

Standard Terms and Conditions of Sale of AlsoEnergy Technology

1. **APPLICABLE TERMS & CONDITIONS.** These Terms & Conditions of Sale are contained directly and/or by reference in AlsoEnergy's ("AE") estimate, order acknowledgment, and invoice documents for AE Technology (hardware, software and services provided to Customer as listed on the documents). The first of the following acts constitutes an acceptance of AE's offer and not a counteroffer and creates a contract of sale ("Contract") in accordance with these Terms & Conditions: (i) Customer's issuance of a purchase order document against AE's offer; or (ii) receipt and acknowledgement of Customer's purchase order by AE; or (iii) commencement of any performance by AE pursuant to Customer's order. Provisions contained in Customer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of these Terms & Conditions of Sale are not a part of the Contract.

2. **CANCELLATION.** Customer may cancel goods orders subject to fair charges for AE's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Customer returns such goods to AE at Customer's expense within 30 days of delivery and in the same condition as received. Customer may cancel service orders on ninety (90) day's prior written notice and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply after cancellation or expiration of service programs. AE may cancel all or part of any order prior to delivery without liability if the order includes any Products that AE determines may not comply with export, safety, local certification, or other applicable compliance requirements.

3. **DELIVERY.** Delivery will be accomplished CPT Named Place (Incoterms 2010). AlsoEnergy must be notified of any discrepancies between the packing list and actual shipment contents within 60 days following the receipt of shipment. AlsoEnergy will not be responsible for replacement parts or shipping costs after the 60-day inspection period has expired. Legal title and risk of loss or damage pass to Customer upon transfer to the first carrier. AE will use commercially reasonable efforts to deliver the AE Technology ordered herein within the time specified on the face of this Contract or, if no time is specified, within AE's normal lead-time necessary for AE to deliver the AE Technology sold hereunder. Upon prior agreement with Customer and for an additional charge, AE will deliver the AE Technology on an expedited basis. Standard service delivery hours are 8 am – 5 pm Monday through Friday, excluding holidays.

4. **PRICES & ORDER SIZES.** All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties; special financing fees; VAT, income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or other charges imposed upon the production, sale, distribution, or delivery of AE Technology unless otherwise stated. Customer will either pay any and all such charges or provide AE with acceptable exemption certificates which obligation survives performance under this Contract. AE reserves the right to establish minimum order sizes and will advise Customer accordingly.

5. **PAYMENTS.** All payments must be made in U.S. dollars. Invoices for all other orders are due and payable NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made to the account stated on the front of AE's invoice, or for customers with no established credit, AE may require cash or credit card payment in advance of delivery. In the event payments are not made or not made in a timely manner, AE may, in addition to all other remedies provided at law, either: (a) declare Customer's performance in breach and terminate this Contract for default; (b) withhold future shipments until delinquent payments are made; (c) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (d) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (e) recover all costs of collection including reasonable attorney's fees; or (f) combine any of the above rights and remedies as is practicable and permitted by law. Customer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that are or may be due Customer, which arise out of a different transaction with AE or any of its affiliates. Should Customer's financial responsibility become unsatisfactory to AE in its reasonable discretion, AE may require cash payment or other security. If Customer fails to meet these requirements, AE may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due AE.

6. **SOFTWARE LICENSE.** If a software component is included in Customer's purchase documents, AE hereby grants to Customer a limited, non-exclusive, transferable (upon prior written consent by AE,) non-sub-licensable, worldwide, revocable right to: (i) use Software to access the Services during the Term, (ii) download the Software and any updates thereto for the purposes of accessing the Services and utilizing the Content, (iii) to use and display the Content for internal analysis and power plant optimization and commissioning 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.

7. **INTELLECTUAL PROPERTY OWNERSHIP.** 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 hereby agrees not to (i) decompile, reverse engineer, disassemble, modify, rent, lease, loan, distribute, make improvements or create derivative works (as defined by the U.S. Copyright Act) of the AE Technologies or any portion thereof.

8. 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. AE may also provide data 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.

9. **TERM AND TERMINATION.** 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.

10. **LATE PAYMENTS.** 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 and reasonable attorney's fees.

11. **WARRANTY.** For current warranty terms, see <https://home.alsoenergy.com/terms>

12. **INDEMNIFICATION.** Customer shall indemnify, defend and hold AE and its officers, directors, employees, shareholders, agents, successors and assigns (each the "AE Indemnitees"), 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 Indemnitees, 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.

LIMITATION OF LIABILITY. 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. IN ALL EVENTS, AE'S CUMULATIVE LIABILITY FOR ANY AND ALL LEGAL CLAIMS ARISING FROM THE SUBJECT MATTER OF ANY TRANSACTION DOCUMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF MONEY PAID TO AE BY CUSTOMER IN ACCORDANCE WITH THE RELEVANT TRANSACTION DOCUMENT DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE FIRST SUCH 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.

13. **LOCAL LAWS AND EXPORT CONTROL.** 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").

14. **ASSIGNMENT; CHANGE IN CONTROL.** Neither Party may assign this Agreement without the prior written approval of the other Party, which approval will not be unreasonably withheld. However, in the event of a sale of all or substantially all of the assets to which this agreement pertains (except for software licenses), then assignment to the purchaser is allowed with notice. No software license shall transfer without execution of a Master Services Agreement by the assignee/transferee.

15. **APPLICABLE LAW AND DISPUTE RESOLUTION.** The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Colorado, without regard to conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between AE and Customer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction (i) in the State of Colorado, U.S.A. if Customer has minimum contacts with Colorado and the U.S., (ii) elsewhere in the U.S. if Customer has minimum contacts with the U.S. but not Colorado, or (iii) in a neutral location if Customer does not have minimum contacts with the United States.

16. **ENTIRE AGREEMENT & MODIFICATION.** These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon AE unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of AE. AE rejects any additional or inconsistent Terms & Conditions of Sale offered by Customer at any time, whether or not such terms or conditions materially alter the Terms & Conditions herein and irrespective of AE's acceptance of Customer's order for the described goods and services.