



ARGAND SOLUTIONS

TERMS AND CONDITIONS FOR THE SALE OF EQUIPMENT AND SERVICES

1 Definitions and Interpretation

1.1 In this Agreement unless the context otherwise requires the following expressions have the following meanings:

"Background IPR"	means, in respect of any party, any Intellectual Property Rights owned by or licensed to that party independently of this Agreement (whether prior to the Agreement Date or otherwise) and used in the performance of a party's obligations under this Agreement	"Equipment"	means the equipment stated in the Order to such specifications as are more particularly described in Schedule 1
"Business Day"	means a day other than a Saturday, Sunday or a public holiday in the UK	"Green Benefits"	means any renewable energy industry or government funded tax credits, benefits or incentives including but not limited to any Feed in Tariff benefits (FiTs), Renewable Obligation Certificate (RoC) or Contracts for Difference (CfD) payments
"DNO Technical Representative"	means the DNO's technical representative assigned to inspect and approve the Equipment at the Location	"Foreground IPR"	means any Intellectual Property Rights (excluding Background IPR) arising or obtained or developed in the course of the performance of a party's obligations under and in connection with this Agreement
"Distribution Board"	means a panel carrying the fuses, terminals, and other components of a number of subsidiary electric circuits, such technical details as are set out in the Order	"Installation Date"	means the date the Equipment shall be installed at the Location as specified in the Order (or such other date as the parties may agree in writing)
"DNO"	means the Distribution Network Operator	"Intellectual Property Rights (IPR)"	means as defined in the General Terms
"Export Limit"	means the DNO export limit (KiloWatts) agreed with the DNO, per the Order	"Location"	means the location of the infrastructure at which the Equipment shall be installed, as specified in the Order
"Due Date"	means as specified in clause 5.5.		

			from time to time by agreement in writing)
"MID Meter"	means an electrical meter to measure total generation that is accepted by OFGEM or the required regulatory body for the registering & payment of Green Benefits, such technical details as are set out in the Order	"Services Start Date"	means the date on which applicable Services are to commence as stated in the Order
"Payment"	means the payment requirements as described in the Order and clause 5 (and as applicable per Schedule 3)	"Equipment Software"	means all computer software and associated technology and IPR embedded in the Equipment
"Price"	means the price for the Equipment and the Services to be provided hereunder, as specified in the Order (and unless otherwise agreed in writing, which shall be exclusive of VAT) and which shall comprise the Upfront Cost, Annual Data Service Fee and any other costs, payments or fees (including additional and monitoring maintenance fees) agreed by the parties in writing/in the Order in respect of the Agreement	"Special Conditions"	means any special terms and conditions or requirements as may be stated in the Order
		"Our General Terms"	means those standard terms and conditions set out in Part 3 of this Agreement
		"Upfront Cost"	means the sum as specified in the Order
"Services"	means the services as stated in the Order, provided to the extent and to such specifications as described in Schedule 2 (and as may be amended by the parties	"Term"	means the period of the Agreement in force (comprising the Initial Term and Extended Term(s)) as stated in the Order.

2 Basis of the Agreement

- 2.1 These Terms, in addition to Our General Terms, apply to this Agreement and are agreed to the exclusion of any other terms and conditions that You may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. These Terms shall prevail over inconsistent terms or conditions contained in or referred to in Your purchase order, confirmation of order or specification or implied by law, trade custom, practice or course dealing.
- 2.2 By this Agreement You have offered to purchase the Equipment and/or Services in accordance with the Terms and We have agreed to supply the Equipment and/or Services.
- 2.3 You are responsible for ensuring that the details in the Order and specifications of Equipment and Services set out in the Agreement are complete and accurate (including without limit the Export Limits, technical details and Pricing). We do not accept liability for errors or delays in Orders where the same are attributable to your error in specifications and you are liable for any cost increase or delay resulting from the same.
- 2.4 In the event of any inconsistency between the Order, the main body of the Terms, the schedules and annexes to the Terms and Our General Terms, the terms and conditions shall prevail in the following order of priority:
- 2.4.1 the Order; then
 - 2.4.2 main body of the Terms; then
 - 2.4.3 schedules and annexes to the Terms; then
 - 2.4.4 Our General Terms.
- 2.5 Clause 2.4 shall survive termination of the Agreement, howsoever arising.

3 Term and Termination

- 3.1 This Agreement comes into effect on the Agreement Date and shall continue for the Term, subject to earlier termination in accordance with its terms.
- 3.2 Either party may terminate the Agreement on no less than three (3) months written notice to the other prior to the expiry of the Initial Term, or prior to the expiry of any then Extended Term.
- 3.3 Without prejudice to any other right or remedy available to Us, We may terminate this Agreement or suspend any further deliveries of Equipment and/or Services without liability to You, and if the Equipment has been delivered, but not paid for, the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary, if;
- 3.3.1 we have the right to terminate this Agreement pursuant to clause 5.6(a); and
 - 3.3.2 we have the right to terminate this Agreement pursuant to clauses 4.1 and 5.1 of Our General Terms.
- 3.4 This clause 3.3 shall survive termination of the Agreement, howsoever arising.

4 Equipment and Services to be provided

- 4.1 Any quotation provided by Us for the Equipment is valid for a period of thirty (30) days subject to the design as provided by You not changing in this time and We may withdraw it at any time by notice to You.

- 4.2 Upon entering into this Agreement, the Price for the Equipment and Services shall be as set out in the Order for the particular order(s) or items of Equipment or Services specified on the Order. Where You require additional Equipment or Services to those specified in an Order We shall (unless otherwise agreed) treat each new request for Services or Equipment as an additional order which shall be deemed to be an offer by You subject to this Agreement. We may request that You either sign a new Order for additional Services and/or Equipment or that the parties amend the Order to reflect the additional order(s) from time to time.
- 4.3 Any typographical, clerical or other error or omission in any of Our sales literature, web-site, quotation, price lists, acceptance of offer, invoice or other document issued by Us shall be subject to correction without any liability on Our part.
- 4.4 We reserve the right (but do not assume the obligation) to make any changes in the delivery of Equipment or Services specifications which are required to conform with any applicable legislation, regulation, DNO or utility policy or guidance, or where Equipment or Services are to be supplied to Your specification, and which do not materially affect quality or performance.
- 4.5 The Equipment shall be supplied and shall perform materially in accordance with the specifications set out in the Order and at Schedule 1.
- 4.6 The Services shall be supplied materially to the extent and in accordance with the specifications set out in the Order and at Schedule 2.

5 Price and payment arrangements

- 5.1 The Price (unless otherwise specified in this Agreement or the Order) is inclusive of delivery, installation, and packaging, but exclusive of insurance, VAT and any other applicable charges or duties.
- 5.2 You shall pay the Price for the Equipment and/or Services supplied under this Agreement and make payments in accordance with the Order, this clause 5 and if applicable Schedule 3. The Price once paid is non-refundable.
- 5.3 Unless otherwise specified in the Order the Price for any additional Equipment or Services shall be based on the rate prevailing at the date of any agreed new Order or amended Order. We reserve the right to increase the Price for additional Equipment or Services, acting reasonably, to cover any cost increases we experience due to market conditions (including without limitation significant increases in labour, materials, supply or transportation costs) which affect Us at the Installation Date.
- 5.4 If any sum payable by You is not paid within fourteen (14) days after the Due Date (as defined in clause 5.5 below) then (without prejudice to Our other rights and remedies) We reserve the right to charge interest on such sum on a day to day basis (as well after as before any judgment) from the Due Date to the date of actual payment (both dates inclusive) at the rate of four (4) per cent above the base rate of the Bank of England from time to time in force, compounded quarterly. Such interest shall be paid on demand by Us.

5.5 Unless otherwise expressly set out in the Order the terms of payment shall be: within seven (7) days of the date of Our invoice (the “**Due Date**”), and time for payment of the Price shall be of the essence. If You fail to make payment in full on the Due Date, the whole of the balance of the Price then outstanding shall become immediately due and payable and, without prejudice to any other right or remedy available to Us, We shall be entitled to:

5.5.1 terminate the Agreement or suspend any further deliveries of Equipment or Services (whether ordered under the same Order or not);

5.5.2 suspend all further installation work or other Services until payment has been made in full;

5.5.3 disable the Equipment if You have not paid all sums due to Us under the Agreement in full; and

5.5.4 disable the Equipment if the Agreement expires and is not renewed with Us or a DNO-approved data service provider.

5.6 All sums payable to Us under the Agreement (including any outstanding Order) shall become due immediately on termination of the Agreement (howsoever arising). This clause 5.6 is without prejudice to any right to claim for interest under the law, or any right under the Agreement.

5.7 We may, without prejudice to any other rights we may have, set off any liability You may have against Us, against any liability We may have against You.

5.8 The provisions of this clause 5 shall survive termination of the Agreement, howsoever arising.

6 Your obligations

6.1 You undertake to provide or procure for Us any reasonably required assistance and cooperation, access and information requested by Us which We may need from time to time to enable Us to proceed with the performance of this Agreement without undue delay or restriction.

6.2 You undertake to provide or procure for Us adequate working space, electrical power, utility supply and such other facilities as may be reasonably necessary for Us to install the Equipment or provide Services at the Location, or otherwise perform our obligations under this Agreement when at the Location.

6.3 You shall be responsible for coordinating and ensuring that all applicable technical or operational staff of Yours (including agents or sub-contractors), and any representative of the DNO or applicable utility are in attendance for all agreed inspections, tests, meetings and installation / the Installation Date. Failure by You to coordinate and ensure such attendance which causes cost or loss to Us (including for example, reasonable transport or accommodation costs, or other such expenses) shall be paid by You to Us on Our demand.

6.4 Other than as specified in this Agreement (or otherwise agreed in writing) You shall notify us in advance if You or any third party intends to add or connect to, adjust, maintain, test or remove the Equipment at any time during the Term.

6.5 You shall provide all reasonable assistance (at no cost to Us) to ensure

any relevant assets to be switched off/on in relation to Export Limits / client limits as agreed in the Order, can be switched off/on as and when necessary at our reasonable request.

7 Your default

7.1 If We are prevented or delayed from performing Our obligations under this Agreement by Your act or omission (other than Your delay where You are excused under this Agreement) then we reserve the right to charge you for all reasonable costs, charges and losses sustained or incurred by Us as a result. We shall promptly notify You of any claim which we may have under this clause 7.1 giving such particulars as then able to provide.

8 Title and risk in Equipment

- 8.1 The legal and beneficial ownership of the Equipment shall pass to You on payment in full of the Price for the Equipment (in cleared funds).
- 8.2 Risk in the Equipment shall pass to You following delivery of the Equipment by Us to the Location.
- 8.3 You guarantee that when the Equipment is received it will be stored indoors and undercover at the Location.
- 8.4 This clause 8 shall survive termination of the Agreement, howsoever arising.

9 Installation, monitoring and maintenance of Equipment

9.1 We shall make reasonable endeavours to install the Equipment at the Location on the Installation Date and commence providing Services on the applicable Services Start Date. Your responsibilities for installation are defined in the Client

Installation Instructions document which can be obtained from Argand Solutions.

9.2 If in Our reasonable opinion it is necessary to temporarily remove, disconnect, de-energise or otherwise adjust or modify any of Your existing equipment or infrastructure at or in connection with the Location in order to carry out the installation and any adjustments of the Equipment, or perform the Services, then You shall provide at no cost to Us all reasonable information, data, instructions and assistance requested by Us and permit, procure and/or obtain all necessary consents for such removal and/or disconnection or adjustments, and You shall give Us all necessary support to enable such work to be carried out effectively, safely and with minimal interruption. We shall not be in any way liable for any disruption, costs or losses arising from any need to de-energise any part of the infrastructure at or in connection with the Location in order to install the Equipment or provide Services in relation to the Equipment.

9.3 We shall not be responsible for providing designs, data, technical advice, instructions, specifications, training, assistance or services to any third party in connection with the installation of the Equipment, or performance of the Services or any necessary modification or adjustment of any part of the infrastructure, in the performance of our obligations under the Agreement (unless otherwise expressly agreed by us in writing). We shall not be responsible for installing, monitoring or maintaining any other part of Your infrastructure, or for any third party performance, products or parts, including without limitation: any

inverters; generators; embedded software; panels, switch or control gear, distribution boards, cabling or any other infrastructure or network components (unless otherwise expressly agreed by us in writing).

- 9.4 At any time during the Term, following Our installation of and Your acceptance of the Equipment, if You seek to change or reset the Export Limits, for whatever reason, You shall notify us in writing and request that We undertake such modification on such date as shall be agreed by us in writing. All work carried out by Us in accordance with this clause 9.4 shall be charged at our standard daily fee rates which can be obtained from Argand Solutions.

10 Testing and acceptance

- 10.1 The acceptance procedure for any Equipment and Services shall be as follows:

10.1.1 once the Equipment has been delivered and installed by Us at the Location, and inspected and successfully tested by Us, in accordance with clause 10.1.2 together with and in the presence of You and the DNO Technical Representative (if required), the Equipment shall be accepted by You (such acceptance not to be unreasonably withheld);

10.1.2 You shall sign and date the GridGEM Site Commissioning Document to confirm that the Equipment meets the requirements as specified and is accepted by You and the DNO

Technical Representative (if required); *and*

- 10.1.3 all other Services we provide shall be deemed accepted by You upon their performance if You do not notify Us promptly in writing of any material breach in performance of such Services within a reasonable period thereafter.

11 Cancellation of Equipment order

- 11.1 No order of Equipment specified on the Order which has been agreed by Us and You may be cancelled by You, except with Our agreement in writing and provided that You indemnify Us in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), and losses, charges and expenses incurred by Us as a result of a cancellation.

12 Time not of the essence

- 12.1 The time of installation of the Equipment and/or provision of Services shall not be of the essence of this Agreement, provided always that We shall use reasonable endeavours to complete the delivery, installation and Services as soon as reasonably possible thereafter.

13 Warranties

- 13.1 We warrant that the Equipment (including its parts) and labour provided by Us and supplied under this Agreement will be materially free from defects in materials, workmanship and installation for a period of twelve (12) months following the

Installation Date (“the **Warranty Period**”).

13.2 If We receive written notice from You of any breach of the above warranty at clause 13.1 then We shall at Our own expense and within a reasonable time after receiving such notice, rectify any failure or defect in relation to the Equipment, provided that We shall have no liability or obligations under warranty unless We shall have received written notice of failure/a defect in relation to the Equipment, no later than the expiry of the Warranty Period. The legal and beneficial ownership of the Equipment or any failed or defective parts shall revert to Us upon the replacement of the Equipment or such failed or defective parts (as the case may be), whereupon the legal and beneficial ownership of the replacement Equipment or parts shall vest in You.

13.3 The above warranty at clause 13.1 is contingent upon the proper use and care of the Equipment by You (and your agents, representatives or sub-contractors) and does not cover any part of the Equipment which has been connected, adjusted or modified without Our prior written consent or maintained, adjusted or repaired contrary to our express written instructions, or which has been subjected to unusual physical, mechanical or electrical stress in such a way that does not correspond to the instructions, technical guidance or documentation provided with the Equipment or notified by Us in writing. Nor will such warranty apply if repair or parts replacement are required as a result of causes other than ordinary and

planned use or maintenance, including without limitation accident, delivery handling, hazard, flood, misuse or failure or fluctuation of electric power or Your other infrastructure or third party equipment or infrastructure.

13.4 We do not give any warranty that the Equipment is fit for any particular purpose or will achieve any particular performance criteria unless that purpose and/or criteria is specifically advised to Us in writing, and We confirm in writing (including by agreed specifications in this Agreement) that the Equipment can fulfil that purpose or achieve such performance criteria (and subject to You ensuring that any environmental or technical infrastructure conditions specified by Us in relation to achieving a particular performance are maintained by You, or by any relevant third party).

13.5 We shall not, in any circumstances, be liable for any damage or defect to Equipment caused by improper use of the Equipment outside its normal performance range or application; or where the damage or defect arises because You (or Your agents' or subcontractors') failed to follow Our oral or written instructions as to the use, care or maintenance of the Equipment or where we were not notified of activity in accordance with clause 9.4.

13.6 In the event of any claim by You under the warranty given in clause 13.1 You shall notify Us in writing of the alleged failure or defect providing a reasonable description of the problem. We shall have the option of testing or inspecting the Equipment at the Location or moving it to Our premises (at Our cost). If Your claim is found to be made outside the

scope of warranty and/or Warranty Period, the costs of transportation, inspection and testing of the Equipment, and any other related investigation and repair or replacement of the Equipment shall be borne by You at our standard daily fee rates which can be obtained from Argand Solutions.

- 13.7 If We are in breach of the warranty set out in clause 13.1 then the provisions of clause 13.2 shall apply. The provisions set out in clause 13 are Your exclusive remedy for Our failure to meet the warranty set out in clause 13.1.

14 Limitation of Liability and Indemnity

- 14.1 We shall not be liable for any delay or failure to perform Our obligations under this Agreement caused by Your (or Your agents', representatives' or subcontractors') delays or failures to perform Your obligations (or their obligations) or the failure of any of Your infrastructure, other than the Equipment, or the failure of any equipment or infrastructure of any third party.
- 14.2 We do not exclude or limit Our liability for: death or personal injury caused by our negligence; fraud or fraudulent misrepresentation; or any breach of any terms which cannot be excluded or limited at law.
- 14.3 Subject to clause 14.2 We are under no circumstances liable to You, whether in contract, tort (including negligence) breach of statutory duty or otherwise arising under, or in connection with these Terms for:
- 14.3.1 loss of profit, business, revenue (including any Green Benefits) or sales;

- 14.3.2 loss of contract or business opportunity;
- 14.3.3 loss of data;
- 14.3.4 loss of goodwill; or
- 14.3.5 any indirect, special or consequential losses.

- 14.4 Subject to clause 14.2 and 14.3 Our aggregate liability to You in respect of all other losses arising under or in connection with this Agreement whether in contract, tort (including negligence) breach of statutory duty or otherwise shall in no circumstances exceed fifty per cent (50%) of the total value of the Upfront Cost.

- 14.5 The provisions of this clause 14 shall survive termination of the Agreement, howsoever arising.

15 Intellectual Property Rights

- 15.1 All Background IPR is and shall remain the exclusive property of the party owning it (or where applicable, the third party from whom its rights have derived).
- 15.2 Background IPR shall not be used by any party in the performance of its obligations under this Agreement in the knowledge that the use of such Background IPR will infringe third party rights.
- 15.3 Subject to any further written agreement between the parties and clause 15.4, all Foreground IPR arising out of the performance by Us of any of Our obligations under or in connection with this Agreement shall be owned by us.
- 15.4 The specific data outputs of the Equipment to be: (a) collated and compiled by the Equipment and; (b) extracted, collected and analysed by Us

from the Equipment, shall include without limitation any output energy data, output performance data compiled by the Equipment, Equipment's control and switch status data and content of any data analysis compiled by the Equipment or derived by Us remotely to the extent it relates exclusively to the Equipment ("**Customer Specific Outputs**"). The parties acknowledge and agree that such Customer Specific Outputs shall vest in and be owned by the Customer. Customer hereby grants to Us a non-exclusive, perpetual, irrevocable, transferable, royalty-free licence to utilise, copy, modify, adapt, exploit, sub-licence and process all Customer Specific Outputs for Our own business purposes, including but not limited to data mapping, processing, reporting, business planning and data comparison purposes, provided that such utilisation, processing and exploitation of the Customer Specific Outputs is undertaken by Us on an aggregated and anonymised basis. Nothing in this Agreement grants to You any right or ownership in or to the collated, anonymised data or database(s) We create from Your and Our other customer's anonymised, aggregated data, and such rights remain vested with Us.

15.5 We hereby grant to You such non-exclusive, non-transferable, non sub-licensable licence in order to use the Equipment Software and that of our Intellectual Property Rights as may be strictly necessary in order that You may receive the full benefit of the Equipment and otherwise required to perform your obligations under this Agreement, but for no other purpose.

15.6 The then current version of the Equipment Software shall be licensed to You (per clause 15.5) as part of the sale to You of the Equipment, but the parties expressly agree You shall not be entitled to any future upgrades, updates or future versions of the Equipment Software. Any request for future upgrades, updates or new versions of the Equipment Software shall be agreed via a new Order.

15.7 You agree not to (and shall not permit any third party) to copy, reverse engineer, decompile, disassemble, adapt or otherwise modify the Equipment Software, and such Equipment Software is only provided as part of the Equipment for use pursuant to the express scope and purpose envisioned by this Agreement.

15.8 The provisions of this clause 15 shall survive termination of this Agreement.

16 Miscellaneous

16.1 As appropriate and relevant to the Equipment to be supplied on Your request We shall provide You with one (1) copy of a set of operating and maintenance manuals (as appropriate) containing reasonably sufficient information for the proper operation or maintenance of the Equipment. If You require further copies of such operating manuals then these will be provided by Us in accordance with Our standard scale of charges from time to time in force.



- 16.2 You shall pay the Price for the Equipment in pounds sterling unless otherwise specified on the Order.
- 16.3 You agree only to use the Equipment for the purposes envisioned by this Agreement.
- 16.4 The Order, the Terms, Our General Terms and any order made under them constitute the whole agreement between the parties and supersede any previous arrangement, understandings, courses of dealing or agreement relating to the subject matter they cover.

