
ALLUME ENERGY PTY LTD

TERMS AND CONDITIONS

Revision A1

TERMS AND CONDITIONS OF USE

1 About

1.1 Allume Energy Pty Ltd (ACN 605 671 494) (**Allume Energy**) provides the Premises Controllers and their Occupants with:

- (a) the Portal; and
- (b) any other products and services we release from time to time,

which allows Occupants to access, monitor and manage solar electricity provided through SolShare Hardware (the **Services**). Details of the Services are found on our website www.allumeenergy.com.au (the **Website**).

2 Acceptance of these Terms

2.1 You accept these terms and conditions (the **Terms**) by registering for the Services, browsing the Website, by creating an account or using the Portal. By using the Website or Services, browsing the Website, or signing up to the Services signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease use of the Website and the Services immediately.

2.2 You may not use the Services and may not accept the Terms if:

- (a) you are not of legal age to form a binding contract with Allume Energy;
- (b) you do not possess the legal right and ability to enter into a legally binding agreement on your own behalf or on any relevant business; or
- (c) you are a person barred from receiving the Services under the laws of Australia or other countries including the country in which you are resident or from which you use the Services.

2.3 By engaging Allume Energy, you acknowledge and understand that Allume Energy does not provide you with any specialist, professional or technical advice. For further information, please read the Terms carefully.

2.4 Allume Energy reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Allume Energy updates the Terms, it will use reasonable endeavours to provide you with notice of the same. Any changes to the Terms take immediate effect from the date of their publication. If you choose not to accept any changes to the Terms, your sole recourse will be to stop using the Services. Before you continue, we recommend you keep a copy of the Terms for your records.

3 Account Set Up

3.1 To access the Services, you are required to register for an account with Allume Energy (the **Account**). You may register for an account via the Website or by contacting Allume Energy directly.

3.2 As part of the registration process or as part of your continued use of the Services, you will be required to provide personal information about yourself (such as identification, contact details, and other personal information).

3.3 You understand that by supplying Allume Energy with your address, email address and phone

number, you may receive regular emails, newsletters, telephone calls or SMS updates from Allume Energy to keep you informed about Allume Energy's activities. If you do not wish to receive updates from Allume Energy, you may contact Allume Energy at privacy@allumeenergy.com.au.

4 Privacy

- 4.1 You agree and acknowledge that Allume Energy will hold and use any Personal Information and User Data provided in relation to the Services in accordance with these Terms and the privacy policy available on the Website.

5 Identity Verification

- 5.1 You acknowledge and agree that due to the nature of the Services, Allume Energy may be required to verify your identity to ensure that you are not using the Services in an illegal or fraudulent manner.
- 5.2 You warrant that where Allume Energy advises you in writing that they require further verification of your identity, you will make all reasonable endeavours to comply with this request within seven (7) days of receipt of same.
- 5.3 You warrant that any information that you provide pursuant to this clause will be true and correct to the best of your knowledge and belief and failure to comply with this clause will warrant an immediate termination of the provision of the Services to you.

6 Your Obligations

- 6.1 You agree and acknowledge that you will:
- (a) comply with all laws;
 - (b) provide and continue to provide us with accurate and up to date information;
 - (c) use the Portal in accordance with these Terms;
 - (d) provide all necessary information, documentation and assistance required by us;
 - (e) maintain the confidentiality of all identification and log-in information required by you to access and use the Portal;
 - (f) co-operate with us as we reasonably require;
 - (g) ensure that any devices on which you use the Portal are in good, up-to-date working order and operating condition; and
 - (h) protect the Portal from unauthorised access, use or damage.
- 6.2 You acknowledge that Allume Energy has entered into these Terms in reliance on the acknowledgements, representations and warranties given by you in these Terms.
- 6.3 If you are a Premises Controller, then you warrant that you will:
- (a) provide Allume Energy written notice of all laws, regulations, and codes that apply to your use of User Data or the provision of the Services to you prior to Allume Energy providing your Occupants access to the Portal; and
 - (b) you and your Representatives will not breach any law regarding the use, access or control

of any User Data.

7 Services

7.1 By Allume Energy offering its Service to you, you agree and acknowledge that:

- (a) Allume Energy may receive a commission from third parties in relation to provision of the Services to you;
- (b) Allume Energy does not, at any time, provide any guarantees whatsoever, whether express or implied, with respect to the success of the Service;
- (c) you shall remain solely responsible for assessing the implications and risks of using the Services;
- (d) these Terms do not create a relationship of employment, trust, joint venture, agency, partnership or other relationship of a fiduciary nature between the parties;
- (e) We may, upon reasonable notice to you, audit your use of the Portal for compliance with these Terms. In the event that such audit reveals any use of the Portal by you otherwise than in compliance with these Terms then, in addition to any other rights or remedies available to us under these Terms or at law, you shall indemnify us for:
 - (i) all reasonable expenses related to such audit; and
 - (ii) other liability or loss of revenue that we incur as a result of such non-compliance.

7.2 You acknowledge that Allume Energy has entered into these Terms in reliance on the acknowledgements, representations and warranties given by you in these Terms.

8 Intellectual Property

8.1 The Website, the Services and all of the related products and services of Allume Energy (the **Material**) are solely owned by Allume Energy or its licensors. Unless otherwise indicated, all Intellectual Property Rights (including copyright) in the content and compilation of the Materials (including but not limited to text, graphics, logos, button icons, video images, audio clips, Website, code, scripts, lists, design elements and interactive features) (the **Content**) are owned or controlled for these purposes and are reserved by Allume Energy or its licensors.

8.2 Allume Energy retains all Intellectual Property Rights, rights, title and interest (including copyrights, design, patents and trademarks) in the Portal, including the Material, the Content, and all related content therein. Nothing you do will transfer any interest in the Material to you, other than the grant of the licence to you below.

8.3 Whilst using the Services, Allume Energy grants you a worldwide, non-exclusive, royalty-free, revocable licence during these Terms to:

- (a) use the Portal pursuant to these Terms;
- (b) download the Material and the Content;
- (c) your sole use of the Material and Content;
- (d) copy and store the Material and Content; and
- (e) print pages from the Website for your own personal use.

- 8.4 Allume Energy does not grant you any other rights whatsoever in relation to the Material and/or the Content. All other rights are expressly reserved by Allume Energy.
- 8.5 You may not, without the prior written consent of Allume Energy and the permission of any other relevant rights owner: broadcast, republish, upload to a third party, transmit, post, distribute, show or display or publish in public, adapt or change in any way the Material or Content for any purpose, other than for the purposes expressly allowed by these Terms. This prohibition does not extend to the Material and Content which are freely available for re-use or are in the public domain.

9 Material and Content

- 9.1 You may read and copy the Material and Content for your own needs, but you may not publish, resell or sub-licence it. Allume Energy makes no guarantees, representations or warranties about the accuracy or legal correctness of any of the Material or Content.
- 9.2 Third Party Content
- (a) Allume Energy works with a number of partners and affiliates whose websites or mobile phone applications or databases may be linked with or provided by Allume Energy and are controlled by parties other than Allume Energy (each **Third Party Content**).
 - (b) Allume Energy is not responsible and does not endorse or accept any responsibility for the availability, contents, products, services or use of any Third Party Content, any website accessed from any Third Party Content or any changes or updates to such sites. Allume Energy makes no guarantees about the content or quality of the products or services provided by such third parties.
 - (c) By using any information, product, service, or functionality originating from the Services, you are allowing Allume Energy to share information with any third party with whom Allume Energy has a pertinent contractual relationship – any information necessary to facilitate its provisions of products, services, or functionality to you.

10 User Data

10.1 Ownership

- (a) Your User Data remains your property.
- (b) You grant us a non-exclusive, non-transferable, royalty-free, worldwide licence to access, copy, modify, use and store your User Data to the extent necessary for:
 - (i) the purposes of accessing and using the Portal and performing our obligations under these Terms; and
 - (ii) performing analytics, conducting research and developing user insights and products (**Derivative Works**).
- (c) Allume Energy will be the sole owner of the Derivative Works. You assign all Intellectual Property Rights, rights, title and interest (including copyrights, design, patents and trademarks) that may be created or existing in the Derivative Works to Allume Energy.

10.2 Allume Energy

You acknowledge and agree that Allume Energy may provide the User Data to any third party with a reasonable use of the User Data, including, but not limited to:

- (i) Any government agency or body;
- (ii) Your Premises Controller; and
- (iii) Law enforcement;

10.3 Loss

We and our Representatives will not be liable for any loss, corruption or destruction in the accessibility or useability of your User Data.

11 Energy Data

11.1 We own all Energy Data generated by the Portal.

11.2 We grant you a non-exclusive, non-transferable, royalty-free and revocable, worldwide licence to access and view your Energy Data to the extent necessary for using the Portal in accordance with these Terms.

11.3 We may, at our sole and absolute discretion, disclose, share or sell Energy Data to third parties provided that all such Energy Data is non-identifiable and anonymised.

12 Allume Energy's use of your material

12.1 By engaging Allume Energy to perform the Service, you acknowledge and agree that Allume Energy is granted an irrevocable, perpetual, worldwide, royalty free right to use your trade mark, logo, photographs, testimonials, feedback or name for the purpose of promoting Allume Energy or the Services, now and in the future. This includes any promotion, testimonials, marketing or advertising by way of online, in print, in social media, in competitions, advertisements, books and magazines, design publications and any other self-promotional or demonstrative purpose.

13 Confidentiality

13.1 If you receive or become aware of any Confidential Information that belongs to us, you must not use or disclose that Confidential Information, this includes that you will not divulge any Confidential Information to any third party or use the Confidential information for your own or another's benefit or for any personal use, except to the extent required to:

- (a) fulfil your obligations and exercise your rights under these Terms;
- (b) comply with the requirements of the law,
- (c) but before making any disclosure you must:
 - (i) notify us in writing as soon as reasonably practicable; and
 - (ii) only disclose that part of the Confidential Information as is necessary to comply with relevant requirements.

14 General Disclaimer

14.1 Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.

- (a) If you are not a Consumer (under the Australian Consumer Law), you agree that Allume Energy has no direct or indirect liability (including in negligence) to you in any way related

to your use of the Website or the Services.

- (b) If you are a Consumer (under the Australian Consumer Law), Allume Energy limits all its direct and indirect liability (including in negligence) to you to the Consumer Guarantees under the Australian Consumer Law.
- (c) Where there is a breach of the Consumer Guarantees, then to the maximum extent permitted by law, Allume Energy's liability to you is limited to resupply of the Services or payment of the cost of re-supplying the Services.

14.2 Subject to this clause and to the extent permitted by law:

- (a) Allume Energy excludes all representations, warranties or guarantees, whether express or implied, by statute, trade or otherwise; and
- (b) Allume Energy will not be liable for any Claims, causes of action, damage or expenses arising out of or in connection with the Website or the Services (including as a result of not being able to use the Services or the late supply of the Services), whether at common law, in equity, pursuant to statute, or otherwise.

15 Limitation of liability

15.1 Allume Energy's total liability arising out of or in connection with the Services or the Terms, however arising, including at law, in equity, under statute, or otherwise, will not exceed the resupply of the Service to you.

15.2 You expressly understand and agree that Allume Energy will not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you or your Representative, however caused and under any theory of liability. This includes, but is not limited to, any Consequential Loss.

15.3 You expressly understand and agree that Allume Energy will not be liable to you for your use of the information in the Services.

16 Indemnity

16.1 You agree to indemnify Allume Energy and its Representatives from and against all Claims, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with:

- (a) inaccurate or misleading information provided by you or your Representative;
- (b) you or your Representatives' use, access, or control of User Data;
- (c) any breach of the Terms by you or your Representative; or
- (d) any direct or indirect consequences of you or your Representative accessing, using or transacting on the Website or the Services or attempts to do so.

16.2 This indemnity will survive termination of the Terms.

17 Termination of Services

17.1 The Terms will continue to apply until the deletion of your account, or until terminated by Allume Energy as set out below.

17.2 You may cancel your account at any time through the functionality provided on the Portal or with

written notice to Allume Energy.

17.3 Allume Energy may at any time without notice, terminate the Terms with you if:

- (a) you have breached any provision of the Terms or intend to breach any provision;
- (b) Allume Energy is required to do so by law;
- (c) the partner, if any, with whom Allume Energy offered the Services to you has terminated its relationship with Allume Energy or ceased to offer the Services to you;
- (d) Allume Energy is transitioning to no longer providing the Services to Users in the country in which you are resident or from which you use the service;
- (e) the provision of the Services to you by Allume Energy is, in the opinion of Allume Energy, no longer commercially viable;
- (f) if you have used the Services:
 - (i) in breach of any law;
 - (ii) in a way that is misleading or deceptive;
 - (iii) in a way which is unreasonable as determined by Allume Energy at its absolute discretion; or
 - (iv) in a manner which can or does bring Allume Energy into disrepute or could damage Allume Energy's reputation as determined by Allume Energy at its absolute discretion.

17.4 Subject to local applicable laws, Allume Energy reserves the right to discontinue or cancel your access to the Services at any time and may suspend or deny, in its sole discretion, your access to all or any portion of the Website or the Services without notice if you breach any provision of the Terms or any applicable law or if your conduct damages Allume Energy's name or reputation or violates the rights of those of another party.

17.5 Upon the termination of your account, all of the legal rights, obligations and liabilities that you and Allume Energy have benefited from, been subject to (or which have accrued over time whilst the Terms have been in force) or which are expressed to continue indefinitely, shall be unaffected by this cessation, and the provisions of this clause shall continue to apply to such rights, obligations and liabilities indefinitely.

18 Force Majeure Event

18.1 If a Force Majeure Event prevents us from performing, in whole or in part, our obligations under these Terms, we will give you written notice of the Force Majeure Event and the anticipated impact on our performance of our obligations.

18.2 If a Force Majeure Event continues for more than 30 days, either party may terminate these Terms by written notice to the other without liability for damages of any kind, including for Consequential Loss.

19 Dispute Resolution

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been

complied with (except where urgent interlocutory relief is sought):

- (a) A party to the Terms claiming a dispute (Dispute) has arisen under the Terms, must give written notice to the other party detailing the nature of the Dispute, the desired outcome and the action required to settle the Dispute.
- (b) On receipt of that notice (Notice) by that other party, the parties to the Terms (the Dispute Parties) must within seven (7) days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree.
- (c) If for any reason whatsoever, twenty-one (21) days after the date of the Notice, the Dispute has not been resolved, the Dispute Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the Australian Mediation Association or his or her nominee.
- (d) The Dispute Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing.
- (e) It is agreed that the mediation will be held in Melbourne, Victoria, Australia.
- (f) For the avoidance of doubt, the Dispute Parties need not attend the mediation or other means of resolution in person. The Dispute Parties may attempt to resolve the matter via any means of electronic communications.
- (g) All communications concerning negotiations made by the Dispute Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.
- (h) If thirty (30) days have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Dispute Party may ask the mediator to terminate the mediation and the mediator must do so.
- (i) In the event that the Dispute is not resolved at the conclusion of the mediation, either Dispute Party may institute legal proceedings concerning the subject matter of the Dispute thereafter.

20 Governing Law and Jurisdiction

The Services offered by Allume Energy are intended for residents of Australia. These Terms are governed by and are to be constructed in accordance with the laws of the State of Victoria, Australia. You submit to the exclusive jurisdiction of the courts situated in Melbourne, Victoria, Australia in respect of all matters arising out of or relating to these Terms, the Website, the Services and their performance.

21 Notice

- 21.1 Allume Energy may provide any notice to you under the Terms by sending a message to your email address. The notice provided by Allume Energy to you by email shall be deemed to have been properly given on the date Allume Energy sends the email, regardless of whether you have received the email.
- 21.2 Unless specified otherwise, any notices provided by you to Allume Energy must be in writing and

be delivered either in person, or via registered post to 1/1 Bromham Place, Richmond, Victoria 3121 to the attention of the Chief Operations Officer. Notices provided by registered post shall be deemed to have properly given three days after they are posted (if posted).

22 Severance

If any part of the Terms is found to be void or unenforceable, that part shall be severed and the rest of the Terms shall remain in force.

23 Waiver

23.1 A waiver of any right, power or remedy under this Agreement must be in writing signed by the party granting it.

23.2 A waiver is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

23.3 The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement does not amount to a waiver.

24 Assignment

24.1 Allume Energy may assign or transfer its rights or obligations under the Terms without your consent.

24.2 You may not assign or transfer your rights or obligations under the Terms without prior written consent of Allume Energy. A purported assignment without written consent will be deemed to be void and convey no rights.

25 Definitions and Interpretation

25.1 Definitions

In these Terms, the following definitions apply:

Allume Energy, "us", "we" and "our" means Allume Energy Pty Ltd ACN 605 671 494, and includes its Representatives and related bodies corporate;

Australian Consumer Law means the Competition and Consumer Act (2010) Cth Schedule 2;

Claim means any claim, demand, remedy, suit, action, proceeding, right of action, claim for compensation or claim for abatement of any monetary obligation, whether arising under contract (including these Terms), in tort (including negligence), at common law, in equity, under statute, under an indemnity or otherwise;

Confidential Information means all confidential, non-public or proprietary information exchanged between the parties relating to the affairs of each party or which comes into a party's possession pursuant to, or as a result of, any negotiations or discussions in connection with these Terms including the existence, nature and terms of these Terms, whether disclosed verbally, in writing, in electronic form or by any other means;

Consequential Loss means the following, however arising and even if it is reasonably contemplated by the parties as a likely result of breach of these Terms:

(a) incidental, special, remote or unforeseeable loss or damage;

- (b) loss of, damage to, breach of, or corruption of data;
- (c) breach of security;
- (d) loss of revenue, profit, income, bargain, opportunity, use, production, business, contract, goodwill, reputation, anticipated savings, loss caused by business interruption, or the cost of obtaining new financing or maintaining existing financing, but excluding loss of any amounts that would, but for the act or omission of a party, have otherwise been payable under these Terms;
- (e) costs or expenses incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a third party; or
- (f) loss or damage of the nature set out above in clauses (a) to (e) (inclusive) that is incurred or suffered by or to a third party;

"**you or "your"** means the user of the Portal;

User Data means:

- (a) any information, text, drawings or other materials which are embodied in any electronic or tangible medium and which are supplied by you to use;
- (b) your Personal Information; and
- (c) Confidential Information belonging to you,

but excludes (to the extent that it doesn't fall within the above categories in (a) - (c) inclusive):

- (a) Energy Data;
- (b) the Portal; and
- (c) Confidential Information belonging to us;

Energy Data means data generated through the use of the Portal and the SolShare Hardware and includes, but is not limited to, information regarding:

- (a) the consumption of solar electricity by each Occupant;
- (b) the consumption of electricity from the grid by each Occupant; and
- (c) exports of solar electricity to the grid by each Occupant.

Force Majeure Event means any event or occurrence outside the reasonable control of a party regardless of whether it is reasonably contemplated by the parties as a likely result of breach of the Agreement;

Intellectual Property (IP) Rights includes all industrial and intellectual property rights, and includes any patents, registered designs, copyright (including future copyright), trade or service marks (whether registered or unregistered), trade secrets, know-how, rights in relation to circuit layouts, or other proprietary right, and applications for, and rights to apply for, registration of any of the foregoing;

Major Update means an Update that will or is likely to materially affect your ability to access and use the Portal as contemplated by this Agreement;

Material means material in whatever form, including without limitation documents, specifications, reports, products, equipment, information, data, graphic layouts, images and software;

Occupant means any person or business that is occupying part of the Premises;

Personal Information means data by which a person may be personally identified, including a person's name, postal address, email address, telephone number and any other information a party collects, including that which is defined as personal or personally identifiable information under applicable Privacy Laws;

Portal means Allume Energy's software that allows a Premises Controller or Occupant to monitor an Occupant's electricity usage at the Premises;

Premises means the building and the land that the Premises Controller manages or controls or in which the Occupant is a resident or tenant;

Premises Controller means the housing provider, body corporate, or government body that manages or controls the Premises;

Privacy Laws means the Privacy Act 1988 (Cth) and any applicable State or Territory law in relation to privacy;

Representative means, in respect of a party, any person acting for or on behalf of the party and includes any director, officer, employee, agent, contractor or sub-contractor of the party;

SoIShare Hardware means Allume Energy's behind-the-meter solar sharing system installed in the Premises; and

Update means, in relation to the Technology, software which has been provided or produced to alter, improve or add to the functionality of the Technology or to overcome defects in the Technology.

25.2 Interpretation

In the interpretation of this Agreement:

- (a) references to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;
- (b) words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, references to documents or agreements also mean those documents or agreements as changed, novated or replaced, and words denoting one gender include all genders;
- (c) grammatical forms of defined words or phrases have corresponding meanings;
- (d) parties must perform their obligations on the dates and times fixed by reference to the capital city of Victoria;
- (e) if the day on or by which anything is to be done under this Agreement falls on a day which is not a Business Day, then it must be done on the next Business Day;
- (f) references to a party are intended to bind their executors, administrators and permitted transferees;
- (g) the word "including" (and related forms including "includes") will be understood as meaning

"including without limitation";

- (h) the terms and provisions of this Agreement will not be construed against the drafter, and the parties agree that the language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any of the parties;
- (i) references to numbered clauses, paragraphs and schedule are references to the relevant clause or paragraph in or schedule to this Agreement; and
- (j) obligations under this Agreement affecting more than one party bind them jointly and each of them severally.