

## Terms & Conditions – PV\_Forecast

The Services shall be accessed via a Web API, and includes any documents (electronic or otherwise) that come with the Services.

### 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following definitions apply:

<b>"API Data"</b>	means data provided by the Web API for the benefit of the Customer;
<b>"API Website"</b>	means <a href="https://api.solar.sheffield.ac.uk/">https://api.solar.sheffield.ac.uk/</a> ;
<b>"Business Day"</b>	means a day other than a Saturday, Sunday or bank or public holiday when banks in London are open for business;
<b>"Conditions"</b>	means the University's terms and conditions of supply set out in this document;
<b>"Contract"</b>	means the agreement between the University and the Customer for the supply and purchase of Services incorporating these Conditions;
<b>"Customer"</b>	means the company who purchases the Services from the University;
<b>"Force Majeure"</b>	means an event or sequence of events beyond a party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving the University's or its suppliers' workforce, but excluding the Customer's inability to pay or circumstances resulting in the Customer's inability to pay;
<b>"Intellectual Property Rights"</b>	means any patents, inventions, copyright and related rights, trademarks, trade names, rights to goodwill or to sue for passing off rights in designs, rights in computer software, database rights, rights in confidential information (including know-how), utility models and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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;
<b>"Price"</b>	has the meaning set out in clause 7;
<b>"Services"</b>	means PV_Forecast, which is provided by the University and provides a forecast of the power contribution of solar Photovoltaic (PV) systems to the UK's electrical grid comprising the Web API and API Data;
<b>"Subscription"</b>	means a subscription to the Services;
<b>"University"</b>	means the University of Sheffield whose registered address is Western Bank, Sheffield, S10 2TN;

<b>"VAT"</b>	means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Services; and
<b>"Web API"</b>	means the application programming interface through which the Customer can access the Services.

- 1.2 In these Conditions, unless the context requires otherwise:
- 1.2.1 any clause headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
  - 1.2.2 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
  - 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
  - 1.2.4 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
  - 1.2.5 words in the singular include the plural and vice versa;
  - 1.2.6 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
  - 1.2.7 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form; and
  - 1.2.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and a reference to legislation includes all subordinate legislation made under that legislation.

**2. APPLICATION OF THESE CONDITIONS**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate.
- 2.2 The University shall provide the Services to the Customer in accordance with these Conditions.

**3. LICENCE**

Subject to the Customer's compliance with these Conditions and payment of the Price, the University grants the Customer a non-exclusive, non-sub-licensable and non-transferable licence to use the Web API for the term of the Contract. Upon expiry or termination of the Contract, the licence described in this clause shall automatically terminate and the Customer shall immediately stop its use of the Web API.

**4. LIMITATIONS ON USE**

- 4.1 Except as expressly permitted under these Conditions or by law, the Customer shall not:
  - 4.1.1 use, copy, modify, add to, adapt, enhance or correct errors from the API Data;
  - 4.1.2 decode, reverse engineer, disassemble, decompile or otherwise translate or convert the Web API;
  - 4.1.3 infringe or copy the code or content or the design of the API Website or Web API;

- 4.1.4 copy or decompile the Web API and shall not observe, study or test the functioning of the Web API (or any part of it), but only so far as the same cannot be restricted by law;
- 4.1.5 distribute, rent, assign, sub-licence, lease, resell, distribute or otherwise deal in or encumber the Services;
- 4.1.6 remove or modify any copyright or similar notices, or any of the University's or any other person's branding, that the Web API causes to be displayed when used;
- 4.1.7 use the Web API, or permit it to be used, on behalf of any third party; or
- 4.1.8 attempt to circumvent or interfere with any security features of the Web API.

4.2 The Customer shall notify the University in writing as soon as it becomes aware of any actual or suspected unauthorised use of the Web API and of the occurrence of any of the events set out in clause 4.1.

## 5. **SUBSCRIPTION PROCESS**

5.1 Customers who want to subscribe to use the Web API shall subscribe via the API Website.

5.2 The Subscription is an annual subscription to the Services and will be renewed automatically each year, unless the Customer cancels the Subscription in accordance with clause 5.4. Once the Subscription has auto renewed the Customer shall not be entitled to a refund from the University. The Customer can only take out an annual subscription to the Services.

5.3 The University shall notify the Customer by email at least 28 days before the end of the Subscription informing the Customer that the Subscription will automatically renew.

5.4 Customers can cancel their Subscription by giving the University at least 14 days' notice prior to the expiry of its annual Subscription by emailing [pvforecast@sheffield.ac.uk](mailto:pvforecast@sheffield.ac.uk) with their account details and stating their intention to cancel their Subscription. If the Customer cancels their Subscription they will not receive a refund of any nature.

## 6. **ACCESS TO THE WEB API**

6.1 The Customer agrees:

6.1.1 to access the Web API only using the Web API login provided by the University; and

6.1.2 to keep the Web API login secure and that it is responsible for any use of the Web API using the login.

## 7. **PRICE AND PAYMENT**

7.1 To access the Services via the Web API the Customer must sign up for a free account on the API Website. The Customer shall then be issued with an API access key which is valid for 7 days.

7.2 If the Customer wishes to continue to access the Services beyond 7 days, the Customer must purchase an annual Subscription. The Subscription price will be made clear to the Customer upon contacting Aldous Everard by email [pvforecast@sheffield.ac.uk](mailto:pvforecast@sheffield.ac.uk) or telephone 0114 222 3533 ("**Price**").

7.3 If the Customer agrees the Price, it shall issue a purchase order ("**PO**") to the University's Physics Finance department. Following receipt of the PO, the University shall issue the Customer with a new Web API access key that is valid for 1 year from the date of the PO and the Customer will be granted immediate access to the Service. The University reserves the right to reject any PO in its discretion, for any or no reason.

- 7.4 The University shall then issue the Customer with an invoice for the Price. The University shall revoke access to the Services if payment of the Price is not received by the University in full and cleared funds within 30 days from the date of the invoice.
- 7.5 The Price is exclusive of amounts in respect of value added tax (VAT) or any other relevant taxes. The Customer shall, on receipt of a valid VAT invoice from the University, pay to the University such additional amounts in respect of VAT as are chargeable on the supply of the Services.
- 7.6 When signing up for an account on the API Website the Customer shall provide the University with complete and accurate personal information.
8. **MONITORING**
- The University shall have the right to access the Web API at any time and to monitor the Customer's use of the Web API to ensure the Customer's compliance with these Conditions.
9. **AVAILABILITY AND UPDATES**
- 9.1 The Web API is provided to the Customer without any guarantee of continued availability. In the event of disruption or degradation of the service for any reason, the University shall use reasonable endeavours to return the Web API to operation.
- 9.2 The University may make changes to the Web API at any time and for any reason and will notify the Customer of any changes by email.
10. **WARRANTIES**
- 10.1 All warranties, conditions, terms, undertakings or obligations whether express or implied and including any implied terms relating to quality, fitness for any particular purpose, reasonable skill and care or ability to achieve a particular result are excluded to the fullest extent allowed by applicable law.
- 10.2 The Customer accepts that the Web API is provided on an 'AS IS' basis and that:
- 10.2.1 the Web API may not be free of bugs or errors and that the existence of minor bugs or errors shall not constitute a breach of these Conditions;
- 10.2.2 the Customer remains responsible for its own hardware, content and any other data uploaded through the Web API;
- 10.2.3 the University accepts no responsibility for any liability that arises in connection with anyone else unlawfully obtaining access to the Customer's account in order to abuse the nature and intent of the Web API; and
- 10.2.4 the University accepts no responsibility for any liability that arises in connection with the theft of the Customer's username or password by unauthorised third parties.
- 10.3 The University does not warrant that the Web API shall be:
- 10.3.1 uninterrupted or error free; or
- 10.3.2 compatible with third party software or equipment.
- 10.4 Any warranties by the University depend on the Customer using the Web API in compliance with these Conditions, and the University shall not be liable, nor be required to fix, any problem arising from:
- 10.4.1 any modification made to any part of the Web API by anyone other than the University without the University's express prior written consent; or

10.4.2 any defect or error wholly caused by any equipment or third party software used in connection with the Web API.

10.5 The API Data provided by the Web API is intended as a guide only and no information provided by the Web API is to be taken, or relied upon, as advice. The University makes no warranties, representations or undertakings about any of the information or about results to be obtained from using the Web API (including, without limitation, any as to its quality, accuracy, completeness or fitness for any particular purpose) and the University accepts no liability whatsoever for any action or omission taken by the Customer in relation to the Information. Any reliance the Customer places on the API Data is solely at the Customer's own risk.

## 11. INDEMNITY

The Customer shall indemnify, and keep indemnified, the University from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the University as a result of or in connection with the Customer's breach of any of the Customer's obligations under the Contract.

## 12. LIMITATION OF LIABILITY

12.1 Nothing in these Conditions shall limit or exclude the University's liability for:

12.1.1 death or personal injury caused by negligence;

12.1.2 fraud or fraudulent misrepresentation; or

12.1.3 any other losses which cannot be excluded or limited by applicable law.

12.2 Subject to clauses 12.1 the University shall not be liable for any:

12.2.1 loss or damage arising out of any virus or other malicious code;

12.2.2 loss of profit (whether direct or indirect) whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract; or

12.2.3 indirect or consequential loss whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.

12.3 Subject to clauses 12.1 and 12.2, the University's total liability to the Customer in respect of all other losses (including indemnified losses) arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the Price.

## 13. INTELLECTUAL PROPERTY

13.1 The Customer acknowledges that the University (or its third party licensor) is the absolute owner of the Intellectual Property Rights in the Web API and the Customer shall not assert or attempt to assert any rights in relation to the Intellectual Property Rights in the Web API.

13.2 The Customer shall not use or exploit the University's Intellectual Property Rights other than as set out in these Conditions or as agreed with the University in writing.

13.3 The University warrants that the Customer's use of the Web API will not infringe the Intellectual Property Rights of any third party.

## 14. DATA PROTECTION

The University will process the Customer's personal data in accordance with the University's data protection policy a copy of which is available at <https://www.sheffield.ac.uk/cics/dataprotection>.

15. **FORCE MAJEURE**

15.1 A party shall not be liable if delayed or prevented from performing its obligations due to Force Majeure, provided that it:

15.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and

15.1.2 uses best endeavours to minimise the effects of that event.

15.2 If, due to Force Majeure, a party:

15.2.1 is or shall be unable to perform a material obligation; or

15.2.2 is delayed in or prevented from performing its obligations for a continuous period exceeding 14 days or a total of more than 30 days in any consecutive period of 60 days;

the other party may, terminate the Contract on immediate notice.

16. **TERMINATION**

16.1 If the Customer becomes subject to any of the events listed in clause 16.2, or the University reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the University, the University may terminate the Contract without incurring any liability to the Customer.

16.2 For the purposes of clause 16.1, the relevant events are:

16.2.1 the Customer 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 or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or has any partner to whom any of the foregoing apply; or

16.2.2 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer; or

16.2.3 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or

16.2.4 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer; or

16.2.5 a floating charge holder over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver; or

16.2.6 a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; or

16.2.7 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.2.1 to clause 16.2.6 (inclusive); or

16.2.8 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business.

- 16.3 Upon termination of this Contract the Customer's right to use the Web API and Services will automatically terminate, and the University shall shut down or restrict the Customer's access to the Web API.
- 16.4 Without prejudice to any other rights or remedies they may have, either party may immediately terminate the Contract if the other party commits a serious breach of the Contract and, in the case of a breach which is capable of remedy, fails to remedy the breach within 20 Business Days of receiving notice from the other party giving details of the breach and requiring it to be remedied.
- 16.5 Without prejudice to any other rights or remedies the University may have, the University may immediately terminate the Contract if the University becomes aware that the Customer's acts or omissions bring the University into disrepute or attract adverse publicity.
- 16.6 Termination or expiry of the Contract shall not affect any accrued rights and liabilities of the University at any time up to the date of termination.
17. **GENERAL**
- 17.1 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the University which is not set out in the Contract. Any descriptive matter or advertising issued by the University shall not form part of the Contract.
- 17.2 Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Customer's obligations only.
- 17.3 The Customer shall at the request of the University, and at the Customer's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.
- 17.4 No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, the University.
- 17.5 The Customer may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without the University's prior written consent.
- 17.6 The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
- 17.7 The Customer recognises that any breach or threatened breach of the Contract may cause the University irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to the University, the Customer acknowledges and agrees that the University is entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.
- 17.8 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 17.9 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

- 17.10 No failure, delay or omission by the Contract in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 17.11 The Customer shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.
- 17.12 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.
- 17.13 The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 17.14 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).