

EV CHARGING INFRASTRUCTURE TERMS AND CONDITIONS

1 Interpretation

1.1 The following definitions and rules of interpretation apply in this Agreement.

Additional Services: see Contract Details.

Agreement: the Agreement between the Supplier and Client for the supply of EV infrastructure including the Equipment to provide EV charging services in accordance with the Contract Details and these EV Charging Infrastructure Terms and Conditions (the **Conditions**).

Business Day: a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Client: the party identified as such in the Contract Details

Commencement Date: the commencement date set out in the Contract Details.

Contract Details: the contract details showing the particulars of the order placed and signed by the Client and the Supplier.

Data: see clause 17.9.

Delivery: the transfer of physical possession of the Equipment to the Client at the Site, and “**Deliver**” shall be interpreted accordingly.

Delivery Date: the date of delivery set out in the Contract Details.

Demand Load Management Services or DLM Services: the process of balancing the supply of electricity on the electricity network with the electrical load by adjusting or controlling the load rather than the power station output.

Demand Side Response Services or DSR Services: the ability of the equipment to respond to signalling from the electrical distribution and supply network, for example, to ensure compliance with The Electric Vehicles (Smart Charge Points) Regulations 2021. DSR includes both direct response (for example, frequency response) and indirect response (for example based on tariff, time or direct signalling) including those services provided through 3rd party handlers and aggregators.

Deposit: the deposit amount set out in the Contract Details.

End Date: the date set out in the Contract Details and as extended pursuant to clause 3.

End User(s): the person using the Equipment to charge their EVs.

Equipment: the items of EV charging infrastructure including the equipment listed in the Contract Details, all substitutions, replacements or renewals of such infrastructure and equipment and all related accessories, manuals and instructions provided for it.

EV: a battery electric vehicle (BEV) or plug-in hybrid electric vehicle (PHEV) with the ability to receive an electric charge from the Equipment at the appropriate kilowatt rating.

Exclusions to Supplier's Works: the works required to be carried out that are not included within the Supplier's Works (as set out in the Contract Details) to enable the Supplier to install the Equipment.

Extended Services Period: see clause 3.

Funder: any bank, funder or financial institution providing finance to the Supplier.

GR Statement: see clause 4.3.1.

Gross Receipts: the amounts collected on behalf of the Client and received by the Supplier from the End Users.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Other Charges: see the Contract Details.

Renewable Benefits: any benefits (whether in existence at the date of this Agreement or available at any time in the future) arising from the installation and/or use of and/or generation from the Equipment and the environmental benefits of such use and/or generation including any renewable obligation certificates (or any similar certificates) or other carbon savings benefit, howsoever arising (Carbon Saving), the reduction of greenhouse gas emissions, and any other benefits including those introduced as a result of a change in law.

Services: EV charging services using the infrastructure including the Equipment.

Services Payments: the payments made by or on behalf of Client for the EV charging services using EV infrastructure (including the Equipment) installed on the site in accordance with this Agreement.

Services Period: the period starting on the Commencement Date and continuing until the End Date unless and until this Agreement is terminated earlier in accordance with its terms.

Site: the Client's premises described in the Contract Details.

Software: software provided by the Supplier to the Client as part of the Equipment

Supplier: the party identified as such in the Contract Details.

Supplier's Works: the installation works to be carried out by the Supplier (as set out in the Contract Details) to enable the Supplier to install the Equipment.

Total Loss: the EV charging infrastructure including the Equipment is, in the Supplier's reasonable opinion, damaged beyond repair, lost, stolen, seized and/or confiscated.

VAT: value added tax chargeable in the UK.

- 1.2 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.3 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.4 These conditions apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

Except as expressly provided in this Agreement, all warranties, conditions and other terms implied by statute, common law or otherwise are, to the fullest extent permitted by law, excluded from this Agreement.

- 1.5 Acceptance of the Equipment on site means the Client accept all of these terms and conditions.

2 EV charging infrastructure services & additional services

The Supplier shall offer the Equipment to the Client for use by the Client in the provision of EV charging infrastructure facilities at the Site, subject to the terms and conditions of this Agreement. If set out in the Contract Details, the Supplier shall also provide the Additional Services.

3 Services period

This Agreement shall commence on the Commencement Date. Unless terminated earlier in accordance with this Agreement, it shall continue for the Services Period and shall automatically extend for one year (**Extended Services Period**) at the end of the Services Period and at the end of each Extended Services Period. Either party may give written notice to the other party, not later than 2 months before the end of the Services Period or the relevant Extended Services Period to terminate this Agreement at the end of the Service Period or the relevant Extended Services Period, as the case may be.

4 Services payments, other charges and deposit

- 4.1 The Client shall pay the Services Payments monthly in advance on the 1st day of the month by direct debit. If the 1st day of the month is not a Business Day, payment shall be made on the next available Business Day. Where the first or last month of the Services Period is not a full calendar month, the Services Payment shall be pro-rated to the number of days in that month that fall within the Services Period. Unless otherwise agreed with the Supplier, the Client shall make all payments under this Agreement to the Supplier using **"GoCardless online payment solution"** (details of which have been provided to the Client by the Supplier).

- 4.2 The Supplier may invoice the Client for the Services Payments and Other Charges plus VAT at the prevailing rate (if applicable).

- 4.3 The Supplier shall:

4.3.1 Collect the Gross Receipts on behalf of the Client (including any VAT applicable) for the use of the Equipment by the End Users and, at the end of each month, prepare a statement of the Gross Receipts for that month (the **GR Statement**);

4.3.2 Send the GR Statement to the Client within 5 Business Days of the end of the applicable month;

4.3.3 In consideration for the Additional Services, transfer to the Client (to the account designated by the Client from time to time) within 20 Business Days an amount equivalent to the Gross Receipts set out in the applicable GR Statement, less an amount equivalent to the Other Charges for the applicable month.

- 4.4 All amounts due under this Agreement from the Client to the Supplier shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

- 4.5 If the Client fails to make a payment due to the Supplier under this Agreement by the due date, then, without limiting the Supplier's remedies under clause 10, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest

under this clause 4 will accrue each day at 5% a year above the Bank of England's base rate from time to time but at 5% a year for any period when that base rate is below 0%.

- 4.6 The Deposit is a deposit against default by the Client of payment of any Services Payments or any loss of or damage caused to the Equipment. The Client shall pay the Deposit to the Supplier on the date specified in the Contract Details (or if no date is specified, on the Commencement Date).
- 4.7 If the Client fails to make any Services Payments in accordance with this Agreement or causes any loss or damage to the Equipment (in whole or in part) or the Supplier suffers loss and damage arising out of or in connection with the termination or expiry of this Agreement, without prejudice to any other remedy that the Supplier may have, the Supplier shall be entitled to apply the Deposit against such default, loss or damage. The Client shall pay to the Supplier any sums deducted from the Deposit within 10 Business Days of a demand for the same. Subject to the foregoing, the Deposit (or balance of the Deposit) shall be refundable within 30 Business Days of the end of the Services Period.

5 Supplier's works, delivery and installation

- 5.1 Subject to payment for the Supplier's Works, the Supplier may undertake to carry out and complete the Supplier's Works to its satisfaction. If any of the Supplier's Works cannot be completed to the satisfaction of the Supplier, the Supplier may terminate this Agreement immediately upon written notification to the Client.
- 5.2 If any Exclusions to Supplier's Works are applicable, the parties shall meet as soon as reasonably practicable to agree the scope of work and costs for such Exclusions to Supplier's Works. The agreed scope of works will form part of this Agreement. If the parties cannot reach an agreement, the Supplier may terminate this Agreement immediately upon written notification to the Client.
- 5.3 Subject to clauses 5.1 and 5.2, the Supplier shall use reasonable endeavours to Deliver the Equipment by the Delivery Date.
- 5.4 Unless notification in writing to the contrary is received by the Supplier from the Client within two (2) Business Days of the Equipment being Delivered to and installed at the Site, the Equipment shall be deemed to be accepted by the Client and in good order in accordance with terms of this Agreement.
- 5.5 The Client may have a duly authorised representative of the Client present at the Site on the Delivery Date and during the installation of the Equipment. Notwithstanding clause 5.4, acceptance by such representative of Delivery and installation shall constitute conclusive evidence that the Client has examined the Equipment and has found it to be in good condition complete and fit in every way for the purpose for which it is intended. If required by the Supplier the Client's duly authorised representative shall sign a receipt confirming such acceptance.
- 5.6 If the Client fails to take Delivery of the Equipment on the Delivery Date then except where such failure is caused by the Supplier's failure to comply with its obligations under this Agreement:
- 5.6.1 the Equipment shall be deemed to have been delivered at 9.00 am on the Delivery Date; and
- 5.6.2 the Supplier shall store the Equipment until Delivery takes place and charge the Client for all related costs and expenses (including but not limited to additional transportation costs, storage costs and insurance).
- 5.7 If the Client provides an internet data connection (wired or otherwise) in addition to the Equipment's built-in cellular communications then, unless otherwise agreed, such connection will be provided by the Client free-of charge without data/usage fees, and without firewall restrictions blocking inbound or outbound traffic other than through the use of network address translation services. The Supplier

reserves the right to encrypt all such traffic using secure channels and/or virtual private networking as required by their system services and security protocols.

6 **Equipment**

- 6.1 Electricity generated by the Equipment will predominantly be used for EV charging or storage, and for the running of the Equipment. Any surplus electricity may be distributed to other parts of the Client's Site, or exported to grid if suitable connections are available and maintained.
- 6.2 The Supplier will carry out all routine maintenance and repairs to the Equipment during the Services Period and all repairs which are required due to fair wear and tear and/or inherent faults in the Equipment. The Client will be responsible for the cost of all repairs necessary to the Equipment during the Services Period which arise otherwise than as a result of fair wear and tear.

7 **Title and risk**

- 7.1 The Equipment shall at all times remain the property of the Supplier and the Client shall have no right title or interest in or to the Equipment.
- 7.2 The risk of loss, theft, accident, damage or destruction of the Equipment shall pass to the Client on Delivery. The Equipment shall remain at the sole risk of the Client during the Services Period and any further term during which the Equipment is in the possession, custody or control of the Client, until such time as the Equipment is redelivered to the Supplier.
- 7.3 The Client shall be responsible for carrying out the necessary site risk assessment to determine the lightning protection required for the Site in conjunction with the rest of the property/ies and following the risk assessment, installing and maintaining sufficient lightning protection (as determined by the site wide risk assessment) to ensure the safety of the Equipment and its users.

8 **Demand side response services**

- 8.1 The Client:
 - 8.1.1 acknowledges and accepts the Supplier's right to modify and/or configure the Equipment at the Supplier's expense to ensure compliance with the Client's business requirements, any regulatory requirements . any requirements to enable participation in DSR Services and/or the provision of other connected system services. Supplier
 - 8.1.2 The Supplier will not be responsible for any lost savings or additional costs the Client incurs as a result of incorrect or outdated information provided by it.
 - 8.1.3 accepts that such optimisations and/or modifications referred to in clause 8.1.1 may have negligible, zero, or positive electrical supply cost benefits to the Client, however the Client acknowledges that such changes may impact the availability, rate and efficiency of EV charging, and/or the time during which electricity is consumed from (or exported to) the Client's supply. All parties acknowledge that where such modifications are mandated because of changes in legislation and rules and codes of practices, the Supplier may implement appropriate modifications to ensure continued legislative compliance and reserves the right to seek additional costs for such modifications from the Client.

9 **Client's responsibilities**

- 9.1 The Client shall comply with obligations set out in the Responsibility Matrix (found at [Responsibility Matrix](#))
- 9.2 The Client represents and warrants that:

- 9.2.1 any information and documentation in relation to the Site shall be complete and accurate; and
 - 9.2.2 where the Equipment is connected to the Client's existing electrical infrastructure, such infrastructure is in good working condition and is suitable for the operation of the Equipment
- 9.3 If the Client requests any modifications or additions to the Equipment, the Supplier shall use reasonable endeavours to assess such requests and shall notify the Client in writing whether it can accept such requests, and if so, provide an estimate of the costs for implementing such modification and/or addition to the Equipment. For the avoidance of doubt, any modifications and/or additions to the Equipment shall be at the Client's sole cost and expense.
- 9.4 The Client acknowledges that the Supplier shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Client or its officers employees, agents and contractors or an End User.
- 9.5 If the Equipment is returned in a damaged, unclean and/or defective state except where due to fair wear and tear of the Equipment, the Client shall be liable to pay the Supplier the cost of any repair and/or cleaning required to return the Equipment to a condition fit for rehire. The Supplier may deduct such costs from the Deposit and/or require the Client upon written notice to continue to pay the Services Payments until such repairs and/or cleaning have been completed.
- 9.6 The Client will pay to the Supplier the replacement cost of any Equipment or part thereof which is lost stolen and/or damaged beyond economic repair in the opinion of the Supplier.
- 9.7 The Client shall be responsible, at its own costs, for:
 - 9.7.1 providing electricity and wired broadband internet connection to the Equipment to allow the operation of the Equipment;
 - 9.7.2 securing the Equipment.
- 9.8 The Client shall pay the Services Payments for the Equipment up to and including the date it notifies the Supplier that the Equipment or parts thereof have been lost stolen and/or damaged beyond economic repair as determined by the Supplier. Without prejudice to any other remedy available to the Supplier, the Client shall pay as a genuine pre-estimate of lost profit a sum as liquidated damages being equal to 100% of the Services Payments that would have applied for such Equipment for the remaining Services Period.
- 10 **Indemnities & limitation of liability**
- 10.1 The Client shall indemnify the Supplier against any and all losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs calculated on a full indemnity basis and all other profession costs and expenses), costs, damages, claims, demands, legal action or liabilities suffered or incurred by the Supplier arising directly or indirectly from a breach by the Client of this Agreement or failure by the Client to comply with its obligations under this Agreement, including in relation to clauses 9 or 14.
- 10.2 The restrictions on liability in this clause 10 apply to every liability arising under or in connection with this Agreement including liability in contract tort (including negligence), misrepresentation, restitution or otherwise.
- 10.3 Nothing in this Agreement limits any liability which cannot legally be limited including liability for:
 - 10.3.1 death or personal injury caused by negligence;

- 10.3.2 fraud or fraudulent misrepresentation;
- 10.3.3 any matter in respect of which it would be unlawful for the parties to exclude or restrict liability.
- 10.4 Subject to clause 10.3, the Supplier's total liability to the Client shall not exceed an aggregate amount of the Services Fees paid by the Client to the Supplier
- 10.5 Subject to clause 10.3, the Supplier shall not be liable under this Agreement for any:
 - 10.5.1 loss of profits;
 - 10.5.2 loss of sales or business;
 - 10.5.3 loss of agreements or contracts;
 - 10.5.4 loss of anticipated savings;
 - 10.5.5 loss of use or corruption of software, data or information;
 - 10.5.6 loss, or damage of whatever nature due to or arising through any cause beyond its reasonable control;
 - 10.5.7 loss of or damage to goodwill;
 - 10.5.8 any consequential impact of underperformance of the Equipment including but not limited to causing the Client to exceed the capacity of its supply or agreed service capacity;
 - 10.5.9 indirect or consequential loss incurred or suffered by the Client; and
 - 10.5.10 damage to third party equipment including but not limited to any loss or damage arising from use of the Equipment.
- 10.6 Subject to clause 10.3, all implied terms and conditions as to the quality or performance of the Equipment and any other goods or services provided under this Agreement are to the fullest extent permitted by law excluded from this Agreement.
- 10.7 The Supplier provides no guarantee of:
 - 10.7.1 performance or electricity generation and has no liability with respect to any potential lost value thereof due to equipment malfunction or underperformance of the Equipment. For the avoidance of doubt, this includes both the value of any potential energy exported to the grid, the value of any energy savings and/or any costs arising from the energy consumed at the Site;
 - 10.7.2 rate of charge provided to any EV using the Equipment and has no liability with respect to any potential lost revenue due to a failure to charge EVs for any reason, such as loss of communication, equipment malfunction, account issues, or a reduction in rate of charge arising from but not limited to depletion of any battery storage forming part of the Equipment in connection with provision of the DLM Services and the DSR Services and/or measures required by applicable legislation, rules and codes of practice.
- 11 **Termination**
 - 11.1 Without affecting any other right or remedy available to it, the Supplier may terminate this Agreement with immediate effect by giving written notice to the Client if:

- 11.1.1 the Client fails to pay any amount due under this Agreement on the due date for payment and remains in default for more than 3 Business Days after being notified to make such payment;
- 11.1.2 the Client commits a material breach of any other term of this Agreement which is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified to do so;
- 11.1.3 the Client repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
- 11.1.4 the Equipment is damaged which puts the Equipment beyond economic repair in the Supplier's opinion;
- 11.1.5 there is a theft, seizure or confiscation of the Equipment or any part thereof;
- 11.1.6 there is any interruption of electricity or shading of the solar array resulting in reduction of the generation capacity to the Equipment caused and or contributed to by the Client or its agents, representatives, contractors and any occupier of the Site (other than the Supplier);
- 11.1.7 the Client takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the **Insolvency Act 1986**, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets, or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause;
- 11.1.8 the Client's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy; or
- 11.1.9 the Client suspends or ceases or threatens to suspend or cease carrying on all or a substantial part of its business; or
- 11.1.10 there is a change of control of the Client (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 11.2 The Supplier shall be entitled to terminate this Agreement for any reason by giving the Client written notice of not less than 4 weeks.
- 11.3 Without affecting any other right or remedy available to it, the Client may terminate this Agreement with immediate effect by giving written notice to the Supplier if:
 - 11.3.1 the Supplier applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;
 - 11.3.2 the Supplier suspends, or threatens to suspend payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts.
- 12 **Consequences of termination or expiry**
- 12.1 On expiry or termination of this Agreement however caused:
 - 12.1.1 the Supplier's consent to the Client's possession of the Equipment shall terminate;

- 12.1.2 the Supplier may by its authorised representatives without notice and at the Client's expense retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located; and
- 12.1.3 without prejudice to any other rights or remedies of the Client, the Client shall pay to the Supplier on demand:
- (a) all Services Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 4.6; and
 - (b) any costs and expenses incurred by the Supplier in recovering the Equipment or in collecting any sums due under this Agreement (including any storage, insurance, repair, transport, legal and remarketing costs).
- 12.2 On termination of this Agreement pursuant to clause 11.1, the Client shall pay to the Supplier on demand a sum equal to the whole of the Services Payments that would (but for the termination) have been payable if the Agreement had continued from the date of such demand to the end of the Services Period.
- 12.3 The sums payable pursuant to clause 12.2 shall be agreed compensation for the Supplier's loss and shall be payable in addition to the sums payable pursuant to clause 12.1.3. Such sums may be partly or wholly recovered from any Deposit.
- 12.4 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 12.5 Termination or expiry of this Agreement shall not affect any rights remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
- 13 Force majeure**
- Neither party shall be in breach of this Agreement nor liable for delay in performing or failure to perform any of its obligations under this Agreement if such delay or failure results from events circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 12 weeks the party not affected may terminate this Agreement by giving 30 days' written notice to the affected party. Notwithstanding the foregoing, the parties acknowledge and agree that this clause 13 shall not excuse or extend performance in relation to payment obligations.
- 14 Assignment and other dealings**
- 14.1 This Agreement is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.
- 14.2 The Client shall not gift, sell, transfer or convey the interest in the Site to any entity which is not a party to this Agreement without the consent of the Supplier.
- 14.3 If the Client proposes to dispose of the interest in the Site, it shall give the Supplier at least 20 Business Days written notice of its intention to do so and before completion of such disposal.
- 14.4 Upon a change of control of the Client, the Client shall immediately provide to the Supplier such security in relation to its obligations as the Supplier shall require (in its own determination).

14.5 The Supplier may require (and the Client hereby accepts) that the Client will enter into a direct agreement in a form required by the Supplier together with any Funder requirements approved by the Supplier and the Client.

15 Renewable benefits

15.1 All Renewable Benefits generated by reason of the installation and use of the Equipment shall belong exclusively to the Supplier.

15.2 The Client shall not do anything which adversely affects the Renewable Benefits to a material extent or the amount of electricity generated by the Equipment, including but not limited to the addition of further renewable energy-generating equipment or apparatus at the Site, without the prior written consent of the Supplier.

16 Intellectual property rights

16.1 All Intellectual Property Rights in or arising out of or in connection with the Equipment, the Services and/or Additional Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by the Supplier.

16.2 The Client grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Supplier for the term of the Agreement for the purpose of providing the Equipment and/or Services to the Client.

17 Software Licence

17.1 The Client acknowledges that all Intellectual Property Rights in the Software and any maintenance releases in relation to the Software belong and shall belong to the Supplier or the relevant third-party suppliers (as the case may be), and the Client shall have no rights in or to the Software other than the right to use it in accordance with the terms of this Agreement.

17.2 The Supplier grants to the Client a non-exclusive licence for the Services Period or the date of termination of this Agreement, whichever is the earlier, to use the Software for the operation of the Equipment at the Site only.

17.3 In relation to scope of use:

17.3.1 for the purposes of clause 17.2, use of the Software shall be restricted to use of the Software in the operation of the Equipment.

17.3.2 the Client may not use the Software other than as specified in this Agreement without the prior written consent of the Supplier, and the Client acknowledges that additional fees may be payable on any change of use approved by the Supplier.

17.3.3 the Client has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part.

17.3.4 the third-party software shall be deemed to be incorporated within the Software for the purposes of this licence (except where expressly provided to the contrary) and use of the third-party software shall be subject to the third-party additional terms.

17.3.5 the Client shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Client's breach of any third-party additional terms howsoever arising.

- 17.3.6 the Supplier may treat the Client's breach of any third-party additional terms as a breach of this licence.
- 17.4 The Client may not use any such information provided by the Supplier or obtained by the Customer to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.
- 17.5 The Client shall not:
- 17.5.1 sub-license, assign or novate the benefit or burden of this licence in whole or in part;
 - 17.5.2 allow the Software to become the subject of any charge, lien or encumbrance;
 - 17.5.3 deal in any other manner with any or all of its rights and obligations under this Agreement,
 - 17.5.4 use the Software other than on the Equipment.
- without the prior written consent of the Supplier.
- 17.6 The Supplier may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this licence, provided it gives written notice to the Client.
- 17.7 The Client shall:
- 17.7.1 keep a complete and accurate record of the Client's copying and disclosure of the Software and its users, and produce such record to the Supplier on request from time to time;
 - 17.7.2 notify the Supplier as soon as it becomes aware of any unauthorised use of the Software by any person;
 - 17.7.3 pay, for broadening the scope of the licences granted under this licence to cover the unauthorized use, an amount equal to the fees which the Supplier would have levied (in accordance with its normal commercial terms then current) had it licensed any such unauthorised use on the date when such use commenced (together with interest)
- 17.8 The Client shall permit the Supplier to inspect and have access to the Software, the Equipment and any premises (and to the computer equipment located there) at or on which the Software is being kept or used, and have access to any records kept in connection with this licence, for the purposes of ensuring that the Client is complying with the terms of this licence, provided that the Supplier provides reasonable advance notice to the Client of such inspections, which shall take place at reasonable times.
- 17.9 The Supplier retains all rights, title, and interest in and to any and all data, information, or other materials generated, collected, or otherwise derived from the use of the Equipment or the Software (**Data**). The Client acknowledges and agrees that the Supplier shall have the exclusive right to access, collect, store, and retain such Data, and the Client waives any claim or right to ownership, use, or control over such Data. The Supplier may use, analyse, and modify the Data for any purpose, including but not limited to improving, optimizing, or enhancing the Equipment, and may share or disclose such Data to third parties as part of its regular business operations, subject to any applicable data protection laws and regulations.
- 17.10 The Client and the Supplier agree:
- 17.10.1 to promote the deployment of the Equipment to the Site; and
 - 17.10.2 subject to the Supplier's written consent, report to the public the outcomes of any technical trials, development works, and/or the commercial results arising from the deployment of

the Equipment at the Site. Such reporting will include but shall not be limited to announcements and articles in appropriate media to assist the Supplier with further deployment of the Equipment to other sites and to support the Client in promoting its own “net zero” objectives.

18 Entire agreement

This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements (other than any non-disclosure or confidentiality agreements), promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

19 Third party rights

19.1 Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

19.2 The Funder shall, subject to the Supplier’s consent, have the right to enforce any term of this Agreement as if they were the Supplier. The rights of the parties to rescind or vary this Agreement are subject to the consent of the Funder.

20 Notices

20.1 Any notice or other communication given to a party under or in connection with this Agreement shall be in writing and shall be:

20.1.1 delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

20.1.2 sent by email to notices@3ti.co.uk.

20.2 Any notice or communication shall be deemed to have been received:

20.2.1 if delivered by hand, at the time the notice is left at the proper address;

20.2.2 if sent by pre-paid first class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting; or

20.2.3 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, where business hours resume. In this clause 20.2.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

21 Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22 **Severance**

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is deemed deleted under this clause 22 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

23 **Governing law and jurisdiction**

This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

24 **Public announcements**

The Supplier shall be entitled to use the Client's name and logo for use in public announcements, articles, interviews, promotions, marketing pieces, advertisements, press releases or other such publicity. The Supplier will seek the Client's prior written approval before such use which shall not be unreasonably withheld.