

## AECO Energy Platforms Terms of Use

AECO ENERGY AND/OR ITS AFFILIATES ("AECO ENERGY") WILL GRANT ACCESS TO THE AECO ENERGY PLATFORMS ("PLATFORM") TO YOU AND THE ORGANIZATION OR COMPANY YOU REPRESENT ("CLIENT") CONDITIONED ON THE ACCEPTANCE OF THE TERMS OF USE ("AGREEMENT") BY THE CLIENT.

PLEASE READ THIS AGREEMENT BEFORE REGISTERING TO THE PLATFORM. BY REGISTERING, SUBSCRIBING, USING, OR ACCESSING THE PLATFORM, YOU CONSENT AND AGREE, ON BEHALF OF THE CLIENT, TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, IMMEDIATELY CEASE USING OR ACCESSING THE PLATFORM.

### 1.0 Use and Restrictions

**1.1** During the Subscription Term, AECO Energy grants Client a non-exclusive, non-transferable right to access and use the Platform strictly in accordance with this Agreement and solely for the internal business process of the Client. For free-of-charge subscription, the Subscription Term shall be one (1) month from registration and shall automatically renew until terminated in accordance with this Agreement.

**1.2** Client is solely responsible in ensuring that: (i) only Authorised Users have access to the Platform; (ii) Authorised Users are informed of and compliant with the terms of this Agreement; and (iii) login details, username, and password are properly used in accordance with Section 4.0 of this Agreement.

**1.3** Client shall not:

- Use the Platform beyond the scope of this Agreement.
- Use Data for any purpose other than use of the Platform and participating in the Market Process.
- Modify, translate, adapt or create derivative works of the Platform, in whole or in part.
- Modify, copy, adapt, reproduce, disassemble, decompile, reverse engineer or otherwise attempt to derive the source code, methodology, analysis or results of the Platform, in whole or in part.
- Remove, modify or conceal any product identification, copyright, proprietary or intellectual property notices or such other marks within the Platform.
- Transfer or assign any rights under this Agreement to any other person or entity, unless expressly authorised by AECO Energy in writing.
- Use the Platform to display, store, share or transmit infringing, libellous, inappropriate or otherwise unlawful or tortious material (such as, but not limited to, nudity, bestiality, pornography, offensive language, graphic violence, or criminal activity), or to store or transmit material in violation of third-party privacy or intellectual property rights.
- Interfere with, disrupt the integrity or performance of, or attempt to gain unauthorised access to the Platform, its related systems or networks, or any third-party data contained therein.

### 2.0 Agreed Conduct

In conducting its business, Client shall not:

- engage in deceptive, misleading or unethical practices.
- conduct business in a manner that reflects negatively on AECO Energy and the good name, goodwill and reputation of AECO Energy.
- engage in any activity that exploits, harms, or threatens to harm children.
- send Spam or engage in Phishing.
- engage in any fraudulent, false or misleading activity (*e.g., asking for money under false pretences, impersonating someone else*).
- engage in any activity that may be harmful to the Platform, Client, AECO Energy, other subscribers or any third-party (*e.g., transmitting viruses, stalking, posting terrorist or violent extremist content, communicating hate speech, or advocating violence against others*).
- act in a manner that is abusive or disrespectful to AECO Energy, other subscribers, and their agents or employees. AECO Energy will not tolerate any abuse or bullying of AECO Energy employees and personnel in any situation, including interaction with the support teams.

### 3.0 Fees

**3.1** Client shall pay the Fees set out in the subscription plan chosen at the time of registration to the Platform and/or invoice, except when Client is granted access on a free-of-charge subscription.

**3.2** Customer shall pay the Fees without any counter claims, set offs or deductions within the time period stated in the subscription plan and/or invoice, or if not stated in the subscription plan, within seven (7) days from the invoice date. Customer shall pay interest on all invoiced amount which remain unpaid after their due date at the rate of 1.5% (or the highest rate permitted under law) for each month (or part thereof) of delay until full payment is made.

**3.3** Unless expressly stated otherwise, Fees payable to AECO Energy are exclusive of goods and services, value-added or other consumption tax ('GST'). In addition, Customer must pay the applicable GST for the Fees under the relevant Invoice.

### 4.0 Security

**4.1** Client shall ensure to keep its user information correct and up to date. Client is required to:

- provide true, accurate and complete information and to verify the accuracy of any information used or provided in the Platform.
- Select strong and passwords that are hard to guess.
- Protect login details, username and password, and prevent them from unauthorised access, getting stolen or misused, or otherwise compromised.

**4.2** Client agrees and acknowledges that AECO Energy shall not guarantee absolute security and that no method of electronic storage is completely secure. AECO Energy will notify Client if there are unauthorised access to the account of Client and AECO Energy may restrict access to the Platform, in whole or in part, until verification by Client that the access was by an Authorised User.

**4.3** Client shall be solely responsible for the use of any security features, including multiple factor authentication that are available in the Platform and for keeping the alternative identification systems (such as email accounts, or hand phones) secure and safe at all times and only accessible by Client and Authorised Users.

**4.4** Client must immediately notify AECO Energy upon awareness of or reasonable belief or suspicion of any unauthorised use of login details, username or password, or any breach of security to account or email address or handphone linked to account of the Client and Authorised Users.

**4.5** Client also agree not to use free-form fields in the Platform to store personal data, (*unless explicitly asking for personal data - like a first name or last name*) credit card details, tax identifiers or bank account details.

### 5.0 System Availability and Client Data

**5.1** AECO Energy will use commercially reasonable efforts to make the Platform available twenty-four (24) hours a day, seven (7) days a week, except for scheduled maintenance or updates, published downtime, or any unavailability caused by circumstances beyond control, including but not limited to a Force Majeure Event as described in this Agreement.

**5.2** Client acknowledges and assumes the risk of using technology and the internet, and Client may occasionally be unable to access the Platform and Client Data or experience data loss. Client acknowledges that it is solely responsible for backing up its Client Data entered in the Platform.

**5.3** Client agrees that, in case of any downtime, access issues or data loss, regardless of cause, the only recourse of Client is to discontinue using the Platform.

**5.4** New updates, modifications and enhancements to the Platform, and in some cases, discontinuation of features will be notified to the Client as far as practicable by email or by conspicuous posting on AECO Energy website or in the Platform.

### 6.0 Intellectual Property

**6.1** Client agrees and acknowledges that AECO Energy and its Affiliates own all intellectual property, materials, data, information, creations, facilities and works residing in the AECO Energy systems used or made available in connection with the performance, provision, and delivery of the Platform (collectively "AECO Energy IP"), including other rights in:

- the design, compilation, and look and feel of the Platform; and
- all copyrighted works, trademarks, designs, inventions, creations, and other intellectual property.

**6.2** Client shall not copy, distribute, modify or make derivative works of any of AECO Energy IP nor use any of AECO Energy IP or other intellectual property rights in any way not expressly permitted by AECO Energy.

**6.3** Client owns all rights, title to, and interest in its intellectual property rights Client Data. Client grants to AECO Energy an unrestricted, perpetual, irrevocable, transferable, sub-licensable, worldwide and royalty-free license to use and retain any and all data, content, information and/or material provided or made available to AECO Energy for purposes of providing services to Client and other subscribers, access to or use of the Platform and/or as may be necessary or useful to monitor and improve the Platform and other AECO Energy systems, the Market Process, and for any other purpose.

**6.4** AECO shall be permitted to collect and use the Usage Data of the Client for its reasonable business purposes and for the benefit of the Client. If AECO Energy will use or disclose the Usage Data or any part thereof to third parties at any time, such data shall be anonymized and/or presented in the aggregate so as not to identify the Client or its Authorised Users. The foregoing shall not limit in any way the confidentiality obligations of AECO Energy as stated in Section 7.0. To the extent that Client provides AECO with suggestions, such suggestions shall be free from the confidentiality restrictions and may be implemented by AECO Energy in its sole discretion. Client acknowledges that any AECO Energy products or materials incorporating the suggestion of Client shall be the sole and exclusive property and ownership of AECO Energy.

## 7.0 Confidentiality

**7.1** The Receiving Party will keep confidential and will not use or disclose any Confidential Information without the prior written consent of the Disclosing Party. The Receiving Party will protect the Confidential Information of the Disclosing Party by using at least the same degree of care (but no less than reasonable degree of care) as the Receiving Party uses to protect its own Confidential Information to prevent unauthorised use, dissemination, disclosure or publication. This notwithstanding, the Receiving Party may disclose the Confidential Information to its Affiliates, employees, consultants, or advisors on a need-to-know basis and provided that such person is bound by substantially the same confidentiality obligations as stated herein.

**7.2** Each party's respective obligations of confidentiality shall not apply to the disclosure of information to competent legal or regulatory authorities which is:

- mandatory under the applicable law;
- as far as possible, disclosed as aforesaid only after the other party to whom the obligation of confidentiality is owed, has been notified without any inexcusable delay and given the opportunity to clarify and advocate for a limitation or restriction of the information to be disclosed; and
- limited only to information that is strictly required to be disclosed as aforesaid under the applicable law and if applicable, after the fulfilment of and considering the outcome of Section 7.2(b) above.

**7.3** Client will only use Confidential Information with respect to the use of the Platform and for no other purpose.

## 8.0 Personal Data

**8.1** Client is solely responsible for: (i) the content, quality and accuracy of Client Data as made available by Client and its Authorised Users to AECO Energy; (ii) providing notice to Authorised Users with regards to how Client Data will be collected and used for purposes of the Platform; (iii) ensuring Client has a valid legal basis for processing Client Data and for sharing Client Data with AECO Energy (to the extent applicable); and (iv) ensuring that the Client Data as made available by Client complies with applicable laws and regulations including Applicable Data Protection Laws.

**8.2** AECO Energy shall: (i) ensure that there is in place appropriate administrative, physical and technical measures designed to protect the security and confidentiality of Client Data against any accidental or illicit destruction, alteration or unauthorised access or disclosure to third parties; (ii) have measures in place designed to protect the security and confidentiality of Client Data; and (iii) access and use the Client Data solely to perform its obligations in accordance with the terms of this Agreement, and as otherwise expressly permitted in this Agreement. AECO Energy shall not materially diminish its security controls with respect to Client Data during a particular Subscription Term.

## 9.0 Warranty and Disclaimers

**9.1** AECO Energy warrants that: (a) the Platform will perform materially in accordance with this Agreement, and (b) AECO Energy will use industry standard measures designed to detect viruses, worms, Trojan horses or other unintended malicious or destructive code in the Platform. The sole and exclusive remedy of Client and the sole and exclusive liability of AECO Energy in relation to the warranties shall be limited to the correction of the Platform.

**9.2** EXCEPT FOR THE WARRANTIES EXPRESSLY STATED AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PLATFORM IS PROVIDED "AS IS". AECO ENERGY MAKES NO OTHER WARRANTIES AND EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE. AECO ENERGY DOES NOT WARRANT THAT (I) THE PLATFORM WILL MEET REQUIREMENTS OF CLIENT, (II) THE USE OF THE PLATFORM WILL BE UNINTERRUPTED OR ERROR-FREE, OR (III) THE PLATFORM WILL BE PROTECTED AGAINST ALL POSSIBLE THREATS WHETHER KNOWN OR UNKNOWN.

**9.3** AECO ENERGY WILL HAVE NO LIABILITY FOR DELAYS, FAILURES, LOSSES OR DAMAGES ATTRIBUTABLE TO OR RELATED IN ANY WAY TO THE USE OR IMPLEMENTATION OF THIRD-PARTY SOFTWARE OR SERVICES (SUCH AS BUT NOT LIMITED TO AMAZON WEBSERVICES, MICROSOFT OFFICE SERVICES) NOT PROVIDED BY AECO ENERGY.

**9.4** AECO ENERGY WILL HAVE NO LIABILITY FOR ANY DELAYS, FAILURES, LOSSES OR DAMAGES ARISING FROM OR RELATED TO ANY ELECTRICITY CONTRACTS BETWEEN SUBSCRIBERS.

## 10.0 Limitation of Liability

**10.1** To the fullest extent permitted by applicable law, in no event shall either party be liable for any special, indirect, incidental, punitive, exemplary or consequential damages of any kind (including but not limited to loss of business, data, profits), arising out of or relating to this Agreement, regardless of the theory of liability and whether each party was advised of the possibility of such damage or loss.

**10.2** To the fullest extent permitted by applicable law, in no event shall the total liability of AECO Energy, from all claims or causes of action and under all theories of liability arising out of or relating to this Agreement, exceed the total amount paid by

Client for the entire term of the Subscription on which the claim is based. This limitation of liability will not apply to claims for death or personal injury caused by the negligence, breach of confidentiality or infringement of intellectual property rights.

## 11.0 Indemnity

**11.1** AECO Energy will defend or settle any action brought against Client to the extent that it is based upon a third-party claim that the Platform infringes or misappropriates such third party's patent, copyright, trademark, or trade secret, and will pay any costs and damages made in settlement or awarded against Client in final judgment resulting from any such claim, provided that Client: (i) gives AECO Energy prompt notice of any such claim; (ii) gives AECO Energy sole control of the defence and settlement of such claim; and (iii) gives AECO Energy, at AECO Energy's expense, all information and assistance reasonably required for the defence and settlement of such claim. AECO Energy will not be bound by any settlement or compromise that Client enters into without AECO Energy's prior written consent.

**11.2** The foregoing provision sets forth the sole and exclusive liability of AECO Energy and the sole and exclusive remedy of Client for any claims of infringement or misappropriation of intellectual property rights of any kind.

**11.3** Client will defend, indemnify and hold AECO Energy harmless from and against all liabilities, damages, costs, fees and expenses, including reasonable attorney's fees arising out of or resulting from any third-party claim based on or otherwise attributable to: (i) Client's gross negligence or intentional misconduct; (ii) a breach of Section 6.0 (Intellectual Property); or (iii) any Electricity Contracts between Subscribers.

## 12.0 Suspension and Termination

**12.1** AECO Energy may suspend access of the Client or any of its Authorised Users to the Platform, in whole or in part, if AECO Energy reasonably suspects Client or any of its Authorised Users to have breached this Agreement or any related Documentation. Suspension shall be for the entire duration of the investigation period and may be extended if Client or any Authorised Users are determined to have breached until the breach was actually rectified. Client and/or any Authorised User found to have breached this Agreement or Documentation may be temporarily or permanently banned to use and access the Platform and/or other systems of AECO Energy in any other capacity.

**12.2** AECO Energy may terminate this Agreement and revoke access to the Platform without cause at any time by providing at least thirty (30) days prior written notice to the Client.

**12.3** AECO Energy may also terminate this Agreement and access of Client to the Platform immediately after written notice if:

- Client breached any of these terms and the breach is not remedied within fourteen (14) days after receiving notice of the breach;
- Client breached any of these terms and the breach cannot be remedied; or
- Client becomes insolvent, goes into liquidation, has a receiver or manager appointed over any of its assets, or makes any arrangement with creditors or becomes subject to any similar insolvency event in any jurisdiction.

**12.4** Upon termination of this Agreement: (i) Client will have no right to access or use the Platform; and (ii) each Party shall, within thirty (30) days after a written request, destroy or return Confidential Information of the other, except those information and data that may be kept by AECO Energy in perpetuity. Client shall be responsible for exporting and retrieving its Client Data on the Platform and AECO Energy shall not be liable for the failure of Client to do same.

## 13.0 Assignment

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

## 14.0 Independent Contractor

Nothing in this Agreement will be construed to imply a joint venture, partnership or principal-agency relationship between AECO Energy and Client. Neither party shall have the right, power or authority to obligate or bind the other in any manner whatsoever.

## 15.0 Changes

**15.1** AECO Energy reserves the right to make changes to this Agreement or any Documentation issued in relation thereto.

**15.2** Client will be notified of any material change to this Agreement or Documentation at least thirty (30) days prior to intended date of effectivity either by email or by posting a visible notice on the Platform. Client may terminate this Agreement if it finds any of the changes unacceptable.

**15.3** In case of immaterial or clerical changes, AECO Energy will endeavour to notify Client. Changes to the terms can be tracked by referring to the version and date last updated as posted on the Platform or AECO Energy website.

## 16.0 Entire Agreement

**16.1** This Agreement contains the entire understanding of the parties, to the exclusion of any and all prior or collateral agreement or understanding, relating to the Platform, whether oral or written. Client acknowledges that it did not enter into this Agreement in reliance upon any statement made by AECO Energy, other than as expressly contained in this Agreement.

**16.2** If any part of the Agreement is found to be invalid or of no force or effect, the Agreement shall be construed as though such part had not been inserted and the remainder of the Agreement shall retain its full force and effect.

**16.3** To the extent that any other term or condition specific to the Platform conflicts with any other term or condition in the Agreement, the term or condition specific to the Platform will apply.

**16.4** In the Agreement, unless the context otherwise requires or permits:

- Where any word or phrase is given a defined meaning, any other grammatical form of that word or phrase will have the corresponding meaning.
- References to legislation or legislative provisions will include modifying, consolidating or replacing legislation or legislative provisions.
- References to months and years means calendar months and years.
- The use of headings is only for convenience and does not affect interpretation and any headings, underlining or marginal notes are only included for ease of reference.
- The terms "included", "including" and similar expressions when introducing a list of items do not exclude a reference to other items of the same class or genus.
- Where anything is within AECO Energy's discretion, this means AECO Energy's sole discretion.

## 17.0 Notices

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

**17.2** Notices to AECO Energy shall be sent to the applicable Contact Information.

## 18.0 Force Majeure

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

## 19.0 Dispute

**19.1** If a dispute arises out of this Agreement, the parties shall seek to resolve it on an amicable basis and shall consider the appointment of a mediator to assist in that resolution. No party shall commence legal or arbitration proceedings unless thirty (30) days' notice has been given to the other party.

**19.2** Any dispute, controversy or claim arising out of or relating to this Agreement (including non-contractual disputes or claims) shall be finally settled under the rules of the applicable Dispute Resolution centre by three arbitrators appointed in accordance with the said rules. The place of arbitration shall be in the applicable Jurisdiction and the language of the arbitration shall be English.

## 20.0 Governing Law & Compliance

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

## 21.0 Applicability

The applicable contact information for notices, dispute resolution, governing law, and jurisdiction, as follows:

### IF CONTRACTING WITH AECO ENERGY PTE LTD (SINGAPORE/OTHERS)

8.0	Data Privacy Law	Personal Data Protection Act 2012 as amended
17.0	Contact Information	legal@aecoenergy.sg
19.0	Dispute Resolution	Singapore Mediation Centre Singapore International Arbitration Centre
20.0	Jurisdiction	Singapore

### IF CONTRACTING WITH POWER CHOICE PTY LTD (AUSTRALIA)

8.0	Data Privacy Law	Privacy Act 1988 as amended
17.0	Contact Information	legal@powerchoice.com.au

19.0	Dispute Resolution	South Queensland Dispute Resolution Centre
20.0	Jurisdiction	Queensland

## 22.0 Definitions

**"AECO Energy Platforms"** shall mean the software-as-a-service (SaaS) products created owned and managed by the AECO Group, such as but not limited to AECO Energy MarketPro™, AECO Energy BidPro™, AECO Energy SustainPro™, and any other SaaS products as may be developed by the AECO Group from time to time.

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

**"Authorised Users"** means employees, agents, consultants, or contractors authorised by Client to use the Platform solely for the internal use of the Client, subject to the terms and conditions of this Agreement.

**"Client Data"** means all data, information and/or content uploaded to the Platform and/or provided by Client, including Authorised Users, as applicable, and all data derived from it. For the avoidance of doubt, Client Data shall not include Usage Data.

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

**"Data"** means all data, information and/or content available to and accessible by the Client in the Platform or by other means.

**"Electricity Contract"** means an agreement between Client and a Customer for the supply of electricity to their nominated site(s).

**"Force Majeure Event"** means any event which is beyond the control of or unforeseen by the parties or which, though foreseen, is inevitable, including fire, virus, epidemic, travel advisories as to health, security and/or terrorism, flood, lockout, transportation delay, war, acts of God, governmental rule or order, strikes or other labour issues. rates and other conditions of a formal contract offer to be subsequently entered into by the Customer.

**"Phishing"** means sending emails or other electronic communications to fraudulently or unlawfully induce recipients to reveal personal or sensitive information.

**"Pricing Data"** means any data or information located within or related to, Electricity Contract, Bids or data entered in the Platform.

**"Spam"** shall mean as defined in the laws of the applicable Jurisdiction.

**"Subscription Term"** means the period of time during which the Client has the right to access and use the Platform.

**"Usage Data"** means the data generated in connection with Client's access, use, and configuration of the Platform and data derived from it (e.g., accounts or applications utilized or interacting with the Platform).