

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (“**Agreement**”) is entered into by and between (the “**Customer**”) and Also Energy, GmbH, (“**AE**”) a company organized and existing under the laws of the Germany with its principal place of business at Franz-Ehrlich-Straße 9 12489 Berlin, Deutschland, (each of Customer and AE, a “**Party**” and together, the “**Parties**”).

TO THE EXTENT CUSTOMER IS ENTERING INTO THIS AGREEMENT ON BEHALF OF ANOTHER ULTIMATE CUSTOMER, THEN CUSTOMER HEREBY WARRANTS THAT IT IS AUTHORIZED TO ENTER INTO THIS AGREEMENT FOR THE BENEFIT OF SUCH OTHER PARTY AS ITS AGENT AND THAT CUSTOMER WILL BE RESPONSIBLE FOR SUCH PARTY’S COMPLIANCE WITH THE TERMS OF THIS AGREEMENT UNTIL SUCH OTHER PARTY AGREES TO THESE TERMS .

WHEREAS, Customer or its affiliates may request that AE provide services, equipment, and license software programs related to the maintenance and operation of renewable energy power production operations, and AE desires to provide such services and license such software programs as further set forth herein.

THEREFORE, in consideration of the mutual agreements below, and intending to be legally bound, the parties agree:

Definitions

1.1. “**Additional Services**” means those advisory services included in a Purchase Order (defined below) related to the implementation of the Software and access to the Services provided to Customer by AE pursuant to this Agreement.

1.2. “**AE Technology**” means all of AE's proprietary technology (including software, hardware, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by AE in providing the licenses or Services hereunder, including the Content.

1.3. “**Agreement**” means this Master Services Agreement and any schedules or exhibits attached hereto, and any duly executed amendments to any of the foregoing.

1.4. “**Confidential Information**” means: information regarding the business of a Party and its licensors and suppliers, including without limitation, technical, marketing, sales, financial, employee, planning, trade secret and other confidential or proprietary information, and information that the

receiving Party knew or should have known, under the circumstances, was considered confidential or proprietary by the disclosing Party. Confidential Information does not include any information that: (a) is in the public domain at the time it is disclosed or becomes part of the public domain after disclosure without the receiving Party’s breach of any obligation owed to the disclosing Party; (b) is already known to the receiving Party, except through a disclosure by the disclosing Party, at the time of disclosure and for which the receiving Party is not subject to restriction of confidentiality; (c) becomes known to the receiving Party from a source other than the disclosing Party without breach of an obligation of confidentiality; (d) is developed by the receiving Party’s employees or representatives without access to or use of any of the disclosing Party’s Confidential Information; or (f) is released for publication by the disclosing Party in writing.

1.5. “**Content**” means the content of AE's website services and the content that is provided to Customer including reports, information, documents, software, products and services that are contained or made available to Customer in the course of using the Service or Software.

1.6. **“Customer Data”** means any data, information or material provided or submitted by Customer to the Software or AE’s website in the course of using the Software or Services.

1.7. **“Intellectual Property Rights”** means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, all derivatives thereof, and all forms of protection of a similar nature anywhere in the world.

1.8. **“Personal information”** means any information that is related to an identified person, or that may be used to identify an individual, including: first and last name; email address; a home, postal or other physical address or other contact information; title, birth date, gender, occupation, industry, or personal interests; and other personal information necessary or useful to provide a product or service that Customer has requested.

1.9. **“Purchase Order”** means one or more forms evidencing the initial order for AE to provide access to the Services, Software, Content, or the provision of Hardware or Additional Services, and any subsequent Purchase Orders submitted online or in written form as agreed to between the Parties and executed by the Parties. Each Purchase Order is incorporated into and becomes a part of this Agreement.

1.10. **“Service”** or **“Services”** means the specific services that Customer has licensed to access pursuant to the terms of this Agreement under a Purchase Order. The Services are provided by AE, and are accessible via <http://www.AlsoEnergy.com> or another designated web site or IP address provided to Customer by AE, to which Customer is being granted access under this Agreement. Services, products and all associated materials and documentation will be presented in English, unless otherwise set forth.

1.11. **“Service Level”** means the general support services, service level, frequency of service, response times set forth in Schedule A – Service Levels.

1.12. **“Software”** means the executable version of the software provided to Customer pursuant to a Purchase Order that allows Customer to access the Services and that AE provides pursuant to the terms of this Agreement.

1.13. **“Usage Data”** means data related to Customer’s renewable energy system, and includes information about energy consumption, the performance and efficiency of Customer’s renewable energy system, environmental data such as weather conditions, and the internet protocol address for Customer’s internet access.

1.14. **“User”** refers to: with respect to each renewable energy site, to each individual person, company or legal entity or its employees, representatives, consultants, contractors or agents who are authorized by Customer to use the Service on behalf of Customer.

1.15. This section will survive any expiration or termination of this Agreement.

2. License

2.1. Subject to Section 19, AE hereby grants to Customer a limited, non-exclusive, non-transferable, non-sub-licensable, worldwide, revocable right to: (i) use Software and any updates thereto to access the Services during the Term, (ii) to use and display the Content for internal analysis and power plant optimization only. The foregoing license and rights grant is solely for the internal business purposes of Customer and any operator of its equipment or facilities for Customer’s benefit, and at all times is subject to the terms and conditions of this Agreement. AE and its licensors reserve all rights not expressly granted to Customer under this Agreement.

2.2. When Customer acquires hardware from AE, the firmware is installed in executable form (object code) on the devices. Source code is not included. AE grants the Customer a permanent non-exclusive right to use the firmware for the intended use of the hardware. The license granted does not refer to the open source

components which are part of the respective software/firmware.

2.3. Unless expressly permitted by the terms of this Agreement or any other written agreement Customer has with AE, the Service may be used only for the internal business purposes of Customer and any operator of its equipment or facilities, and Customer and Users shall not:

- (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, timeshare or otherwise commercially exploit or make available to any third party the AE Technology;
- (ii) modify or make derivative works based upon the AE Technology;
- (iii) reverse engineer the AE Technology or access the Service or any related hardware in order to: build a competitive product or service, build a product using similar functionality, or copy any portion of the AE Technology;
- (iv) send or store material containing viruses, worms, trojan horses or other harmful or malicious code, files, scripts, agents or programs in connection with Customer's use of the AE Technology;
- (v) attempt to gain unauthorized access to the Service, or to any AE website that is accessible to Customer or other users, or AE's related systems or networks;
- (vi) "spoof" or impersonate another AE user or provide false identity information to gain access to or use the AE Technology;
- (vii) use any AE Technology for any benchmarking, research and development, monitoring for availability, performance measuring, functionality comparisons, or investigative purposes of any kind; or
- (viii) remove any copyright, trademark, or other similar notices from the AE Technology.

3. Additional Services; Hardware Procurement

AE may provide the Additional Services if and only to the extent set forth in a Purchase Order. AE is free to engage third parties to perform its obligations. The Additional Services will be provided subject to the payment of any associated fees for such services. The installation of the hardware product and/or the provisioning of further services are not part of the hardware purchase agreement. Customer shall make its facilities reasonably accessible to AE or AE's contractors in order to complete the Additional Services. AE will not be responsible or liable for any delay in delivery of the Additional Services due to Customer's failure to make its facilities so available. To the extent that Customer orders any equipment or materials pursuant to a Purchase Order, then the terms of the Customer Support and Limited Warranty will apply with respect to such materials or equipment. As between Customer and AE, legal title passes to Customer upon transfer to the first carrier.

4. Intellectual Property Ownership

4.1. Except for the express rights licensed or granted under this Agreement, AE alone shall own all right, title and interest, including all related Intellectual Property Rights, in and to the AE Technology and to any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the AE Technology. This Agreement is not a sale of and does not convey to Customer any rights of ownership in or related to the AE Technology or any Intellectual Property Rights owned by AE. Customer will neither receive the source code nor is the Customer granted rights to the source code of the software.

4.2. This section will survive any expiration or termination of this Agreement.

5. Privacy & Security; Data Access and Disclosure

5.1. All of the information to which AE may have access pursuant to this Agreement, is subject to AE's privacy statement and applicable laws. Please go to <https://home.alsoenergy.com/assets/pdf/Also-Energy->

[Privacy-Statement.pdf%20](#) to see AE's full privacy statement. This policy is expressly incorporated into and made a part of this Agreement.

5.2. Customer hereby consents to AE's collection of Usage Data regarding its renewable energy system, and to its use of Customer's internet access systems to transmit Usage Data to us.

5.3. Customer acknowledges and agrees that AE requires the ability to share data with relevant third parties in order to provide its monitoring and reporting services. This data may include such elements as energy production information, fault information, or asset information such as the model and serial number of a device. These third parties may include entities such as the system integrator or operations and maintenance provider who installs and/or maintains the system, the manufacturer of the inverter used in the system, a government regulatory agency providing financial incentives for the system, or a utility company. These third parties typically require this shared information in order to provide their own products and services in support of the Customer's renewable energy system. AE may also provide data in aggregated form—in other words, in a form whose source cannot be individually identified, and the identity of the Customer is not revealed—to third parties who are not directly connected to or involved with the monitored system. Such third parties might include research firms, government agencies, and the like.

5.4. Cellular Network Access Waiver.

(i) Waiver. AE shall in no event be liable for any damages, costs, fees or expenses of any kind or nature ("Liabilities") arising out of the provision to Customer's authorized third parties of the credential information for accessing the primary gateway or modem, further including any software changes or modifications facilitated hereunder to the Licensed and/or Service Software (hereafter referred to as "Modem/Gateway Access"), unless such Modem/Gateway Access is provided negligently, or with willful malfeasance. Customer hereby waives any and all Modem/Gateway Access Liabilities it may have or accrue against AE and its

directors, officers, employees, agents, and subcontractors, and also agrees to hold them harmless against said Liabilities.

(ii) Indemnification. Customer will indemnify AE and each of its officers, directors, employees, and affiliates (each an "Indemnified Person") against, and hold AE and each Indemnified Person harmless from, any and all claims, actions, and proceedings (collectively, "Claims") made or commenced against such Indemnified Person and any and all damages, liabilities, losses, and expenses, including reasonable attorneys' fees (collectively, "Losses") suffered or incurred by such Indemnified Person if and to the extent that such Claims or Losses result directly from any third party's use of the credential information for accessing any primary gateway or modem of the Owner, further including any software changes or modifications facilitated hereunder to the Licensed and/or Service Software to enable such access. Notwithstanding the foregoing, Customer will not be responsible for any Claims or Losses that arise solely from AE' gross negligence or willful misconduct.

5.5. This section will survive any expiration or termination of this Agreement.

6. Use Guidelines & Restrictions

6.1. AE Technology can only be used with the following web browsers, Chrome 45 or higher, Firefox 47 or higher, Windows Internet Explorer 11 or higher, Opera 37 or higher.

6.2. Customer agrees that the user experience for supported web browsers will be different than the foregoing and may not be satisfactory or may be unusable altogether. Customer is solely responsible for any breaches of this Agreement or failure of AE to provide any services hereunder due to Customer's failure to use the web browsers in the above Section.

6.3. AE may restrict access to the Service and any other AE Technology, and may terminate this Agreement upon notice to Customer, if Customer or its Users are or become a direct competitor of AE, except

with AE's prior written consent. Such prior written consent is not granted by this Agreement.

6.4. Customer and Users may not use the Service for any ultra-hazardous activity, life support and/or safety critical applications or for applications in facilities where failures could result in harm to human health or safety threats to the environment.

6.5. The Customer shall be entitled to transfer the software licenses to a third party, subject to AE approval with will not be unreasonably withheld. Any internal administrative expenses incurred by the transfer of the contract partner shall be settled against the original Customer.

6.6. Customer shall require all Users to use the Services subject to the terms of this Agreement and such access shall be subject to end user terms of use as set forth by AE on its web site.

6.7. Customer is responsible for all activity occurring under its and its User's accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with their use of the Service and any other AE Technology, including those related to data privacy, international communications and the transmission of technical or personal data. Customer shall:

- (i) notify AE immediately of any unauthorized use of any password or account or any other known or suspected breach of security;
- (ii) report to AE immediately and use reasonable efforts to stop immediately any copying or distribution of Content to unauthorized third-parties that are known or suspected by Customer or its Users to have accessed any AE Technology.
- (iii) the Customer is responsible for administering and maintaining password, login, access and use protocols to ensure the secure access and use by Customer of the AE Technology.
- (iv) the Customer makes reasonable arrangements if the software is not functioning in full or in part

(e.g. by daily data backup, error diagnosis, regular review of data processing results.)

6.8. This section will survive any expiration or termination of this Agreement.

7. Account Information and Data

7.1. AE does not own any Customer Data. Customer, not AE, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and AE shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. In the event of data loss or corruption, AE will make reasonable efforts to restore Customer Data from AE's own backup systems or to recapture Customer Data from the Customer's field installations or backup systems. AE reserves the right to withhold, remove access to and/or discard Customer Data after 30 days for any breach, including, without limitation, Customer's non-payment.

7.2. This section will survive any expiration or termination of this Agreement.

7.3. To the extent applicable to this agreement, Customer Data includes personal data as defined in the EU General Data Protection Regulation, the provisions set out in Annex "Data Processing Agreement (DPA)", which is incorporated herein by reference, shall prevail.

8. Third Party Interactions

Customer and Users recognize that the third-party providers of their data generating equipment, including their inverter system hardware, software, or services, may cease to operate or to interoperate properly with the Service provided by AE. If the failures are due to hardware or software changes that do not comply with the device specifications at the time of installation, AE will use best effort to support the sites. However, Customer and Users may not receive the benefits of AE's application for monitoring, collecting, reporting and displaying data generated by their renewable energy system and Customer and Users will not be

entitled to any refund, credit, or other compensation if that occurs.

9. Charges and Payment of Fees

9.1. Customer shall pay all fees or charges to its account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable pursuant to the Purchase Order(s). The initial charges will reflect the AE Technologies contracted for. Credit limits will be determined based on the customer's credit application may be adjusted at any time. Payments must be made in advance unless otherwise mutually agreed upon in a Purchase Order, and prepayments of certain amounts may be required based on the credit terms available. All payment obligations of Customer are non-cancelable, and all amounts paid are nonrefundable (except as expressly set forth in this Agreement). Customer is responsible for paying for all licenses ordered under a Purchase Order for the entire Term, whether or not such licenses are actively used.

9.2. Customer will pay all sales, use, value added or other taxes, customs duties, excise, levy and other taxes on Services hereunder (other than taxes based on AE's income).

9.3. This section will survive any expiration or termination of this Agreement.

10. Service Levels; Data Storage

10.1. During the Term of the Agreement and subject to Customer's timely payment of fees when due hereunder, AE shall provide support services for all Services purchased by the Customer at the Service Levels stipulated in Schedule A attached hereto.

10.2. During the Term of this Agreement, AE will provide online data history for Customer Data that is transmitted to the Services in nominal 15-minute increments subject to the other provisions of this Agreement.

10.3. Customer Data will be stored according to the following categories: (i) raw and image data from

devices will be stored for a minimum of six (6) months; (ii) archived data from devices will be stored for the life of the contract term, and if extended, for the extension period of the contract. Upon written Customer request all data shall be deleted permanently.

11. Term and Termination

11.1. The term of monitoring service shall commence 60 days after shipment of associated monitoring hardware, or date of invoice if no hardware is being supplied, and shall expire on midnight of the last day for which the Service was paid for as stated in the Purchase Order, unless sooner terminated in accordance therewith or herewith. Each Purchase Order will automatically renew for successive periods of one year each, unless either Party elects not to renew by giving 60 days written notice before expiration of the then-current term of the relevant Purchase Order. Renewal payment for the successive one-year periods shall be calculated as a one-year pro-rata share of rate paid through the entirety of the term of the Purchase Order as set forth therein. This Agreement shall commence on the start date indicated in the first Purchase Order issued under this Agreement and shall expire upon expiration or termination of all of the Purchase Orders issued under this Agreement, unless otherwise agreed to by the Parties or unless terminated earlier pursuant to this Agreement (such period, the "Term").

11.2. In addition to any other rights granted to AE herein, AE shall have the right to suspend or terminate this Agreement and Customer and its Users' access to the Service if Customer's account becomes delinquent (falls into arrears). Delinquent invoices (accounts in arrears) are subject to a late fee of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. Customer will continue to be charged for User licenses during any period of suspension resulting from breach of this Agreement or as otherwise set forth in this Agreement. AE reserves the right to impose a reconnection fee in the event Customer is suspended pursuant to this Section and thereafter requests access to the Service following full payment of the delinquent

invoices. Customer agrees and acknowledges that AE has no obligation to retain Customer Data and that such Customer Data maybe irretrievably deleted if Customer's account is 30 days or more delinquent.

11.3. This section will survive any expiration or termination of this Agreement.

12. Termination for Cause

12.1. Either Party may terminate this Agreement if the other Party fails to cure a material breach hereunder within 30 days after written notice specifying the breach and demanding a cure. Any breach of Customer's payment obligations or unauthorized use of the AE Technology or Service by Customer and its Users will be deemed a material breach of this Agreement. AE, in its sole discretion, may immediately terminate this Agreement upon notice to Customer or may terminate its Users' password, account or use of the Service in the event of a breach or failure to comply with this Agreement after the 30 day cure period has expired. Customer agrees and acknowledges that AE has no obligation to retain the Customer Data, and may delete such Customer Data, if Customer has materially breached this Agreement, including but not limited to failure to pay outstanding fees, and such breach has not been cured within 30 days of notice of such breach.

12.2. Notwithstanding anything to the contrary in this Agreement, AE may immediately terminate the Service provided to Customer and its Users for cause, if Customer or its Users violate any portion of Section 2 (License) or any of the "Use Guidelines & Restrictions" set forth in Section 6 above. Upon any such termination for cause by AE, Customer will not be entitled to any refund of any prepaid fees covering the remainder of the Term after the date of termination.

12.3. This section will survive any expiration or termination of this Agreement.

13. Confidentiality

13.1. The Parties will not disclose Confidential Information of the other Party to any person (unless authorized in this Agreement) other than employees or

consultants who need to know for the Parties to carry out their obligations under this Agreement and who are bound by confidentiality obligations at least as restrictive as those set forth in this Section. The Parties, including all authorized employees and consultants, will protect and safeguard Confidential Information that they receive from the other Party against unauthorized use or disclosure by procedures no less stringent than those used by the Parties for protecting their own Confidential Information, and, in any event, by use of no less than reasonable care. The Parties, including all authorized employees or consultants, will use the Confidential Information of the other Party, and anything based on or derived from such Confidential Information, only to carry out its obligations and exercise its rights under this Agreement, and only during the term of this Agreement. The extent that the receiving Party is required to disclose Confidential Information of the disclosing Party pursuant to a valid: (i) order of the court, (ii) order of a government agency, or (iii) operation of law, the receiving Party may so disclose such Confidential Information, provided that the receiving Party uses reasonable efforts to limit or restrict the disclosure. Upon termination or expiration of this Agreement each Party will destroy or return, upon written request, all of the other Party's Confidential Information and all copies and embodiments.

13.2. Upon award of contract, for the duration of the term and upon notice to Customer, AE shall have the right to release or make any announcement and/or social media post, including use of Customer name and logo in relation to the Agreement and the Service. Releases or announcements with Customer name and logo may pertain to AE and designation as monitoring and/or control provider for projects or portfolios (including, but not limited to size of projects or portfolios in MW, and integrated storage system information, etc.)

14. Representations

14.1. Each Party represents and warrants that it has the legal power and authority to enter into this Agreement. Customer represents and warrants that

Customer has not falsely identified itself nor provided any false information to gain access to the Service.

14.2. This section will survive any expiration or termination of this Agreement.

15. Indemnifications

15.1. If an action is brought against Customer during the term of its license to use AE Technology claiming that: (a) the licensed AE Technology infringes any United States or Canadian patent, United States or Canadian copyright or United States or Canadian trade secret rights of a third party within the United States or Canada, or (b) an AE trademark infringes any United States or Canadian trademark of a third party within the United States or Canada, AE shall defend Customer at AE's expense and shall pay the damages and costs finally awarded against Customer in the action specifically on account of such infringement. The foregoing obligations apply only if: (i) Customer notifies AE promptly upon learning that the claim is or might be asserted, (ii) AE has sole control over the defense of the claim and any negotiation for its settlement or compromise, and (iii) Customer takes no action that impairs AE's defense of the claim. If Customer's use of any AE Services is enjoined, or if AE wishes to minimize its liability hereunder, AE may, at its option and expense, either (A) substitute equivalent non-infringing AE Technology for the infringing item, (B) modify the infringing item so that it no longer infringes but remains functionally equivalent, or (C) obtain for Customer the right to continue using or distributing such item. If none of the foregoing is feasible, AE will discontinue the use of the infringing portion of the AE Technology, which are subject to the injunction and refund to Customer the applicable fees already paid for such AE Technology, prorated to the extent Customer did receive the benefit of such AE Technology. The indemnity in this Section will not apply if and to the extent that the infringement claim results from (i) a correction or modification or bundling of products or services not provided by AE, (ii) a failure by Customer to promptly install an update, (iii) the combination of the AE Technology with other items not provided by AE, or (iv) Customer continues allegedly infringing activity after being notified thereof or after

being informed of modifications that would have avoided the alleged infringement.

15.2. Customer shall indemnify, defend and hold AE and its officers, directors, employees, shareholders, agents, successors and assigns (each the "**AE Indemnities**"), harmless from and against any claim, demand, lawsuit, cause of action or losses of any nature whatsoever, suffered or incurred by AE or any of the AE Indemnities, arising out of, or in connection with:

- (i) the improper or illegal use of any data obtained by, or procured from the AE Technology or as a result of the services performed by AE;
- (ii) the misuse of the AE Technology by any of the Users or Customer itself;
- (iii) the use of any other hardware or software of Customer with the AE Technology;
- (iv) breach of this agreement by Customer; and
- (v) claims by Users unless such claims arise out of AE's willful misconduct.

15.3. This section will survive any expiration or termination of this Agreement.

16. Warranty and Disclaimer of Warranties

16.1. Subject to the terms and conditions of this Agreement, AE hereby warrants to Customer during: (i) the term of this Agreement for Services; and (ii) for 30 days following the delivery of Additional Services (the "**Warranty Period**") that the Services will be performed in accordance with the Service Levels and that all Additional Services will be provided in a good and workmanlike manner, using adequate numbers of individuals with suitable training, experience and skill as necessary to deliver the Additional Services to Customer.

16.2. IN THE EVENT OF A BREACH OF THE WARRANTIES CONTAINED IN SECTION 16.1 DURING THE WARRANTY PERIOD, AE'S SOLE OBLIGATION AND CUSTOMER'S SOLE REMEDY WITH RESPECT TO THE

ADDITIONAL SERVICES WARRANTY IS FOR AE TO REPERFORM THE ADDITIONAL SERVICES AND WITH RESPECT TO THE SERVICE FOR AE TO PROVIDE THE CREDITS SET FORTH IN SCHEDULE A. IN THE EVENT THAT AE DETERMINES SUCH A REMEDY TO BE IMPRACTICAL WITHIN 60 DAYS AFTER CUSTOMER'S CLAIM OF THE SPECIFIC BREACH, THEN AE SHALL REFUND THE FEES PAID FOR THE PORTION OF THE ADDITIONAL SERVICES THAT WERE IN BREACH OF THE ABOVE WARRANTY.

16.3. EXCEPT AS EXPRESSLY SET FORTH IN THE MOST CURRENT PUBLISHED ALSO ENERGY WARRANTY, THE AE TECHNOLOGY AND ANY MATERIALS OR EQUIPMENT PURCHASED UNDER A PURCHASE ORDER ARE PROVIDED TO CUSTOMER STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD-PARTY RIGHTS, AND TITLE, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN ADDITION; AE AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT, AND HEREBY EXPRESSLY DISCLAIM THAT:

- (i) THE USE OF THE SERVICE OR SOFTWARE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA;
- (ii) THE AE TECHNOLOGY OR ANY MATERIAL PURCHASED UNDER A PURCHASE ORDER WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS;
- (iii) ANY STORED DATA WILL BE ACCURATE, COMPLETE OR RELIABLE; AND/OR
- (iv) THE SERVICE, SOFTWARE, OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF KNOWN VIRUSES OR OTHER HARMFUL COMPONENTS.

16.4. Third party hardware or software when provided by AE is provided as-is and pursuant to the above disclaimers; however, the supplier or publisher may provide their own warranty.

16.5. This section will survive any expiration or termination of this Agreement.

17. Internet Delays

17.1. AE'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. AE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS, EVEN IF SUCH DELAYS OR FAILURES WOULD OTHERWISE GIVE RISE TO CREDITS, LIABILITIES, OR DAMAGES OF ANY KIND UNDER THIS AGREEMENT.

17.2. CUSTOMER ACKNOWLEDGES THAT IN THE EVENT OF A LAPSE OR FAILURE OF ITS SITE'S INTERNET ACCESS, CUSTOMER AND ITS USERS MAY NOT RECEIVE THE BENEFITS OF AE'S APPLICATION FOR MONITORING, COLLECTING, REPORTING AND DISPLAYING DATA GENERATED BY THE RENEWABLE ENERGY SYSTEM(S) AND, IN SUCH CASE, CUSTOMER WILL NOT BE ENTITLED TO ANY REFUND, CREDIT, OR OTHER COMPENSATION, WHETHER EXPRESSLY SET FORTH IN THIS AGREEMENT OR OTHERWISE.

17.3. This section will survive any expiration or termination of this Agreement.

18. Limitation of Liability

18.1. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF THE

PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, BUT EXCLUDING ANY CLAIMS FOR INDEMNIFICATION UNDER SECTION 15.1, AE'S LIABILITIES UNDER THIS AGREEMENT, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE AMOUNT PAID BY CUSTOMER UNDER THE APPLICABLE STATEMENT OF WORK OR PURCHASE ORDER PRIOR TO THE DATE OF THE ACTION GIVING RISE TO THE CLAIM. HOWEVER, IF ANY CLAIM AGAINST AE IS A CLAIM COVERED BY ANY INSURANCE POLICY MAINTAINED BY AE, ANY RECOVERY OF PROCEEDS UNDER SUCH POLICY SHALL BE PAID TO CUSTOMER TO THE EXTENT CUSTOMER'S DAMAGES EXCEED THE FOREGOING LIMITATION OF LIABILITY.

18.2. This section will survive any expiration or termination of this Agreement.

19. Local Laws and Export Control

19.1. AE provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies and the export control regulations of Switzerland and the European Union. Customer acknowledges and agrees that the AE Technology and provision of any materials by AE under this Agreement shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States, Switzerland and/or the European Union maintains an embargo (collectively, "**Embargoed Countries**"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "**Designated Nationals**"). The lists of Embargoed Countries and Designated Nationals are

subject to change without notice. By using the Service, Customer represents and warrants that it is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National.

19.2. The AE Technology may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000.

19.3. AE and its licensors make no representation that the AE Technology is appropriate or available for use in locations other than the United States of America, Canada, Switzerland and/or the European Union. If Customer uses the AE Technology from outside the United States of America, Canada, Switzerland and/or the European Union, Customer is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United States, Swiss or European Union (including European Union Member States) law is prohibited. Customer hereby warrants that none of the AE Technology is or will be used for nuclear activities, chemical or biological weapons or missile projects, unless specifically authorized by the United States government or appropriate European body for such purposes.

19.4. This section will survive any expiration or termination of this Agreement.

20. Notice

20.1. AE may give notice by electronic mail to Customer's e-mail address on record in AE's account information, or by written communication sent by first class mail or pre-paid post to Customer's address on record in AE's account information. Such notice shall be deemed to have been given upon the expiration of 48 business hours after mailing or posting (if sent by first class mail or pre-paid post.). Customer may give notice to AE (such notice shall be deemed given when received and acknowledged by AE) at any time by email sent to legalnotice@alsoenergy.com.

20.2. This section will survive any expiration or termination of this Agreement.

21. Modification to Terms

21.1. AE may modify the terms and conditions of this Agreement or its policies that are incorporated by reference herein, at any time after the second anniversary of this Agreement by notice to Customer. If such modification is unacceptable to Customer, this Agreement may be terminated by Customer by notice to AE within thirty (30) days of Customer's receipt of such modification. If Customer continues to use the AE Technology, Customer will be deemed to have accepted any modifications to the terms of this Agreement and any policy that is incorporated by reference into it.

21.2. Amendments, additions or waivers of any provisions under the agreements between the Customer and AE which are based on this agreement, including amendments to or a waiver of this written agreement, shall be made in writing.

22. Assignment; Change in Control

22.1. Neither Party may assign this Agreement without the prior written approval of the other Party, which approval will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement without consent to: (a) an affiliate of the assigning Party, of equivalent financial strength as the assigning Party as at the date of the assignment; (b) an acquirer of substantially all of the assets of a Party; or (c) a successor of a Party by merger or sale of stock, or otherwise. Any purported assignment in violation of this section shall be void.

22.2. This section will survive any expiration or termination of this Agreement.

23. Dispute Resolution

23.1. In the event of any dispute between the Parties relating to this Agreement, except for the right of either Party hereto to apply to a court of competent jurisdiction for an injunction or other interim or equitable relief or provisional remedies available under

applicable law to preserve the status quo, or prevent irreparable harm while the dispute resolution described in this Section is undertaken: (i) the project managers of AE and Customer will meet to attempt to resolve the matter within five (5) business days of the matter being referred to them, or any other period agreed upon by the parties; (ii) if the matter is not resolved by them, the matter will be referred to senior personnel of AE and Customer for resolution; (iii) if the matter is not resolved by them within ten (10) business days, the Parties agree to attempt in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to the courts (each Party to the dispute shall bear half the mediator's reasonable fees and expenses), (iv) if the mediation called for in clause (iii) above is unsuccessful in resolving the dispute within 60 days of being submitted for mediation, such dispute shall be resolved by redress to the courts in accordance with this Agreement.

23.2. This section will survive any expiration or termination of this Agreement.

24. General

24.1. This Agreement will be governed by and construed in accordance with the laws of England, excluding that body of law pertaining to conflict of laws. This Agreement will be deemed to have been entered into in London, England. The exclusive venue for the resolution of any dispute will be the courts of London, England and each Party hereby consents to the exclusive jurisdiction of such courts.

24.2. This Agreement constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. Except pursuant to Section 21, this Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each Party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.

24.3. If any provision of this Agreement is construed to be invalid or unenforceable, such provision will be

eliminated or, if possible, modified as necessary to make the provision enforceable and to effect the Parties' original intent as closely as possible, and the remaining provisions will remain in effect.

24.4. No joint venture, partnership, employment, or agency relationship exists between Customer and AE as a result of this agreement or use of the Service.

24.5. The waiver by either Party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

24.6. If, for any reason beyond the reasonable control of a Party, including, without limitation, acts of God, earthquakes, floods and other insurrections, strikes, transportation conditions, labor or material

shortages, riots or fires, such Party is unable to perform in whole or in part its obligations set forth in this Agreement, such Party will be relieved of those obligations to the extent it is so unable to perform and such inability to perform, so caused, will not make such Party liable to the other Party; provided that the Party unable to perform has notified the other Party of such inability within one week of the onset of such inability.

24.7. Nothing in this Agreement is intended to confer any benefits on any person other than the Parties to this Agreement and to each Purchase Order or their respective successors or permitted assigns.

24.8. This section will survive any expiration or termination of this Agreement.

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Schedule A – Service Levels – EMEA

AlsoEnergy GmbH, (“AE”) will provide the Customer with Support Services for the subscribed Services as follows:

1. LIVE SUPPORT. AE will provide AE Technology support services during our hours of operation (see table in section 3 “Service Response & Correction Times” below).
2. ERROR SEVERITY LEVELS. AE will respond to service requests by the Customer or its designated agents, and correct reported and reproducible errors (the “Error”) or provide an appropriate work-around (the “Work-Around”) in accordance with the Severity Level (defined below) of the Error as designated by the Customer or its designated agents, based on the following (collectively, the “Severity Levels”):

Severity 1: An Error in the AE Technology or the Services that (i) causes the AE Technology or the Services to cease operating or cease operating in any material respect; (ii) is likely to directly or indirectly delete, impair, damage or corrupt any System, Customer Data or Usage Data; or (iii) poses direct or indirect imminent harm to any System, Customer Data or Usage Data.

Severity 2: An Error that either, although the AE Technology and the Services remain operational, (i) causes a significant function of the AE Technology or the Services to be impaired; or (ii) could reasonably be expected to have a material adverse impact on Customer’s business.

Severity 3: An Error that causes a minor function of the AE Technology or Services to be impaired, which adversely affects, or is likely to adversely affect, Customer’s business.

Severity 4: An Error that causes a minor function of the AE Technology or Services to be impaired but does not have, and could not reasonably be expected to have, an adverse effect on Customer’s business.

3. SERVICE RESPONSE & CORRECTION TIMES. AE will respond to all Errors based on Severity Levels within the following response times (the “Response Times”) and endeavor to meet associated correction times (the “Correction Times”):

SEVERITY LEVEL	RESPONSE TIME	CORRECTION TIME	NOTIFICATION
Severity 1	Eight (8) business hours*	Two (2) business days*	+49 (0)30 338430-100
Severity 2	One (1) business day*	Four (4) business days*	+49 (0)30 338430-100
Severity 3	Three (3) business days*	six (6) business days*	+49 (0)30 338430-100 or service@alsoenergy.com
Severity 4	Five (5) business days*	Two (2) business weeks*	+49 (0)30 338430-100 or service@alsoenergy.com
* AE in EMEA business hours: 9 am-4 pm Monday - Friday (excl. national holidays in Germany)			

4. SERVICE NOTIFICATION & RESPONSE PROCESS. IF URGENT, CALL +49 (0)30 338430-100 IMMEDIATELY. Customer may notify AE of any of the aforementioned Severity Level Errors via AE’s help desk, which can be reached at +49 (0)30 338430-100 (Customer must notify AE of Severity Levels 1 and 2 via phone call.) For Severity Levels 3 and 4, Customer may notify AE via email at service@alsoenergy.com. AE will respond to Customer by phone as soon as possible and in any event within the relevant Response Time set forth above.
5. ERROR RESOLUTION. If Customer notifies AE of a Severity 1 or 2 Error, AE will assign designated personnel to correct such Error within the relevant Response Time for such Error. The designated personnel will use best efforts to correct the Error in an expeditious manner and will diligently inform Customer of the programmer’s progress, including the steps taken to resolve the Error, the expected time for resolution of the Error and any resolution of the Error.

Additional Terms are accessible at the following links:

[Technical and Organizational Measures](#)

[Also Energy EMEA Annex to Master Services Agreement: Data Processing Agreement \(“DPA”\)](#)