund Egg's reasonable costs and expenses involved in suspending the supply of the Services.

16.6 Following any suspension pursuant to clause 16.1 or 16.3 above, if We agree to start supplying You with Services again, You must pay Egg's reasonable charges of doing so, and any reasonable deposit Egg asks for.

## 17 TERMINATION

17.1 Without affecting any other rights We have to terminate the Agreement (whether set out in other parts of these Standard Terms and Conditions, the Special Conditions or otherwise), We may terminate the Agreement immediately, by giving You written notice, if any of the following has happened:

- 17.1.1 You fail to make any payment that you are obliged to pay to Egg or any of its Group Companies when it becomes due and fail to remedy that breach within a period of 7 days after being notified in writing to do so;

- 17.1.2 You commit a material breach of any term of the Agreement and (if such breach is remediable) fail to remedy that breach within a period of 30 days after being notified in writing to do so.
- 17.1.3 You:
- (a) suspend, or threaten to suspend, payment of Your debts or are unable to pay Your debts as they fall due or admit inability to pay Your debts or, if You are a company or limited liability partnership, are deemed unable to pay Your debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986 or, if You are an individual, are deemed either unable to pay Your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or, if You are a partnership, have any partner to whom any of the foregoing apply;
  - (b) commence negotiations with all or any class of Your creditors with a view to rescheduling any of Your debts, or make a proposal for or enter into any compromise or arrangement with any of Your creditors other than if You are a company for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or Your solvent reconstruction; and/or
  - (c) apply to court for, or obtain, a moratorium under Part A1 of the Insolvency Act 1986.
- 17.1.4 A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with Your winding up (if You are a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or Your solvent reconstruction.
- 17.1.5 An application is made to court, or an order is made, or any other steps are taken, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over You (if You are a company, partnership or limited liability partnership).
- 17.1.6 The holder of a qualifying floating charge over Your assets (if You are a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver.
- 17.1.7 A person becomes entitled to appoint a receiver over all or any of Your assets or a receiver is appointed over all or any of Your assets.
- 17.1.8 One of Your creditors or encumbrancers attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of Your assets and such attachment or process is not discharged within 14 days.
- 17.1.9 Any event occurs, or proceeding is taken, with respect to You in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 17.1.3 to 17.1.8 above.
- 17.1.10 Any licence, permission or other approval You need to provide the Equipment and/or Services has ended, been withdrawn, been restricted or has stopped being valid, and has not been immediately replaced by a new licence, permission or approval giving You the necessary rights.
- 17.1.11 The details You gave Egg to enable Egg to provide any Equipment and/or Service were significantly wrong or incomplete.
- 17.1.12 You have broken or may be breaking, or Egg reasonably believes that You have broken, or may be breaking, any

- Law or infringing the legal rights of any person in connection with any Service Equipment and/or Service.
- 17.1.13 You have committed or may be committing, or Egg reasonably believes that You have committed or may be committing, any fraud against Egg.
- 17.1.14 The Service Equipment becomes a total loss for insurance purposes.
- 17.1.15 There is a change of Control of You or Your Holding Company to which Egg has not given its prior written consent.
- 17.1.16 You become a Sanctioned Entity.
- 17.1.17 It is or becomes illegal for Egg to perform any of its obligations under the Agreement.
- 17.2 Subject to any applicable Special Conditions, You may terminate the Agreement immediately, by giving Egg written notice, if an Egg Event of Default occurs.
- 17.3 Upon termination of the Agreement, any licence We have granted You will also end. You must immediately stop using the Services and any Service Equipment and, where Egg has terminated pursuant to clause 17.1, pay Egg's Cancellation Charges in line with clause 13.11 of these Standard Terms and Conditions. We will send You an invoice when the Agreement ends, and You must pay that invoice in line with clause 13.4 of these Standard Terms and Conditions. We do not have to refund any amounts that You have paid in advance.
- 17.4 When the Agreement ends You must allow Egg to remove any Service Equipment. If You cause a delay in Egg removing the Service Equipment, We can continue to charge You until such removal is completed, and You must pay those charges and any extra costs and expenses arising as a result of the delay.
- 17.5 The right to end the Agreement will not affect any rights, obligations or liabilities that arose before the Agreement ended.
- 18 ASSIGNMENT AND SUBCONTRACTING**
- 18.1 You must not assign (transfer), delegate or otherwise pass on any or all of Your rights or obligations under the Agreement. You may request Egg's consent to a novation of the Agreement to the purchaser of the property at which the Equipment is installed and Egg shall not unreasonably withhold such consent, provided that it shall be reasonable for Egg to withhold its consent where Egg has assigned any of its rights under the Agreement to a Funder and the Funder does not consent to the novation, such consent to be at the Funder's sole discretion.
- 18.2 We may subcontract Our obligations under the Agreement. This will not release Egg from its obligations under the Agreement, and We will still be responsible for making sure the obligations are met.
- 18.3 Except where clause 18.4 below applies, if You give Egg written permission (which You must not refuse to give, or delay in giving, without good reason), We may transfer or otherwise dispose of any or all of Our rights and/or obligations under the Agreement.
- 18.4 We do not need Your written permission to transfer or otherwise dispose of or grant security over any or all of Our rights and/or obligations under the Agreement to:
- 18.4.1 any of Egg's Affiliates at the time;
- 18.4.2 any Funder; or
- 18.4.3 any person buying all or substantially all of Egg's business which the Agreement relates to.
- 18.5 When asked, You must fill in and sign all necessary paperwork to complete the transfers in clauses 18.3 and 18.4 above.
- 19 EVENTS OUTSIDE OF A PARTY'S CONTROL**
- 19.1 Neither party shall be liable to the other for any failure or delay in meeting the obligations under the Agreement (other than paying any amounts owed) if this is due to any circumstance outside Your or Egg's reasonable control. If the circumstance beyond Your or Egg's control prevents Egg from providing the Equipment and/or Services to all Sites for more than three months, You or Egg may end the Agreement without any additional liability by giving the other notice in writing, provided that, upon any such notice being given, the Cancellation Charges shall become payable in accordance with clause 13.11 (except that you will not have to pay any sums that would otherwise be due under clause 13.11.3 thereof).
- 19.2 Circumstances beyond Your or Egg's control include (but are not limited to) extreme weather conditions, power failures, telecommunications network outages, natural disaster, fire, subsidence, epidemic, pandemic, strike or

labour disturbance, the actions (or delay or failure to act) of local, regional or central government, highways authorities or other official authorities or statutory undertakings (including DNOs), legal or regulatory restrictions, terrorism, war or civil disturbance, and a third party's delay in supplying, or failure to supply, any service, equipment (where their actions or failures resulted from circumstances beyond their reasonable control). The availability of funds to pay any amounts owed shall always be deemed to be within Your or Egg's reasonable control.

19.3 For the avoidance of any doubt, nothing in this clause 19 shall affect Your obligations to pay any amounts due to Egg when due and payable in accordance with clause 13.1.

## **20 CHANGING THE AGREEMENT OR SERVICE**

20.1 Subject to clauses 5.5 and 5.7 and except where clause 20.3 or 20.4 below applies, any change to the Agreement must be agreed in writing by You and Egg.

20.2 If You ask Egg to:

20.2.1 change a Service (including moving, adding or swapping Service Equipment and/or Service); or

20.2.2 provide Services at a different Site or different location on Site;

and Egg agrees to Your request, You must do everything Egg needs You to do for Egg to make the change. You must also pay Egg the relevant charges that apply at the time for the change, which Egg shall confirm to You in writing within a reasonable time following receipt of Your request. If We instruct You to carry out any work in connection with the change, You must carry out the work in line with Egg's instructions.

20.3 We may at any time improve or change a Service and/or any Service Equipment if any of the following apply:

20.3.1 Egg's suppliers' services have changed and this affects the Service Egg provides to You;

20.3.2 We have reason to believe that the change is needed to maintain or improve quality or to benefit customers as a whole;

20.3.3 the change is necessary for technical reasons; or

20.3.4 We are required to make the change by Law.

20.4 We may also change a Service and/or any Service Equipment at any time (other than for the reasons set out in clause 20.3 above), including as a result of a change of name, a change in how We provide services, a change in technology or an upgrade to or substitution of an alternative service, as long as:

20.4.1 the functions and service levels of the changed service are equivalent to or better than the previous Service and/or any Service Equipment (as applicable);

20.4.2 You will not be charged for the change; and

20.4.3 the Charges and Initial Service Term (if applicable) will not be affected by the change.

20.5 You must notify Egg in writing immediately upon the occurrence of a change of Control of You or your Holding Company and give Egg full details of the change of Control.

## **21 WRITTEN NOTICES**

21.1 Any written notice You sends Egg must be delivered by hand or sent by post to:

For the Attention of: Chief Financial Officer  
Egg – Cracking Energy  
Unit D – Turnkey Park  
Leeds  
West Yorkshire  
LS12 6AD

With a copy sent to the same address for the attention of the Commercial Director,

or any other address We give You in writing.

21.2 Any written notice We send You will be:

21.2.1 delivered by hand or posted to Your billing address or to Your registered office; or

21.2.2 emailed to Your email address given to Egg in writing.

21.3 Written notice delivered by hand will be considered to have been received on that day.

21.4 Written notice sent by post will be considered to have been received three days after the date it was posted.

21.5 Written notice sent by email will be considered to have been received on the Business Day it is first stored in the email inbox of the person the notice was emailed to.

21.6 If You send Egg written notice to end the Agreement You must make sure that You keep a copy of the notice and proof of delivery.

## **22 CONFIDENTIALITY**

22.1 When You or Egg provide confidential information (information which You or Egg mark as confidential or which is clearly confidential) to the other, the person receiving the confidential information (the receiver) gives the person providing the confidential information (the provider) the following assurances:

22.1.1 the receiver will keep confidential information the provider gives in discussions leading to the Agreement, and then in connection with the Agreement, private;

22.1.2 the receiver can give the provider's confidential information, to the extent necessary and in strict confidence, to their employees, representatives, agents and subcontractors (and those of its Affiliates) involved in providing or using the Equipment and/or Services, as the case may be and, in the case of Egg, to any Funder. The receiver will not release all or some of the provider's confidential information to any other person without the provider's permission in writing; and

22.1.3 the receiver will only use the provider's confidential information in connection with providing or using the Services and/or the Equipment, as the case may be, and not for their own benefit or the benefit of anyone else.

22.2 You must not reveal the terms of the Agreement to any third party, or make any announcements about its contents, without Egg's permission in writing. We may tell others that You are a customer of ours and issue agreed press releases, promotional material and case studies in line with clause 24.6 of these Standard Terms and Conditions, but We will not otherwise reveal the terms of the Agreement to any third party other than any Funder without Your permission in writing.

22.3 The confidentiality obligations in clauses 22.1 and 22.2 above will not apply if any court, government, tax authority or regulator requires the receiver to reveal the confidential information (but only to the extent required by Law). Unless the Law does not allow this, the receiver will give the provider written notice, as

soon as reasonably possible, about their confidential information being released.

22.4 The confidentiality obligations in clauses 22.1 and 22.2 above will not extend to confidential information which:

22.4.1 became available to the public in a way other than through the receiver's negligence or failure to meet an obligation under the Agreement;

22.4.2 the receiver already knew before the provider gave it them; or

22.4.3 was given by a third party who did not receive it in confidence.

22.5 Clause 22 will stay in force after the Agreement ends.

## **23 DATA PROTECTION**

23.1 This clause will apply to the extent that We process Personal Data on Your behalf in the course of performing its obligations under the Agreement.

23.2 The parties each acknowledge and agree that they may need to process Personal Data in relation to each party's representatives (in their respective capacities as Data Controllers) in order to (as appropriate): (a) administer and provide the Services; (b) request and receive the Services; (c) compile, dispatch and manage the payment of invoices relating to the Services; (d) manage the Agreement and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Services; and (f) comply with their respective regulatory obligations. Reference is made to the Egg privacy policy which explains how Egg will use Personal Data and You should ensure such privacy policy is made available to affected data subjects.

23.3 Subject to where the contrary is explicitly stated in the Special Conditions and subject to clause 23.2, You will be the Data Controller of the Personal Data that is provided to Egg for processing under the Agreement and Egg will act as a Data Processor on Your behalf.

23.4 Under the Agreement, You will be responsible for:

23.4.1 complying with all Data Protection Legislation in respect of Your use of the Services, Your processing of the Personal Data and any processing instructions You give Egg;

- 23.4.2 ensuring You have the right to collect, provide access to or transfer the Personal Data to Egg for processing under the Agreement; and
- 23.4.3 ensuring that You will not disclose (or permit any Data Subject to disclose) any special categories of data to Egg for processing.
- 23.5 We will process the Personal Data to the extent necessary to provide You with the Services and in accordance with Your reasonable instructions (including the reasonable instructions of any users accessing the Services on Your behalf) as set out in this clause 23, the Order Form or otherwise in writing, and in doing so We will comply with the Data Protection Legislation.
- 23.6 We may only process Personal Data for the purposes set out in the Agreement and shall (unless and to the extent expressed to the contrary in the Order Form) be subject to the restrictions on the categories of data subject, categories of personal data, subject matter and nature of processing and the processing activities as set out below:
  - 23.6.1 Subject Matter of the Processing: The provision of the Services to You Customer that involves the processing of Personal Data;
  - 23.6.2 Purpose of the Processing: To enable Your employees and customers to utilise the Services;
  - 23.6.3 Duration of the Processing: In respect of each Service, the Service Term;
  - 23.6.4 Categories of Data Subject: Your employees and end customers who make use of or benefit from the Services;
  - 23.6.5 Types of Personal Data: Generic details, authentication details, personnel details, contact information and account details;
  - 23.6.6 Nature of Processing: Collect and store data in a secure platform to facilitate and administer access to the Services and to monitor usage of those Services.
- 23.7 We will ensure that any of Egg's personnel authorised to process the Personal Data will be subject to a duty of confidentiality.
- 23.8 We will take the following security measures as standard (subject any specific measures confirmed by You in writing):
  - 23.8.1 implement and maintain appropriate technical and organisational security measures against accidental or unauthorised destruction, accidental loss, as well as against alteration of, access to and any other unauthorised processing of the Personal Data (a "Data Breach") which take into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons; and
  - 23.8.2 notify You without undue delay, and in any event within 72 hours, after becoming aware of a Data Breach affecting the Personal Data, and upon Your reasonable written request, provide You with all co-operation and assistance reasonably requested by You to enable You to notify the Data Breach to the relevant data protection authority and relevant data subject(s) (as applicable).
- 23.9 You agree that We may engage Egg's Group Companies and third party sub-processors (collectively, "**Sub-Processors**") to process Personal Data on Egg's behalf, provided that:
  - 23.9.1 We maintain an up-to-date list of Sub-Processors which will be available on request
  - 23.9.2 We impose on such sub-processors data protection terms that require them to protect the Personal Data to the standard required by Data Protection Legislation; and
  - 23.9.3 We remain liable for any breach of the Data Protection Legislation caused by Egg's Sub-Processor when processing Personal Data under the Agreement.
- 23.10 We will not process or otherwise transfer any Personal Data outside the European Economic Area or to any international organisations unless the conditions for international transfers under Data Protection Legislation are complied with (such as transfers to adequate jurisdictions, or ensuring appropriate safeguards are in place, such as entering into

the standard contractual clauses as issued by the European Commission with the data importer).

- 23.11 We shall, where relevant and taking into account the nature of the processing of the Personal Data, provide reasonable assistance to assist You by taking appropriate technical and organisational measures, to fulfil and respond to requests by individuals to exercise their rights under Data Protection Legislation (but We shall not be required to directly respond to any such request on Your behalf).
- 23.12 Taking into account the nature of the processing and information available to Egg, We will provide reasonable assistance to You to allow You to comply with its security, impact assessment and supervisory authority consultation obligations under Data Protection Legislation.
- 23.13 We will be entitled to recover Our reasonable costs of providing any assistance to You as mentioned in this clause 23.
- 23.14 We will make available to You all information reasonably requested by You in writing to demonstrate its compliance with the obligations set out in this clause 23, and We will contribute to audits, including inspections, to verify compliance with such obligations conducted by You or an independent third party auditor acting under Your direction. Such audits or inspections may take place no more than once per calendar year and will be at Your cost. You will give Egg not less than 30 days' prior written notice of any such audit or inspection, and such audit or inspection will be carried out during Egg's normal working hours with minimal disruption to Egg's business.
- 23.15 Upon expiry or termination of the Agreement, We will, at Your request, delete or return to You the Personal Data processed under the Agreement, unless storage is required by law.

## **24 MARKETING AND CUSTOMER'S INFORMATION**

- 24.1 We may monitor and record telephone conversations with You in order to maintain the quality of Egg's customer services and for training purposes.
- 24.2 We can pass on information that describes the habits, usage patterns and characteristics of all or groups of Egg's customers (including You). However, the information is anonymous and does not describe or reveal the identity of any particular customer.

- 24.3 Unless You have told Egg otherwise in writing, We may:
- 24.3.1 use Your information to send You information about other products or services Egg or Egg's Group Companies has available; and
- 24.3.2 provide Your information to third parties so they can give You information about their products or services.
- 24.4 For the purpose of performing Egg's obligations under the Agreement, You give Egg permission to use Your personal information, together with other information from You, for the purposes of:
- 24.4.1 providing You with the Equipment and/or Services, service information and updates;
- 24.4.2 administration;
- 24.4.3 credit scoring;
- 24.4.4 carrying out identity checks;
- 24.4.5 preventing fraud;
- 24.4.6 monitoring and improving customer services;
- 24.4.7 training; and
- 24.4.8 tracking and assessing the use of Egg's services (which includes processing call, usage, billing and interactive information);

for as long as Egg needs to for these specified purposes, which may be after the Agreement ends.

- 24.5 Occasionally, We may use third parties to process Your personal information in the ways set out above. These third parties can only use the information in line with Egg's instructions.
- 24.6 We may use any information You provide for the purposes set out in this clause 24, for other purposes You gives permission for, or for any other purpose required by Law. Egg can pass Your information to any of Egg's Group Companies, debt-collection agencies, credit-reference agencies, credit- or fraud-monitoring schemes, security agencies or credit providers.
- 24.7 Unless You have told Egg otherwise in writing, You agree to be involved in any press release, promotional material or case studies relating to the Agreement which We reasonably request.

## **25 ENTIRE AGREEMENT**

- 25.1 The Agreement between You and Egg is the whole agreement between You and Egg and

replaces any previous drafts, agreements, and arrangements relating to the supply of Equipment and/or Services.

- 25.2 You and We agree that neither of You and Egg has been encouraged to enter into the Agreement by any representation or promise other than those contained in the Agreement, and cannot take any action in respect of any other representation or promise, except in the case of fraud or a representation or promise that is central to the Agreement. Clauses 15.4 and 15.6 will apply to any representation or promise that is central to the Agreement.

## 26 PREVENTING BRIBERY

You and Egg must not pay, offer, promise to pay or authorise the payment of any money or other advantage which breaks anti-corruption Laws, including the UK Bribery Act 2010, the US Foreign Corrupt Practices Act 1977 and any Laws intended to bring into force the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Also, You and Egg must not take any action that would cause either party to break anti-corruption Laws.

## 27 MISCELLANEOUS

- 27.1 Except where the Agreement states otherwise, the rights and remedies that We are entitled to under the Agreement are in addition to, and do not overrule, any other legal rights and remedies.
- 27.2 If We do not exercise, or delay in exercising, any right or remedy We have under the Agreement, this does not mean We have given up that right, and so may exercise it in the future.
- 27.3 If We exercise all or part of any right Egg has under the Agreement, this will not prevent Egg from exercising that or any other right in the future.
- 27.4 If any court or other relevant authority finds that any part of the Agreement is illegal or cannot be enforced, this will not affect the rest of the Agreement. In these circumstances, You and Egg will discuss the affected part of the Agreement to find a substitute that, as far as possible, results in the same economic effects and is legally binding.
- 27.5 If any part of the Agreement is intended to stay in force after the Agreement ends, that part will stay in force after the Agreement ends for any reason.
- 27.6 Unless there are any relevant restrictions in the Agreement, at any time after the date of the

Agreement, You or Egg may ask the other to complete any necessary paperwork, and take any action reasonably necessary, for the purpose of giving You or Egg (as appropriate) the full benefit of Your or Egg's rights under the Agreement. The one asking for the paperwork to be completed, or action carried out, will pay the reasonable costs that result from completing the paperwork or carrying out the action.

- 27.7 Nothing in the Agreement forms a partnership between You and Egg, or makes You an agent of Egg's (or vice versa).
- 27.8 You and Egg agree that the Agreement cannot be enforced by anyone (other than You, Egg and any Funder to which any rights in the Agreement are assigned) under the Contracts (Rights of Third Parties) Act 1999 or any amendment to it.

## 28 QUERY RESOLUTION & ESCALATION

- 28.1 If there is a dispute between You and Egg in connection with the Agreement and the parties cannot settle the dispute between ourselves within 30 days the giving of notice of the dispute by one party to the other, You or Egg may refer the dispute to the courts of England, in line with clause 29 of these Standard Terms and Conditions.
- 28.2 While the procedure set out in this clause 28 is being followed, and during any legal proceedings which may be ongoing or pending, You and Egg will both continue to meet their respective obligations under the Agreement, but nothing in this clause prevents You or Egg from ending the Agreement in accordance with its terms or from You exercising any right to terminate the provision of Support Services to the extent entitled to do so pursuant to any Special Conditions.
- 28.3 Nothing in this clause 28 prevents You or Egg from applying to a court for equitable relief (a range of remedies that a court has the power to grant) if damages alone would not be an adequate remedy for breaking the Agreement.

## 29 GOVERNING LAW AND JURISDICTION

- 29.1 The Agreement and any obligations arising from or connected with it will be governed by, and interpreted according to, English law.
- 29.2 If any legal action or proceedings arise in connection with the Agreement (whether arising out of contractual or non-contractual obligations), You and Egg accept that only the

English courts have the power to decide on such action or proceedings.

**30 SPECIAL CONDITIONS**

- 30.1 The Special Conditions shall apply as follows:
  - 30.1.1 The EVC Special Conditions shall apply where Your order relates to EV charging Equipment and/or related Services;
  - 30.1.2 The Solar and Storage Special Conditions shall where Your order relates to solar and storage Equipment and/or related Services; and
  - 30.1.3 The Managed Service Special Conditions shall apply where Your order relates to provision of a Managed Service by Egg.