



**Business  
Solutions**

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# Data Protection Schedule

for the supply of third party intermediary services

October 2018

## Data Protection Schedule

1. These terms (**the DP Terms**) form part of and are incorporated into any arrangements between Npower and third parties for the supply of third party intermediary services. In these DP Terms the following definitions apply in addition to any terms defined in the Agreement or elsewhere:

- a) **Agreed Purpose** means the performance by each party of its obligations under this Agreement and the promotion or marketing of the Services and the management of any completed Contract between npower and a Customer where the TPI continues to act as an intermediary.
- b) **Data Protection Legislation** means in prevailing legislation governing the protection of data, being the Data Protection Act 2018 and / or the General Data Protection Regulations and / or the licences to supply electricity or gas granted to Npower under the Electricity Act 1989 or the Gas Act 1986 ("**Supply Licences**").
- c) "**Data**", "**Data Processor**", "**Data Controller**", "**Data Subject**", "**Personal Data**", "**Sensitive Personal Data**" and "**Process**" shall have the same meanings as in the Data Protection Legislation.
- d) **Domestic Premises** and **Domestic Customer** have the meaning given to them in the Supply Licences.
- e) **Micro Business Consumer** has the meaning given to "**Relevant Consumer**" (in respect of premises other than domestic premises) in article 2(1) of The Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (S.I. 2008/2268).
- f) **Permitted Recipients** means the Parties to this Agreement and the employees and officers of each party.
- g) **Shared Personal Data:** the Personal Data to be shared between the Parties under Clause 2 of these DP Terms. Shared Personal Data shall be confined to the following categories of information:
  - i. names of current and potential Customers;
  - ii. names of the employees, officers or contractors of current and potential Customers;

- iii. the geographical address and email addresses of current and potential Customers or of the employees, officers or contractors of such Customers;
- iv. the telephone numbers of current and potential Customers or of the employees, officers or contractors of such Customers;
- v. the bank account numbers and payment card details of current and potential Customers;
- vi. information identifying supply points and meters connected to them (including MPANs, MPRNs and serial numbers) and consumption data relating to those meter points;

### **DP Terms for the sharing of Personal Data between the TPI and Npower**

- 2. Each party acknowledges that one party (the Data Discloser) will regularly disclose to the other party (the Data Recipient) Shared Personal Data collected by the Data Discloser for the Agreed Purpose.
- 3. Each party shall:
  - a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purpose;
  - b) give full information to any data subject whose personal data may be processed under this Agreement of the nature of such processing; this includes giving notice that on the termination of this Agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
  - c) process the Shared Personal Data only for the Agreed Purposes;
  - d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
  - e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the

Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Agreement;

- f) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised and unlawful processing of personal data and against accidental loss or destruction of, or damage to, Personal Data;
- g) not transfer any Personal Data received from the Data Discloser outside the EEA unless the transfer or:
  - i. complies with the provisions of Article 26 of the GDPR (in the event the third party is a joint controller); and
  - ii. ensures that the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; or there are appropriate safeguards in place pursuant to Article 46 GDPR (or any predecessor legislation unless such approval of such safeguards has been revoked by the European Commission); or one of the derogations for specific situations in Article 49 GDPR applies to the transfer.
- 4. Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
  - a) consult with the other party about any notices given to Data Subjects in relation to the Shared Personal Data;
  - b) promptly inform the other party about the receipt of any data subject access request;
  - c) provide the other party with reasonable assistance in complying with any data subject access request;
  - d) not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible (except where Npower is complying with a data subject access request made by a Business Customer or its employees or officers);

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| <p>e) assist the other party, at the cost of the other party, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;</p>  | <p>and Intellectual Property Rights in and to the Customer Data are and will remain the property of Npower and, to the extent that any Intellectual Property Rights vest in the TPI, its Group, members of its staff or its suppliers, the TPI unconditionally assigns the same to Npower with full title guarantee, irrevocably and unconditionally waives all moral rights in the same in favour of Npower and undertakes to take all actions necessary to arrange and confirm such assignment.</p> | <p>10.2 promptly (and in any event within twenty-four (24) hours of awareness) inform Npower in writing prior to performing any Processing of Personal Data if in its opinion an instruction given by Npower infringes or would be likely to constitute an infringement of the Data Protection Legislation;</p>  |
| <p>f) notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;</p>   | <p>7. The TPI shall treat all Customer Data as strictly confidential and subject to the confidentiality provisions contained within this Agreement, shall keep it safe and shall not use it or disclose it except as is strictly necessary in the performance of its obligations under this Agreement or its obligations under a Contract (where the TPI is continuing to act as an intermediary on behalf of a Customer), or as otherwise expressly agreed in writing in advance with Npower.</p>    | <p>10.3 ensure that only such of the TPI Personnel who are required to have access to Customer Data shall have such access and the TPI shall ensure that all such TPI Personnel are aware of the Data Protection Legislation and of Npower's obligations under Data Protection Legislation and that they have received suitable training in the care and handling of any such Customer Data to ensure compliance with such Data Protection Legislation and the TPI's obligations under this Agreement;</p> |
| <p>g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the Personal Data;</p>   | <p>8. The TPI shall, upon Npower's request, deliver up to Npower or permit Npower to inspect any such Customer Data immediately. The TPI shall on request securely return promptly to Npower any and all Customer Data (together with all copies).</p>  | <p>10.4 take no action (or shall not omit to take any action) with the Customer Data which would put Npower in breach of its obligations under Data Protection Legislation;</p>  |
| <p>h) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;</p>   | <p>9. The TPI shall notify Npower immediately if it comes to its attention that any Customer Data of any kind has been Processed or used without Npower's prior written authority.</p>  | <p>10.5 assist Npower with all subject access requests (and other third party requests) and/or other requests to exercise any other Data Subject rights under the Data Protection legislation which may be received from the Data Subjects of any Personal Data forming part of the Customer Data;</p>   |
| <p>i) maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the other party or the other party's designated auditor; and</p>   | <p>10. To the extent that the Customer Data provided to the TPI by or on behalf of Npower or its Group contains any Personal Data (including Sensitive Personal Data), the TPI agrees and acknowledges that Npower is the Data Controller in respect of such Personal Data and the TPI is a Data Processor, and that, in relation to all Customer Data, the TPI represents and undertakes that it shall:</p>  | <p>10.6 not use such Customer Data for any purpose other than as permitted under this Agreement;</p>   |
| <p>j) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.</p>   | <p>10.1 Process such Customer Data strictly in accordance with the terms and conditions of this Agreement and/or pursuant to Npower's documented or written instructions from time to time and only in accordance with all applicable laws and regulations, including, without limitation, the Data Protection Legislation;</p>   | <p>10.7 not use Personal Data forming part of the Customer Data for any purpose which may be inconsistent with those notified to the Data Subjects on or before the time of collection;</p>  |
| <p><b>DP Terms for the Processing of Personal Data by the TPI on behalf of Npower</b></p>  |   |  |
| <p>5. These DP Terms are appropriate for use with large business customers only and additional terms apply in other instances. The TPI represents and warrants that it will not provide any TPI Services to Npower which relate to Domestic Premises or Domestic Customers and if the TPI breaches this warranty, the TPI will indemnify the Supplier for any fines, costs, losses or penalties it suffers as a result of not having complied with the relevant Data Protection Legislation.</p> |   | <p>10.8 not disclose Customer Data to a third party in any circumstances other than at the specific request of Npower;</p>   |
| <p>6. All Data relating to Npower and its Group's business, customers, potential customers, suppliers, partners and staff, whether or not comprised of Personal Data (including Sensitive Personal Data), ("Customer Data")</p>  |   |  |

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- 10.9 allow its Data processing facilities, procedures and documentation to be submitted for scrutiny (and relevant TPI Personnel to be available to deal with queries) by the auditors or professional advisers of Npower in order to ascertain compliance with Data Protection Legislation and the terms of this Agreement;
- 10.10 not cause or permit the Processing or transfer of any Personal Data in or to any country outside of the European Economic Area (a "Restricted Country") without the prior express written consent of Npower (which may be refused at Npower's sole discretion) and, where such written consent is given, take such steps as required by Npower in order to protect the Personal Data and ensure that the transfer is in accordance with Data Protection Legislation and where it shall only be transferred to the extent of such written consent (and subject to any conditions set out therein, such as ensuring that the data importer is in a Restricted Country which has been and remains validly recognised by the European Commission as providing adequate protection for Personal Data) and, where deemed necessary in the opinion of Npower, subject to a data transfer agreement being in place between Npower and the proposed data importer (containing Standard Contractual Clauses for Data Processors established in third countries pursuant to the Commission Decision (2010/87/EU) of 5th February 2010 under the EU Directive (95/46/EC) or such other Commission Decision from time to time) in order to enable Npower and its Group to comply with the Data Protection Legislation;
- 10.11 promptly notify Npower in writing (and in any event within twenty-four (24) hours) (and continue to promptly provide updated information upon request) of and about any actual or suspected incident of accidental or unlawful destruction or accidental loss, alteration, unauthorised or accidental disclosure of or access to the Customer Data or any other breach or alleged breach of Data Protection Legislation or the terms of these DP Terms by the TPI or the TPI Personnel or any other identified or unidentified third party ("Security Breach") arising in respect of any amount of the Customer Data (such notification and updates to include the provision of information by the TPI to Npower as to how it has dealt or is proposing to deal with any such Security Breach or alleged Security Breach);
- 10.12 promptly (and in any event within twenty-four (24) hours) provide all information in its possession or control concerning any Security Breach, including as a minimum:
- (a) a description of the nature of the Security Breach;
  - (b) the categories and approximate number of Data Subjects concerned and the records of Customer Data affected;
  - (c) the name and contact details of any data protection officer or other contact point from whom further information can be obtained;
  - (d) a description of the likely consequences of the Security Breach; and
  - (e) a description of the measures taken or proposed to be taken by it to address the Security Breach;
- 10.13 promptly provide Npower with all material information in its possession reasonably required by Npower to comply with informal or formal security breach management and reporting obligations recommended or required by the Data Protection Legislation and/or any Data Protection Authority (including its obligation to notify the same and to communicate details of the same to affected Data Subjects, as relevant) from time to time concerning any Security Breach;
- 10.14 not to make an announcement, publish or otherwise authorise or broadcast any notice or information about a Security Breach (a "Breach Notice") without the prior consent and written approval of Npower of the content, media and timing of the Breach Notice;
- 10.15 immediately notify Npower in writing of any notice or communication concerning the Customer Data and compliance with Data Protection Legislation received from any person (including any Data Subject) or any Data Protection Authority; and
- provide all reasonable assistance to Npower in relation to any investigation conducted by Npower with respect to any notification received by Npower from the TPI and in relation to any other relevant matters concerning the Data Protection Legislation (which shall include the provision of all relevant information by the TPI to Npower and, where necessary, the implementation of any new procedures or processes by the TPI and the TPI Personnel to ensure compliance with the Data Protection Legislation and/or the terms of this Agreement).
11. The TPI warrants and represents that it has in place and will maintain throughout the period in which it Processes Customer Data appropriate operational, technical and organisational measures, processes and procedures to safeguard against any unauthorised or unlawful Processing, access, use or disclosure of the Personal Data and against loss, theft or destruction of, or damage to, Customer Data in accordance with Good Industry Practice (as defined in Paragraph 12 below) including, without limitation and as applicable, as to information and network security, disaster recovery and Data backup measures.
12. For the purpose of Paragraph 11 of these DP Terms, "Good Industry Practice" shall mean the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances seeking to meet its obligations to the fullest extent possible.
13. The TPI shall ensure that:
- 13.1 there is a level of security appropriate to the risk of unauthorised or unlawful processing of Personal Data and accidental loss, destruction, damage, alteration or disclosure of Personal Data, having regard to the nature of the Personal Data which is to be protected and the harm which might result;
- 13.2 encryption and pseudonymisation of Personal Data is employed as appropriate;
- 13.3 regular testing and evaluation of the effectiveness of the technical and organisational measures is undertaken;

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- 13.4 availability and access to Personal Data can be restored in a timely manner in the event of a physical or technical issue impacting upon the technical and organisational measures in place; and
- 13.5 the Processing of Personal Data is carried out using systems and processes designed to ensure data protection by design and default in compliance with Data Protection Legislation.
14. The TPI shall comply with its own applicable obligations under Data Protection Legislation, including in relation to record keeping of Processing activities.
15. The TPI shall procure and accepts full liability for ensuring that all TPI Personnel are aware of and comply with the obligations imposed upon the TPI as contained in these DP Terms and that all TPI Personnel required to access the Customer Data are informed of the confidential nature of the Customer Data and have committed themselves to protect the confidentiality of the Customer Data including by way of an appropriate obligation of confidentiality (whether by written contract or otherwise) in respect of Customer Data.
16. The TPI shall ensure that it obtains the prior written consent of Npower prior to appointing an agent, sub-agent, contractor or third party to assist in the performance of the TPI's obligations under this Agreement and shall remain liable for them. The TPI shall procure that such agent, sub-agent, contractor or third party enters into a written agreement with the TPI which imposes the same obligations to comply with the Data Protection Legislation, including as set out in these DP Terms.
17. The TPI shall permit Npower or representatives of Npower (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the TPI's Customer Data Processing activities (and/or those of its TPI Personnel and/or sub-contractors) and comply with all reasonable requests or directions by Npower to enable Npower to:
- 17.1 verify and/or procure that the TPI is in full compliance with its obligations under this Agreement and Npower's own obligations under the Data Protection Legislation;
- 17.2 conduct data protection impact assessments pertaining to relevant aspects of the Processing of Personal Data, where relevant and having regard to the Data Protection Legislation, including in order that Npower may prior consult with the relevant Data Protection Authority in respect of the same; and
- 17.3 cooperate and consult with the relevant Data Protection Authority under the Data Protection Legislation on any and all matters relevant to the Processing of the Personal Data and within timeframes specified by the relevant Data Protection Authority and/or in the Data Protection Legislation (including in respect of auditing and reporting obligations, maintaining a written record of processing activities and providing information as necessary to the relevant Data Protection Authority under the Data Protection Legislation relating to the same)
18. Save where there are provisions to the contrary set out in this Agreement (in the case of Personal Data to the extent permitted by Data Protection Legislation), upon termination or expiry of this Agreement the TPI shall securely return to Npower all Customer Data (including any Personal Data) in its possession or control and shall ensure that any copies of such Customer Data (including any Personal Data) in the TPI's possession or control are securely and permanently destroyed or deleted (as appropriate) (unless and to the extent such Customer Data is required to be retained by applicable law and permitted by Data Protection Legislation) in accordance with Npower's instructions and shall provide Npower with any and all such evidence as Npower shall reasonably require to enable Npower to ensure that the TPI has complied with its obligations under this Paragraph 18 these DP Terms.
- General**
19. The TPI hereby agrees to fully indemnify and keep fully indemnified Npower (and its Group, directors, officers and employees) immediately on demand against any loss (including loss of profits, reputation and goodwill), liability, damage, expense, claim, fine, demand, proceedings, charge or cost directly or indirectly suffered or incurred by Npower (or its associated companies, Group, directors, officers and/or employees) as a result of a breach of these DP Terms either by the TPI or by the TPI's personnel.
20. In the event that this Agreement constitutes a consultancy or agency agreement/contract/ relationship (as applicable) which covers remuneration in the form of donations or sponsorship or payments to public officials or elected representatives or the commissioning of consultants, then any Personal Data that has been provided by the TPI in relation to such agreement/contract/relationship (as applicable, which may include information provided in any tender) will be recorded by Npower in the Group company's Compliance System and will be stored in Germany for a period of ten (10) years (after which it will be automatically deleted) for the purpose of allowing Innogy SE (Npower's parent company) and Npower to ensure their respective compliance with Npower's Code of Conduct in respect of the way that Npower deals with such consultants or agents (as applicable) and to ensure that such payments are not used for illegal purposes.
21. These DP Terms may be amended by Npower from time to time. Any amended version shall have immediate effect upon notice of the changes being given by Npower to the TPI in accordance with the Agreement.
22. These DP Terms shall continue after termination or expiry of this Agreement.