

Denowatts Terms and Conditions of Service
Date of Last Revision: October 4, 2019

Please read these Terms and Conditions of Service (the “Terms”) carefully **BEFORE PLACING AN ORDER** for any of the services offered by Denowatts Solar, LLC (“Denowatts”), including for the lease of any Denowatts Deno™ equipment used in the provision of such services. Denowatts reserves the right to reject any order for any reason. Denowatts will provide notice of its acceptance via the email address provided to Denowatts on such order.

These Terms, together with the Denowatts form of service order submitted by you (“Customer”) to Denowatts, including via the Denowatts website located at www.Denowatts.com (the “Site”), and accepted by Denowatts (the “Service Order”), set forth the legally binding terms and conditions under which Customer agrees to subscribe for the Services and lease the associated Equipment (each, as defined below) from Denowatts, and Denowatts agrees to provide the Services and lease the associated Equipment to Customer, during the Subscription Period (as defined below). Because Customer’s placement of the Service Order constitutes its agreement to follow and be bound by these Terms, **CUSTOMER SHOULD NOT SUBMIT THE SERVICE ORDER UNLESS IT UNDERSTANDS THESE TERMS AND AGREES TO ABIDE BY THEM, INCLUDING SECTIONS 7 AND 13 RELATING TO THE COLLECTION, USE AND DISCLOSURE OF CUSTOMER’S INFORMATION AND DATA BY**

DENOWATTS. The Service Order shall be deemed to have been submitted by Customer even where the initial application for Service, if any, was provided to Denowatts by a PV Provider (as defined below). The Service Order is expressly conditioned upon Customer’s agreement to these Terms. The Service Order and these Terms (as may, from time to time, be revised by Denowatts or amended by the Parties pursuant to Section 3 below) are the “Contract”.

1. Certain Definitions.

(a) “Customer Generation Data” means the actual solar energy generation meter readings and aggregations of solar assets as provided by Customer or a PV Provider, from time to time, to Denowatts.

(b) “Customer Model Data” means the performance model data, including irradiance and energy generation, for Customer’s solar assets as provided by Customer or a PV Provider, from time to time, to Denowatts.

(c) “Customer System Information” means Customer’s name and address and information regarding Customer’s solar photovoltaic (PV) power system (“PV System”), including its location, commercial operation date (COD)/age, DC capacity, AC capacity, module manufacturer and type, inverter manufacturer and type, use and manufacturer of optimization equipment, array tilt and azimuth, size, module orientation and inclination, the name of the installer, O&M provider or other PV Provider, major equipment, the number of PV panels and inverters, and any such other information as requested by Denowatts or volunteered by Customer (including in connection with placing the Service Order or otherwise).

(d) “Deno Data” means (i) the data and information that is measured and collected by the Equipment, including raw irradiance and temperature data, accumulated irradiance data, and diagnostic information about components of the Equipment (including battery status), and (ii) all other types of data and information that constitute, or are a component of, the Denowatts™ simulated reference generation value.

(e) “Deno Performance Verification Data” means key performance indices and other metrics produced by the mathematical coupling of Deno Data, Customer Generation Data, and Customer Model Data, and that may be used to characterize the performance of a solar asset.

(f) “Equipment” means the Denowatts-owned Deno equipment as selected by Customer on the Service Order.

(g) “PV Provider” means any third party provider of services relating to solar assets, including asset management, operations and maintenance (O&M), monitoring or installation services, that has been engaged by Customer for its solar assets.

(h) “Redacted Data” means any and all (i) Customer Generation Data and Customer Model Data that is included in, or constitutes a part of, Deno Performance Verification Data and (ii) Customer System Information; provided, however, that in no event shall “Redacted Data” include (A) Customer’s name or site name, Customer’s contact information, and the address of Customer or such site (in each case, other than the state and zip code), and (B) the name of the installer or O&M provider of Customer’s PV system, unless such installer or O&M provider has consented to the inclusion of its name in such Redacted Data.

(i) “Services” means the services provided by Denowatts (i) in connection with the collection and transmission, via the Equipment, of certain Deno Data and (ii) if requested on the Service Order, in connection with the production of Deno Performance Verification Data and preparation of related reports. If requested on the Service Order or by email, Services shall also include the transmission of the raw irradiance and temperature data portion of the Deno Data (“Raw Deno Data”) to each PV Provider identified on the Service Order or such email.

(j) “Service Fee” means the initial setup fee (“Setup Fee”) and subscription fees charged by Denowatts for the Services as set forth on the Service Order or any invoice provided by Denowatts.

(k) “Service Location” means the location as specified on the Service Order where the Equipment will be installed for use in connection with the Services during the Subscription Period.

(l) “Subscription Period” means the subscription period for Services as then offered by Denowatts (for example, a 60-day period, one-year period or multi-year period) and as specified on the Service Order, which period shall commence upon the earlier of activation of the Equipment or 30 calendar days from the date of the Service Order.

2. Customer Eligibility for Service.

(a) Customer must be: (i) if an individual, at least 18 years of age, (ii) authorized and able (and having all requisite capacity) to legally contract with Denowatts, individually, or as the authorized agent of the entity (including any association) that is submitting the Service Order, (iii) if an entity (including an association), validly and duly registered, established, or incorporated under applicable state and federal law, and (iv) resident of, or incorporated or formed in, the United States of America. Customer hereby acknowledges and agrees that Denowatts does not independently verify whether Customer meets any such eligibility criteria, and represents and warrants to Denowatts that (A) it meets each of the applicable eligibility criteria, (B) all information submitted by it is truthful and accurate, and (C) it has full authority and permission to provide such information. Denowatts does not offer or provide any services or products for purchase, license or lease by children. Denowatts accepts only domestic orders from consumers within the United States of America. Denowatts reserves the right, in its sole discretion, to change its eligibility criteria at any time, without liability or notice.

(b) If Customer is an entity (including an association), then Customer hereby acknowledges and agrees that (i) any acts of Customer taken on the Site, including submission of the Service Order, shall be done by an individual who (A) is an agent, officer or employee of Customer, (B) is duly authorized and empowered to do so in the name, and on behalf, of Customer, and (C) meets the eligibility requirements set forth above for individuals (each, an "Authorized Individual"), (ii) all acts or omissions of such Authorized Individual shall be deemed to be the acts or omissions of Customer, and Customer shall be solely liable for any acts or omissions of any such Authorized Individual, including any violation of these Terms or applicable law, and (iii) Denowatts shall have no liability for any failure of any such Authorized Individual to have the requisite authority or power.

3. Revisions to Terms. Denowatts may change or modify these Terms from time to time ("Revisions") by posting such Revisions to the Site and changing the "Date of Last Revision" above. Revisions will be effective immediately upon posting on the Site; provided, however, that (i) Denowatts shall provide written notice of such Revisions to Customer, including by sending notice to the email address provided by Customer to Denowatts on the Service Order, (ii) Customer shall have 15 days after the date of such notice to notify Denowatts in writing of any objections that Customer may have with such Revisions (and Customer shall be deemed to have agreed to such Revisions if such objection notice is not provided to Denowatts within such 15-day period), and (iii) in the event of any such objections, Denowatts and Customer shall use commercially reasonable efforts to resolve such objections within 30 days after receipt by Denowatts of such objection notice; provided further that (A) any waiver, modification or amendment to such Revisions that are agreed to by Denowatts and Customer in connection with such resolution shall be set forth in a jointly executed written amendment to these Terms, and (B) in the event Denowatts and Customer fail to reach resolution within such 30-day period, (x) the Contract shall automatically terminate effective as of the expiration of such 30-day period and (y) Denowatts will, within 30 days after the effective date of such termination, refund a pro-rata portion of the Service Fee (excluding the Setup Fee), based on the number of days remaining in the Subscription Period (as determined by Denowatts in its sole discretion).

4. Payment, Shipping, Inspection and Return.

(a) Customer shall pay the Service Fee and any other fees and charges (including any applicable shipping and handling charges), and the Taxes (as defined below), each as described, and at the time(s) specified, on the Service Order (including during the checkout process for the Service Order on the Site) or on any invoice provided by Denowatts to Customer (including if the Service Order was not submitted via the Site). Customer shall pay, and be fully responsible for, all fees, taxes, customs, duties, tariffs, and other charges of any nature which may be imposed in connection with the Contract or Services (including any associated Equipment), other than any taxes upon, or measured by, Denowatts income ("Taxes"). Customer shall pay to Denowatts, from time to time, upon request, interest on overdue amounts under the Contract at the rate of 1.5% per month or the maximum amount allowed by law, whichever is less. In addition, Customer shall, promptly upon request and from time to time, reimburse Denowatts for all costs and expenses incurred by Denowatts (including attorneys' fees) in connection with collecting any such undisputed overdue amounts. Acceptable forms of payment are by ACH or check, as identified during the checkout process on the Site or on any invoice provided by Denowatts.

(b) Denowatts shall have no obligation to provide any Services, or to ship any associated Equipment, to Customer (and may, at the sole discretion of Denowatts and without any liability to Customer, delay the provision of any Services or shipping any associated Equipment) until Denowatts is in receipt of the Service Fee and any such other fees, charges and Taxes. Denowatts reserves the right to ship via USPS or any other carrier of equal or lesser cost. If expedited shipping is required, Customer shall select that as its shipping choice on the Service Order. Customer agrees that Denowatts (i) will not be able to change the shipping address once the shipment has been prepared or has shipped, (ii) shall not be responsible for any delays or problems with shipping or delivery once the Equipment has been shipped, (iii) does not provide insurance on any Equipment during shipment and delivery, and (iv) may require its carriers to obtain a signature upon delivery for all orders. Shipping charges are based on Customer's shipping address and desired shipping method.

(c) Customer shall fully inspect the Equipment upon receipt thereof, and prior to installation or use thereof. Customer shall have the right, at any time within 30 days after its receipt of the Equipment (the "Return Period") to return to Denowatts (at Customer's sole cost, expense and risk of loss, unless Equipment is determined by Denowatts to be defective) any or all such Equipment for any reason or no reason. No such return shall be valid or accepted by Denowatts unless such Equipment is shipped to Denowatts in new, unused, uninstalled condition (and without any damage caused by Customer) during the Return Period. If any Equipment is so returned, then (i) the Contract shall automatically terminate effective as of the date Denowatts receives such Equipment, and (ii) Denowatts will refund the Service Fee (including the Setup Fee) within 30 days after such date. Unless Customer so returns such Equipment to Denowatts within the Return Period, it shall be

conclusively presumed that the Equipment is in good condition, repair and working order, satisfactory in all respects and suitable for Customer's intended purpose, subject to the representations and warranties set forth in these Terms and Conditions.

5. Term of the Contract; Termination.

(a) The term of the Contract shall commence upon the date of the Service Order and expire upon the expiration of the Subscription Period, unless earlier terminated in accordance with this Section 5(a) or pursuant to Section 3 or Section 4(c) above. Denowatts may terminate the Contract or Customer's right to use the Equipment upon written notice to Customer in the event that Customer is in material breach of, or material default under, the Contract.

(b) Upon expiration or termination of the Contract for any reason, Customer shall (i) immediately cease use of all Equipment (including the software incorporated in the Equipment ("Software")) and Services (and the license to such Software as provided in Section 6 below shall terminate), (ii) promptly return the Equipment (at its cost, and in good condition, repair and working order, but subject to ordinary wear and tear) to Denowatts, and (iii) promptly pay Denowatts for any Loss (as defined below) thereto. Upon return, the Equipment is subject to count and inspection by Denowatts. No termination by Denowatts of the Contract shall release Customer from any then outstanding obligations to Denowatts under the Contract or with respect to the Equipment, Software or Services. Each of the following provisions of these Terms shall survive any expiration or termination of the Contract: Sections 2, 4(a), 5(b), 6(b), 7 (other than Section 7(a)), 8, 9, and 11 through 17, inclusive.

6. Use of Equipment and Services.

(a) Customer shall be responsible, at its cost, for any installation of Equipment at the Service Location. Customer shall use the Equipment and Services only (i) during the Subscription Period, (ii) in accordance with applicable laws, (iii) for their intended commercial purpose, (iv) for Customer's own internal business purposes (or, if an individual, for Customer's personal use), and (v) in accordance with all Denowatts user guides, installation manuals and operating instructions. The Equipment shall, at all times during the Subscription Period, be and remain at the Service Location; provided that all Equipment is and shall remain the property of Denowatts and shall not be considered a fixture or an addition to the land or the Service Location. Denowatts hereby grants to Customer, during the Subscription Period only, a limited, revocable, terminable, royalty-free, non-exclusive, nontransferable and nonassignable license, without the right to sublicense, to use the Software solely as an embedded component of the Equipment (and never separate or apart from the Equipment), and solely for Customer's own internal business use (or, if an individual, for Customer's personal use) of the Equipment and Services as provided above.

(b) Without limiting the foregoing provisions of Section 6(a), Customer may not (i) sell, transfer, assign, license, loan, lease, distribute, copy, reproduce, otherwise make available to third parties, display, publicly perform or otherwise exploit the Equipment (including the Software) or Services (including any Deno Data, Deno Performance Verification Data and reports), (ii) reverse engineer, decompile, disassemble, access, disclose, or otherwise attempt to derive any of the source code of the Software, or (iii) make any enhancements, modifications, improvements, derivative works, alterations or additions to the Equipment (including the Software) or Services (including any Deno Data, Deno Performance Verification Data and reports) (but, in any event, all such enhancements, modifications, improvements, derivative works, alterations or additions (regardless of being made in contravention of the Contract) shall be deemed to be "Developments" (as defined below)). Customer shall hold in confidence the Software and all other Denowatts proprietary information and trade secrets at all times. Denowatts shall have the right (and Customer hereby grants Denowatts permission) to enter the Service Location at all reasonable times, during normal business hours, and with at least 24 hours' advance notice to Customer, for purposes of inspecting, maintaining, upgrading, removing or testing the Equipment (including the Software) or Services, or for any other legitimate business reason of Denowatts.

7. Certain Services and Use by Denowatts of Customer Data.

(a) Customer hereby acknowledges and agrees that: (i) the Equipment will collect and transmit Deno Data to Denowatts and its contractors; (ii) if requested on the Service Order or by email, the Equipment will transmit the Raw Deno Data to each PV Provider identified on the Service Order or such email; (iii) if Customer desires to receive Deno Performance Verification Data from Denowatts (as requested on the Service Order or by email), then Denowatts must be furnished with all requisite Customer System Information, Customer Model Data and Customer Generation Data; and (iv) if Customer desires to receive one or more of the types of reports available from Denowatts (as requested on the Service Order or by email), then Customer will, at its cost, obtain the requisite license to use each such third-party software (each, a "Third-Party Software"), including Tableau®, as may be required to view and otherwise access such reports.

(b) Customer hereby acknowledges and agrees that: any Customer System Information, Customer Model Data and Customer Generation Data (collectively, "Customer Data") that is furnished by or on behalf of Customer to Denowatts may be collected, used and disclosed as provided in this Section 7.

(c) Customer hereby grants to Denowatts an unlimited, non-exclusive, worldwide, royalty free, fully-paid, perpetual, irrevocable, non-terminable, assignable right and license (with the right to sublicense through multiple tiers) to: (i) freely use, copy, analyze, reformat, translate, modify, prepare derivative works of, or otherwise fully exploit any Redacted Data for any business, commercial or other purpose determined by Denowatts, in its sole discretion, including for developing or improving its products or services, generating or producing Deno Performance Verification Data or otherwise; and (ii) disclose, display, provide access to, transfer, sell, resell, license, sublicense or rent (or to authorize or permit its contractors or third parties to disclose, display, provide access to, transfer, sell, resell, license, sublicense or rent) to any third party, the public, any government or any person or entity, for any

business, commercial or other purpose, any or all Redacted Data (whether alone, in aggregated form, or together with Deno Performance Verification Data or information or data of other customers of Denowatts), including for its Denowatts Data Blog.

(d) Customer hereby acknowledges and agrees that: (i) Deno Performance Verification Data is generated by, or results from, use by Denowatts of certain proprietary or patent-pending technology, methodologies, systems, processes, inventions, algorithms, procedures or techniques (collectively, "Methodologies"), which constitute valuable property of Denowatts; (ii) as between Customer and Denowatts, (A) all Deno Data, Deno Performance Verification Data and Methodologies are proprietary and confidential information of Denowatts, and (B) Denowatts retains all right, title and interest in and to all Deno Data, Deno Performance Verification Data and Methodologies (and Customer is not receiving any license or right in or to any of the Methodologies, by implication or otherwise, under the Contract); (iii) Customer will use all Deno Performance Verification Data, and PV Providers will use all Raw Deno Data, only for managing Customer's own PV System (and will not sell, resell, lease, assign, distribute or otherwise transfer any Deno Performance Verification Data or Raw Deno Data); and (iv) Customer and PV Providers will not disclose any Deno Data, Deno Performance Verification Data or Methodologies to any person or entity (other than Denowatts).

8. Ownership of Equipment, Software and Services.

(a) Notwithstanding anything to the contrary stated in the Contract, Denowatts (or its licensor(s)) retain ownership of, and title to, all Equipment (including Software) and Services (including any Deno Data, Deno Performance Verification Data and reports), and all copyright, trade secret, patent, trademark, intellectual property and other rights in such Equipment (including Software) and Services. The Equipment (including Software) and Services (including any Deno Data, Deno Performance Verification Data and reports) shall (as between Denowatts and Customer) be, and remain at all times, the sole and exclusive property of Denowatts, and Customer shall have no right, title, or interest therein or thereto, except the right to use the Equipment (including Software) and Services as expressly provided in each of Sections 6 and 7 above. Customer shall not create, incur, assume or allow to exist any claim, lien, attachment, restriction, encumbrance or other right of others on, or with respect to, the Equipment (including Software) or Services (or any interest therein) (each, a "Lien"). In the event that any Equipment (including Software) or Services becomes subject to any such Lien, Customer shall promptly notify Denowatts thereof.

(b) Customer shall promptly disclose to Denowatts all software, other works of authorship, formulas, processes, databases, enhancements, modifications, improvements, derivative works, developments, designs and other inventions or ideas, whether or not patentable, that Customer makes, conceives, reduces to practice, or creates, either alone or jointly with others, relating in any way to any of the Equipment, Services, Software, Methodologies, Deno Data or Deno Performance Verification Data (collectively, "Developments"). Customer hereby assigns to Denowatts all of Customer's ownership, right, title, and interest in and to all Developments, including: (i) all copyright, trade secret, patent, trademark, intellectual property and other rights in and to the Developments; (ii) all goodwill associated with Developments; and (iii) all benefits, privileges, causes of action, and remedies relating to any of the foregoing, whether before or hereafter accrued (including the right to sue for all past infringements or violations).

9. Risk of Loss. Risk of loss to the Equipment (including replacement Equipment) passes from Denowatts to Customer upon delivery by Denowatts to the Customer address (and with respect to any returned Equipment, remains with Customer until delivery to Denowatts). Customer shall bear, and hereby assumes, all risks of loss, disappearance, theft, damage or destruction, from any cause whatsoever, of or to the Equipment ("Loss") from and after such delivery by Denowatts to the Customer address and until such time as Denowatts is in actual possession and control of such returned Equipment, and no such Loss shall relieve any of Customer's obligations under the Contract, including the payment of the Service Fee. Customer shall promptly notify Denowatts in writing of any Loss occurring while Equipment is in Customer's possession or control. In the event of any such Loss, Customer shall, at its cost and expense and at the request of Denowatts, pay to Denowatts the full replacement cost (as determined by Denowatts in its sole discretion) of such Equipment. Customer shall promptly notify Denowatts of each accident, injury, sickness, or death to persons, or damage to property that involves, is alleged to involve or appears to involve in any way the Equipment while in the possession or control of Customer, any defect or unsafe condition in the Equipment manifesting while in the possession or control of Customer, or any improper installation, use, functioning or maintenance of the Equipment (each, an "Occurrence"). Customer agrees to secure and maintain in a safe manner all Equipment and surrounding premises in the condition existing at the time of any Occurrence until such time as Denowatts, or any of its authorized agents, investigators, attorneys, or other designated persons, inspects or investigates said Equipment or premises (and Customer shall immediately provide all permissions necessary for such inspection or investigation). Denowatts shall have the exclusive right to reclaim any Equipment involved in any Occurrence and to thereafter replace same with comparable equipment. Customer shall also provide to Denowatts, upon request, all information requested by Denowatts concerning any Occurrence, and shall promptly provide to Denowatts copies of all correspondence, papers, notices and documents whatsoever received by Customer in connection with such Occurrence or any claim or demand relating thereto, provided that Customer shall not be obligated to provide any materials that are subject to confidentiality obligations, attorney work product, attorney client privilege or similar privilege and Customer explicitly does not waive any such privilege.

10. Limited Service Guarantee.

(a) Denowatts warrants to Customer that, during the Subscription Period, when given normal, proper and intended installation, operation and usage: (i) the Equipment (excluding Software) will be free from material or significant defects in materials and workmanship, (ii) the Software will conform in all material respects with the applicable published specifications in effect at the commencement of the Subscription Period, and (iii) the Services shall be performed in a professional and businesslike manner. Denowatts does not warrant that Customer's use

of any Equipment, Software or Services will be uninterrupted or error-free. Denowatts does not guarantee the uninterrupted connectivity of any Equipment to the internet or any PV Provider.

(b) Denowatts agrees to repair, replace, correct or re-perform, as applicable, at its option and at its expense, all defective or non conforming Equipment, Software or Services covered by the limited service guarantee in Section 10(a) above; provided that Customer has given Denowatts written notice of such claim within the Subscription Period. Any notice of such claim received by Denowatts after the Subscription Period will not be honored and shall be void. Customer shall provide Denowatts with all information, access and cooperation reasonably requested by Denowatts in connection with determining service guarantee eligibility or with repairing, replacing correcting or re-performing Equipment, Software or Services. Repaired, replaced, corrected or re-performed Equipment, Software or Services shall be subject to such service guarantee, if any remains, originally applicable to such Equipment, Software or Service so repaired, replaced, corrected or re-performed, including during the Subscription Period as may be extended by Denowatts by the period of time (as determined by Denowatts in its sole discretion) that such Equipment, Software or Services were defective or non-confirming. If Denowatts is unable, after reasonable efforts, to so repair, replace, correct or re-perform such defective or non-conforming Equipment, Software or Services, Customer's sole remedy, and the sole liability of Denowatts, shall be, as elected by Denowatts in its sole discretion, the (i) extension of the Subscription Period by the period of time (as determined by Denowatts in its sole discretion) that such Equipment, Software or Services were defective or non-confirming, or (ii) refund to Customer of a pro-rata portion of the Service Fee (excluding the Setup Fee), based on the number of days remaining in the Subscription Period (as determined by Denowatts in its sole discretion). Denowatts may, at its expense, require the Equipment to be shipped to Denowatts or elsewhere and returned to Customer.

(c) Denowatts shall have no obligation to make repairs, replacements, corrections or re-performance which result, in whole or in part, from (i) normal or ordinary wear and tear (including corrosion or battery depletion), (ii) catastrophe, fault, negligence, abuse, acts or omissions of Customer or any third party, (iii) improper or unauthorized installation, operation or use of the Equipment, (iv) use of the Equipment in a manner for which they were not designed, (v) third party or Customer products or services, (vi) routine or scheduled downtime or maintenance to be performed by Denowatts or its contractors; (vii) causes external to the Equipment or beyond the control of Denowatts, including any blocked or interfering signals, network problems or any Force Majeure Event (as defined below), or (viii) use of the Equipment in combination with products, equipment or software not supplied by Denowatts. Denowatts reserves the right to refuse any repairs, replacements, corrections, re- performance, extensions or refunds, or charge replacement fees for any Equipment, Software or Services that it determines are not subject to, or eligible for, such service guarantee. The service guarantee obligations of Denowatts shall run solely to Customer, and Denowatts shall have no obligation to customers of Customer, any PV Provider, or other users of the Equipment, Software or Services.

11. Default. Customer shall be in default under the Contract if (a) Customer fails to pay any amount under the Contract by its due date; (b) Customer fails to perform or observe, is in material default under, or breaches any material provision of the Contract; (c) any Loss has occurred, or any Equipment becomes subject to any Lien as a result of Customer's actions, or its use by Customer is or has been prevented by the act of Customer; (d) Customer files or has filed against it a petition in bankruptcy, or becomes insolvent, or makes an assignment for the benefit of creditors, or consents to the appointment of a trustee or receiver, or a trustee or receiver shall be appointed for Customer or for a substantial part of its property without its consent; or (e) if an individual, Customer dies, or if an entity (including an association), Customer's existence is terminated by merger, consolidation, dissolution or otherwise, or Customer sells or transfers all or substantially all of its assets to which the Contract relates. Upon default, Denowatts may, at its sole election and option (and without limiting in any way any other rights and remedies available to Denowatts), take any one or more of the following actions: (i) terminate the Contract, (ii) require Customer to return immediately all Equipment in accordance with Section 5(b) above, or (iii) utilize self-help to the maximum extent permitted by law.

12. Indemnification. Customer shall indemnify, hold harmless, reimburse and (upon request) defend Denowatts and its owners, officers, members, affiliates, employees, agents, suppliers, vendors, manufacturers, contractors and subcontractors (each, an "Indemnified Party"), from and against, all claims, demands, damages, injuries, losses, liabilities, Liens, costs and expenses, including attorneys' fees, of any nature or type, whether direct, indirect or other (including the loss of profit, use or business, or business delay, downtime or interruption) ("Damages") arising out of or resulting from, in whole or in part, any breach by Customer of Sections 5(b), 6, 7 (other than Section 7(a)), and 8 of these Terms.

13. Transaction Information; Use of Customer Information by Denowatts; Third-Party Sites, Software and Services.

(a) All payments made using the Site are processed by a third-party payment gateway service provider (the "Payment Gateway Provider") engaged by Denowatts. Although Customer's payment information may initially be collected on the Site's servers (including if Customer is not automatically directed by the Site to the Payment Gateway Provider's website to make such payment), all such information is immediately transferred to,

and may be stored on, the servers of the Payment Gateway Provider, and such information is not stored on the Site's servers.

(b) Customer hereby acknowledges and agrees that: (i) all names (including of Customer and any Authorized Individuals), addresses (including Service Location, mailing address and email address), phone or facsimile numbers, and other contact or personally identifiable information provided by or on behalf of Customer to Denowatts in connection with the Service Order, any communications with Denowatts or otherwise during the course of the Subscription Period (whether done via the Site, email, mail, phone, facsimile or otherwise), and the content of any such communication, will be collected by Denowatts; (ii) Denowatts may use such information in any of the following ways: (A) to interact with its agents, service providers, contractors and other third parties that provide Denowatts with certain fulfillment and other services in connection with running and providing the Service (including Equipment and Software) and the Site, including processing payment transactions or refunds, (collectively, "Vendors"), (B) to facilitate communications with Customer, and (C) to send periodic emails, including to notify Customer any order acceptances, confirmation of payments after processing and any Revisions; (iii) Denowatts may share such information with its Vendors in order to allow them to provide certain fulfillment and other services, including handling or processing payment transactions or refunds, or shipping or delivering Equipment; provided that such agents, service providers, contractors and other third parties are required to act in accordance with any privacy policy adopted by Denowatts or have agreed to use such information only in order to provide or perform their respective service; (iv) Denowatts reserves the right to disclose such information when Denowatts, in its sole discretion, believes that disclosure is necessary to: (A) comply with laws, (B) comply with subpoenas, warrants, court orders, government investigations or other legal processes, enforce or apply the Contract, (C) investigate, prevent or respond to allegations of fraud, intellectual property infringement or other unlawful activity, (D) protect the rights, property or safety of Denowatts, its agents, employees, personnel or others, (E) respond to an emergency or protect the personal safety of any person, or (F) as otherwise permitted under Section 7 above; and (v) in the event of a sale, merger, liquidation, dissolution or sale or transfer of all or substantially all of the assets of Denowatts to which this Contract relates (each, a "Sale Transaction"), Denowatts may sell, assign or transfer all or any portion of such information to the purchaser in such Sale Transaction (including in order to permit the purchaser to continue to provide the Service to Customer). By using the Service and providing information through the Site, Customer hereby consents to the use, disclosure, sale or transfer of such information as described in this Section.

(c) Denowatts makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature or reliability of any Payment Gateway Provider services, any Third-Party Software required for viewing or otherwise accessing any Denowatts reports, or any other third-party websites, content, information, documents, software, materials, products, services or resources accessible by hyperlink from, or otherwise available on or from using, the Site (collectively, "Third Party Resources"). Customer hereby acknowledges and agrees that (i) none of the Third Party Resources are under the control of Denowatts, and Denowatts has not reviewed and is not responsible for the content, function, accuracy, legality, appropriateness or any other aspect of any Third Party Resources, including any errors or omissions in any content, information, websites, products or services; (ii) Customer's access and use of any Third Party Resources, including any disclosure of the types of information described in Sections 13(a) and (b) above in connection therewith, shall be at its sole risk and responsibility, and (iii) all transactions relating to any Third Party Resources, including any purchase terms, payment terms, privacy or security terms, warranties, guaranties, maintenance and delivery terms relating to such transactions, are agreed to solely between the provider or vendor of such Third Party Resources and Customer.

14. Limitation of Service Guarantee, Liability and Remedies; Force Majeure.

(a) THE LIMITED SERVICE GUARANTEE SET FORTH IN SECTION 10 ABOVE IS THE ONLY GUARANTY OR WARRANTY APPLICABLE TO THE EQUIPMENT (INCLUDING THE SOFTWARE) AND SERVICES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR TITLE, ARE EXPRESSLY DISCLAIMED.

(b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT (AND WHETHER ARISING UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, WARRANTY, OR ANY OTHER LEGAL OR EQUITABLE THEORY) SHALL: (I) THE LIABILITY OF DENOWATTS UNDER THE CONTRACT, OR IN CONNECTION WITH THE EQUIPMENT (INCLUDING THE SOFTWARE) AND SERVICES, OR THE USE THEREOF, EXCEED THE TOTAL SERVICE FEE PAID BY CUSTOMER UNDER THE CONTRACT; (II) DENOWATTS BE RESPONSIBLE OR LIABLE IN ANY WAY FOR OR IN CONNECTION WITH ANY THIRD PARTY RESOURCES; OR (III) DENOWATTS BE RESPONSIBLE OR LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR ANALOGOUS DAMAGES, COSTS OR LOSSES (INCLUDING DOWNTIME, INTERRUPTION OF BUSINESS OR USE, LOSS OF USE, DATA, REVENUE, PROFITS OR CREDITS, DAMAGE TO SOLAR PANELS OR OTHER PROPERTY OF CUSTOMER, OR LOSS OF PRIVACY), PROVIDED, THE FOREGOING LIMITATIONS SHALL NOT APPLY TO ANY THIRD PARTY CLAIM FOR WHICH DENOWATTS IS LIABLE OR HAS ASSUMED LIABILITY

(c) NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE CONTRACT MAY BE BROUGHT BY CUSTOMER MORE THAN ONE YEAR AFTER CUSTOMER HAS ACTUAL KNOWLEDGE THAT THE CAUSE OF ACTION HAS ACCRUED.

(d) IN ADDITION TO THE WARRANTIES DISCLAIMED ABOVE AND ELSEWHERE IN THESE TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, DENOWATTS SPECIFICALLY DISCLAIMS ANY AND ALL LIABILITY AND WARRANTIES, IMPLIED OR EXPRESSED, (I) REGARDING ANY THIRD PARTY RESOURCE, INCLUDING ANY TRANSACTIONS BY CUSTOMER IN CONNECTION THEREWITH (AND CUSTOMER AGREES THAT ANY WARRANTY THAT IS PROVIDED IN CONNECTION WITH ANY THIRD PARTY RESOURCE FROM A THIRD PARTY IS PROVIDED SOLELY BY SUCH THIRD PARTY), AND (II) FOR USES REQUIRING FAIL-SAFE PERFORMANCE IN WHICH FAILURE OF ANY EQUIPMENT COULD LEAD TO DEATH, SERIOUS PERSONAL INJURY, SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, ASSET OR PRODUCT UNDERPERFORMANCE OR INACCURACIES OF ASSET OR PRODUCT REPORTING.

(e) Although Denowatts endeavors to provide descriptions, images and other information regarding its Deno products and services on the Site as accurately as possible, Denowatts does not warrant that such descriptions, images, information or other content of the Site is accurate, complete, reliable, current, or error-free, that the displayed images of the products on Customer's monitor will accurately portray the actual appearance of the products, or that all or any products are in stock or available. In the event of an error, whether on the Site, in a service order confirmation, in processing a service order or otherwise, Denowatts reserves the right to correct such error and charge the correct price or reject or cancel the service order, without liability.

(f) THE SITE COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. DENOWATTS MAY MAKE CHANGES TO THE SITE AT ANY TIME WITHOUT NOTICE. THE SITE MAY BE OUT OF DATE, AND DENOWATTS MAKES NO COMMITMENT TO MAKE ANY UPDATES. DENOWATTS ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION OR MIS-DELIVERY ANY SERVICE ORDERS OR OTHER COMMUNICATIONS SUBMITTED BY CUSTOMER VIA THE SITE. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW: (I) THE USE OF THE SITE, OR THE DOWNLOADING OR OTHER ACQUISITION OF ANY CONTENT OR MATERIALS THROUGH THE SITE, IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND WITH ITS AGREEMENT THAT IT SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO ITS COMPUTER SYSTEM OR OTHER EQUIPMENT OR LOSS OF DATA THAT RESULTS FROM SUCH ACTIVITIES; AND (II) DENOWATTS MAKES NO GUARANTY OF CONFIDENTIALITY OR PRIVACY OF ANY SERVICE ORDER OR OTHER COMMUNICATION TRANSMITTED THROUGH THE SITE.

(g) Denowatts shall not be liable for any Damages or penalty for delay or for any other failure to perform in accordance with the terms and conditions of the Contract, if such delay or failure to perform is due in whole or in part to factors beyond its reasonable control, including any delay in transportation or delivery by Denowatts' suppliers or contractors, act of nature, act of God, severe weather, hail, snow, lightning, fire, flood, earthquake, hurricane, storm, tornado, falling branches, debris or other objects, casualty, theft, vandalism, strike, lock out, labor trouble, failure of public utilities, blocked or interfering signals, power failure, electric power surge, failure of, or problems with, networking or the internet (or internet services), third party product or service, act or omission of Customer, injunction, act, exercise, assertion or requirement of any governmental authority, change in governmental laws or regulations, epidemic, destruction of production facilities, sabotage, inability to procure materials, services, labor, equipment, transportation or energy sufficient to meet the needs of Denowatts or its licensors or suppliers, civil disturbance, war (declared or not), hostility, blockade, insurrection, riot, revolution or terrorism (each, a "Force Majeure Event").

15. Electronic Communications. Customer hereby consents to receive communications from Denowatts electronically. Denowatts will communicate with Customer by email. Customer hereby agrees that all agreements, notices, disclosures and other communications that Denowatts provides to Customer electronically satisfy any legal requirement that such communications be in writing.

16. Miscellaneous.

(a) The Contract (and any dispute hereunder) shall be governed by the laws of the State of New York. Denowatts and Customer each hereby agree that the courts of the Commonwealth of Massachusetts, or any federal courts located within the State of New York, shall have exclusive jurisdiction over any claim, or dispute or controversy (whether in contract, tort or otherwise) arising out of or relating to the Contract, Equipment, or any related matters. Customer hereby agrees (i) to appear in any such action and hereby consents to the exclusive jurisdiction of such court, (ii) that any breach by Customer of the Contract will cause Denowatts substantial and irreparable damages, and, therefore, in the event of any such breach, in addition to other remedies which may be available, Denowatts shall have the right to specific performance and other injunctive and equitable relief.

(b) Customer may not assign, delegate or subcontract the Contract or any of its rights or obligations thereunder. Denowatts may assign or transfer the Contract or any or all of its rights or obligations thereunder to any purchaser in a Sale Transaction. Any waiver of, supplement to, or modification of, the terms of the Contract shall not be effective unless executed in writing and signed by Denowatts and Customer or set forth in, and made effective as part of, any Revisions. No other representations, warranties, conditions or indemnities, or other terms or conditions proposed or stated by Customer, in connection with any Equipment (including Software) or Services shall apply or be enforceable.

(c) If any provision of these Terms are held to be unenforceable, in whole or in part, such holding shall not affect the validity of the other provisions of the Contract. Any reference in these Terms to: (i) "including" shall be interpreted as "including without limitation", (ii) words of gender shall include each other gender, unless the context requires otherwise, and (iii) words using the singular or plural number shall also include the plural or singular number, unless the context requires otherwise.