



Your partner in **SUSTAINABLE BUSINESS ENERGY**

**TERMS AND CONDITIONS EMS
GENERATION GREEN**

INDEX

1	Definitions.....	3
2	General.....	5
3	offer.....	6
4	Conclusion of the agreement.....	7
5	commencement, duration and termination of the agreement.....	8
6	Performance of the agreement.....	10
7	Responsibilities.....	11
8	access, code of conduct, and enforcement.....	12
9	usage rights.....	13
10	data and measurement data.....	14
11	installation, configuration, expansions and updates.....	15
12	support requests.....	16
13	availability.....	17
14	payments and due date.....	18
15	changes and adjustments.....	19
16	Force majeure.....	20
17	right of retention.....	21
18	availability and dependency on third parties.....	22
19	liability.....	23
20	intellectual prpoerty rights.....	24
21	processing of personal data.....	25
22	applicable law and disputes.....	27
23	other provisions.....	28

1 DEFINITIONS

The following terms used in these General Terms and Conditions of EMS Generation Green, written with a capital letter, have the meaning assigned to them in this article:

Offer:	A proposal made by Generation Green to the User regarding EMS prior to the conclusion of an Agreement, which will form part of the Agreement. This proposal describes the proposed standard and/or customized (partial) solutions based on one or more components of the EMS, the one-time and/or recurring fees associated with them, and the payment and scheduling arrangements, as well as other conditions.
General terms and conditions:	These general terms and conditions of Generation Green regarding EMS;
Data:	The combination of entered Data and Personal Data and the collected Measurement Data from the User;
Services:	The various combinations of one or more components of the EMS that provide a standard solution or a customized solution to Users.
Documentation:	The descriptions and manuals regarding the EMS prepared by Generation Green;
EMS:	Energy management system; the collective name for the combination of Hardware, Firmware, Software, and Services developed and delivered by or on behalf of Generation Green for the User, which together form the energy management system;
Generation Green:	SolarOplossing B.V., operating under the name Generation Green, registered in the Trade Register of the Chamber of Commerce under number 75473127, and/or its affiliated companies and subsidiaries, including but not limited to SO Commercial B.V., registered in the Trade Register of the Chamber of Commerce under number 88700364, and SO Industrial B.V., registered in the Trade Register of the Chamber of Commerce under number 88700437;
Firmware:	The software components of the EMS that run on the Hardware;
User:	The counterparty of Generation Green in an Agreement;
Usage Fee:	The fee that the User must pay to Generation Green for the use of the EMS;
Data:	The data entered by the User, which is stored in/by the EMS.
Hardware:	The printed circuit boards, enclosures, wiring, and accessories developed and delivered by or on behalf of Generation Green, with which Measurement Data from energy-related devices and/or third-party-made/provided measuring equipment or sensors can be received, processed, and transmitted via the Firmware to the Software. It can also receive commands from or via the Services and Software and transmit them to the energy-related devices or third-party-made measuring equipment or sensors;
Measurement data:	The data collected by the Hardware regarding energy and energy-related devices, as well as from third-party-made/provided measuring equipment or sensors, transmitted via the Firmware to the Software and made accessible to the User via various Services;
Agreement:	The agreements between Generation Green and the User after the User's acceptance of an Offer, which relate to the EMS to be delivered or already delivered. Depending on the arrangements made, this may be a purchase agreement, a usage agreement, a service agreement, or a lease agreement combined with financial arrangements and payment terms. In any case, the ownership rights, usage rights, and obligations of both parties are recorded,

unless described in these General Terms and Conditions or if they deviate from these General Terms and Conditions.

- Personal data: The data entered by the User, stored in the EMS, and subject to privacy legislation;
- Arrangements: The intelligent combination of Data, Measurement Data, and Control Signals to achieve the energy-related goals of the User with the delivered or to be delivered EMS;
- Software: The software components of the EMS developed by or on behalf of Generation Green, responsible for communication, security, integration, storage, processing, and providing Data via user interfaces, running on secured servers (physical, virtual, or cloud), and initiating or passing on internally or externally triggered Control Signals;
- Control signals: The internally and externally triggered commands to influence the energy-related devices and/or third-party measuring equipment to achieve the User's goals with the delivered EMS according to one or more Arrangements. This can range from simply turning on or off to a complex set of energy-related Arrangements working together according to set priorities.

2 GENERAL

- 2.1. These General Terms and Conditions apply to the establishment, content, and performance of all current and future legal relationships, as well as all related or subsequent relationships between Generation Green and the User with respect to EMS, and also to all Offers and/or Agreements made by Generation Green, and form an integral part thereof.
- 2.2. These General Terms and Conditions also apply for the benefit of the directors and shareholders of Generation Green, all persons who are or were directly or indirectly employed or involved with Generation Green, whether as shareholders, directors, employees, advisors, third-party contractors, or in any other capacity. These General Terms and Conditions are considered to be a third-party stipulation in the sense of article 6:253 of the Dutch Civil Code.
- 2.3. Unless previously accepted by the User, the User automatically accepts these General Terms and Conditions by using the EMS delivered or to be delivered in accordance with the Agreement.
- 2.4. In the case of any conflict between provisions of the Agreement and provisions of these General Terms and Conditions, the relevant provisions of the Agreement shall prevail.
- 2.5. Deviations from the Agreement or these General Terms and Conditions, including agreements, promises, or arrangements, are only valid if and to the extent that these are explicitly confirmed in writing by a representative of Generation Green who is authorized to do so according to the registration of Generation Green in the Trade Register. Deviations and/or additions apply solely to the specific case and no rights can be derived from them for later legal relationships or future Offers and/or Agreements.
- 2.6. The applicability of any general terms and conditions of the User is expressly rejected.
- 2.7. If Generation Green does not always demand strict compliance with these General Terms and Conditions, this does not mean that the provisions are no longer applicable, or that Generation Green loses the right to demand strict compliance with these provisions in other cases.

3 OFFER

- 3.1 Generation Green makes the Offer in writing, electronically, or orally.
- 3.2 Offers from Generation Green are always non-binding and subject to changes, even if a period for acceptance is stated.
- 3.3 No rights can be derived from the information on websites, brochures, flyers, newspapers, or other (social) media where the EMS is advertised. The information mentioned in such media is only indicative. Only after written confirmation by Generation Green can this information be considered correct, except for obvious omissions and errors.
- 3.4 An Offer from Generation Green is personal and may not be reproduced or made available to third parties without the consent of Generation Green.
- 3.5 The Offer also includes a description of the steps required before the User can proceed to the actual use of the EMS.
- 3.6 Generation Green cannot be held to its Offer if the User reasonably could have, or should have, understood that the Offer, or one or more parts of it, contains an obvious mistake.
- 3.7 The prices and fees mentioned by Generation Green in an Offer, Agreement, or promotional material are exclusive of VAT and other levies imposed by the government, unless explicitly stated otherwise.
- 3.8 A composite price quote does not obligate Generation Green to perform a part of the Offer at a corresponding portion of the stated price.
- 3.9 Offers do not automatically apply to future Agreements.
- 3.10 Generation Green has the right to withdraw the Offer within 30 days after acceptance.

4 CONCLUSION OF THE AGREEMENT

- 4.1 The Agreement between Generation Green and the User is concluded upon acceptance and signing of the Offer by the User and the acceptance and signing thereof by Generation Green.
- 4.2 If the Offer is accepted orally or electronically by the User, Generation Green will send written or electronic confirmation of acceptance to the User, after which the agreed Agreement will be drawn up and offered to the User in writing or electronically for mutual signature.
- 4.3 Generation Green has the right to set reasonable conditions regarding the technical aspects in the broadest sense with respect to the installation, connection, and equipment of the User in relation to the delivered/to be delivered EMS.
- 4.4 Changes to the Agreement, including deviations from the General Terms and Conditions, can only be evidenced by the User through a signed written confirmation from an authorized representative of Generation Green.
- 4.5 Previously agreed deviations from the General Terms and Conditions, Offers, or Agreements do not apply to future Offers and Agreements.
- 4.6 Changes to the Agreement after acceptance, at the User's request, may result in agreed deadlines being exceeded by Generation Green. In that case, the User is not entitled to compensation, termination, and/or suspension.
- 4.7 Unforeseen deviations at the time of installation on site that lead to significant additional work compared to what was agreed in the Agreement may result in Generation Green exceeding the agreed deadlines. In that case, the User is not entitled to compensation, termination, and/or suspension, and discussions will be held with the User regarding how to handle this.

5 COMMENCEMENT, DURATION AND TERMINATION OF THE AGREEMENT

- 5.1 The Agreement enters into force on the date specified in the Agreement and ends in accordance with the provisions of the Agreement.
- 5.2 Generation Green has the right to terminate the Agreement with immediate effect without further notice, judicial intervention, or any obligation to compensate damages, if (in the case of the User being a legal entity):
- The User has requested suspension of payments;
 - The User has applied for bankruptcy;
 - The User has been declared bankrupt;
 - This results from a legal obligation or a court order;
 - The User has ceased or is dissolving and liquidating its activities (in whole or in part);
 - A substantial portion of the User's assets (50% or more) has been seized in execution;
 - There is a change in control in the User, its shareholders' meeting, or management compared to the situation at the time of signing the Agreement;
 - The User has failed to fulfill its payment or other obligations to Generation Green, and the default has not been rectified within 10 days of notification;
 - The User breaches the General Terms and Conditions and/or any obligation under the Agreement, and this breach justifies termination by Generation Green;
 - Generation Green discovers misuse of the EMS by the User;
 - The User makes an unauthorized modification to the system that was not authorized in writing by Generation Green;
 - Generation Green deems it necessary to protect the integrity and security of the EMS and its connected equipment or the User's regulated equipment; and
 - Or (in the case of the User being a natural person):
 - The User has requested suspension of payments;
 - The User has applied for bankruptcy;
 - The User has been declared bankrupt;
 - The User is placed under guardianship or loses free control of their assets in any other way;
 - A request has been made under the Debt Restructuring Natural Persons Act for the User;
 - This results from a legal obligation or a court order;
 - The User has failed to fulfill its payment or other obligations to Generation Green, and the default has not been rectified within 10 days of notification;
 - The User breaches the General Terms and Conditions and/or any obligation under the Agreement, and this breach justifies termination by Generation Green;
 - Generation Green discovers misuse of the EMS by the User;
 - Generation Green deems it necessary to protect the integrity and security of the EMS and its connected equipment or the User's regulated equipment.
- 5.3 If a situation described in Article 5.2 occurs, Generation Green has the right to immediately and without further notice block the User's access credentials for a period determined by Generation Green and/or remove the Data. In this case, the User loses all rights related to the EMS, without the User or any third party having the right to compensation or damages.
- 5.4 If a situation described in Article 5.2 occurs, the User is, as a minimum compensation, Accountable to Generation Green for any amounts not yet paid by the User to Generation Green, as arising from the Agreement for the remaining duration of the current calendar year, with a minimum of six months. This does not affect the User's payment obligations for the portion of the current calendar year that has already passed. Any fees already paid will not be refunded by Generation Green. This paragraph does not affect Generation Green's right to full compensation from the User.

- 5.5 If the User is a natural person, the Agreement will be extended indefinitely unless terminated by either party with a notice period of one month. An indefinite Agreement may be terminated with a notice period of one month.
- 5.6 If the User is a legal entity, the Agreement will be extended for 12 months, unless terminated with a notice period of two months. The Agreement can then be terminated with a notice period of three months.
- 5.7 Termination must be done in writing or electronically.
- 5.8 If and once the right to use the EMS ends, the User agrees to cease using the EMS and, if possible and applicable, return or, at Generation Green's request, destroy all parts of the EMS present at the User's location.
- 5.9 Obligations that by their nature are intended to continue after the end of the Agreement will remain in effect.

6 PERFORMANCE OF THE AGREEMENT

- 6.1 Generation Green will make reasonable efforts to perform the Agreement with due care and provide the EMS. Generation Green will endeavor to ensure that the functionality of the provided EMS meets the specifications described in the Agreement or otherwise provided documentation.
- 6.2 The Agreement is executed on the basis of an obligation of effort and never on the basis of an obligation of result.
- 6.3 Generation Green is not accountable if any functionality is unavailable due to a cause attributable to the User, a supplier of Generation Green, or a third party.
- 6.4 The User may only terminate the Agreement due to a failure to meet the specified delivery deadline after having given Generation Green a reasonable period to comply with the Agreement after the agreed delivery time has passed and the delivery is still not made within this period.
- 6.5 Termination must be done in writing or electronically and can only take place if Generation Green has not met its obligations within the reasonable period set in Article 6, paragraph 4.
- 6.6 Generation Green has the right to engage helpers, including subordinates, and third parties at its own cost and risk for the performance of the Agreement.
- 6.7 All assignments are accepted and performed excluding the application of Articles 7:404, 7:407 paragraph 2, and 7:409 of the Dutch Civil Code, even if the assignment is expressly or tacitly given for performance by one particular person.
- 6.8 The User will ensure that Generation Green or its appointed helpers or third parties are provided with timely access to:
 - All places, systems, and information that reasonably need to be accessed or known for the performance of the Agreement, and
 - The approvals required for the performance of the Agreement, such as but not limited to permissions from individuals and authorities, and
 - The cooperation of third parties and employees engaged by the User, and
 - The cooperation related to necessary installation work at the User's premises, explicitly including but not limited to facilitating the de-energizing of (parts of) the installation location.
- 6.9 The User guarantees that the information and facilities provided to Generation Green by or on behalf of the User are correct and complete. The User will ensure the timely availability of this information and facilities. The execution period does not commence until the User has made this information and facilities available to Generation Green. If this information and facilities are not available at any time, the execution period will be suspended for the duration of that period.
- 6.10 The User remains solely responsible and Accountable for, among other things:
 - The management and operation of their business/organization and for the operation in which the EMS provided by Generation Green is used;
 - The consequences of decisions made by the User regarding the extent to which they wish to rely on the provided EMS, as well as the use and execution of it;
 - The consequences of decisions made by the User that affect the work and results of the EMS.

7 RESPONSIBILITIES

- 7.1 The User is responsible to both Generation Green and third parties for the use made by or on behalf of the User of the provided EMS.
- 7.2 If the User discovers that a third party is using their account or that security has been breached, they must immediately notify Generation Green.
- 7.3 The User is responsible for all Data, in any form or nature, entered into the EMS by or on behalf of them.
- 7.4 The User indemnifies Generation Green from any claims by third parties due to infringement of the rights of these third parties.
- 7.5 Generation Green is responsible for correctly receiving, processing, and sending control signals initiated by an internal or external arrangement to the firmware, which then transmits these signals via hardware to the energy-related equipment or third-party supplied measuring equipment and sensors.
- 7.6 Generation Green is not accountable for damage suffered by the User as a result of not being able to properly interpret or transmit the received control signals, or for not processing these signals correctly, due to issues in communication or energy-related equipment or third-party supplied measuring equipment and sensors.
- 7.7 Generation Green is not Accountable for any damage resulting from deviations in the accuracy of the Data and Measurement Data due to an EMS-related issue outside of Generation Green's control.

8 ACCESS, CODE OF CONDUCT, AND ENFORCEMENT

- 8.1 The hosting of the EMS and storage of the Data will be provided by and at the discretion of Generation Green. Upon agreement and at the User's expense, this may be partially or wholly located at the User's premises or a third party designated by the User.
- 8.2 The User is only allowed to use the EMS in the agreed manner.
- 8.3 The User is responsible for every use of the EMS.
- 8.4 The EMS must not be used in violation of the law, the Agreement, these General Terms and Conditions, or any third-party terms and conditions on which Generation Green or the User depends for the use of the EMS.
- 8.5 The User must behave in a manner befitting a responsible user. Specifically, the following rules apply:
 - When using the EMS, the User must not infringe on any intellectual property or other rights of Generation Green or any third party;
 - It is prohibited to copy (parts of) the EMS;
 - The User must refrain from improper conduct. Improper conduct includes, but is not limited to, behavior that violates the law, the Agreement, or these General Terms and Conditions.
- 8.6 Generation Green cannot be obligated to form a judgment on the validity of third-party claims or the User's defense or to be involved in any dispute between a third party and the User. The User must resolve these matters with the third party and fully and unconditionally indemnify Generation Green in this regard.

9 USAGE RIGHTS

- 9.1 The duration of the usage right and the annual fee payable for it are specified in the Agreement.
- 9.2 The User will use the EMS "as is", within the limits of the provided functionality and in accordance with the Agreement and these General Terms and Conditions.
- 9.3 Generation Green cannot guarantee that the EMS will always be available or operate without interruption, errors, or defects.
- 9.4 The usage right also applies to enhanced and new versions of the EMS provided to the User at any time, at Generation Green's discretion.
- 9.5 The User is not allowed to grant third parties access to or insight into the EMS, the Agreement, the provided documentation, or other information without prior consent from Generation Green.
- 9.6 The User will not disclose login credentials needed for accessing and using the EMS to third parties.
- 9.7 The User will facilitate maintenance of the EMS and will use updates of the EMS as soon as they are made available by Generation Green.
- 9.8 The User is not allowed to make changes to the EMS, other than modifying account-specific or customer-specific settings. Any other modifications are unlawful towards Generation Green.
- 9.9 The User fully indemnifies Generation Green from any third-party claims in this regard.
- 9.10 Generation Green has the right to check whether the User is using the EMS correctly. The User will cooperate with such checks.
- 9.11 (One-time) consents are only valid if they are granted in writing and explicitly by an authorized representative of Generation Green.

10 DATA AND MEASUREMENT DATA

- 10.1 Generation Green is responsible for regularly backing up the Data and Measurement Data of the User.
- 10.2 Generation Green does not provide copies or exports of Data and Measurement Data to the User but can restore the latest backup upon request from the User.
- 10.3 Both Generation Green and the User will make reasonable efforts to implement appropriate security measures to protect Data and Measurement Data from loss, damage, or theft.
- 10.4 Generation Green is not liable for any damage caused by or during the processing of Data or Measurement Data. This includes cases where Data or Measurement Data has been damaged or lost. Generation Green is not liable for the processing of Data and Measurement Data by the User or third parties.
- 10.5 The User, as the data controller for the Data, indemnifies Generation Green against any claims from third parties related to the Data.
- 10.6 All Data and Measurement Data may be used internally by Generation Green for analysis purposes to improve the EMS
- 10.7 Generation Green has the right to collect additional information beyond Data and Measurement Data for operational purposes.

11 INSTALLATION, CONFIGURATION, EXPANSIONS AND UPDATES

- 11.1 The timing of the installation and commissioning of the EMS will be agreed upon with the User.
- 11.2 Generation Green will, if agreed upon, perform the installation work to enable the User to begin using the EMS. The User may choose to carry out the installation work themselves (or have it done), with possible support from Generation Green. In this case, installation will occur at the User's own expense and risk.
- 11.3 Generation Green is responsible for configuring the EMS. Generation Green is not responsible for the installation of a browser or any other infrastructure, hardware, or software necessary to access and use the delivered EMS.
- 11.4 Generation Green will, at its discretion, release updates and new features.
- 11.5 When Generation Green has created and made a new version of the EMS available to the User, the User is obligated to adopt it. Older versions will no longer be supported.

12 SUPPORT REQUESTS

- 12.1 The User is only entitled to support if there is an Agreement in place that includes any additional support arrangements and if all invoices related to the Agreement have been fully paid.
- 12.2 The User must appoint a designated contact person within their organization to submit support requests. Support requests can only be submitted by this contact person.
- 12.3 Support requests to Generation Green can only be submitted via email to: service@generationgreen.energy.
- 12.4 To process a support request, the following is required:
 - Contact details of other relevant parties for feedback or additional information, if applicable;
 - A clear description of the issue, including (if applicable):
 - Which functionality and/or specific content (data, measurements, etc.) the support request pertains to;
 - When the issue occurred;
 - What action was taken by the User;
 - What the expected result was;
 - What the actual result was.
- 12.5 Support requests will generally be handled during regular Dutch business days (Monday to Friday), from 9:00 AM to 5:00 PM, excluding nationally recognized public holidays. This may be adjusted by mutual agreement between Generation Green and the User.
- 12.6 Generation Green guarantees a maximum response time of five business days after receiving a support request for analysis. This excludes any time required to resolve the issue.
- 12.7 The support arrangements must be extended if there are differing durations compared to the usage terms (or, if applicable, service agreements). Generation Green will provide the User with a proposal to agree on the conditions for the new period and synchronize the support duration with the usage terms (or service agreements).
- 12.8 After the end of the Agreement, the EMS will no longer be available to the User. Any data added by the User to the EMS will no longer be accessible. If the User wishes to retain access to the data after the Agreement ends, they must notify Generation Green in advance. Any services/activities performed by Generation Green will be billed based on hourly rates.

13 AVAILABILITY

- 13.1 Generation Green will make reasonable efforts to ensure that the EMS is available to the User.
- 13.2 The following will not be counted as reduced availability:
- Reduced availability due to maintenance performed on the EMS by Generation Green and/or its suppliers;
 - Reduced availability caused by actions or omissions of the User, their employees, or third parties whose actions or omissions can reasonably be attributed to the User, including issues due to (outdated) hardware, software, infrastructure, or reduced connectivity of the User;
 - Reduced availability caused by hacking, sabotage, viruses, or any other malicious actions by a third party;
 - Reduced availability due to DNS issues, VPN connection problems, and/or SSL certificate issues beyond Generation Green's control;
 - Reduced availability due to unstable electricity supply;
 - Reduced availability caused by force majeure.
- 13.3 Notwithstanding the above, the User is required to have the necessary hardware, software, and infrastructure to use the EMS and ensure that these meet the requirements set by Generation Green and what Generation Green can reasonably expect from the User.
- 13.4 Generation Green has the right to remove functionalities from the EMS if they are, in Generation Green's opinion, not used or are seldom used.

14 PAYMENTS AND DUE DATE

- 14.1 Unless otherwise agreed in writing, payment of the fees agreed upon in the Agreement must be made in accordance with the issued invoices and, for non-consumer Users, without suspension and/or set-off, by bank transfer within 14 days of the invoice date in Euros.
- 14.2 If payment is not made within the agreed payment term, the User shall owe Generation Green interest from the date the payment term expires. The interest rate is 15% per year, but at least equal to the statutory commercial interest rate (6:119a BW) if higher. For consumers, the statutory interest rate of Article 6:119 BW applies.
- 14.3 The User is liable for all actual costs (judicial and extrajudicial) incurred by Generation Green in connection with collecting its claims against the User, with a minimum of 15% of the outstanding amount, plus €250.00 per invoice. For consumers, the fee for extrajudicial costs is calculated in accordance with the Decree on compensation for extrajudicial collection costs.
- 14.4 The User must provide sufficient security for payment upon Generation Green's request. If the User fails to comply with this request within the specified time, they are automatically in default. In this case, Generation Green has the right to terminate the Agreement and claim damages from the User.
- 14.5 The User's right to offset claims against Generation Green for any reason is excluded for Users with legal personality.
- 14.6 Users with legal personality are never entitled to suspend an obligation.

15 CHANGES AND ADJUSTMENTS

- 15.1 Generation Green has the right to unilaterally change the composition, content, and form of the EMS.
- 15.2 Generation Green has the right to unilaterally adjust its prices annually at the beginning of each calendar year in a reasonable manner.
- 15.3 Generation Green reserves the right to annually index its license prices to a maximum of the CBS services price index. These indexations do not give the User the right to terminate the Agreement.
- 15.4 In addition, Generation Green is entitled to make an immediate proportional adjustment to its prices and rates due to changes in cost-determining factors such as personnel costs, purchasing, energy charges, and government-imposed levies, taxes, and premiums.
- 15.5 If a structural change or adjustment is not acceptable to the User, the User has the right to terminate the Agreement, effective from the date the structural change or adjustment takes effect. Termination must be done in writing. A price increase of up to 10% is not considered a structural change.

16 FORCE MAJEURE

- 16.1 In the event of force majeure, whether permanent or temporary, Generation Green has the right to, at its discretion, terminate the Agreement in whole or in part or temporarily suspend its obligations under the Agreement, without the User being entitled to performance, compensation, and/or termination.
- 16.2 Force majeure is understood to include, in addition to what is defined by law and jurisprudence, all external causes, whether foreseen or unforeseen, over which Generation Green has no control, but which prevent Generation Green from fulfilling its obligations. This includes, but is not limited to:
- Strikes in the company of Generation Green, the User, or third parties on whom Generation Green depends for the execution of the Agreement;
 - Threat of war, war, riots, civil unrest, boycotts, epidemics, pandemics;
 - Disruptions or restrictions in transport or traffic, restrictive government measures;
 - Shortages of raw materials, delayed delivery of raw materials or other necessary materials, or failure of delivery, bankruptcy, or suspension of payment by one or more suppliers or third parties involved;
 - Natural disasters, weather conditions that prevent proper execution of the work;
 - Power outages, disruptions in the internet, computer network, or telecommunications facilities;
 - Health hindrances or death of key personnel at Generation Green, including but not limited to its director(s).
- 16.3 Generation Green also has the right to invoke force majeure if the circumstance that prevents (further) performance of the Agreement arises after Generation Green should have fulfilled its obligation.
- 16.4 If Generation Green has partly fulfilled or will be able to fulfill its obligations during force majeure, Generation Green is entitled to invoice the part that has been fulfilled or will be fulfilled separately. The User is then required to pay this invoice.

17 RIGHT OF RETENTION

17.1 When Generation Green has goods from the User in its possession, Generation Green has the right to retain these goods until all claims Generation Green may have against the User are paid, including, but not limited to, claims arising from the Agreement, any previous Agreements, and claims arising from the law.

18 AVAILABILITY AND DEPENDENCY ON THIRD PARTIES

- 18.1 Although Generation Green makes every reasonable effort and will continue to do so, Generation Green does not guarantee that the EMS will always be complete, correct, accurate, or up-to-date, nor that the EMS will always be online and available. Generation Green will do its best to resolve any issues with the EMS and make corrections where it deems necessary. Any issues can be reported via email to service@generationgreen.energy.
- 18.2 Generation Green has the right to temporarily disable the EMS, including, but not limited to, taking the EMS offline, for maintenance, updates, or for any other reason.
- 18.3 Generation Green does not guarantee that the EMS will always be free of malicious computer code and/or intruders, such as, but not limited to, viruses, worms, and Trojans. It is the User's responsibility to ensure that the User's infrastructure and connected devices are adequately protected against such unwanted intruders.
- 18.4 In delivering the EMS, Generation Green is to some extent dependent on third parties. These third parties may set their own terms for the use of the services they provide to Generation Green and the User. Generation Green cannot be held liable for the availability or use of third-party services and the possible consequences of the total or temporary failure or insufficient provision of services by third parties, and the non-acceptance by third parties of input, in the broadest sense, from Generation Green and the User. The applicable third-party terms are available for review at Generation Green's office and will be sent free of charge upon request.

19 LIABILITY

- 19.1 In the event of liability, Generation Green is only liable for direct damage. Direct damage is defined as the reasonable costs incurred to determine the cause and extent of the damage, to the extent that the determination relates to damage as defined in this section, and any reasonable costs incurred to bring Generation Green's defective performance in line with the Agreement, to the extent that these can be attributed to Generation Green, and reasonable costs incurred to prevent or limit damage, provided the User demonstrates that these costs have led to the limitation of direct damage.
- 19.2 Generation Green is not liable for errors made by third parties engaged by Generation Green for the execution of the Agreement.
- 19.3 Generation Green is never liable for indirect damage, including, but not limited to, lost profit, missed savings, and business interruptions.
- 19.4 Any liability of Generation Green for damage to the User is limited to the amount for which Generation Green's liability insurance in the relevant case provides coverage, increased by the amount of the deductible that Generation Green must pay under the conditions of that insurance.
- 19.5 If for any reason no payment is made under the insurance, Generation Green's liability is limited to the amount paid by the User, excluding VAT, but not exceeding €25,000. This limitation does not apply in cases of intent or gross negligence by Generation Green or its employees.
- 19.6 Unless there is intent or gross negligence on the part of Generation Green, the User indemnifies Generation Green and shall hold Generation Green harmless for all claims, demands, and legal actions that a third party may have at any time against Generation Green, or may file against Generation Green, and that directly or indirectly arise from or relate to the work or services performed or to be performed by or on behalf of Generation Green for the User, or otherwise relate to the User's assignment to Generation Green. This indemnification also covers damages, costs, and expenses incurred by Generation Green in connection with such claims, demands, or legal actions. The indemnification also includes reimbursement by the User of reasonable costs for legal assistance for Generation Green.
- 19.7 If the User defaults on the performance of the Agreement, the User is liable for all damage suffered by Generation Green as a result, both directly and indirectly, such as, but not limited to, lost profit, missed savings, and other business damage.

20 INTELLECTUAL PRPOERTY RIGHTS

- 20.1 The intellectual property rights in the EMS supplied by Generation Green, provided documents, and other information remain with Generation Green or the third party from whom Generation Green has obtained the right to make that part available to the User. Generation Green grants the User a non-exclusive and non-transferable right to use the EMS, unless expressly stated otherwise in the Agreement.
- 20.2 If the parties have agreed that intellectual property rights will transfer to the User, this does not affect Generation Green's possibility and/or right to continue using and/or exploiting the underlying components, general principles, ideas, designs, algorithms, documentation, programming languages, protocols, standards, etc., for other purposes, either for itself or for third parties.
- 20.3 The agreed transfer of intellectual property rights does not affect Generation Green's right to undertake developments for itself or for third parties that are comparable to or derived from the work to be done for the User.
- 20.4 The User guarantees that if and to the extent materials or information are provided to Generation Green or disclosed in connection with the Agreement or at the request of the User for use by or on behalf of Generation Green, it is authorized to do so and that these materials and information do not infringe on the rights of third parties.
- 20.5 The User is not allowed to remove, alter, or modify any copyright, trademark, or other indications of the holder of intellectual property rights in the supplied EMS, provided documents, and other information. This also applies to notices and/or indications that certain information is confidential.
- 20.6 Unless required by mandatory law or stated otherwise in the Agreement, the User is not allowed to reproduce, decompile, or reverse engineer the supplied EMS. Furthermore, it is prohibited to remove or circumvent any security features or technical usage restrictions of the EMS.
- 20.7 If Generation Green is held liable or otherwise responsible (directly or indirectly) for claims related to intellectual property rights concerning the supplied EMS, publications, or other disclosures by or related to the User, the User will provide all necessary assistance to Generation Green both in and out of court. In addition, the User will fully compensate Generation Green for any costs and other damages resulting from such claims.

21 PROCESSING OF PERSONAL DATA

- 21.1 By using the EMS, the User may process personal data. The User is the controller of the data processing within the meaning of the General Data Protection Regulation (GDPR). Generation Green may act as the processor of personal data for the User under the GDPR.
- 21.2 To the extent Generation Green acts as a processor of personal data for the User, the following applies:
- Generation Green will process the personal data only based on written or electronic instructions from the User, unless processing is required by a legal obligation on Generation Green. If, in Generation Green's opinion, an instruction conflicts with legal requirements, Generation Green will promptly inform the User.
 - Generation Green will not make the personal data available to third parties, provide third parties with access to it, nor disclose anything about the contents of the personal data unless Generation Green is required to do so by law or by a final court ruling.
 - Generation Green will take adequate technical and organizational measures to secure the personal data against loss or unlawful processing, such as unauthorized access, destruction, modification, or disclosure.
 - Generation Green cannot guarantee that the security will be effective under all circumstances.
 - Generation Green will ensure that access to personal data is limited to those authorized by it.
 - The User will comply with its obligations under the GDPR, including handling requests from data subjects and reporting data breaches.
 - If necessary, Generation Green will report data breaches to the Data Protection Authority and the User or affected third parties.
 - Generation Green will provide the User with all reasonably necessary support and information to comply with the obligations under the GDPR, including handling data subject requests, security measures, data breach notifications, and demonstrating compliance. This support will be provided at the User's cost and according to Generation Green's usual rates.
 - Generation Green will ensure that access to personal data is limited to those authorized by it.
 - The User will comply with its obligations under the GDPR, including handling requests from data subjects and reporting data breaches.
 - If necessary, Generation Green will report data breaches to the Data Protection Authority and the User or affected third parties.
 - Generation Green will provide the User with all reasonably necessary support and information to comply with the obligations under the GDPR, including handling data subject requests, security measures, data breach notifications, and demonstrating compliance. This support will be provided at the User's cost and according to Generation Green's usual rates.
 - Generation Green is allowed to engage (sub)processors for processing personal data. If Generation Green uses (sub)processors for personal data processing, the provisions in this article will also apply to the (sub)processor. The User may request information from Generation Green regarding the (sub)processors engaged for processing personal data.
 - The duration of personal data processing is equal to the duration of the Agreement. When the Agreement ends, Generation Green is no longer a processor and will ensure that both the User and Generation Green no longer have access to the personal data and will delete it if necessary.

- The User indemnifies Generation Green for any situation where Generation Green is held liable by a third party, including but not limited to government authorities, or any sanctions, penalties, or other measures imposed on Generation Green due to the User's non-compliance with the Agreement, these Terms and Conditions, or privacy laws, and will provide all necessary assistance in any related procedure. All costs incurred by Generation Green in this regard will be borne by the User.

22 APPLICABLE LAW AND DISPUTES

- 22.1 The Agreement, these Terms and Conditions, and all additional and related (sub)agreements are exclusively governed by Dutch law. The application of conventions such as the Vienna Convention on Contracts for the International Sale of Goods is expressly excluded.
- 22.2 All disputes arising between the parties, whether from the Agreement or from additional agreements and actions related to the Agreement, such as but not limited to torts, undue payments, and unjust enrichment, will initially be settled by the Amsterdam District Court, unless mandatory jurisdiction rules prohibit this choice.
- 22.3 However, Generation Green reserves the right to submit any dispute referred to in section 2 of this article to the competent court of its choice.
- 22.4 The parties will make efforts to promptly and amicably resolve existing disputes and avoid legal proceedings. In the event of legal action, the parties are committed to ensuring it proceeds promptly.

23 OTHER PROVISIONS

- 23.1 If any article or part of an article in the Agreement and these Terms and Conditions is found to be invalid or void, the remaining provisions will remain in effect, and the invalid article or part will be deemed modified to reflect the clear intent of Generation Green, ensuring that it is no longer invalid or void.
- 23.2 In the event of contradictions between the provisions of the Agreement and these Terms and Conditions, the provisions in the Agreement will prevail.
- 23.3 Generation Green expressly reserves the right to unilaterally amend and/or supplement these Terms and Conditions. If the User is a consumer, the User has the right to terminate the Agreement if the proposed amendments and/or supplements to these Terms and Conditions are material. The amendments and/or supplements unilaterally made by Generation Green will apply to the Agreement once they have been communicated and made available to the User.
- 23.4 The Terms and Conditions, and any amendments and/or supplements, will be published on Generation Green's website. These Terms and Conditions are available for inspection at Generation Green's office and will be sent free of charge upon request.

Version december 2024