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## Notice of proposal of the Gas and Electricity Markets Authority to confirm a Provisional Order pursuant to section 26 (1) and (2) of the Electricity Act 1989

### Summary

- A. **Tomato Energy Limited** ("Tomato Energy") (company number 09735768) having its registered office at **Devonshire Business Centre Aviary Court, Wade Road, Basingstoke, England, RG24 8PE**, holder of an electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989.
- B. Pursuant to section 25(2) of the Electricity Act 1989, the Authority issued and served a provisional order to Tomato Energy on 10 April 2025 (the "Provisional Order") which can be found at: [Tomato Energy Limited: Provisional Order | Ofgem](#). Notwithstanding the making of the Provisional Order, to date Tomato Energy has failed to meet all of the requirements outlined in the Provisional Order.
- C. The Provisional Order was made in respect of Tomato Energy's contravention or likely contravention of Standard Licence Conditions ("SLCs") 4A, 4B.1, and 4B.8. Unless otherwise stated, capitalised terms in this Notice are defined in the SLCs.
- D. The Authority now proposes to confirm the Provisional Order, as modified, as it is satisfied (subject to consideration of any representations or objections made in accordance with the Electricity Act 1989 and compliance with the further provisions therein) that Tomato Energy is contravening or is likely to contravene the requirements of SLCs 4A, 4B.1 and 4B.8. The Authority proposes to confirm the Provisional Order, with modifications, in the form set out in the Annex to this notice.
- E. Pursuant to section 25(4) of the Electricity Act 1989, the Authority shall confirm a provisional order with or without modifications if:
- 1) The Authority is satisfied that the regulated person to whom the order relates is contravening or is likely to contravene any relevant condition or requirement; and
  - 2) The provision made by the provisional order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.
- F. The Authority has had regard to the matters in sections 25(4A), (4B), (5) and (5A), and section 26 of the Electricity Act 1989. In particular, the Authority:

- 1) Does not consider that it would be more appropriate to proceed under the Competition Act 1998 (that Act has no application to the present circumstances);
  - 2) Is satisfied that the duties imposed on the Authority by sections 3A to 3C of the Electricity Act 1989 do not preclude the Authority from confirming the Provisional Order (on the contrary, it considers that its duties require it to confirm the Provisional Order); and
  - 3) Is satisfied that the contravention is not of a trivial nature.
- G. Prior to confirming the Provisional Order, in accordance with section 26(1) and 26(2) of the Electricity Act 1989, the Authority gives notice that:
- 1) SLCs 4A, 4B.1 and 4B.8 are the relevant conditions for the purpose of securing compliance with which the Provisional Order is to be confirmed;
  - 2) The acts or omissions which, in the Authority's opinion, constitute contraventions of those Relevant Conditions, and other factors which in the Authority's opinion justify the confirming of the Provisional Order are those set out below;
  - 3) It is, in the Authority's view, requisite to confirm the Provisional Order in the form set out in the Annex to this notice; and
  - 4) Any representations or objections with respect to the proposed confirmation of the Provisional Order may be made to the Authority by **5pm on 7 July 2025**.

## Background

- H. The background to the making of the Provisional Order is set out in the Notice of Reasons which can be found here: [Tomato Energy Limited: Provisional Order | Ofgem](#).

## Reasons for confirming the provisional order

- I. Based on the information received by the Authority directly from Tomato Energy, the Authority is satisfied that Tomato Energy is contravening or is likely to contravene SLCs 4A, 4B.1 and 4B.8.
- J. The Authority is minded to confirm the Provisional Order with modifications on the grounds that it is satisfied, in light of the matters set out in this Notice, that Tomato Energy is contravening or is likely to contravene SLCs 4A, 4B.1 and 4B.8.

Consequently, the provisions made by the Provisional Order with modifications are still requisite for the purpose of securing compliance with SLC 4A, SLC 4B.1 and SLC 4B.8.

### **The facts surrounding the Authority's decision on contraventions**

- K. The Authority has considered information obtained since the Provisional Order was made. The particular behaviours of concern relate to:
- 1) Tomato Energy has not provided evidence of robust internal capabilities, systems and processes, as required by SLC 4A, that would enable it to comply with its legislative and regulatory obligations, including, but not limited to, those under SLCs 4B.1, 4B.8 and SLC 4B.9.
  - 2) Tomato Energy has not provided evidence that it is able to obtain and maintain Liquidity of sufficient amount and Quality so that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis as required by SLC 4B.1.
  - 3) Tomato Energy has not, at all times, notified the Authority of Trigger Points as required by SLC 4B.8 either:
    - i. as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points set out in subparagraphs (a) to (d) of SLC 4B.8 will occur; and
    - ii. as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the Trigger Points in SLC 4B.8 have occurred.
- L. The Provisional Order required Tomato Energy to:
- 1) By no later than 4pm on 1 May 2025 to provide the Authority with an independent report (commissioned by Tomato Energy at its own expense and prepared by an independent professional acceptable to the Authority with a framework and remit also acceptable to the Authority) regarding the quantity and Quality of Tomato Energy's Capital and Liquidity, including its ability to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis. The report must also outline recommendations of what remedial actions, if any, Tomato Energy should take to maintain compliance with its obligations under SLC 4B.1.

- 2) Obtain and maintain Liquidity of a sufficient amount and Quality so that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis by no later than 4pm on 8 May 2025.
  - 3) From the date of this Provisional Order, put in place and maintain robust internal capability, systems and processes to enable the licensee to comply with relevant legislative and regulatory obligations (including, but not limited to, its reporting obligations under SLC 4B.8-9).
  - 4) Until compliance with SLC 4A and SLC 4B.1 is achieved in accordance with the preceding paragraphs and the Authority has confirmed in writing to Tomato Energy that compliance has been achieved, Tomato Energy must:
    - refrain from all sales, marketing and customer acquisition activity, including the acquisition of any new domestic and non-domestic customers ("Sales Ban"); and
    - refrain from making any payment, providing any loan or transferring any asset to any third party unless that payment, loan or transfer is one that: i) it is required to make by virtue of a statutory requirement, court order or by virtue of a contractual requirement where making that payment is essential to enable Tomato Energy to run its business; ii) is essential to Tomato Energy's operation as a supplier of electricity to consumers; or iii) is otherwise approved in writing by the Authority ("Non-essential Payments Ban").
  - 5) From the date of this Provisional Order, notify the Authority in writing as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points (as set out in SLC 4B.8 (a) to (d)) will occur and/or as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the Trigger Points have occurred.
- M. Tomato Energy commissioned the independent report prescribed within requirement 1 of the Provisional Order ("Report"). The Report was submitted to the Authority by the deadline of 4pm on 1 May 2025.
- N. The Authority notes that the Report indicates Tomato Energy could be able to maintain Liquidity of a sufficient amount and Quality that would allow it to meet its reasonably anticipated financial liabilities as they fall due where it is able to implement various strategies set out therein.

- O. However, from the Report and information obtained by the Authority, the Authority notes:
- 1) Revenue projections may not fully account for the impact of seasonal fluctuations, whilst there are concerns that anticipated collections from third-party partners may be overstated.
  - 2) Initial forecasts for industry credits have been revised downward in more recent submissions.
  - 3) Continued extension of payment terms with creditors suggests an ongoing risk regarding an ability to meet foreseeable financial obligations as they become due.
  - 4) An overdraft facility may offer temporary liquidity support, but it is inherently limited and does not represent a sustainable solution for meeting the supplier's ongoing obligations under SLC 4B.1.
  - 5) External investment or agreements could potentially provide the liquidity needed to satisfy regulatory obligations. However, no conclusive evidence of any such investment or agreements has been provided.
- P. The Authority further notes that the Report indicates Tomato Energy's ability to meet its reasonably anticipated financial liabilities over the next 3-6 months appears challenging without external investment.
- Q. Tomato Energy has submitted information indicating its intention to develop and implement processes and procedures to manage its obligations under SLCs 4A and 4B.8. However, Tomato Energy has not yet submitted documented evidence of the existence or implementation of these processes and procedures.
- R. The Authority notes that the Report makes recommendations regarding the introduction of certain processes and procedures to assist with SLC 4B.1 compliance. Tomato Energy has submitted evidence that demonstrates partial implementation of these recommendations. However, the Authority's view of this information is that without additional investment, Tomato Energy will not be able to evidence ongoing compliance with SLC 4B.1.

- S. No evidence has been received to indicate that Tomato Energy has not complied requirement 4 of the Provisional Order regarding a "Sales Ban" and a "Non-Essential Payments Ban".
- T. Tomato Energy submitted evidence to the Authority that demonstrates its failure to notify the Authority, within the required timeframe, of Trigger Points that had occurred since the issuing of the Provisional Order. The evidence submitted demonstrates that Tomato Energy has failed to comply with SLC 4B.8.
- U. For the reasons set out above, the Authority's view is that the Report and other information provided to the Authority does not evidence Tomato Energy's compliance with SLC 4A, SLC 4B.1 or SLC 4B.8. The Authority is therefore of the opinion that Tomato Energy is not:
  - 1) Maintaining Liquidity of a sufficient amount and Quality so that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis;
  - 2) Maintaining robust internal capability, systems and processes to enable the licensee to comply with relevant legislative and regulatory obligations (including, but not limited to, its reporting obligations under SLC 4B.8-9);
  - 3) Notifying the Authority in writing as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points (as set out in SLC 4B.8 (a) to (d)) will occur and/or as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the Trigger Points have occurred.
- V. As such, the Authority is satisfied that Tomato Energy is contravening, or is likely to contravene, the requirements of SLC 4A, SLC 4B.1 and SLC 4B.8.
- W. The Provisional Order, if confirmed with modifications, prohibits Tomato Energy from engaging in sales, marketing and customer acquisition activity until the Authority is satisfied that Tomato Energy is compliant with SLC 4A and SLC 4B.1 ("sales ban"). The Authority has considered this provision (commonly referred to as a 'sales ban') very carefully, mindful of its likely impact on Tomato Energy's business. Where Tomato Energy acquires new customers, its financial liabilities, including to industry bodies would be likely to increase. This in turn could increase the amount of costs at

risk of being Mutualised. The Authority considers this 'sales ban' to be reasonable and proportionate in the circumstances to limit potential losses to consumers.

- X. The Provisional Order, if confirmed with modifications, further prohibits Tomato Energy from making any payment, providing any loan or transferring any asset to any third party (including its Directors, shareholders, unlicensed parent company or other companies in the same group of companies) unless that payment, loan or transfer is legally required, essential to Tomato Energy's operation as a supplier of electricity or otherwise approved by the Authority ("ban on non-essential payments"). The Authority has also carefully considered this provision, again mindful of its potential impact on Tomato Energy's business. If Tomato Energy makes non-essential payments, it is very likely to decrease the amount or Quality of Liquidity available to it to meet its reasonably anticipated financial liabilities on an ongoing basis, thereby increasing the costs at risk of being Mutualised in the event of its exit from the supply market (due to insolvency, licence revocation or in any other circumstances). The Authority therefore considers that this requirement is reasonable and proportionate in the circumstances.
- Y. The Authority notes that the 'sales ban' and 'ban on non-essential payments' will only apply until Tomato Energy can evidence that it is meeting the requirements of the Provisional Order, if confirmed with modifications, and is therefore in compliance with SLC 4A and SLC 4B.1.
- Z. As such, the Authority considers that it is requisite for the Provisional Order with modifications to be confirmed and to require Tomato Energy to comply with SLC 4A, SLC 4B.1 and SLC 4B.8 and that, until it complies with SLC 4A and SLC 4B.1, that the sales ban and non-essential payments ban remain in effect. The Authority considers that this is proportionate and necessary in the circumstances given the risk of consumer detriment.

## **Representation or objections**

- AA. The Authority invites representations or objections in relation to its proposal to confirm the Provisional Order with modifications in the form set out in the Annex to this notice.

BB. Any representations or objections with respect to this proposed notice to confirm the Provisional Order must be made in writing on or before **5pm on 7 July 2025** and sent to James Walker by email to [j.walker@ofgem.gov.uk](mailto:j.walker@ofgem.gov.uk) and [sam.wood@ofgem.gov.uk](mailto:sam.wood@ofgem.gov.uk) or by post to OFGEM, 10 South Colonnade Canary Wharf London E14 4PU. Should you have any questions about this notice you can contact to James Walker by email at [j.walker@ofgem.gov.uk](mailto:j.walker@ofgem.gov.uk)

CC. If a respondent does not wish its response or part of its response to be published, it should clearly mark its response or the relevant parts "not for publication" and give reasons. The Authority will consider such requests on case-by-case basis.

DD. Any representations or objections which are made within the timeframe specified above and not withdrawn will be duly considered by the Authority.

Dated: 13 June 2025

Signed:

**Cathryn Scott (Director)**

**Duly authorised on behalf of the Gas and Electricity Markets Authority**



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## Annex 1

### Proposed Provisional Order confirmed under section 25(4) of the Electricity Act 1989

**To: Tomato Energy Ltd** ("Tomato Energy") (company number 09735768) having its registered office at **Devonshire Business Centre Aviary Court, Wade Road, Basingstoke, England, RG24 8PE**, holder of an electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989.

#### WHEREAS:

- A. Tomato Energy is the holder of an electricity supply licence granted by the Gas and Electricity Markets Authority ("the Authority") and is subject to the conditions thereunder, which are "relevant conditions" for the purposes of the Electricity Act 1989.
- B. Based on the information received by the Authority and its engagement with Tomato Energy regarding Tomato Energy's compliance with its obligations under the Standard Conditions of the electricity supply licence (collectively referred to as "Standard Licence Conditions") the Authority is satisfied that Tomato Energy is contravening or is likely to contravene Standard Licence Conditions ("SLCs") 4A, 4B.1 and 4B.8 (the "relevant Standard Licence Conditions"). Unless otherwise stated, capitalised terms in this Notice are defined in the SLCs.
- C. Standard Licence Condition 4A ("SLC 4A") provides the following:
- Condition 4A Operational capability**
- 4A.1 The licensee must ensure it has and maintains robust internal capability, systems and processes to enable the licensee to: [...]*
- (c) comply with relevant legislative and regulatory obligations.*
- D. Standard Licence Condition 4B ("SLC 4B") relevantly provides the following:
- Condition 4B. Financial responsibility principle**
- 4B.1 The licensee must ensure that it maintains Capital<sup>1</sup> and Liquidity of sufficient amount and Quality that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis. [...]*
- Definitions [...]**

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<sup>1</sup> Capitalised terms in this provisional order have the same meanings as those defined in the Standard Licence Conditions.

4B.28 [...]

**"Liquidity"** means the resources that suppliers can convert into 'cash' as soon as needed and with minimal loss in value to meet liabilities as they fall due, including under adverse circumstances. [...]

**"Quality"** mean characteristics that make a source of funding best suited to allow a firm to absorb losses unambiguously on an ongoing basis, including under adverse circumstances.

### **"Monitoring and Reporting"**

"4B.8 The licensee must notify the Authority in writing:

- (i) as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points set out in sub-paragraphs (a) to (d) will occur; and
- (ii) as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the following Trigger Points have occurred:
  - (a) any reduction in the licensee's Access to Funds, where this may impact the licensee's ability to meet standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5 and 4B.6;
  - (b) any changes with respect to the licensee's contractual arrangements with counterparties, where this may impact the licensee's ability to meet standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5 and 4B.6; or
  - (c) any change that could have a Material adverse effect in respect to the cash position of the licensee; [...]

4B.9 Where the licensee notifies the Authority in accordance with standard condition 4B.8, it must, along with the notification, explain the impact that the relevant change will have, may have or has had on its ability to meet standard conditions 4B.1, 4B.2, 4B.3, 4B.4, 4B.5 and 4B.6.

E. Since late 2024, the Authority has been contacted by multiple industry parties in relation to the late or non-payment of financial liabilities by Tomato Energy. The Authority has engaged with Tomato Energy in respect of its obligations under the financial responsibility principle and its business practices in relation to meeting its financial liabilities and met with the licensee on 13 February 2025, 5 March 2025 and 7 April 2025. The licensee has repeatedly sought to assure the Authority that while it

acknowledged that it had experienced cashflow challenges which had led to the late payment of financial liabilities, effective action had been taken to prevent a recurrence.

- F. The Authority also made clear to the licensee that a failure to meet reasonably anticipated financial liabilities in full and on time gave rise to an obligation under SLC.4B.8-9 to notify the Authority in writing.
- G. On 2 April 2025, the Authority was informed by multiple market participants that they were considering commencing legal proceedings against Tomato Energy for the recovery of unpaid liabilities totalling over £3m.
- H. The licensee has not submitted any notifications to the Authority under SLC.4B.8-9.
- I. Given the failure of the licensee to submit appropriate notifications to the Authority under SLC 4B.8-9, it appears that the licensee is not maintaining robust internal capability, systems and processes to enable the licensee to comply with its relevant regulatory obligations contrary to SLC 4A.
- J. Based on the information received by the Authority and its engagement with Tomato Energy regarding its compliance with its obligations under SLC 4A, SLC 4B.1 and SLC 4B.8 of the electricity supply licence, it appears to the Authority that Tomato Energy is contravening or is likely to contravene SLC 4A, SLC 4B.1 and SLC 4B.8.
- K. The information considered by the Authority, includes:
  - 1) Notifications from industry bodies owed money by Tomato Energy indicating that Tomato Energy had not met its reasonably anticipated financial liabilities as they fell due.
  - 2) A failure to submit the required notifications to the Authority when Trigger Points set out in SLC. 4B.8(a)-(c) have occurred.
- L. The operational capability and financial responsibility principle rules are an important safeguard to energy consumers because they help to minimise the costs at risk of Mutualisation in the event of a market exit. Tomato Energy's actions i.e. a repeated failure to meet its reasonably anticipated financial liabilities on an ongoing basis and a repeated failure to meet its reporting obligations amount to serious breaches of the SLC 4A, SLC 4B.1 and SLC 4B.8.

- M. The issuing of a Provisional Order is requisite for the purposes of section 25(2) Electricity Act 1989 to secure compliance with SLC 4A, SLC 4B.1 and SLC 4B.8 at the earliest opportunity, by ensuring that the licensee puts in place robust internal capability, systems and processes to comply with its legislative and regulatory obligations (including the obligation to report to the Authority under SLC 4B.8) and to obtain and maintain Liquidity of sufficient amount and Quality that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis, which is necessary, proportionate and in the public interest.
- N. Having had regard to the matters set out in section 25 of the Electricity Act 1989, the Authority considered it requisite to make a provisional order in exercise of the power in section 25(2) of the Electricity Act 1989.
- O. On 10 April 2025 the Authority issued a provisional order under section 25(2) of the Electricity Act 1989 requiring Tomato Energy to comply with the relevant Standard Licence Conditions (the "Provisional Order").
- P. The Provisional Order required that Tomato Energy:
- 1) By no later than **4pm on 1 May 2025** to provide the Authority with an independent report (commissioned by Tomato Energy at its own expense and prepared by an independent professional acceptable to the Authority with a framework and remit also acceptable to the Authority) regarding the quantity and Quality of Tomato Energy's Capital and Liquidity, including its ability to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis. The report must also outline recommendations of what remedial actions, if any, Tomato Energy should take to maintain compliance with its obligations under SLC 4B.1.
  - 2) Obtain and maintain Liquidity of a sufficient amount and Quality so that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis by no later than **4pm on 8 May 2025**.
  - 3) From the date of this Provisional Order, put in place and maintain robust internal capability, systems and processes to enable the licensee to comply with relevant legislative and regulatory obligations (including, but not limited to, its reporting obligations under SLC 4B.8-9).

- 4) Until compliance with SLC 4A and SLC 4B.1 is achieved in accordance with the preceding paragraphs and the Authority has confirmed in writing to Tomato Energy that compliance has been achieved, Tomato Energy must:
- refrain from all sales, marketing and customer acquisition activity, including the acquisition of any new domestic and non-domestic customers ("Sales Ban"); and
  - refrain from making any payment, providing any loan or transferring any asset to any third party unless that payment, loan or transfer is one that:
    - i) it is required to make by virtue of a statutory requirement, court order or by virtue of a contractual requirement where making that payment is essential to enable Tomato Energy to run its business; ii) is essential to Tomato Energy's operation as a supplier of electricity to consumers; or iii) is otherwise approved in writing by the Authority ("Non-essential Payments Ban").
- 5) From the date of this Provisional Order, notify the Authority in writing as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points (as set out in SLC 4B.8 (a) to (d)) will occur and/or as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the Trigger Points have occurred.

Q. Based on information Tomato Energy has provided to the Authority to date, the Authority considers that Tomato Energy has failed to:

- 1) Obtain and maintain Liquidity of a sufficient amount and Quality so that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis.
- 2) Put in place and maintain robust internal capability, systems and processes to enable the licensee to comply with relevant legislative and regulatory obligations (including, but not limited to, its reporting obligations under SLC 4B.8-9).
- 3) Notify the Authority in writing as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points (as set out in SLC 4B.8 (a) to (d)) will occur and/or as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the Trigger Points have occurred.

- R. The Authority made a proposal to confirm the Provisional Order with modifications on **13 June 2025** under Section 26(1) and 26(2) of the Electricity Act 1989 (the "Proposal to Confirm").
- S. Having had regard to the matters set out in section 25 of the Electricity Act 1989, the Authority is satisfied that Tomato Energy is contravening or is likely to contravene Standard Licence Conditions 4A, 4B.1 and 4B.8 which are relevant conditions for the purposes of section 25 of the Electricity Act 1989. The Authority therefore considers it is requisite to confirm the Provisional Order with modifications for the purposes of securing Tomato Energy's compliance with Standard Licence Conditions 4A, 4B.1 and 4B.8.

#### **NOW THEREFORE:**

- T. The Authority, pursuant to section 25(4) of the Electricity Act 1989, and for the purpose of securing compliance with the relevant Standard Licence Conditions confirms the Provisional Order with modifications (effective on the date set out below) requiring Tomato Energy to:
- 1) Obtain and maintain Liquidity of a sufficient amount and Quality so that it is able to meet its reasonably anticipated financial liabilities as they fall due on an ongoing basis by no later than **4pm on 31 August 2025**.
  - 2) Put in place and maintain robust internal capability, systems and processes to enable the licensee to comply with relevant legislative and regulatory obligations (including, but not limited to, its reporting obligations under SLC 4B.8-9).
  - 3) Until compliance with SLC 4A and SLC 4B.1 is achieved in accordance with the preceding paragraphs and the Authority has confirmed in writing to Tomato Energy that compliance has been achieved, Tomato Energy must:
    - o refrain from all sales, marketing and customer acquisition activity, including the acquisition of any new domestic and non-domestic customers ("Sales Ban"); and
    - o refrain from making any payment, providing any loan or transferring any asset to any third party unless that payment, loan or transfer is one that: i) it is required to make by virtue of a statutory requirement, court order or by virtue of a contractual requirement where making that payment is essential to enable Tomato Energy to run its business; ii) is essential to Tomato Energy's

operation as a supplier of electricity to consumers; or iii) is otherwise approved in writing by the Authority ("Non-essential Payments Ban").

- 4) Notify the Authority in writing as soon as reasonably practicable but no later than 7 days after it becomes aware that there is a Material risk that any of the Trigger Points (as set out in SLC 4B.8 (a) to (d)) will occur and/or as soon as reasonably practicable but no later than 7 days after it becomes aware that any of the Trigger Points have occurred.

- U. Pursuant to section 27(7) of the Electricity Act 1989, the Authority may seek to enforce the confirmed Provisional Order by application to the High Court (in England and Wales) or the Court of Session (in Scotland) for injunctive or other relief without further notice to Tomato Energy.

Dated:

Signed:

**Cathryn Scott (Director)**

**Duly authorised on behalf of the Gas and Electricity Markets Authority**