

# Terms of Use for the Energy Data Portal der Open Grid Europe GmbH

(Last revised 10 December 2019)

The Energy Data Portal operated by Open Grid Europe GmbH offers customers of Open Grid Europe GmbH a platform for retrieving and viewing measurement data. Use of the platform requires registration as a Registered User at [edm@oge.net](mailto:edm@oge.net).

## 1 Scope

- 1.1 Open Grid Europe GmbH (**hereinafter referred to as the "Portal Operator"**) operates the Energy Data Portal as a customer service portal. The Energy Data Portal is used to display measured values and meter readings and to report any incorrect or incomplete master data.
- 1.2 These Terms of Use apply exclusively to the use of the Energy Data Portal. Any conflicting or additional terms and conditions drawn up by private natural persons or legal entities using the Energy Data Portal (**hereinafter referred to individually as "User" or collectively as "Users"**) shall not apply, even if the Portal Operator has not expressly objected to such terms and conditions. The latter shall only apply if and to the extent that the Portal Operator has expressly agreed to such terms and conditions in writing either in whole or in part.

## 2 Registration, subject matter and services provided by the Energy Data Portal

- 2.1 Use of the Energy Data Portal requires online registration by the User, which must be completed using the access data generated by the Portal Operator. Said data is made available to the User, i.e. the authorised company, once in advance by the Portal Operator. Authorised companies are customers of Open Grid Europe GmbH, e.g. grid operators, end users and other infrastructure operators. If the User is not a natural person, they may only be registered by a natural person fully authorised by them to do so (**hereinafter referred to as the "Processor"**). The Processor is the User's vicarious agent ("*Erfüllungsgehilfe*") vis-à-vis the Portal Operator.
- 2.2 To register, the User or the Processor must send an e-mail to [edm@oge.net](mailto:edm@oge.net) stating the full company name, surname, first name and e-mail address. By sending the e-mail containing the required information, the User registers with the Energy Data Portal or the Processor registers the User with the Energy Data Portal. Receipt of the e-mail sent to the User to confirm successful registration shall establish a contract on the use of the Energy Data Portal (**hereinafter referred to as "User Contract"**) between the User and the Portal Operator on the basis of these Terms of Use. The password assigned to the User or by the Processor for the initial login and/or the password defined by the User must be kept confidential. The disclosure of login data to unauthorised persons is prohibited. If the User suspects or has proof that an unauthorised person has gained access to the password, the User must notify the Portal Operator thereof without delay.

In this case, the User will be temporarily blocked in accordance with the provisions of section 8 hereinbelow.

- 2.3 The Energy Data Portal includes the following main functions:
- Reporting of meter readings of gas meters and flow correctors (by User).
  - Reporting of incorrect or incomplete master data (by User).
  - Provision of data sheets and data series for the User's metering points (by Portal Operator).
- 2.4 The e-mail notification function included in the Energy Data Portal for the e-mail addresses provided by the User is limited only to the actual transfer of e-mails. It is the User's responsibility to check that the e-mail address provided is correct and to ensure that e-mails are actually received.

### **3 Obligations of the User when using the Energy Data Portal**

- 3.1 The User/Processor is responsible for the proper use of the Energy Data Portal. This includes making sure that the meter readings entered by the User/Processor are truthful, correct and complete.
- 3.2 The User/Processor must observe the system requirements of the Energy Data Portal prior to a data query or report. The User/Processor is itself responsible for the up-to-dateness and functionality of the software used with regard to the proper output of the data. The User/Processor has an obligation to ascertain if any prerequisites or requirements for the software to be used have changed.
- 3.3 The User/Processor is not entitled to unreasonably or excessively use, modify, block or otherwise disrupt the Energy Data Portal. The contents of the Energy Data Portal must not be copied or disseminated and screenshots or hard copies thereof must not be made without the prior consent of the Portal Operator. The Portal Operator holds all rights to the Energy Data Portal and reserves right to assert claims against anyone found to be in violation of such rights.

### **4 Responsibilities of the Portal Operator and the User**

The Portal Operator assumes no responsibility for the correctness and completeness of the data provided, which is stored and maintained in the Energy Data Portal. Responsibility for obtaining information about the correctness and completeness of the data stored on the Energy Data Portal lies with the User. The foregoing also applies to the data to be maintained by the User.

### **5 Energy Data Portal availability**

The Energy Data Portal is a special service provided to the User free of charge subject to server availability. The Portal Operator is under no obligation to ensure that the Energy Data

Portal is permanently available. The User should note that use of Energy Data Portal may occasionally be limited or restricted temporarily, in particular as a result of technical faults or failures, system overload or maintenance work.

## **6 Use of third parties, transfer of rights and obligations**

- 6.1 The Portal Operator shall be entitled to draw on the support of third parties to fulfil its contractual obligations.
- 6.2 The Portal Operator shall be entitled to transfer its rights and obligations under the User Contract either in whole or in part to a third party with four weeks' notice. In this case, the User has the right to terminate the User Contract in writing by letter or by e-mail to the Portal Operator within a period of two weeks after having been informed about the transfer. The two-week period shall commence upon receipt by the User of the notification of the transfer. The statutory regulations pursuant to Sections 187 et seq. of the German Civil Code (BGB) shall apply.
- 6.3 The User shall only be entitled to transfer rights or obligations under this User Contract with the prior written consent of the Portal Operator.

## **7 Liability**

- 7.1 The Portal Operator disclaims all liability except for the cases referred to in Section 309 (7) of the German Civil Code (BGB). Consequently, the Portal Operator will only be fully liable to the User (also for its legal representatives and vicarious agents (*“Erfüllungsgehilfen”*)) for any wilful misconduct and/or gross negligence as well as any loss or damage resulting from injury to life, body or health, which is the result of its own negligent breach of duty or a wilful or negligent breach of duty on the part of its legal representatives and vicarious agents (*“Erfüllungsgehilfen”*). The Portal Operator will also be fully liable for any warranties, undertakings and assurances given if there is a defect covered by such warranties, undertakings and assurances. Also, liability shall not be limited in cases of strict liability (in particular as provided by the Product Liability Act).
- 7.2 In the case of any other culpable breach of material ('cardinal') contractual obligations, the remaining liability of the Portal Operator shall be limited to the loss or damage that is usually reasonably foreseeable for the type of contract. The term "material contractual obligations" shall be deemed to include all obligations that give the contract its character and on which the other party may rely. These are the essential rights and obligations which create the preconditions for the fulfilment of the contract and are indispensable for achieving the purpose of the contract.
- 7.3 All other liability on whatever legal grounds (including but not limited to claims arising from any breach of main and secondary contractual obligations, tort and other tortious liability) shall be excluded.

7.4 All events and/or circumstances which are beyond the control of the Portal Operator and which make it impossible or unreasonable for the Portal Operator to fulfil its contractual obligations for reasons for which it is not responsible, including but not limited to cases of force majeure, strikes and lock-outs, unforeseeable operational or traffic disruptions, orders by public authorities and similar obstacles, shall release the Portal Operator from its contractual obligations for the duration and to the extent of the disruptions caused. The foregoing shall also apply if the aforementioned unforeseeable circumstances occur at third parties used by the Portal Operator to fulfil its contractual obligations and if they lead to difficulties in the provision of the data by the Portal Operator, for which the Portal Operator is not responsible.

## **8 Blocked access, termination**

8.1 The Portal Operator may prevent the User/Processor from using the Energy Data Portal by blocking access if there is reason to believe that User/Processor User is in breach of these Terms of Use or applicable law or if the Portal Operator has any other legitimate interest in blocking the User/Processor. Such legitimate interest shall be deemed to exist in particular if the registration of the User/Processor was made under false pretences or if the password was not kept confidential.

8.2 The User may terminate the User Contract at any time subject to one week's notice. The Portal Operator may terminate the User Contract subject to two weeks' notice. A written notification shall suffice. The right to extraordinary termination for good cause shall remain unaffected. The notice period shall commence upon receipt of the notification by the other party. The notice period shall be determined in accordance with Section 187 et seq. of the German Civil Code (BGB).

## **9 Data protection**

9.1 The User/Processor consents to

- the Portal Operator using data processing systems to store, modify and use all data entered by the User/Processor User in the course of the registration for and use of the Energy Data Portal for the purpose of fulfilling the User Contract and
- the Portal Operator transmitting all data entered by the User in the course of registration for, and the use of, the Energy Data Portal to the grid operators for storage, modification and to use by them for processing purposes and for providing information in response to enquiries.

9.2 The data shall be processed exclusively as provided herein in accordance with applicable data protection laws.

9.3 The Portal Operator will be responsible for the collection of data as part of the use of the Energy Data Portal. The data collected will include personal data (surname and first name of the person carrying out the registration as well as the company affiliation).

9.4 The purpose of data collection is to allow the correct, error-free allocation of metering data to a User of the Energy Data Portal.

9.5 Further information on data protection by Open Grid Europe GmbH can be found on the company's Data Privacy Statement web page at <https://oge.net/en/data-protection>.

## **10 Other provisions**

10.1 Any changes or additions by the User to these Terms of Use shall require the written consent of the Portal Operator to be effective. The foregoing shall apply mutatis mutandis to the amendment or waiver of this written form requirement itself. Communication in text form shall not suffice for this purpose.

10.2 The place of jurisdiction for any and all disputes arising from the contract shall be Essen/Germany. The relationship between the Portal Operator and the User shall be governed exclusively by the law of the Federal Republic of Germany.

10.3 If any provisions of these Terms of Use are or become void, ineffective or unenforceable, the remaining provisions shall remain in full force and effect. The parties hereto undertake to replace any such void, ineffective or unenforceable provision with a provision which comes as close as reasonably possible to the intended economic result and which the parties would have agreed if they had known of the ineffectiveness of the provision. The foregoing shall apply mutatis mutandis to any gaps in any of the above provisions.