TRITILITY TERMS AND CONDITIONS OF SERVICE

In this document you will find the detailed Terms and Conditions of the Contract Checking, Procurement and Client Services offered by Tritility Business Energy Consultants (A trading style of Tritility Limited).

If you have any specific questions in relation to our terms and conditions, our Client Services team will be happy to help. You can call us on 0191 694 1234 (Monday – Thursday 8:30am-5:00pm and Friday 9:00am-3:00pm) or via email at office@tritility.com.

TERMS AND CONDITIONS OF SERVICE

These Terms govern the use by the Client of any of the Services that Tritility Limited (“TL”) agrees to provide to the Client from time to time. Please read these Terms carefully before accepting these Terms and using the Services. By signing the Letter of Authority, you signify that you have read, accept, and agree to be bound by, these Terms.

The Client’s attention is specifically drawn to the provisions of clauses 4.13, 4.14, 4.15, 5.5, 6 and 10.

1. Definitions

1.1 The following definitions apply to these Terms and Conditions of Service (the “Terms”):
- **Agreement**: means, these Terms and Conditions of Service.
- **Call Centre**: means the Call Centre operated by TL for the purposes of providing the Services.
- **Commission**: means the amount included within any Quotation which will be paid to TL by the Supplier in consideration for TL securing and finalising the Supply Contract between the Client and the Supplier.
- **Contract Checking Service**: is a service provided by TL as further detailed in clause 4.
- **COO**: means, in respect of premises to which energy/utilities supply services are supplied under a Supply Contract made between the Client and a Supplier following the provision of the Procurement Service by TL, any change in the occupancy of those premises such that the new occupier is entitled to change supplier of energy/utilities supply services.
- **Credit Score Criteria**: means the credit rating requirements as may be determined and required by TL and/or the Supplier from time to time in order for a Client to qualify to use the Services and contract with a Supplier.
- **Client**: means any non-domestic commercial Client who satisfies the eligibility requirements set out in clause 3.2 herein and to whom TL agrees to supply any of the Services from time to time.
- **Client Services**: is a service provided by TL as further detailed in clause 4.
- **Energy Metrics Services**: is a service provided by TL as further detailed in clause 4.
- **Existing Supplier**: means the Client’s existing third-party energy/utilities supplier.
- **Flexible Supply Contract**: means a contract with any third party energy/water/utilities supplier which allows for the flexible purchase and/or sale of part or all of the Client’s expected consumption during the term of the contract.
- **Forecast Consumption Rate**: means the amount of energy or water forecast to be consumed by the Client over the term of the Supply Contract, expressed in kWh/month.
- **Forecast Total Consumption**: In respect of any Meter listed in a New Connection Order Form, the total amount of energy or water forecast to be consumed by the Client over the term of the New Connection Supply Contract as recorded in the New Connection Order Form.
- **Forecast Total Consumption**: In respect of any Meter listed in a New Connection Order Form, the total amount of energy or water forecast to be consumed by the Client over the term of the New Connection Supply Contract as recorded in the New Connection Order Form.
- **Intellectual Property Rights**: means any and all intellectual property rights, including without limitation; copyright, patents, rights in inventions, design rights, trademarks, service marks (in each case whether registered, unregistered or the subject of an application to register), moral rights, database rights, rights in computer programs, semi-conductor topographies, confidential information, trade secrets, know-how, business, trade and domain names, rights in goodwill and rights to bring a claim for passing off, unfair competition rights and all similar, like and analogous rights wherever held in the world and all extensions revisions thereof and, in each case, all equivalent forms of protection which subsist now or which subsist in the future.
- **KWh**: Kilowatt hour (a unit of measurement for energy).
- **Letter of Authority**: means the document signed by the Client which incorporates these Terms and Conditions of Service.
- **Meter**: means any measuring equipment installed at or in the Client’s premises to which any Supply Contract relates for the purpose of measuring energy or water consumed at those premises.
- **New Connection Order Form**: an order form signed by the Client relating to a Meter or Meters acknowledging either that the Client is new to the premises or that there will be a new connection.
- **New Connection Supply Contract**: any Supply Contract entered into between the Client and a Supplier in respect of which the Client has signed a New Connection Order Form.
- **Procurement Service**: is a service provided by TL as further detailed in clause 4.
- **Projected Actual Consumption**: In respect of any Meter listed in a New Connection Order Form, a figure calculated at a date three months after the commencement of the relevant New Connection Supply Contract being the average monthly consumption for the first three months of the New Connection Supply Contract multiplied by the term of the New Connection Supply Contract.
- **Quotation**: means a quotation provided to the Client by TL on behalf of a Supplier which sets out the terms and prices upon which a Supplier may be prepared to supply the Supplier Services to the Client.
- **Quotation Acceptance**: means the affirmative response from the Client to TL in response to a Quotation, confirming the Client’s agreement to proceed with any proposed Supply Contract(s). For the avoidance of
2. Application of Terms

2.1 These Terms shall apply between TL and the Client immediately once the Client has signed the Letter of Authority and they shall continue to apply until whichever date is latest between:

(a) 24 months following the termination date of the last Supply Contract which was procured by TL; and
(b) 24 months from the date of the Letter of Authority.

2.2 Subject to clause 2.4, these Terms shall apply to the provision of any Service by TL to a Client and shall apply in place of, prevail over and supersede any other terms or conditions contained or referred to elsewhere (whether in correspondence or otherwise) or implied by trade, custom, practice or course of dealing unless specifically and expressly agreed to in writing by TL or a TL authorised representative.

2.3 Where there is any conflict between:

(a) these Terms and Conditions of Service; and
(b) any letter sent from TL to the Client headed “Letter of Engagement” which is signed and agreed to by both parties after the date on which the Client signs the LOA, then the Letter of Engagement shall prevail.

3. Subscribing to the Services

3.1 In order to use any of the Services, the Client may be required to register with TL via the Call Centre. TL may, in their sole discretion, refuse to register any business as a Client.

3.2 In order to be eligible to register to use the Services, the Client must:

(a) be a business that is resident in the UK or The Republic of Ireland;
(b) be aged eighteen years or over (if a sole trader or unincorporated partnership);
(c) agree to a business credit check being undertaken by either TL or any Supplier (or both);
(d) meet any Credit Score Criteria required by TL and/or any Supplier; and
(e) be able to provide TL with all such relevant information as TL may require in order to provide the Services to the Client.

3.3 Subject to clause 2.4, these Terms shall apply to the provision of any Services and/or products as may be agreed to by TL and/or TL Services.

3.4 Any request of the Client, explain where the Client contractually stands with its Existing Supplier(s).

3.5 If the Client accepts the Quotation, the Contract Checking Service is concluded, and TL will provide the Procurement Service.

3.6 The Client recognises and agrees that:

(a) TL does not control the rates offered by Suppliers and the rates in the Supply Contract may differ from those in the Quotation;
(b) where the rates in the Supply Contract differ from those in the Quotation, TL will notify the Client at which point the Client may request that TL finds an alternative Quotation;
(c) TL shall not be responsible for any delay or failure caused by any Supplier or Existing Supplier in providing a Supply Contract or in executing a purchase or sale of energy during the term of a Flexible Supply Contract.

3.7 Where the Supply Contract is a Flexible Supply Contract, TL does not control the rates offered by the Supplier in relation to transactions during the term of the Supply Contract, which may fluctuate significantly.

4. The Services

4.1 In consideration for the Client signing the Letter of Authority, which provides TL with the authority to obtain information relating to the Client’s utility supplies with a view to offering the Client its Procurement Service, TL agrees to provide its Contract Checking Service.

4.2 The Contract Checking Service entails TL reading through the Client’s documentation relating to its utility supplies to ascertain and, at the request of the Client, explain where the Client contractually stands with its Existing Supplier(s).

4.3 TL may then collate the Client’s documentation and conduct a search of TL’s panel of suppliers to identify a potential supply contract for the Client which may be presented as a Quotation.

4.4 If the Client accepts the Quotation, the Contract Checking Service is concluded, and TL will provide the Procurement Service.

4.5 TL will reasonably endeavour to provide the Client with a Supply Contract based on the Quotation accepted by the Client.

4.6 The Client recognises and agrees that:

(a) TL does not control the rates offered by Suppliers and the rates in the Supply Contract may differ from those in the Quotation;
(b) where the rates in the Supply Contract differ from those in the Quotation, TL will notify the Client at which point the Client may request that TL finds an alternative Quotation;
(c) TL shall not be responsible for any delay or failure caused by any Supplier or Existing Supplier in providing a Supply Contract or in executing a purchase or sale of energy during the term of a Flexible Supply Contract.

4.7 Once the Supply Contract has been signed, TL will send it to the Supplier for ‘lock-in’ at which point the parties understand that the Supply Contract will be legally binding between the Client and the Supplier.

4.8 It is agreed that, once the Supply Contract is locked in with the Supplier, the Client will use its best endeavours to ensure that the Supply Contract goes live and remains live for its entire duration.

4.9 Where authorised to do so by an appropriate letter of authority (which is usually provided soon before or after provision of the Supply...
4.12 The Client acknowledges and agrees that, by entering into a Supply Contract with a Supplier (or by purchasing or selling energy during the term of a Flexible Supply Contract), the Client will be contracting directly with the Supplier and not with TL. The Client agrees and accepts that TL is not, and shall not be, liable in any way in relation to any transactions, dealings or arrangements of any kind made between the Client and any Supplier and that any such transaction, dealing or arrangements (including, without limitation, any payment obligations of the Client thereunder) are the Client’s sole risk and responsibility. TL shall not be responsible for any delay or failure caused by any Supplier or Existing Supplier in relation to effecting any transfer.

4.13 TL operates as a service provider and it is expressly agreed between the parties that nothing in these Terms is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties.

4.14 The Client acknowledges and agrees that TL gives no warranty, representation or other assurance of any kind that any Supply Contract identified, negotiated, recommended, proposed, suggested or otherwise introduced to the Client by TL is one which offers the lowest rates or charges or the longest fixed price period or is otherwise most favourable for the Client compared to all or any other Supply Contracts which may be available to the Client at any time.

4.15 TL does not accept any liability for the accuracy of any information (including market reports in relation to Flexible Supply Contracts) provided or for the consequences of any actions taken based on the information provided by TL. TL will negotiate with Suppliers on your behalf but has no authority to make or change contracts or legal relations on the Client’s behalf. Due to the fluctuating energy markets, the prices quoted are not guaranteed and must be confirmed at the point of acceptance and may be subject to adjustment at any time, prior to written confirmation from the Supplier.

4.16 Where the Client requires a new connection to be arranged by TL, TL will calculate the Client’s consumption forecast based on the information provided by the Client. It is the Client’s sole responsibility to ensure that the consumption forecast is reasonable and accurate and to inform TL promptly if any amendments are required.

4.17 The Client agrees and accepts that TL is not, and shall not be, liable in any way for any Volume Tolerance Charge which may be incurred by the Client. The parties agree that TL has no liability for Volume Tolerance Charges if the Client’s consumption forecast proves to be inaccurate.

5. Charges

5.1 Subject to clause 6, and unless agreed otherwise in writing, TL will not directly charge the Client for its Services. TL is remunerated directly by the Supplier and will receive a Commission for securing and finalising the Supply Contract between the Client and the Supplier.

5.2 Subject to clause 6, the amount charged for the Services provided to the Client by TL ("the Service Charge") is included within the cost of the Supply Contract agreed between the Client and the Supplier and (unless otherwise stated) will already be included in any Quotation supplied by TL. It is calculated by multiplying the Commission amount by the forecast consumption amount for the whole period of the Supply Contract.
5.3 Commission may alternatively or also be applied to rates/charges other than the energy unit rate. Such rates may include (but are not limited to): Meter Standing Charges, Meter Installation Fees, Meter Operator (MOP) Agreement Charges and DC/DA (Data Collector/Data Aggregator) Agreement Charges.

5.4 The amount of the Commission applied depends on several factors such as, but not necessarily limited to:
(a) the size of the Supply Contract;
(b) the contract term;
(c) credit risks; and
(d) any additional services TL may offer or provide, including but not limited to:
   i) account management;
   ii) meter reading services;
   iii) AMR/Smart Meter Installation;
   iv) business energy audits;
   v) access and access to our cloud energy monitoring software;
   vi) energy management including targeting, proactive and reactive exception and event monitoring;
   vii) bill validation; and
   viii) KVA Analysis and validation.

5.5 Unless we inform you otherwise in writing, the amount of Commission to be applied within any accepted Quotation will never exceed the monetary equivalent of 4p/kWh (four pence per kilowatt hour) of the forecast energy consumption (as shown on the Supply Contract) for the contract duration and can be calculated by multiplying the Commission amount by the forecast consumption amount for the whole period of the Supply Contract. The Client may request TL at any point to confirm the exact commission TL expects from any proposed energy contract.

5.6 Any Quotation offered will be from a Supplier or Suppliers with whom TL has a pre-established Third Party Intermediary (TPI) commercial relationship. This does not include all suppliers on the market and may change from time to time. However, upon client request, TL may obtain a Quotation from almost any supplier within the market. To request this, to receive further information on which suppliers TL work with, or more information about how the Service Charge is calculated, please call us on 0191 694 1234 or email office@tritivity.com.

6. Cancellation and underconsumption charges

6.1 At any time that these Terms are in effect between TL and the Client, in the event that a Supply Contract has been made between the Client and a Supplier following provision of the Procurement Service by TL and either:
(a) the Supply Number does not successfully transfer to the new Supplier within 90 days of the contracted start date; or
(b) the Supply Contract is cancelled or terminated (howsoever such cancellation or termination arises) at any time after the supply of energy/water under it has commenced; or
(c) The Meter to which the Supply Contract relates is removed or disconnected at any time after the supply of energy/water under the Supply Contract has commenced.

6.2 The Cancellation Fee shall be calculated as being the value of the Service Charge plus VAT. If the Supply Contract is terminated at any time after the supply of energy/water under it has commenced the Cancellation Fee shall be pro-rated for the period after such termination until the Supply Contract end date.

6.3 For the avoidance of doubt, no Cancellation Fee will be due and payable if a Supply Contract is terminated in consequence of or in connection with a COO unless:
(a) a Supply Contract is terminated in consequence of or in connection with a COO that has not been notified to TL in accordance with clause 7.2; (b) the cancellation arises as a result of the Client taking any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or having a receiver appointed to any of its assets; or
(c) the proposed new occupier is connected to the Client, in which case a Cancellation Fee shall be due and payable in accordance with clause 6.1. In relation to a person, “connected” for the purposes of clause 6.3(b) has the meaning given to it in section 1122 of the Corporation Tax Act 2010.

6.4 The Client shall immediately notify TL if any event occurs which gives rise to a Cancellation Fee becoming due and shall provide TL with full, complete and accurate details of any such event.

6.5 TL shall be entitled to demand payment of the Cancellation Fee:
(a) at any time that TL anticipates that the Supply Number will not successfully transfer to the new Supplier within 90 days of the contracted start date; or
(b) at any time after TL becomes aware that the Cancellation Fee is due, and the Client shall pay the Cancellation Fee to the specified bank account within 30 days after the date of the demand for payment. Time for payment of the Cancellation Fee shall be of the essence.

6.6 If the Client fails to pay the Cancellation Fee by the due date, then, without limiting TL’s remedies under clause 9 regarding Termination, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England’s base rate from time to time, but at 4% a year for any period when the base rate is below 0%.

6.7 At any time that these Terms are in effect between TL and the Client, in the event that a New Connection Supply Contract has been made between the Client and a Supplier following provision of the Procurement Service by TL and, on a date 3 months after the commencement of the New Connection Supply Contract, any Meter listed in the New Connection Order Form has recorded consumption at a rate less than 75% of the Forecast Consumption Rate the Client shall immediately become liable to pay TL a fee (the Under-consumption Fee) as set out in clause 6.2. The Under-consumption Fee will be levied for each separate Supply Number which does not commence or is cancelled or terminated.

6.8 If TL demands payment of an Under-consumption Fee in accordance with clause 6.7 above, the Client may, within 14 days of the demand for
payment, make a written request to TL for review. The request for review must set out any reasons and supporting evidence why the relevant Meter should be expected to consume at least 75% of the Forecast Total Consumption over the term of the New Connection Supply Contract.

6.9 Upon receipt of a written request for review in accordance with clause 6.8 above, TL shall review the reasons and supporting evidence set out in the request for review and, acting reasonably, determine whether to postpone its entitlement to the Under-consumption Fee until the end of the New Connection Supply Contract.

6.10 In respect of any Meter listed in the New Connection Order Form, the Under-consumption Fee, subject to the addition of VAT, shall be calculated as follows:

SC X 75% - SC x (PC + FTC) X 100%

Where:
- SC is the Service Charge
- PC is the Projected Actual Consumption
- FTC is the Forecast Total Consumption

6.11 If, at the end of a New Connection Supply Contract in respect of which the Client has paid an Under-consumption Fee or TL has agreed to postpone its entitlement to payment of an Under-consumption Fee in accordance with clause 6.9 above, the Meter to which that New Connection Supply Contract relates has consumed at least 75% of the Forecast Total Consumption, TL will reimburse the Client the Under-Consumption Fee or waive its entitlement to be paid the Under-consumption Fee as appropriate.

6.12 All amounts due under clause 6 from the Client to TL shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

6.13 The Client agrees, accepts, and hereby confirms that the Cancellation Fee and the Under-consumption Fee are reasonable and proportionate to protect TL’s legitimate interest in the Supply Contract reaching full term and consuming as forecast.

6.14 The Client acknowledges that any Cancellation Fee charged by or paid to TL will not obviate or indemnify the Client against any separate cancellation charges that the Supplier may be contractually entitled to make.

6.15 Upon payment of the Cancellation Fee by the Client, TL shall issue the Client with a receipted VAT invoice for the Cancellation Fee.

6.16 This clause 6 shall survive the expiry or termination of this Agreement between TL and the Client.

7. Client’s obligations

7.1 In addition to the Client’s other obligations set out in these Terms, the Client undertakes the following conditions:

(a) to co-operate with TL and the Supplier(s) in all matters relating to the Services including, without limitation, providing all relevant information in a timely manner as the Supplier(s) and/or TL may require from time to time and that all such Client information will be true, accurate, complete, reliable and current in all respects;

(b) to take all reasonable steps, including those in clause 7.1(a) above, to ensure that the Supply Contract goes live and remains live for its entire duration;

(c) to make prompt payments to the Supplier(s) in respect of the Supply Contract as a condition of this Agreement and;

(d) to comply at all times with these Terms and any applicable terms and conditions imposed by a Supplier in relation to the supply of the Supplier Services.

7.2 The Client shall give TL not less than 35 days notice in writing of any proposed COO. Notice of COO must:

(a) summarise the nature and details of the proposed COO and provide full details of any proposed occupant of the relevant premises;

(b) be provided 7 working days before the relevant Supplier is notified of the COO; and

(c) be accompanied by documentation in accordance with clause 7.3 to verify that the COO is genuine.

7.3 Documentation for the purposes of 7.2(c) must be sufficient evidence to satisfy TL that the COO is genuine, and shall include but not be limited to the following:

(a) a Certified copy of a signed and executed lease agreement;

(b) a Certified copy of a signed and executed Assignment of Lease agreement;

(c) a copy of the signed and executed TR1 or LPE1; or

(d) a letter from a solicitor who has acted on behalf of the Client in the property transaction confirming the COO is genuine.

8. Intellectual property rights

8.1 The Client agrees that any and all Intellectual Property Rights in, relating to or otherwise arising from or connected to the Services any information and/or materials provided to the Client, the Site and any content therein (including, without limitation, the look and feel of the Site) shall remain owned by TL and/or its licensors and any unauthorised use or attempted unauthorised use of any of the same shall constitute an infringement of TL’s (and/or its licensors’) Intellectual Property Rights and may expose the Client to both civil and criminal liability.

8.2 TL grants the Client a fully paid up, non-exclusive, royalty-free, non-transferable and non-sublicensable licence to use the information and/or materials provided to the Client by TL during the term of this Agreement for the purpose of receiving and using the Services in its business only.

9. Termination

9.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of its obligations under this Agreement and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other party’s financial position deteriorates to such an extent that in the terminating party’s opinion the other party’s capability to adequately fulfil its obligations under the Agreement has been placed in
jeopardy.

9.2 Without affecting any other right or remedy available to it, TL may terminate this Agreement with immediate effect by giving written notice to the Client if:

(a) the Client fails to pay any amount due under this Agreement on the due date for payment;
(b) there is a change of Control of the Client ("Control" having the meaning set out in section 1124 of the Corporation Tax Act 2010); or
(c) TLsuspects on reasonable grounds that the Client may have committed or attempted to commit any fraud against TL or any Supplier.

9.3 Without affecting any other right or remedy available to it, TL may suspend the supply of Services under this Agreement or any other contract between the Client and TL if the Client fails to pay any amount due under this Agreement on the due date for payment, the Client becomes subject to any of the events listed in clause 9.1, or TL reasonably believes that the Client is about to become subject to any of them.

9.4 Expiry or termination of this Agreement between TL and the Client shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of expiry or termination. Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after expiry or termination of this Agreement shall remain in full force and effect after expiry or termination.

10. Limitation on Liability

10.1 TL will exercise reasonable skill and care in providing the Services. However, the performance of the Services by TL may be dependent upon third parties (including, without limitation, Suppliers and Existing Suppliers) and TL is not able to guarantee or accept any responsibility for any failure or delay caused by such third parties or for any inaccurate, incomplete or unreliable information provided to the Client by such parties via TL.

10.2 TL shall use its reasonable endeavours to ensure that all pricing information provided by TL to the Client as part of the Procurement Service is accurate, current and reliable in all material respects. However, save in respect of the foregoing, TL does not warrant and excludes all liability in respect of the accuracy, completeness, fitness for purposes or legality of any information accessed as a result of the Client’s use of the Services, the Site or the Call Centre or otherwise communicated by TL to the Client.

10.3 TL shall use its reasonable endeavours in calculating consumption forecasts (especially on new connections) based on the information provided by the Client. However they are, due to their nature, inherently uncertain and TL offers no warranties in respect of such consumption forecasts.

10.4 Except as expressly provided in these Terms, the Services and the Site are provided on an “as is” basis without representation or warranty of any kind and to the fullest extent permissible pursuant to applicable law TL disclaims all other conditions, representations, statements and warranties, either express or implied (whether by common law, custom, statute or otherwise).

10.5 TL does not exclude or limit its liability (if any) in any way:

(a) for death or personal injury caused by TL’s negligence;
(b) for fraud or fraudulent misrepresentation; or
(c) for any matter from which it is unlawful to exclude, or attempt to exclude, TL’s liability.

10.6 Subject to clause 10.5, TL’s total liability to the Client shall not exceed the aggregate Commission received by TL under or in respect of the Supply Contract entered into by the Client in the 12 months immediately preceding the event which gave rise to the Client’s claim.

10.7 Subject to clause 10.4, TL shall have no liability for the following types of loss:

(a) loss of profits;
(b) loss of sales or business;
(c) loss of agreements or contracts;
(d) loss of anticipated savings;
(e) loss of use or corruption of software, data or information;
(f) loss of or damage to goodwill;
(g) Volume Tolerance Charges; and
(h) indirect or consequential loss.

10.8 References to liability in this clause 10 include every kind of liability arising under or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

11. Indemnity

11.1 The Client hereby agrees to indemnify, defend and hold TL and its parent companies, subsidiaries, affiliates and each of their respective officers, directors, employees, owners, agents, suppliers, contractors, partners, information providers and licensors harmless from and against any and all claims, damages, liability, demands, losses, costs and expenses (including legal fees) (whether or not foreseeable or avoidable) incurred or suffered by any of such parties and any claims or legal proceedings which are brought or threatened arising out of or in connection with any use by or conduct of the Client in relation to any of the Services, any transactions, dealings or arrangements made with any third party as a result of using the Services or any breach of any of the provisions of these Terms or of any law or the rights of any third party.

12. Data protection

12.1 The Client acknowledges and agrees that details of the Client’s name, address and payment record may be submitted to a credit reference agency, and personal data will be processed on behalf of the Client in accordance with TL’s Privacy Policy. The Client also grants TL permission to query their business and utility supply details on the relevant industry databases (including but not limited to Transco/Xoserve, ECOES, Companies House, HRMC & The Charity Commission) in order to provide any quotation, or facilitate any contract or transfer.

13. Force majeure

13.1 TL shall have no liability to the Client if it is prevented from or delayed in performing any of its obligations in relation to the provision of any of the Services, or from carrying on its business, by circumstances, acts, events, omissions or accidents beyond TL’s reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of TL or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, epidemic, pandemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, and TL shall be
entitled to a reasonable extension of the time for performing such obligations in the event of any such occurrence.

14. No Waiver
14.1 Any failure or delay by TL to enforce any of its rights under these Terms is not to be taken as or deemed to be a waiver of that or any other right unless TL acknowledges and agrees to such a waiver in writing.

15. Severability
15.1 If any clause or part of a clause of these Terms is, or becomes, invalid, illegal or unenforceable, then that clause or part of a clause shall be deemed to be deleted from these Terms. Any such deemed deletion shall not affect the validity, legality or enforceability of the remainder of these Terms.

16. Third Party Rights
16.1 The parties agree that the provisions of these Terms are personal to them and are not intended to confer any rights of enforcement on any other third party. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement or to any of its provisions.

17. General
17.1 Each Party agrees that it is an independent contractor and is entering into this Agreement as principal.
17.2 Save as expressly provided otherwise, nothing in this Agreement and no action taken by the Parties in connection with it or them will create a partnership or joint venture between the Parties or give either Party authority to act as the agent of or in the name of or on behalf of the other Party or to bind the other Party or to hold itself out as being entitled to do so.
17.3 If a court or any other competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
17.4 Each party undertakes that it shall not at any time during this Agreement, and for a period of two years after termination or expiry of this Agreement, disclose to any person any confidential information concerning the business, affairs, Clients, clients or suppliers of the other party except as permitted by clause 17.5.
17.5 Each party may disclose the other party's confidential information:
(a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with clause 17.4; and
(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
17.6 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

18. Dispute Resolution
18.1 In the event of a dispute under the Agreement (not including disputes as to Cancellation Fees) and prior to initiating any legal proceedings, the parties shall follow the following dispute resolution process procedure:
(a) in the first instance, either party may call a dispute resolution meeting of the parties by the service of not less than ten days’ written notice, and each party agrees to procure that a senior member of its staff shall attend all dispute resolution meetings called in accordance with this clause;
(b) the attendees of a meeting called in accordance with 18.1(a) above shall attempt in good faith to resolve disputes arising out of this Agreement:
(c) if the dispute is not resolved within ten business days of it being considered at a dispute resolution meeting, it shall be referred to the managing director of each of the parties for resolution, who shall cooperate in good faith to resolve the dispute amicably; and
(d) if the dispute is not resolved within a further ten business days, either party shall be free to instigate an alternative dispute resolution procedure with the assistance of a mediator agreed by the parties, or in the absence of such agreement, a mediator appointed by the Centre for Dispute Resolution or such other similar body (a "Mediation");
(e) if the parties reach a settlement as a result of the Mediation, such settlement shall be reduced to writing, and once signed by a duly authorised representative of each party, the settlement shall be binding:
(f) the parties shall bear their own legal costs associated with the dispute resolution procedure, save that the costs and expenses of a Mediation shall be borne equally by the parties.
18.2 Subject to clause 18.3, and provided that the right to issue proceedings is not prejudiced by delay, neither party may commence court proceedings in relation to any dispute arising out of the Agreement until:
(a) it has attempted to settle the dispute by the dispute resolution procedure set out in clause 18.1 above; and
(b) either the Mediation has terminated, or the other party has failed to participate in the Mediation.
18.3 Nothing in clause 18.1 shall restrict the right of either party to seek urgent or injunctive relief from a court.

19. Transfer of rights and obligations
19.1 These Terms are binding on the Client and TL and on each parties respective successors and assigns.
19.2 The Client may not transfer, assign, charge or otherwise dispose of these Terms, or any of its rights or obligations arising under them, without TL's prior written consent.
20. TL may at any time transfer, assign, charge, sub-contract or otherwise dispose of these Terms, or any of its rights or obligations arising under them.

21. Entire Agreement
21.1 The warranties, exclusions and other express provisions of these Terms, the Privacy Policy and the Terms of Use set out the full extent of our obligations and liabilities concerning the subject matter and supersede any previous agreements between the parties relating thereto. Nothing in this clause shall limit or exclude any liability for fraud.

22. Governing Law and Jurisdiction
22.1 These Terms are governed by the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English Courts.

Terms and Conditions of Service v9.
In force from 15.08.2023