



**ENERGINET**

Energinet DataHub A/S  
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CVR no. 39 31 50 41

Date:  
09 May 2018

Author:  
HLJ/JMJ

## TERMS FOR ACCESS TO AND USE OF THE DATAHUB – ELECTRICITY SUPPLIER

**Energinet DataHub A/S**  
**Tonne Kjærvej 65**  
**DK-7000 Fredericia**  
CVR-no. 39 31 50 41

- hereinafter Energinet DataHub -

which owns and operates the DataHub

and

[Company name]  
[Address]  
[Postcode and town/city]  
CVR no. [xx xx xx xx]  
GLN no. [xxxxxxxxxxxx]

– hereinafter the electricity supplier –

who is responsible for providing demand for and/or offtake of generation to/from end customers in Denmark.

## Revision view

<b>Section</b>	<b>Text</b>	<b>Version</b>	<b>Date</b>
All	Updated layout and revision of wording and legal references. Revision in connection with Energinet's transformation into a group Addition of data processing agreement	3.0	May 2018

## 1. Background and purpose

- 1.1 Under Section 28(2), item 7, of the Danish Consolidated Electricity Supply Act (*Bekendtgørelse af lov om elforsyning*)<sup>1</sup> (hereinafter the Danish Electricity Supply Act), Energinet is responsible for the establishment and operation of a data hub for handling metered data etc. and for handling required functions and communication for use in electricity suppliers' invoicing, including communication of information on electricity taxes and grid tariffs.
- 1.2 As the entity responsible for operating the DataHub, Energinet must lay down non-discriminatory and objective terms and conditions for its use. The provisions set out in these Terms have thus been laid down pursuant to Section 28(2), item 13, Section 31(2) and Section 72 a of the Danish Electricity Supply Act.
- 1.3 The provisions set out in these Terms have been laid down with a view to:
  - creating the best possible conditions for competition in markets for generation and trade in electricity,
  - ensuring requirements for reporting and provision of data and other information of relevance to the DataHub and thereby ensuring market participants in the Danish electricity market a smoothly functioning electricity market.

## 2. General terms and conditions

- 2.1 By signing these Terms, Energinet DataHub allows the Electricity Supplier to be registered as user of the DataHub and for ongoing use of the DataHub as stated in Energinet's market regulations and terms and conditions in force at any time.
- 2.2 The Electricity Supplier is obliged to comply with the market regulations and terms and conditions in force at any time. The market regulations are available at [www.energinet.dk](http://www.energinet.dk).
- 2.3 The Electricity Supplier is obliged to comply with the legislation in force at any time. Moreover, Energinet DataHub draws attention to the fact that there may be separate contractual relationships with grid companies in whose grid area the Electricity Supplier intends to establish customer agreements, including contractual relationships based on the standard agreement prepared by the Danish Energy Association: Agreement between Grid Company and Electricity Supplier on the use of the distribution grid.
- 2.4 The Electricity Supplier warrants that the Electricity Supplier himself, or a third party as may be permitted under applicable legislation, will hold balance responsibility for the Electricity Supplier's supply, cf. Regulation C1: Terms of balance responsibility.
- 2.5 Once the Electricity Supplier is registered as user in the DataHub, the Electricity Supplier can access the DataHub market portal through a number of user accesses secured by means of NemID. The Electricity Supplier is obliged to take the necessary steps to ensure that access information is available to the Electricity Supplier only and not to unauthorised parties.

<sup>1</sup> Consolidated Act no. 114 of 09 February 2018 as amended.

- 2.6 If the Electricity Supplier executes a transaction in the DataHub, the Electricity Supplier is bound by the transaction.
- 2.7 Energinet DataHub is responsible for operating the DataHub in accordance with applicable legislation, including, in particular, the Danish Act on Processing of Personal Data (*Lov om behandling af personoplysninger*)<sup>2</sup>, hereinafter the Danish Personal Data Processing Act, the General Data Protection Regulation<sup>3</sup> and good data processing practice. Energinet DataHub is obligated to take the necessary and sufficient technical (including IT) and organisational security measures to prevent unauthorised use of DataHub data.
- 2.8 Generally, Energinet DataHub acts as data controller as regards the processing of data in the DataHub under the Danish Act on Processing of Personal Data and in accordance with the rules of the General Data Protection Regulation.
- 2.9 If Energinet DataHub acts as data processor under the Danish Act on Processing of Personal Data and in accordance with the rules of the General Data Protection Regulation, this will appear from Appendix 1 with related appendices to these Terms of access to and use of the DataHub – ELECTRICITY SUPPLIER.

### 3. Market participant master data and EDI communication

- 3.1 In connection with the Electricity Supplier's registration as user of the DataHub, the Electricity Supplier must create and validate the master data required about the Electricity Supplier. Requirements for such master data are specified in Regulation I: Master data.
- 3.2 The Electricity Supplier shall continuously maintain its master data in the Energinet DataHub register of market participant master data, cf. Regulation I: Master data.
- 3.3 If the Electricity Supplier wants to use EDI communication to exchange messages with the DataHub, the Electricity Supplier's system must be tested and approved for such purpose as stated in Regulation F1: 'EDI communication with the DataHub in the electricity market'. This regulation also describes requirements for renewed testing and approval in the event of subsequent significant changes in the Electricity Supplier's system.
- 3.4 If the Electricity Supplier wants to use EDI communication to exchange messages with the DataHub as stated in section 3.3, but only has completed a limited part of the market participant test, the Electricity Supplier is obliged to only use the functionality that has been tested and approved by the Energinet DataHub market participant test system.
- 3.5 If the Electricity Supplier wants to start business processes, retrieve metered data etc. in the DataHub without the use of EDI, the Electricity Supplier may do so by using the DataHub market portal. The requirements relating to the Electricity Supplier's handling of business processes in the DataHub, among other things regarding time limits, are the same regardless of the communication method used by the Electricity Supplier.
- 3.6 The Electricity Supplier shall at all times comply with the guidelines established by the Energinet DataHub for the use of the DataHub test environment, including the type of data acceptable for upload to the test environment. In particu-

<sup>2</sup> Act no. 429 of 31 May 2000 as amended.

<sup>3</sup> Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, etc.

lar, the Electricity Supplier shall ensure that the Danish Act on Processing of Personal Data and General Data Protection Regulation in force are complied with.

#### 4. Requirements for information processing

- 4.1 The Electricity Supplier warrants to Energinet DataHub that the collection of information about customers and other data in the DataHub, the use of information from the DataHub and communication with the DataHub are performed on a lawful basis and in compliance with the Danish Act on Processing of Personal Data and the General Data Protection Regulation in particular.
- 4.2 The Electricity Supplier shall present documentation of the Electricity Supplier's agreement with the customer upon the request of Energinet DataHub as specified in Regulation H1: 'Change of electricity supplier, move-in/move-out etc.'
- 4.3 The Electricity Supplier warrants that it has taken the necessary and sufficient technical (including IT) and organisational security measures to prevent accidental or unlawful loss, deterioration or unauthorised access to data.

#### 5. Duty to inform

- 5.1 Energinet DataHub and the Electricity Supplier must both contribute to the implementation of the present terms. Both parties must therefore make the necessary information for the operation of the DataHub available to each other without undue delay.
- 5.2 If the Electricity Supplier's situation changes, the Electricity Supplier must promptly inform Energinet DataHub of the changes.

#### 6. Energinet DataHub's access to and use of information

- 6.1 For operational purposes and in order to fulfil Energinet DataHub's duties pursuant to the Danish Electricity Supply Act and other legislation, Energinet may at all times access the Electricity Supplier's information registered in the DataHub as necessary, including information about the Electricity Supplier's customers, transactions, market participant master data etc.
- 6.2 Energinet is entitled to use information in the DataHub to perform the tasks that Energinet is charged with by law. These include, among other things:
  - calculations for settlement purposes in the electricity market, e.g. net settlement, reconciliation, wholesale settlement etc.,
  - statistics and analysis of the market participants' actions and movements/trends in the electricity market as a whole,
  - fault repair in the event of incorrect transactions in the DataHub,
  - disclosure of information from the DataHub under applicable law, public orders etc.

6.3 Energinet DataHub logs all transactions in the DataHub for technical and security reasons and for purposes of operation, security, restoration and documentation as well as checking participants' compliance with market regulations and terms and conditions. In order to perform the tasks described, Energinet DataHub carries out checks of the log and other individual checks in the event of breakdowns or suspicion of gross or repeated violations of the market regulations.

## 7. Liability for damages

7.1 Energinet DataHub and the Electricity Supplier are liable under the general law of liability for damages in Denmark. However, no damages can be claimed for indirect losses, including operating losses, loss of profits, loss of data and/or consequential damage, unless such damage or loss is the result of gross negligence or intentional action by the party responsible.

7.2 Energinet DataHub is not liable to the Electricity Supplier for the correctness of the data registered in the DataHub by market participants. Energinet DataHub thus cannot be held liable for incomplete or incorrect data sent by market participants and any failure on their part to correct such data within the time limits in force at any time. Additionally, Energinet DataHub cannot be held liable for other market participants' use of such data reported by another market participant.

## 8. Amendments of these Terms

8.1 Energinet DataHub may amend these Terms at six months' notice, unless the amendments concern those mentioned in sections 8.2-8.3 below. Before any amendments are made, Energinet DataHub must give the Electricity Supplier the opportunity to comment on the proposed amendments.

8.2 Energinet DataHub may change the IT requirements for use of the DataHub, e.g. changes to functionality, configuration etc., at a reasonable notice. If the changes significantly impact the Electricity Supplier's system set-up or business procedures, Energinet DataHub must take all reasonable steps to inform the Electricity Supplier of the changes at the longest possible notice, the minimum being six months. However, if the changes are made to ensure the continued technical or secure operation of the DataHub, the notice may be shorter.

8.3 Energinet DataHub may, at a reasonable notice, make changes resulting from amendments to existing law which impacts Energinet DataHub's operation of the DataHub. In case of such changes, Energinet DataHub will consult the Electricity Supplier and endeavour to give notice of the changes in question in so far as is possible; however, such that the changes in any case can take effect from the date of commencement of the law amendments.

## 9. Termination

9.1 These Terms may be terminated by the Electricity Supplier at a notice corresponding to the duration of the longest of the Electricity Supplier's valid agreements on electricity supply in Denmark plus 30 days, and such that the Terms will always terminate effective from the first day of a month. However, these Terms will terminate no later than concurrently with the termination of the Electricity Supplier's agreement with a balance responsible party or the

termination of the Electricity Supplier's balance responsibility agreement with Energinet.

- 9.2 Energinet DataHub may terminate these Terms concluded with the Electricity Supplier in the event of the Electricity Supplier's material breach of its obligations under these Terms. Material breach occurs, among other things, where the Electricity Supplier grossly or repeatedly violates rules set out in Energinet's market regulations and terms and conditions which may be subject to sanctions by Energinet in the form of full or partial exclusion from the DataHub under Section 31(3) of the Danish Electricity Supply Act as specified in the market regulations.
- 9.3 In the event of material breach, Energinet DataHub may fully or partially cancel and thereby fully or partially exclude the Electricity Supplier from accessing or using the DataHub until compliance has been restored as per Section 31(3) of the Danish Electricity Supply Act.
- 9.4 In the event of material breach, Energinet DataHub will issue a written order to the Electricity Supplier informing the Electricity Supplier that it will be fully or partially excluded from accessing the DataHub, unless the material breach is brought to an end within a reasonable notice period.
- 9.5 Energinet DataHub's written order must contain a detailed description of the nature of the material breach, how it was ascertained and which specific consequences the material breach will trigger in relation to full or partial exclusion from the DataHub and any cancellation of these Terms if the breach is not brought to an end within the stated notice period.
- 9.6 If the material breach continues after the end of the notice period, Energinet DataHub will inform the Electricity Supplier in writing that the Electricity Supplier from now on will be fully or partially excluded from using the DataHub. The order must be accompanied by a complaints guide pursuant to Section 31(4) and (5) of the Danish Electricity Supply Act.
- 9.7 Upon Energinet DataHub's termination of these Terms, or if the Electricity Supplier is otherwise fully or partially excluded from accessing the DataHub, Energinet will transfer the Electricity Supplier's meter IDs to other electricity suppliers without delay pursuant to Section 72 e of the Danish Electricity Supply Act.
- 9.8 If these Terms are terminated, the Electricity Supplier's right to access and use the DataHub will end as well.

## 10. Assignment

- 10.1 The Electricity Supplier may not assign all or any rights or obligations under these Terms without Energinet DataHub's prior written consent.

## 11. Force majeure

- 11.1 Under these Terms, neither party will be considered to be liable to the other party as regards circumstances that are beyond the party's control and which the party should not have taken into account or should not have avoided or overcome. Force majeure arising out of a delay can be asserted for no more than the number of working days which the force majeure situation lasts.
- 11.2 The parties must inform each other of the occurrence and end of the force majeure event without undue delay.

## 12. Security

- 12.1 Energinet has the right to demand that the Electricity Supplier provide adequate security for future payments of Energinet's receivables in accordance with Energinet's 'Terms and conditions for electricity suppliers' payment of services supplied by Energinet and provision of security' in force at any time. These terms and conditions can be found at [www.energinet.dk](http://www.energinet.dk).

## 13. Governing law and venue

- 13.1 The Electricity Supplier may bring the sanctions imposed by Energinet before the Danish Energy Regulatory Authority (*Energitilsynet*), Carl Jacobsens Vej 35, DK-2500 Valby. In addition, Energinet's decision to deregister the Electricity Supplier as user of the DataHub can be demanded to be brought before the courts within four weeks of the Electricity Supplier having been notified of the decision as per Section 5(5) of the Danish Electricity Supply Act.
- 13.2 Any disputes arising out of these Terms which cannot be settled between Energinet DataHub and the Electricity Supplier through negotiation must first be attempted to be settled through mediation. Mediation must take place according to the applicable mediation rules under the Danish Institute of Arbitration.
- 13.3 If the dispute cannot be settled through mediation, and it is not within the competence of either the Danish Energy Regulatory Authority or the Danish Energy Agency to settle the dispute, it must be resolved according to the Danish Institute of Arbitration's 'Rules of Arbitration Procedure'.
- 13.4 In connection with disputes concerning amounts of less than DKK 500,000, the arbitration tribunal will consist of one member only to be appointed by the Council of the Danish Board of Arbitration.
- 13.5 The arbitration tribunal must make a decision on the allocation of legal costs, including lawyers' fees, in its award.
- 13.6 The award of the arbitration tribunal is final and binding on the parties.

## 14. Signatures

Energinet DataHub A/S  
Date: 9/5 2018

Electricity Supplier  
Date / 2018



Martin Lervad Lundø

[Insert name, signature and company stamp]

## Appendix 1

### Energinet DataHub A/S as data processor according to agreement with the Electricity Supplier

On signature of this document, a data processing agreement has been entered into between

Data Controller

[Company name]

[Address]

[Postcode and town/city]

CVR no. [xx xx xx xx]

GLN no. [xxxxxxxxxxxxx]

and

Data Processor

**Energinet DataHub A/S - hereinafter Energinet DataHub**

Tonne Kjærvej 65

DK-7000 Fredericia

CVR no. 39 31 50 41

## 1 The basis for the data processing agreement

1. This agreement defines the rights and obligations that apply when the data processor processes personal data on behalf of the data controller.
2. The agreement is drafted with a view to the parties' compliance with article 28(3) in the European-Parliament and Council Regulation (EU) 2016/679 of 27 April 2016 on the protection of physical persons in connection with the processing of personal data and the free exchange of such data, repealing Directive 95/46/EC (General Data Protection Regulation), which lays down specific requirements for the content of a data processing agreement.
3. The data processor's processing of personal data is done with a view to fulfilling the parties' "main agreement": Terms of access to and use of the DataHub – Electricity Supplier
4. The data processing agreement and the "main agreement" are mutually dependent, and cannot be terminated separately. However, the data processing agreement may - without termination of the "main agreement" - be replaced by another valid data processing agreement.
5. This data processing agreement takes precedence in relation to any similar provisions in other agreements between the parties, including the "main agreement".
6. This agreement has four appendices. The appendices are integral parts of the data processing agreement.
7. The data processing agreement Annex A contains detailed information about the processing operations, including purpose and nature of the processing operations, categories of personal data, categories of data subjects and duration of the processing.
8. The data processing agreement Annex B contains the data controller's conditions for the data processor's use of any sub-processors, as well as a list of possible sub-processors approved by the data controller.
9. The data processing agreement Annex C contains detailed instructions on the processing that the data processor will perform on behalf of the data controller (processing object), the security measures that must be observed as a minimum, and a description of how the data processor and any sub-processors are supervised.
10. The data processing agreement Annex D contains any terms agreed on by the parties' on matters not otherwise listed in the data processing agreement or the parties' "main agreement".
11. The data processing agreement and related appendices must be held in writing, including electronically, by both parties.
12. This data processing agreement does not release the data processor from the obligations directly imposed on the data processor by the General Data Protection Regulation or any other legislation.

## 2 The data controller's obligations and rights

1. To the surroundings (including the data subject) the data controller is, as a general rule, responsible for ensuring that the processing of personal data is performed within the framework of the General Data Protection Regulation and the Danish Act on Processing of Personal Data.
2. Thus, the data controller has both the rights and obligations to make decisions about the purposes for and means by which processing is performed. The data controller shall, cf. the "main agreement", at all times comply with regulations issued by Energinet on the basis of the Danish Electricity Supply Act.

3. The data controller is responsible for, among other things, ensuring that there is a legal basis for the processing that the data processor is instructed to perform.

### 3 The data processor follows instructions

1. The data processor must only process personal data in accordance with documented instructions from the data controller, unless required under EU law or national member state law which the data processor must comply with; in that case, the data processor must notify the data controller of such a legal requirement before processing, unless the relevant law prohibits such notification on important grounds of public interest, cf. article 28(3) (a).
2. The data processor shall immediately inform the data controller, if instructions are perceived as contrary to the General Data Protection Regulation or data protection provisions in other EU or national member state law.

### 4 Confidentiality

1. The data processor must ensure that only persons with valid authority have access to the personal data being processed on behalf of the data controller. Therefore, access to information must immediately be prevented if the authorisation taken away or expires.
2. Authority to access information must only be granted to persons for whom it is necessary to have access to the personal data in order to meet the data processor's obligations to the data controller.
3. The data processor must ensure that the persons who are authorised to process personal data on behalf of the data controller have agreed to the conditions of confidentiality or are subject to an appropriate statutory duty of confidentiality.
4. The data processor must, on request of the data controller, be able to document that the relevant employees are subject to the above duty of confidentiality.

### 5 Security of processing

1. The data processor must initiate all measures required under article 32 of the General Data Protection Regulation, which specifies, among other things, that, taking 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, the data processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk.
2. The above obligation implies that the data processor must perform a risk assessment, and then carry out measures to address identified risks. Measures may, inter alia as appropriate, include the following measures:
  - a. the pseudonymisation and encryption of personal data;
  - b. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
  - c. the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
  - d. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
3. In connection with the above, the data processor must - in all cases - as a minimum implement the security level and the measures specified in detail in Annex C of this agreement.

4. Should the parties have agreed on terms of/an agreement on payment or similar in connection with the data controller or data processor's subsequent requirements for the establishment of additional safety measures, this will appear from the parties' 'main agreement' or from Annex D of this agreement.

## 6 Use of sub-processors

1. The data processor must meet the conditions referred to in the General Data Protection Regulation's article 28 (2) and (4), in order to make use of another data processor (sub-processor).
2. Thus, the data processor must not make use of another data processor (sub-processor) for the performance of the data processing agreement without prior specific or general written consent from the data controller.
3. In the event of a general written consent, the data processor must notify the data controller of any planned changes concerning the addition or replacement of other data processors, giving the data controller the option to take exception to such changes.
4. The data controller's specific terms and conditions for the data processor's use of any sub-processors are detailed in Annex B of this agreement.
5. Any consent from the data controller to specific sub-processors is listed in Annex B of this agreement.
6. When the data processor has the data controller's consent to make use of a sub-processor, the data processor must impose on the sub-processor the same data protection obligations as those laid down in this data processing agreement through a contract or other legal document in accordance with EU or national member state law, in which particularly the necessary warranties are given that the sub-processor will implement the appropriate technical and organisational measures to ensure that processing complies with the requirements of the General Data Protection Regulation.

Thus, the data processor is responsible for - by the conclusion a sub-processor agreement - imposing on any sub-processor as a minimum the obligations that the data processor is subject to under the data protection rules and this data processing agreement and its appendices.

7. The sub-processor agreement and any subsequent amendments hereto must be sent - when requested by the data controller - in copy to the data controller, who can then confirm that a valid agreement exists between the data processor and sub-processor. Any commercial terms, for example, prices, which do not affect the legal data protection content of the sub-processor agreement, must not be sent to the data controller.
8. In its agreement with the sub-processor, the data processor must list the data controller as third-party beneficiary in case of the data processor's bankruptcy, so that the data controller may assume the data processor's rights and enforce these in relation to the sub-processor, for example, so the data controller may instruct the sub-processor to delete or return data.
9. If the sub-processor does not fulfil its data protection obligations, the data processor is fully liable to the data controller for the fulfilment of the sub-processor's obligations.

## 7 Transfer of data to third countries or international organisations

1. The data processor must only process personal data in accordance with documented instructions from the data controller, including the transfer (assignment, transmission or internal application) of personal data to any third country or international organisation, unless required under EU or national member state law which the data processor must comply with; in that case, the data processor must notify the data controller of such a legal requirement before pro-

cessing, unless the relevant law prohibits such notification on important grounds of public interest, cf. article 28(3) (a).

2. Therefore, the data controller cannot without the data controller's instructions or consent - within the framework of the data processing agreement - among other things;
  - a. disclose personal data to a data controller in a third country or international organisation,
  - b. entrust processing of personal data to a sub-processor in a third country,
  - c. let data be processed in another data processor department located in a third country.
3. The data controller's instructions as to or consent to, if any, the transfer of personal data to a third country will be specified in Annex C of this agreement.

## 8 Assistance to the data controller

1. To the extent possible, the data processor shall assist, taking into account the nature of the processing, the data controller by implementing appropriate technical and organisational measures, for the fulfilment of the data controller's obligation to respond to requests for the exercise of the rights of data subjects as laid down in Chapter 3 of the General Data Protection Regulation.

This means that the data processor, to the extent possible, must assist the data controller in connection with the data controller's obligation to ensure compliance with:

- a. the duty of disclosure when collecting personal data from the data subject
  - b. the duty of disclosure, if personal data has not been collected from the data subject
  - c. the data subject's right of access
  - d. the right to rectification
  - e. the right to erasure ('right to be forgotten')
  - f. the right to restriction of processing
  - g. the duty to report in connection with the rectification or erasure of personal data or restriction of processing
  - h. the right to data portability
  - i. the right of objection
  - j. the right of objection against the result of automated individual decision-making, including profiling.
2. The data processor shall assist the data controller in ensuring compliance with the data controller's obligations under the General Data Protection Regulation articles 32-36, taking into account the nature of the processing and the data available to the data processor, cf. article 28 (3) (f).

This means that the data processor, taking into account the nature of the processing, must assist the data controller in connection with the data controller's obligation to ensure compliance with:

- a. the obligation to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks associated with processing
- b. the obligation to notify the supervisory authority (the Danish Data Protection Agency) of personal data breach without undue delay and, if feasible, no later than 72 hours after the data controller has become aware of the breach, unless the personal data breach is unlikely to result in a risk to physical persons rights and freedoms
- c. the obligation to inform - without undue delay - the data subject(s) of a breach of personal data security, if the breach is likely to result in a high risk of adversely affecting individuals' rights and freedoms.

- d. the obligation to carry out an impact analysis concerning data protection, if a type of processing is likely to result in a high risk of adversely affecting individuals' rights and freedoms
- e. the obligation to consult the supervisory authority (the Danish Data Protection Agency) prior to processing, if a data protection impact analysis shows that the processing will lead to a high risk due to the absence of implementation of measures by the data controller to limit the risk.

## 9 Notification of personal data breaches

1. The data processor shall inform the data controller without undue delay after having become aware that there has been a breach of personal data security at the data processor or any sub-processor.

The data processor's notification to the data controller must, if feasible, take place no later than 24 hours after it has become aware of the breach, enabling the data controller to fulfil its obligation, if any, to report a breach to the supervisory authority within 72 hours.

2. In accordance with section 10.2 (b) of this agreement, the data processor - taking into account the nature of the processing and the information available to the data processor - shall assist the data controller in reporting the breach to the supervisory authority. This may mean that the data processor, among other things, must help to provide the following information, which, according to article 33 (3) of the General Data Protection Regulation, must be included in the data controller's report to the supervisory authority:
  - a. The nature of the personal data breach, including, if feasible, the categories and approximate number of data subjects affected as well as the categories and approximate number of personal data registrations affected.
  - b. Likely consequences of a personal data breach.
  - c. Measures implemented or proposed implemented to address a personal data breach, including where relevant, measures to mitigate its possible adverse effects.

## 10 Erasure and return of information

1. Upon termination or expiry of the processing services, the data processor shall, at the data controller's request, erase or return all personal data to the data controller, and delete existing copies unless EU or national law requires storage of this personal data.

## 11 Monitoring and audits

1. The data processor shall make all information necessary to demonstrate the data processor's compliance with article 28 of the regulation and this agreement available to the data controller and allow for and contribute to audits, including inspections carried out by the data controller or any other auditor authorised by the data controller.
2. The detailed procedure for the data controller's supervision of the data processor appears from Annex C of this agreement.
3. The data controller's supervision of any sub-processors is generally performed by the data processor. The detailed procedure for this appears from Annex C of this agreement.
4. The data processor is obliged to grant public authorities that, under the legislation in force at the time in question, have access to the data controller and data processor's facilities, or representatives acting on a public authority's behalf, access to the data processor's physical facilities upon presentation of proper identification.

## 12 Commencement and termination

1. This agreement shall enter into force on signature of both parties hereof.
2. Both parties can request that the agreement be renegotiated if law amendments or irregularities in the agreement give rise hereto.
3. Should the parties have agreed on terms of/an agreement on payment, conditions or similar in connection with changes to this agreement, this will appear from the parties' "main agreement" or from Annex D of this agreement.
3. Termination of this data processing agreement is subject to the terms of termination, including term of notice, detailed in the "main agreement".
4. This agreement is effective for the duration of the processing operations. Regardless of the termination of the "main agreement" and/or data processing agreement, the data processing agreement will remain effective until the termination of processing and the data processor and any sub-processor's erasure of data.
5. Signature

On behalf of the data processor:

On behalf of the data controller:

Energinet DataHub A/S

Electricity Supplier

Date: 9/5 2018

Date / 2018

\_\_\_\_\_  
Martin Lervad Lundø

\_\_\_\_\_  
[Insert name, signature and company stamp]

## 14. Contacts/points of contact with the data controller and data processor

1. The parties may contact each other via the following contacts/contact points:
2. The parties shall regularly inform each other about changes as regards the contact person/contact point.

On behalf of the data processor:

On behalf of the data controller:

Name: Alice Stærdahl Andersen,

Name:

Position: DPO

Position:

Tel.: +45 24 91 67 32

Tel.:

E-mail: [dpo@energinet.dk](mailto:dpo@energinet.dk)

E-mail:



## Annex A Information on processing

### **The purpose of the data processor's processing of personal data on behalf of the data controller is:**

The data controller may use the DataHub, which is owned and managed by the data processor, to send messages using BRS or web forms. The purpose of sending such messages is communication with another market participant. The data processor ensures that such messages are stored in the DataHub.

The data controller sends data to the data processor, which the data processor registers in the DataHub on behalf of the data controller.

### **The data processor's processing of personal data on behalf of the data controller mainly pertains to (the nature of the processing):**

- The data processor shall make the DataHub available to the data controller for sending messages related to the notification of a BRS, where the data controller sends messages to another market participant, and where data is not used in the DataHub for settlement, cf. details in Annex C.
- The data processor shall make the DataHub available to the data controller for the submission of web forms, where the data controller sends messages to another market participant, cf. details in Annex C.
- The data processor shall perform correction of data in the DataHub at the data controller's request and on instruction of the data controller, when the data controller cannot correct data using a BRS as prescribed in regulations issued by Energinet, cf. details in Annex C.

### **Processing includes the following types of personal data about data subjects:**

- Information about the data controller's customers that are related to the customer's agreement for the supply of electricity, e.g. name, address, meter reading, estimated annual consumption, information on matters of disconnection of the electricity supply, effective date of agreement etc.

### **Processing includes the following categories of data subjects:**

- Customers who have entered into an agreement with the data controller.

### **The data processor's processing of personal data on behalf of the data controller may commence at the effective of this agreement. Processing has the following duration:**

- Processing is not time-limited and will be performed until this agreement is terminated or cancelled by one of the parties.
- This agreement may not be terminated while the "main agreement" is effective and the data controller is a DataHub user.
- Both the data processor and the data controller can request that the agreement be renegotiated if law amendments or irregularities in the agreement give rise hereto.

## Annex B Conditions for the data processor's use of sub-processors and list of approved sub-processors

### B.1 Conditions for the data processor's use of any sub-processors

The data processor has the general consent from the data controller to make use of sub-processors. However, the data processor must notify the data controller of any planned changes concerning the addition to or replacement of other data processors, giving the data controller the option to take exception to such changes. Such notification must be received by the data controller minimum one month prior to any use or change taking effect. If the data controller has any objections to the changes, the data controller must notify the data processor within 14 calendar days of receipt of the notification. The data controller may only object on the basis of fair and specific reasons.

### B.2 Approved sub-processors

The data controller has approved the use of the sub-processors listed below as of the effective date of this data processing agreement:

Name	CVR no.	Address	Description of processing
CGI Danmark A/S	63 89 08 12	Lautruphøj 10, 2750 Ballerup	Coordinates the execution of tasks given by Energinet DataHub relating to changes and correction of errors in the DataHub. CGI Denmark A/S operates and makes available the DataHub on behalf of Energinet DataHub. In this capacity, CGI Denmark A/S monitors day-to-day performance of the DataHub and has access to data recorded in the DataHub.
<b>CGI Denmark A/S uses the following sub-processors:</b>			
CGI Nederland		Eemsgolaan 1 9727 DW Groningen	CGI Denmark A/S' subcontractors perform changes to and corrections of errors in the DataHub on the request of CGI Denmark A/S.  In this capacity, the enterprises monitor day-to-day performance of the DataHub and have access to data recorded in the DataHub.
CGI Norge		Longhammarvn 28 5536 HAUGESUND	
		Innsputen 1, Helsefyr Oslo-Helsefyr 0663  Kilengaten 1 Tønsberg 3117	
CGI India		Divyasree Technopolis 124-125 Yemlur P.O. Off Airport Road Bangalore 560037	
Itadel A/S	37 03 20 34	Teglholmegade 1, 2450 København SV	Hosting of the DataHub is outsourced via CGI to Itadel, which is responsible for reporting and operational maintenance.

As of the effective date of this data processing agreement, the data controller has specifically approved the use of the above sub-processors for the exact type of processing described for the individual party. The data processor may not - without the data controller's specific and written consent - use the sub-processor for "other" processing than that agreed or let another sub-processor perform the described processing. The data processor shall enter into any transfer agreements necessary under the General Data Protection Regulation in connection with the transfer of personal data to a third country.

## Annex C Instructions pertaining to the processing of personal data

### C.1 Subject of/instructions for the processing

In accordance with the provisions of the Danish Electricity Supply Act, Energinet shall determine the type of communication sent via the DataHub. This is determined in the market regulations, which are available at any time on [www.energinet.dk](http://www.energinet.dk). This affects the data controller's instructions to the data processor.

The data processor's processing of personal data on behalf of the data controller is done by the data processor performing the following:

- providing data in accordance with the processes described in regulations issued by Energinet by the data controller's submission of BRS-002/Supply termination, BRS-016/Submit estimated annual consumption - electricity supplier, BRS-018/Submit meter reading - electricity supplier, BRS039/ Request for service from the electric power utility and BRS-044/Forced change of supplier for metering point, when the data controller instructs the data processor to use BRS-044 on merger of two of the data controller's GLN numbers
- distributing web forms sent from the data controller through the DataHub to another user of the DataHub
- making corrections to data in the DataHub on the request of the data controller in accordance with data submitted (HTX).

### C.2 Security of processing

The data processor shall have implemented internal guidelines and security measures for information security based on ISO 27001 or a suitable equivalent to ensure confidentiality, integrity and availability as well as to protect against misuse of the data controller's personal data and against this data falling into the hands of any unauthorised person.

### C.3 Storage period/erasure procedure

Personal data is stored for 5 years, after which they will be erased by the data processor. However, the data controller may at any time request that the data processor erases or returns personal data.

### C.4 Processing location

Processing of personal data under this agreement cannot be performed at other locations than the following without the data controller's prior written consent:

- Energinet DataHub A/S, Tonne Kjærvej 65, 7000 Fredericia
- Energinet DataHub A/S, Pederstrupvej 76, 2750 Ballerup
- Energinet, 37<sup>th</sup> GT Tower, Ayala Avenue, Makati City, Philippines
- CGI Danmark A/S, Lautruphøj 10, 2750 Ballerup
- CGI Danmark A/S, Sletvej 20, 8310 Tranbjerg J
- CGI Danmark A/S, Kokmose 12, 6000 Kolding
- CGI Nederland, Eemsgolaan 1, 9727 DW Groningen
- CGI Norge, Longhammarvn 28, 5536 Haugesund
- CGI Norge, Innspurten 1, Helsefyr, Oslo-Helsefyr 0663
- CGI Norge, Kilengaten 1, Tønsberg 3117
- CGI India, Divyasree Technopolis, 124-125 Yemlur P.O., Off Airport Road, Bangalore 560037
- Itadel, Tegllholmegade 1, 2450 København SV

### C.5 Instruction on or consent to the transfer of personal data to third countries

The data processor is entitled to have tasks in DataHub performed by the data processor's offices in Manila and by the sub-processor's offices in India. The data processor has entered into the necessary transfer agreements in compliance with the General Data Protection Regulation.

#### **C.6 Detailed procedures for the data controller's supervision of processing performed by the data processor**

The data processor must once a year at its own cost obtain an audit report from an approved audit firm regarding the data processor's compliance with this data processing agreement and its appendices.

After having obtained the audit report, this is forwarded without undue delay to the data controller for its information.

In addition, the data controller or a representative of the data controller also has access to supervise, including physically inspect, the data processor's processing when the data controller finds that this is necessary.

#### **C.7 Detailed procedures for the supervision of processing performed by any sub-processors**

The data processor must once a year at its own cost obtain an audit report from an approved audit firm regarding the sub-processor's compliance with this data processing agreement and its appendices.

After having obtained the audit report, this is forwarded without undue delay to the data controller for its information.

In addition, the data processor or a representative of the data processor also has access to supervise, including physically inspect, the sub-processor's processing when the data processor (or data controller) finds that this is necessary.

Documentation of the number of supervisions performed must be sent without undue delay to the data controller for its information.

## Annex D The parties' terms of agreement on other subjects

### D.1 Request by a public authority

The data processor must, without undue delay after becoming aware of this, inform the data controller in writing of any request from a public authority for the disclosure of personal data covered by this data processing agreement, unless such notification of the data controller is prohibited under EU law or Danish legislation.