

Portfolio Terms and Conditions

THIS PORTFOLIO TERMS AND CONDITIONS (“AGREEMENT”) IS BETWEEN AECO SERVICES INC. (“AECO Energy”) AND THE CUSTOMER.

1.0 Agreement

1.1 The Services shall be governed by the Agreement unless the parties enter into a separate agreement with the intention that it will govern the Services. Customer’s signature on the Proposal, issuance of a purchase order pursuant to the Proposal, or payment of Fees, whichever is earlier, shall be deemed as Customer’s acceptance of the Agreement. Any other terms or conditions not included in the Proposal and the Agreement are hereby rejected and shall not bind AECO Energy in any way.

2.0 Services

A. Portfolio Services

2.1 Subject to Clause 2.4 (Agency), AECO Energy shall manage the electricity requirements of the Customer pursuant to the Portfolio Plan and Mandate chosen by the Customer (“Services”).

2.2 Customer agrees and acknowledges that:

- a) Time is of the essence. AECO Energy procures electricity in bulk by aggregating the requirements of all its Portfolio customers. As such, all acts of AECO Energy in procuring Electricity Contracts are executed in the best interest of all its Portfolio customers collectively. To remove any doubt, in case of conflict between the collective interests of the Portfolio customers and the solitary interest of the Customer in the performance of this Agreement, AECO Energy will execute the Services to ensure that the collective interests of all the Portfolio customers will prevail and such determination shall be in absolute discretion of AECO Energy.
- b) Services are conditional upon Customer’s reasonable and timely cooperation and the accuracy and completeness of any information needed from Customer.
- c) AECO Energy retains absolute discretion on how, when and which Retail Electricity Supplier to enter into Electricity Contracts on behalf of Customer.
- d) The Electricity Contracts entered into by AECO Energy on behalf of Customer shall be governed by the terms and conditions stated in the Electricity Contracts and no other.
- e) Customer must maintain good credit standing with the Retail Electricity Suppliers. Failure to maintain good credit standing shall be considered a breach of this Agreement.

2.3 Customer may be given access to AECO Energy MarketPro Platform on a view-only basis. Use and access to MarketPro Platform shall be subject to AECO Energy Platforms Terms of Use.

B. Agency

2.4 Customer shall appoint AECO Energy as agent (“Agent”) to act on behalf of Customer under the authorities outlined in the Proposal, Agency Agreement, and/or this Agreement (“Agency”).

2.5 As Agent, Customer authorizes AECO Energy to do any or all of the following acts on its behalf if instructed under the Agency Agreement:

- a) procure or cause the procurement of auctions or tenders from Retail Electricity Suppliers for the supply of electricity in the nominated Site(s) based on the Customer Energy Information and Customer Data provided by Customer.
- b) sign or execute Electricity Contracts or any other agreements necessary for AECO Energy to perform and/or maintain the Services.
- c) provide notice of termination or cancellation to Retail Electricity Suppliers as needed.
- d) such other acts as may be instructed by Customer from time to time.

2.6 AECO Energy shall strictly follow the instructions and use reasonable diligence, care, and skill in carrying out the instructions of Customer.

2.7 For the avoidance of doubt, any Electricity Contract entered into and/or executed by AECO Energy on behalf of Customer under the Agency is a separate and independent contract between Customer and Retail Electricity Supplier. AECO Energy is not and will not be a party to such Electricity Contracts. Termination of this Agreement does not terminate any Electricity Contract executed on behalf of Customer in accordance with the Agency and/or this Agreement.

3.0 Energy Information

3.1 Customer consents to the using, disclosing, and sharing of information relating to energy activities, including meter details, bills and invoices, electricity account information, electricity data, meter data, and energy usage details (“Customer Energy Information”) between and among AECO Energy, its Affiliates, and/or Retail Electricity Suppliers for purposes of providing the Services.

3.2 Customer shall ensure that the authority given to AECO Energy to retrieve from Retail Electricity Suppliers and Retail Electricity Supplier’s obligation to release to AECO Energy the Customer Energy Information shall remain valid and effective during the Term.

3.3 Customer consents and grants to AECO Energy royalty-free license to use and retain Customer Energy Information for the use and access to and/or provision and delivery of the Services.

3.4 Customer consents that AECO Energy may create anonymized statistical data from Customer Energy Information and usage of the Services, including aggregation. Once anonymized, AECO Energy may use it for limited purposes, such as to provide and improve on its Services and other AECO Energy Services, develop new services or product offerings, identify business trends, and for any other purpose analogous to the foregoing.

4.0 Fees

4.1 Customer shall pay AECO Energy the Fees set out in the Proposal and/or Invoice (“Fees”).

4.2 Customer shall either:

- a) pay all invoiced amount without any counter claims, set offs, or deductions within the time period stated in the Proposal and/or Invoice, or if not stated in the Proposal, within seven (7) days from the Invoice date. Customer shall pay interest on all invoiced amount which remain unpaid after their due date at the rate of six percent (6%) per annum until full payment is made; or
- b) authorize and instruct the nominated Retail Electricity Suppliers to collect payments of the Fees on behalf of AECO

Energy as part of the Customer's normal electricity bill and forward those payments to AECO Energy. Payment terms of this type of payment shall be subject to the payment terms of the nominated Retail Electricity Supplier's standard terms and conditions.

- 4.3 Unless expressly stated otherwise, Fees payable to AECO Energy are exclusive of value-added tax ("VAT"). In addition, Customer must pay the applicable VAT for the Fees under the relevant Invoice.
- 4.4 On each anniversary of Agreement, any subsequent Fees may be varied by an amount due to Inflation.
- 4.5 At least thirty (30) days prior to the normal expiration date of this Agreement, a renewal notice and invoice will be issued for the Services to the Customer. Payment of the renewal invoice will extend the term of this agreement according to that renewal notice's terms.

5.0 Intellectual Property

- 5.1 AECO Energy, its Affiliates, and licensors retain ownership over all intellectual property, materials, data, information, creations, facilities, and works used or made available in connection with the performance, provision, and delivery of the Service including other rights in all copyrighted works, trademarks, designs, inventions, or creations (collectively "AECO Energy IP").
- 5.2 Customer shall not copy, distribute, modify, make derivative works of, or use any AECO Energy IP or other intellectual property rights in any way not expressly permitted by AECO Energy.
- 5.3 Customer owns all rights, title to, and interest in its intellectual property rights and its Customer Data. Customer grants to AECO Energy an unrestricted, perpetual, irrevocable, transferable, sub-licensable, worldwide, and royalty-free license to use and retain any and all data, content, information, and/or material provided or made available to AECO Energy for purposes of providing Services to Customer and for any other purpose.
- 5.4 Customer grants to AECO Energy and its Affiliates the right to use Customer's trade names, logos, and symbols ("Customer Marks") in its public promotional materials and communication for the purpose of identifying Customer as AECO Energy's Customer. The promotional materials and communications may be created, displayed, and reproduced without Customer's review and approval, provided that the use of the Customer Marks is in compliance with this section and/or any usage guidelines provided by Customer to AECO Energy.

6.0 Confidentiality

- 6.1 The Receiving Party will keep confidential and will not use or disclose any Confidential Information without the prior written consent of the Disclosing Party. The Receiving Party will protect the Confidential Information of the Disclosing Party by using at least the same degree of care (but no less than reasonable degree of care) as the Receiving Party uses to protect its own Confidential Information to prevent unauthorized use, dissemination, disclosure, or publication. This notwithstanding, the Receiving Party may disclose the Confidential Information to its Affiliates, employees, consultants, or advisors on a need-to-know basis and provided that such person is bound by substantially the same confidentiality obligations as stated herein.
- 6.2 Each party's respective obligations of confidentiality shall not apply to the disclosure of information to competent legal or regulatory authorities which is:

- a) mandatory under the applicable law;
 - b) as far as possible, disclosed as aforesaid only after the other party to whom the obligation of confidentiality is owed, has been notified without any inexcusable delay and given the opportunity to clarify and advocate for a limitation or restriction of the information to be disclosed; and
 - c) limited only to information that is strictly required to be disclosed as aforesaid under the applicable law and if applicable, after the fulfilment of and considering the outcome of Clause 6.2(b) above.
- 6.3 The obligations of confidentiality shall commence immediately upon receipt of the Confidential Information. At the request of AECO Energy or after the stated purpose of use is achieved, the recipient of the Confidential Information agrees to destroy (unless otherwise directed by AECO Energy) all Confidential Information, and any written and other tangible materials which contain any Confidential Information received from AECO Energy, except that Customer may retain reasonable copies of the Confidential Information for the purpose of complying with requirements by law or any applicable governmental or regulatory authority or its corporate governance, provided that the provisions of this Agreement shall continue to apply to any such records, files, documents or materials retained by the Customer.

7.0 Warranties and Disclaimers

- 7.1 Customer recognizes the uncertainty of the future price of electricity and acknowledges that AECO Energy cannot provide reliable forecasts, guarantees, or warranties over any future price of electricity.
- 7.2 Customer acknowledges that AECO Energy cannot warrant or guarantee that the prices will be the lowest available at the time when prices are presented to Customer or when the Electricity Contract is executed.
- 7.3 TO THE FULLEST EXTENT PERMITTED BY LAW, AECO ENERGY DISCLAIMS AND SHALL NOT BE LIABLE FOR ANY AND ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AECO ENERGY DOES NOT ASSUME OR AUTHORIZE ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SERVICES.
- 7.4 AECO ENERGY WILL HAVE NO LIABILITY FOR DELAYS, FAILURES, LOSSES, OR DAMAGES ATTRIBUTABLE OR RELATED IN ANY WAY TO RETAIL ELECTRICITY SUPPLIERS OR ANY ELECTRICITY CONTRACTS BETWEEN CUSTOMER AND RETAIL ELECTRICITY SUPPLIERS.

8.0 Limitation of Liability

- 8.1 To the fullest extent permitted by applicable law, in no event shall either party be liable for any special, indirect, incidental, punitive, exemplary, or consequential damages of any kind (including but not limited to loss of business, data, profits), arising out of or relating to this Agreement, regardless of the theory of liability and whether each party was advised of the possibility of such damage or loss.
- 8.2 To the fullest extent permitted by applicable law, in no event shall the total liability of AECO Energy, from all claims or causes of action and under all theories of liability arising out of or relating to this Agreement, exceed the amount stated in the Proposal or Purchase Order on which the claim is based. This limitation of liability will not apply to claims for death or personal injury caused by negligence, breach of confidentiality, or infringement of intellectual property rights.

9.0 Indemnity

- 9.1 AECO Energy will defend or settle any action brought against Customer to the extent that it is based upon a third-party claim that AECO Energy IP infringes or misappropriates such third party's patent, copyright, trademark, or trade secret, and will pay any costs and damages made in settlement of such claim, provided that Customer: (i) gives AECO Energy prompt notice of any such claim; (ii) gives AECO Energy sole control of the defense and settlement of such claim; and (iii) gives AECO Energy, at AECO Energy's expense, all information and assistance reasonably required for the defense and settlement of such claim. AECO Energy will not be bound by any settlement or compromise that Customer enters into without AECO Energy's prior written consent.
- 9.2 The foregoing provision sets forth the sole and exclusive liability of AECO Energy and the sole and exclusive remedy of Customer for any claims of infringement or misappropriation of intellectual property rights of any kind.
- 9.3 Customer will defend, indemnify, and hold AECO Energy harmless from and against all liabilities, damages, costs, fees, and expenses, including reasonable attorney's fees arising out of or resulting from any third-party claim based on or otherwise attributable to: (i) Customer's gross negligence or intentional misconduct; (ii) a breach of Clause 5.0 (Intellectual Property); or (iii) any Electricity Contracts between Customer and Retail Electricity Suppliers.

10.0 Termination

- 10.1 Either party may terminate the Agreement by giving a ninety (90) day written notice to the other party if the other party (a) becomes insolvent or bankrupt, files for reorganization under the bankruptcy laws, or makes an assignment for the benefit of its creditors; or (b) fails to remedy a material breach within fourteen (14) days from the date of written notification by the first party.
- 10.2 Upon termination of the Agreement for any reason, Customer shall be liable to reimburse AECO Energy for all costs (including termination fee), damages, and/or claims in connection with or arising out of a termination of the Agreement. Any Fees paid to AECO Energy shall be non-refundable.

11.0 Audit

Customer must, for a period of five (5) years or longer if required by law, maintain all records for the Services and compliance with Clause 6.0 (Confidential Information). At request of AECO Energy, Customer must, at no additional cost to AECO Energy, provide to AECO Energy and its internal and external auditors, inspectors, regulators, and other agents or representatives, access at reasonable times and on reasonable notice to Customer's premises, to validate such records.

12.0 Assignment

Neither party may assign or transfer this Agreement or any obligation herein without the prior written consent of the other party, except that, upon written notice, AECO Energy may assign or transfer this Agreement or any obligation herein to its Affiliate, or an entity acquiring all or substantially all assets of AECO Energy, whether by acquisition of assets or shares, or by merger or consolidation without consent of the Customer. Any attempt to assign or transfer this Agreement shall be null and of no effect. For purposes of this Agreement, a change of control will be deemed to be an assignment. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

13.0 Subcontractors

AECO Energy may use subcontractors to perform the Services.

14.0 Changes

No changes, amendments, or modifications to the Agreement, Proposal, or any other documentation are binding unless made in writing and signed by the duly authorized representatives of each party. Employees and representatives of AECO Energy are not authorized to enter into oral collateral agreements or to give verbal guarantees beyond the contents of a written contract.

15.0 Entire Agreement

- 15.1 The Agreement contains the entire understanding of the parties, to the exclusion of any and all prior or collateral agreement or understanding, relating to the Services, whether oral or written. Customer acknowledges that it did not enter into the Agreement on reliance upon any statement made by AECO Energy, other than as expressly contained in the Agreement.
- 15.2 If any part of the Agreement is found to be invalid or of no force or effect, the Agreement shall be construed as though such part had not been inserted and the remainder of the Agreement shall retain its full force and effect.
- 15.3 To the extent that any other term or condition specific to the Proposal conflicts with any other term or condition in the Agreement, the term or condition specific to the Proposal will apply.
- 15.4 In the Agreement, unless the context otherwise requires or permits:
- Where any word or phrase is given a defined meaning, any other grammatical form of that word or phrase will have the corresponding meaning.
 - References to legislation or legislative provisions will include modifying, consolidating, or replacing legislation or legislative provisions.
 - References to months and years means calendar months and years.
 - The use of headings is only for convenience and does not affect interpretation and any headings, underlining or marginal notes are only included for ease of reference.
 - The terms "included", "including", and similar expressions when introducing a list of items do not exclude a reference to other items of the same class or genus.

16.0 Notices

- 16.1 Any notice, demand, consent, or other communication required to be given by either party must be in writing and will be deemed to have been duly given: (a) when delivered by hand or by fax; (b) five (5) business days after being sent by registered or certified mail; (c) two (2) business days after deposit with a recognized overnight delivery or express courier services; or (d) one (1) business day after being sent by email and no failure of delivery notice was received by sender.
- 16.2 Notices to AECO Energy shall be sent to legal@aecoenergy.sg.

17.0 Force Majeure

Except for payment obligations, neither party shall be liable to the other party for any delay or failure to perform due to any Force Majeure event as defined in the Agreement. In such event, both parties will resume performance promptly after the cause of such delay or failure has been removed.

18.0 Dispute

- 18.1 If a dispute arises out of this Agreement, the parties shall seek to resolve it on an amicable basis and shall consider the appointment of a mediator to assist in that resolution. No party shall commence legal or arbitration proceedings unless thirty (30) days' notice has been given to the other party.
- 18.2 Any dispute between the parties shall be resolved by mutual discussion. Unresolved disputes, if any, shall be subject to resolution by arbitration in accordance with the arbitration laws of the Philippines. The language of the arbitration shall be in English and the decision of the arbitrators shall be final and binding on the parties. The venue of Arbitration shall be in the Philippines. Both parties irrevocably submit to the exclusive jurisdiction of the Courts of Taguig City, Philippines, for any action or proceeding regarding this Agreement.

19.0 Governing Law & Compliance

The Agreement shall be governed and construed in accordance with the laws of the Philippines. Each party shall ensure compliance with the laws applicable to this Agreement, including but not limited to laws on export control, anti-corruption, and/or anti-bribery.

20.0 Definitions

"Affiliates" means any entity that controls, is controlled by, or is under common control with Customer or AECO Energy, as applicable, where "control" means having the power, directly or indirectly, to direct or cause the direction of the management and policies of the entity, whether through ownership of voting securities, by contract or otherwise. AECO Energy is part of the AECO Pacific Group of Companies.

"Agency Agreement" means the document which sets out the instructions of the Customer for procuring Electricity Contracts for a particular Site(s).

"Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or can reasonably be understood as confidential given the nature of the information and circumstances of disclosure. Confidential information shall include, but not be limited to, Customer Data, AECO Energy's Content and Services, the terms and conditions of this Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, Customer details and information, and business processes disclosed by such party. However, Confidential Information does not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

"Customer" means the customer identified in the Proposal.

"Customer Data" means all data, information, and/or content of the Customer disclosed to AECO Energy for the provision of the Services.

"Electricity Contract" means an agreement between Customer and Retail Electricity Suppliers for the supply of electricity to the nominated Site(s).

"Fees" means the amount to be paid by Customer in the Proposal, Purchase Order, or Invoice (as may be varied under the Agreement).

"Force Majeure" means any event which is beyond the control of or unforeseen by the parties or which, though foreseen, is inevitable, including but not limited to fire, virus, epidemic, pandemic, travel advisories as to health, security and/or terrorism, flood, lockout, transportation delay, war, acts of God, governmental rule or order, strikes or other labor issues.

"Hedging" means making an agreement that sets the price level for electricity for a selected time frame.

"Inflation" means a percentage, which represents the increase in general prices in the Philippine economy in the previous calendar year as calculated by the Philippine Statistics Authority and published by them as the Consumer Price Index.

"MarketPro" is a digital platform created, owned, and managed by AECO Pacific Group of Companies where subscribers can initiate an auction or tender, secure offers or bids in response thereto, and close Electricity Contracts from registered Retail Electricity Suppliers.

"On-ramp Portfolio Electricity Contract" means an Electricity Contract, provided as part of Portfolio Service, the term of which spans between an existing and current Electricity Contract end date and to a quarterly start date for a subsequent contract.

"Retail Electricity Supplier" means an electricity retailer licensed by the Energy Regulatory Commission (ERC) to retail electricity.

"Services" means any service(s) stated in the Proposal and/or Agency Agreement to be provided by AECO Energy including, but not limited to, procuring aggregate tenders and bids from Retail Electricity Suppliers, select, manage, and enter into Electricity Contracts for nominated Site(s), and any other actions for and on behalf of and in accordance with the instructions of the Customer.

"Site" means a metered electricity supply point charged as part of an Electricity Contract in relation to consumption of Customer.