

# Terms and Conditions – Phantom Energy Monitoring Solution

Last amended: 19.10.2020

These General Terms and Conditions ("GTC") apply to the use of the Phantom Energy Monitoring Solution offered by Robert Bosch Engineering and Business Solutions Private Limited, having its registered office at 123, Industrial Layout, Hosur Road, Koramangala, Bangalore – 560095, India ("RBEI") to the Customer ("Customer", "you", "your") (Customer and RBEI shall be referred jointly as "parties" and individually as a "party").

## Preamble

RBEI offers its Customers the Phantom Energy Monitoring Solution. The solution includes an intelligent sensor device ("Energy Monitoring Hardware") with a pre-installed software ("Software") and is intended to monitor and interpret electrical signals from electric appliances and to make the monitored information available in the cloud for real-time access on data and analytics. The solution provides the subsequent processing and provisioning ("Energy Monitoring Services") on servers ("Energy Monitoring Backend") (together "Energy Monitoring Solution"). Having said this, the parties agree as follows:

## A. FIRST PART: GENERAL CONDITIONS

### 1. Scope of Application

- 1.1. RBEI offers the Energy Monitoring Solution on the basis of these General Terms and Conditions.
- 1.2. Terms and conditions of the Customer or third parties do not apply, even if RBEI does not separately object to their validity in individual cases. Even if RBEI refers to a letter of a Customer or a third party containing any terms and conditions, this does not constitute an acceptance that these terms and conditions shall apply.
- 1.3. Individual agreements made with the Customer in individual cases (including ancillary agreements, additions and changes) shall take precedence over these General Terms and Conditions. The content of such agreements shall be governed by a written contract or written confirmation from RBEI.
- 1.4. RBEI has the right to have the services performed by third parties (including affiliates of RBEI and entities that control RBEI) as sub-contractors.

### 2. Structure of these terms and conditions

- 2.1. These terms and conditions consist of three parts. This first part (General Terms and Conditions) contains general conditions for the Energy Monitoring Solution as a whole. The second part (Conditions for Energy Monitoring Services) contains additional conditions for the services provided by RBEI's Energy Monitoring Solution. The third part (Conditions for the Device) contains additional conditions for the Energy Monitoring Hardware.

- 2.2. The terms of this first part also apply to all subsequent parts of these Terms and Conditions. Part two and part three stand separately next to each other. In case of a conflict between this first part and one of the following parts, the conditions of parts two through three take precedence.

### 3. General Duties and obligations of the Customer

- 3.1. The Customer will take all necessary actions. S/he will in particular:
  - a) keep access related data, including the password which enables him/her to monitor the data, secret and in no way make it accessible to unauthorized third parties;
  - b) change any passwords assigned by RBEI immediately to passwords known only to the Customer;
  - c) install the Device according to the product description in RBEI's proposal and regularly check the operational readiness unless the Parties have agreed otherwise in the Proposal;
- 3.2. The Customer is responsible for the creation of technical prerequisites (in particular the presence of a tablet or a PC, web browser and internet access) within the area of responsibility of the Customer for the contractual use of the Energy Monitoring Solution, including any costs incurred by the Customer. A related consultation is not part of the services.
- 3.3. Maintenance of the Device on site is not part of the scope of services, but is the responsibility of the Customer unless the Parties have agreed otherwise in the Proposal. Details of the installation can be found in the installation manual and in the user guidelines that are part of the hardware delivery.

### 4. Protection of Content

The content available under the Energy Monitoring Solution is primarily protected by copyright, trademark and competition law or other proprietary rights and is owned by RBEI, by our customers or other third parties who have provided the content. You may only use this content in accordance with the terms and conditions set forth in these Terms and Conditions.

### 5. Data Privacy

- 5.1. The Parties shall comply with the applicable provisions of data protection law and commit their employees engaged in connection with the contractual relationship and the execution thereof to data protection, except to the extent that they are already under a general obligation to act accordingly.
- 5.2. If Customer processes personal data, then the Customer warrants that s/he is authorized to do so in accordance with applicable data protection regulations, and in the event of any infringement, Customer shall indemnify RBEI from and against third party claims.
- 5.3. RBEI shall only process Customer Data to the extent required to execute the Contract. Customer consents to the processing of such data to this extent.
- 5.4. To the extent the Customer Data to be processed by RBEI is qualified as personal data, such processing by RBEI constitutes commissioned data processing. RBEI shall comply with the statutory requirements of commissioned data processing and with the instructions of Customer (e.g. to comply with obligations to delete and block). In the event of commissioned data processing, the Parties will enter into a data processing under commission agreement in order to govern the details of data processing.
- 5.5. RBEI and its agents may collect, maintain, process and use technical and related information, including but not limited to information about Customer systems and cloud, connected using the Energy Monitoring Solution, that is gathered periodically to facilitate the provisioning of software updates, product support and other associated services to Customer.
- 5.6. For the purpose of enabling the Energy Monitoring Solution to generate timely reports/ insights for the intended use, RBEI will be collecting the following information from you and you hereby explicitly provide the consent for the access, use, processing, collection and storage of such information and data:

5.6.1. Type of data collected and purpose:

- i. Name, Email ID and Phone Number of an 'On-site Service Coordinator' designated by the Customer. This will be collected for the purpose of coordination with the Customer for logistics involved with the shipment of installation kit, actual installation and any other support provided at the Customer's site. This may also be shared with RBEI authorized third party partners and service providers who assist in above mentioned activities.
- ii. Name, Email ID and Phone Number of a 'Primary Admin User' designated by the Customer. This will be collected for the purpose of sending an onboarding link to an online portal where the Primary Admin User will be able to set up and configure the Customer account. This may also be used to provide remote support for account configuration.
- iii. Name, Email ID and Phone Number of all Users, added by the Primary Admin User or any other authorized admin User identified for the Customer. These details will be used to provide user specific access control, feature customization, operator productivity metrics, alerts & notifications over email & SMS, automated reports via email, offer support for issue resolution, provide newsletters & product related communications and other such efforts directly related to the Energy Monitoring Service and features offered as part of the Energy Monitoring Solution. Addition and deletion of Users can only be done by the Customer's Admin Users.
- iv. Name and address of the Customer's sites where the Energy Monitoring Hardware will be installed – This is to enable mapping of assets to specific sites and provide reporting and insights at a site level.

5.6.2. Retention policy:

- i. Data for periods upto 6 month is available for running queries and generating quick reports. Data for periods longer than 6 months will be archived and stored on the cloud, and queries on such data may take time to run and generate reports.
- ii. Personal data of Users will be retained in secured storage, as long as the Users are active (not deleted by Customer).
- iii. Personal data of Users, except the mapped User ID (email ID), will be permanently deleted when a specific User is deleted by the Customer. The retained User ID will be used to provide continued insights into traceability of changes.

5.6.3. Handling of data on termination:

- i. In case of termination of account and License, howsoever it occurs, the personal data of all Users will be deleted within 30 days of termination.
  - ii. In case of termination of account and License, howsoever it occurs, all asset data including productivity data and calculated metrics will also be deleted.
- 5.7. The obligations pursuant to Sections 5.1 to 5.7 shall continue to exist as long as Customer Data is in the area of influence of RBEI, also after the termination date of the contract.

## 6. **Contract Term and Termination**

- 6.1. The Customer purchases the Energy Monitoring Hardware for a one-time payment and licenses the Energy Monitoring Solution on a subscription basis. The contract

term for an Energy Monitoring Solution shall be as agreed in the Proposal (Subscription Term). During the Subscription Term, the contract can only be terminated for cause in accordance with Section 6.3. Upon the termination of the Subscription Term, the Customer's access to the data of the terminated Energy Monitoring Solution will be blocked.

- 6.2. If the Customer caused the cancellation, there will be no refund for the Energy Monitoring Solution booked in each case proportionally or in whole.
- 6.3. Termination for cause: The right of termination for cause remains unaffected for both parties. Such a reason is for RBEI especially if
  - a) Customer repeatedly or seriously violates these terms and conditions;
  - b) Customer is in default of payment of an agreed fee for more than one month from the due date; or
- 6.4. Upon termination of the contract, all authorizations and registrations of Customer under this contract shall simultaneously end automatically, with the exception of authorizations for the Bosch-ID. The authorization for the Bosch-ID has to be in accordance with the terms applicable to the Bosch-ID.

## **7. Order and Renumeration**

- 7.1. RBEI provides the Customer with the Energy Monitoring Solution for a one-time payment for the Hardware and a Subscription Fee as outlined in the Proposal.
- 7.2. All prices are in INR plus Value Added Tax or any other tax of a similar nature in the applicable jurisdiction at the applicable amount levied in accordance with statutory law.
- 7.3. Unless otherwise agreed, all invoices from RBEI must be paid without any deductions to a bank account specified by RBEI within 30 days of the receipt and due date of an invoice.
- 7.4. Other services not covered by the remuneration agreed in the Contract shall be performed by RBEI on a time and materials basis at the general list prices of RBEI applicable at the time when the order was placed.
- 7.5. Each party will be responsible, as required under applicable law, for identifying and paying all taxes and other governmental fees and charges (and any penalties, interest, and other additions thereto) that are imposed on that party upon or with respect to the transactions and payments under the Contract.
- 7.6. All payments made by the Customer to RBEI under the Contract will be made free and clear of any deduction or withholding,

as may be required by law. If any such deduction or withholding (including but not limited to cross-border withholding taxes) is required on any payment, Customer will pay such additional amounts as are necessary so that the net amount received by RBEI is equal to the amount then due and payable under the Contract. RBEI will provide Customer with such tax forms as are reasonably requested in order to reduce or eliminate the amount of any withholding or deduction for taxes in respect of payments made under the Contract.

## **8. Liability**

- 8.1. To the maximum extent not prohibited by applicable law, in no event shall Bosch be liable for personal injury, or any incidental, special, indirect or consequential damages whatsoever, including, without limitation, damages for loss of profits, corruption or loss of data, failure to transmit or receive any data, business interruption or any other commercial damages or losses, arising out of or related to your use of or inability to use the Energy Monitoring Solution and/ or Services, however caused, regardless of the theory of liability (contract, tort or otherwise) and even if you have been advised of the possibility of such damages.
- 8.2. RBEI's total liability to Customer for actual damages for any cause whatsoever will be limited to ten percent (10%) of the amount paid by Customer, for the Subscription Term.

## **9. Changes**

- 9.1. RBEI reserves the right to modify the Energy Monitoring Solution with effectiveness within the existing contractual relationships in order to adapt the Energy Monitoring Solution free of charge to changing technical conditions or to further developments of the Energy Monitoring Solution or technical progress, whereby the essential functionality of the Energy Monitoring Solution remain unchanged. In addition, RBEI may at any time propose changes and additions to these Terms and Conditions and to the use of personal information described in our Privacy Policy. The proposed changes and additions will be notified to you by e-mail at least thirty (30) calendar days prior to the planned effective date of the changes and additions. RBEI waives the receipt of your acceptance. If Customer does not object within thirty (30) days from receipt of the notification and continue to use the Energy Monitoring Solution after expiry of the opposition period, then the changes shall be deemed to have been effectively agreed as from the expiry date of the time limit. In the event of an objection, the contractual relationship shall be continued subject to the previous conditions. If an objection is raised, RBEI is entitled to terminate the contractual relationship subject to a one (1)

month' notice period. A proportionate reimbursement of the fees will be made. Customer shall be advised of its right to object and of the consequences in the change notification.

- 9.2. In the event of changes to the value added tax, RBEI is entitled to adjust the remuneration for services corresponding to this change; in this event the aforementioned right of objection does not exist.

## **10. Confidentiality**

- 10.1. The Parties shall observe the confidentiality of all information, which is to be treated as confidential and obtained in the context of this contractual relationship, or shall, respectively, only use it in relation to third parties, for whatever purpose, subject to the prior written agreement of the other Party. Information to be treated as confidential includes information explicitly marked as confidential by the Party communicating the information or that should otherwise be deemed confidential.
- 10.2. The obligations under Section 10.1 shall not apply to such information or parts thereof for which the receiving Party proves that it
- a) was known to the receiving Party or generally accessible prior to the date of receipt or became known from a third party after the date of receipt in a lawful manner and without any confidentiality obligation;
  - b) or was already known to the general public or was generally accessible prior to the date of receipt; or
  - c) became known to the general public or became generally accessible after the date of receipt without the receiving Party being responsible for this; or
  - d) has waived its right to confidentiality in respect of which the notifying Party has waived its right to confidentiality by means of a written declaration to the receiving Party.
- 10.3. The Parties shall only make public statements relating to their cooperation subject to their prior mutual agreement. Customer does not have the right to appear as the representative or commercial partner of RBEI. Without the prior consent of RBEI, Customer is not entitled to use information on envisaged or existing contractual cooperation for reference or marketing purposes.
- 10.4. The obligations under Section 10.1 shall survive termination of the contract for five (5) years, as long as a criterion for an exception pursuant to Section 10.2 has not been evidenced.

## **11. Export Control**

- 11.1. Customer is aware that the use of the Energy Monitoring Solution may be subject to

import/export restrictions. In particular there may be approval requirements, or use of the Energy Monitoring Solution may be subject to restrictions/limitations in foreign countries.

- 11.2. Customer shall comply with respectively applicable national and international import/export control regulations, and with all other relevant regulations.
- 11.3. RBEI's fulfilment of the contract is subject to such fulfilment not being opposed by impediments due to national or international import/export regulations or by any other statutory provisions.
- 11.4. Delays due to export examinations or approval procedures render deadlines and delivery dates inapplicable. If necessary approvals are not granted or if the delivery and service are not capable of being approved, the contract shall be considered not concluded with respect to the parts affected.
- 11.5. RBEI has the right to terminate the contract without notice if such termination is necessary for RBEI in order to comply with national or international legal provisions. In the event of termination the Customer is excluded from raising a claim for any damage or other rights on account of the termination.
- 11.6. The Energy Monitoring Solution shall not be utilized for military purposes or for nuclear technology purposes.

## **12. Other Provisions**

- 12.1. Governing law and jurisdiction: The laws of India and jurisdiction of courts in Bangalore, India shall exclusively apply to this contract.
- 12.2. The Customer shall not assign its obligations under these terms without prior written consent of RBEI.
- 12.3. Neither Party shall be liable for non-performance or delay in performance of any obligation stipulated in this Agreement if such non-performance or delay is caused by an event of Force Majeure (ex.: Earthquake, fire, flood, accidents, war, riots, situations beyond their control, etc.) that materially impairs the ability of a party to perform its obligations under these Terms.
- 12.4. This arrangement is on a non-exclusive basis and does not prevent RBEI from providing similar solutions to any other party.
- 12.5. If any part, term or provision of this Agreement not being of a fundamental nature, is held illegal or unenforceable, the validity or enforceability of the remainder of this Agreement shall not be affected, if such part, term or provision of this Agreement is severable from the rest of this Agreement without altering the essence of this Agreement.
- 12.6. Failure of either Party at any time to require

performance of any provision of this Agreement shall not affect the right to require full performance thereof at any time thereafter, and the waiver by any Party of a breach of any provision shall not be taken to be a waiver of any subsequent breach thereof or as nullifying the effectiveness of such provision.

- 12.7. RBEI may enable integration of the Energy Monitoring Service with products and solutions provided by third parties, which Customer can leverage. These products and solutions will not be sold or marketed by RBEI and RBEI will not be responsible for those products and solutions. RBEI may also disable such integration capabilities upon review and analysis of the same, based on its discretion. RBEI disclaim all liability arising from your access to or use of such third-party products.
- 12.8. Should any provision of these Terms and Conditions be or become invalid or unenforceable, this shall, however, not affect the remaining provisions.
- 12.9. These terms form the most critical terms applicable to the provision of Solution and prevail over all other terms, such a purchase order terms, either before or hereinafter agreed.

## **B. SECOND PART: CONDITIONS FOR ENERGY MONITORING SERVICES**

### **13. Service offer and availability**

- 13.1. RBEI provides the service as a Software as a Service. Hereby the Energy Monitoring Service is provided via remote access for use by Customer, the necessary storage space as well as the granting or procurement of usage rights regarding the Energy Monitoring Services by RBEI.
- 13.2. Details on the necessary technical prerequisites and the scope of the services provided with the relevant Energy Monitoring Services can be found in the product description of the Energy Monitoring Solution in the Proposal.

### **14. Provision of the Energy Monitoring Service and Storage Space**

- 14.1. RBEI shall make available the then current version of the Energy Monitoring Service for use in accordance with the provisions of these Terms and Conditions on a server infrastructure provided by RBEI or its subcontractors (hereinafter referred to as "Server") from the time agreed in the Contract.
- 14.2. Access to the Energy Monitoring Service by Customer shall be browser-based via the Internet or via an application interface set up by RBEI.
- 14.3. RBEI shall provide Customer the necessary access credentials required for use of the

Energy Monitoring Service, unless the registration of a Bosch-ID is required. Registration for a Bosch-ID is the sole responsibility of Customer. „Bosch-ID“ means the User ID of the single sign-on authentication service provided by RBEI which enables the use of various independent digital service offerings of the Bosch Group, for which a Customer's e-mail address is required.

- 14.4. If an Account is required to obtain access to and to use the Energy Monitoring Service, RBEI shall make this Account available to Customer after Customer agrees to these Terms and Conditions. The provision of an Account is free of charge. The Account and the access credentials are not transferable. Customer is liable for all actions performed under Customer's Account.
- 14.5. RBEI shall make storage space available for Customer and Usage Data on RBEI's Server or on third party server to the extent that this is required for the intended use of the Energy Monitoring Service.
- 14.6. Customer Data shall be stored and be regularly backed-up by RBEI throughout the duration of the contractual relationship. Customer shall be solely responsible for compliance with retention periods required of Customer under commercial and tax law. Data for periods less than 1 year is available for running queries and generating quick reports. Data for periods longer than a year will be archived and stored on the cloud, and queries on such data may take time to run and generate reports.

### **15. Technical Availability of the Energy Monitoring Service and Customer Data**

- 15.1. RBEI provides availability for Energy Monitoring Services within our area of responsibility as described in the SLA. Except as otherwise agreed in a SLA as an annex to the Contract, an availability of 98.5% per annum (calculated with effect from provision of the Energy Monitoring Service) shall be deemed agreed.
- 15.2. If the Energy Monitoring Service is not available on account of: (i) planned maintenance work (e.g. for updates and upgrades), (ii) other planned interruptions in operations, (iii) unplanned maintenance work for good cause or for other reasons for which RBEI is not responsible, such as malfunctions in the field of the provision, operation and support of the Customer's communications connection (communications sections outside RBEI's data center), in particular due to a failure in Customer's Internet connection, then for the purposes of calculating availability, the Energy Monitoring Service shall be deemed to have been available during these times.
- 15.3. RBEI shall own the availability of the functionalities of the Energy Monitoring Service only if the system requirements regulated in

the Proposal have been complied with by Customer. Customer shall be solely responsible for compliance with the system requirements. The provision of Section 9 shall apply accordingly to changes to the system requirements and to changes to the technical system of RBEI.

- 15.4. RBEI is only responsible for the proper functioning of RBEI's systems up to the Internet hubs of RBEI's data center.

## 16. Support

- 16.1. RBEI shall provide first level support ("FLS") for Customer via a support center for all incidents arising in the context of the Energy Monitoring Service provided. The support availability is regulated in the SLA. In connection with the FLS, for each incident an incident ticket shall be created by RBEI and allocated a corresponding error category in accordance with the SLA.
- 16.2. Errors which cannot be rectified by the FLS shall be forwarded to RBEI's second level support ("SLS"), if available, with the aim of establishing a temporary workaround. The SLS is triggered via the FLS and shall assure the response times agreed in the SLA.
- 16.3. The reporter of the error shall be advised of the status and of its solution at regular intervals until such time as the solution is implemented and the incident is rectified. If, however, the qualification of the incident ticket by RBEI shows that the cause of the incident lies in a service or performance by Customer pursuant to Section 2.2 or has other reasons for which RBEI is not responsible, then the incident ticket shall be forwarded to the Customer. In this case Customer himself shall be responsible for resolving the problem. If, in this case, the use of the Energy Monitoring Service is restricted until the fault has been rectified, RBEI is not responsible for the resulting consequences and this does not discharge the Customer from paying the agreed remuneration.
- 16.4. The support, the provisioning and implementation of Energy Monitoring Service updates and the execution thereof shall be effected by RBEI as required in accordance with the maintenance regulations for the Energy Monitoring Service in the SLA.

## 17. Access to the Energy Monitoring Services

- 17.1. The Customer shall make reasonable efforts to ensure that its access to the Energy Monitoring Services is solely used by him or by third parties authorized by the Customer. If there is any fear that unauthorized third parties have or will gain access to the Customer's access data, the Customer must inform RBEI immediately.
- 17.2. The access of unauthorized third parties to the Energy Monitoring Services is to be prevented by taking appropriate measures. This includes in particular the password-

protected blocking of the user interfaces of the terminals used.

## 18. Usage Rights

- 18.1. RBEI grants to Customer a non-exclusive, non-sub-licensable and non-transferable right to use the Energy Monitoring Service in the context of the functionalities and the intended use of the Energy Monitoring Service in accordance with the service specification and the documentation for the term of the contractual relationship. Within this framework, Customer is entitled
- to make the Energy Monitoring Service available to authorized third parties exclusively using the Energy Monitoring Service on behalf of and for the Customer;
  - to store and print the documentation, whilst maintaining the existing copyright notices and, for the purposes of the Contract, to reproduce that number of copies thereof which is appropriate.
- 18.2. RBEI makes the Energy Monitoring Service available as SaaS (Software as a Service) per remote access. It shall not be made available to Customer for Customer's own permanent storage or for use in a data center environment. The only permitted storage is for back-up purposes in order to enable data recovery in case of any loss or security issue.
- 18.3. If, during the term of the Contract, RBEI makes new versions, updates, upgrades, modifications or extensions of the Energy Monitoring Service available or carries out other changes with respect to the Energy Monitoring Service, the provisions of Section 18 shall also apply thereto, even if the modifications or extensions were ordered by Customer and paid for separately.
- 18.4. Customer shall not have any rights not explicitly granted to Customer under these Terms and Conditions. In particular, Customer has no right to:
- Except as stated in Section 18.1 a), use the Energy Monitoring Service beyond the scope of use agreed in these Terms and Conditions or to permit third parties to use it;
  - Except as stated in Section 18.1 a), make the Energy Monitoring Service available to third parties; or
  - duplicate the Energy Monitoring Service or to provide them for use for a limited period of time, in particular not to lease it or loan it.
  - either on its own account or enable others to decompile, reverse engineer, disassemble, decrypt, modify, attempt to derive the source code of the Software or remove, erase or obscure or tamper

with any copyright or any other proprietary notice encoded or recorded in or on any Software or documentation or create derivative works of the Software, the Hardware or any part thereof.

18.5. Customer is obliged to ensure that the provisions of these Terms and Conditions are complied with.

18.6. If Customer breaches the provisions of Section 18, RBEI may, after giving Customer advance notification in writing, block Customer's access to the Energy Monitoring service, if the violation can be rectified by such blocking. The blocking shall be removed as soon as the reason for the blocking ceases to exist. If Customer continues to violate the provisions of Section 18 or does so repeatedly despite a respective warning in writing from RBEI, RBEI is entitled to terminate the contractual relationship for cause without notice unless Customer was not responsible for such breach. RBEI's right to claim damages shall remain unaffected.

18.7. RBEI is the sole owner of Usage Data (means all automatically transmitted machine data (sensor or other machine data) or automatically generated system data (e.g. log files, information on utilization or availability of the Energy Monitoring service)) and may use and exploit it in anonymous form for any purpose in accordance with the applicable statutory provisions. The Customer warrants that s/he has not made any agreements with third parties that prevents its use.

## **19. Customer Data**

19.1. Customer hereby grants RBEI the right to use, for the purpose of executing the Contract, the Customer Data filed in the storage space for use of the Energy Monitoring Service, in particular the right to reproduce such Customer Data for this purpose (e.g. for data back-up), to modify it and to provide such Customer Data for the purpose of accessing it.

19.2. Customer warrants that

- a) he and/or his licensors hold all rights to the Customer Data required for the granting of rights under these Terms and Conditions
- b) the Customer Data does not violate these Terms and Conditions or applicable laws and does not infringe the intellectual property of a third party.

19.3. The Customer is responsible for the security of Customer Data. Unless otherwise agreed in the Contract, Customer is obligated to regularly back up his Customer Data. Each data back-up by Customer shall be performed so that the recovery of the Customer Data is possible at all times.

19.4. RBEI is entitled to immediately block Customer's use of the Energy Monitoring Service and the storage space if there is justified suspicion that the stored Customer Data is unlawful and/or infringes third-party rights. There is a justified suspicion of unlawfulness and/or of an infringement of rights in particular when courts, authorities and/or other third parties notify RBEI thereof. RBEI shall then notify Customer of the block, stating the reason for the block. The block shall be removed as soon as the suspicion has been refuted.

## **20. Open Source**

20.1. The Energy Monitoring Service may contain Free and Open Source Software ("FOSS") components that are subject to FOSS license agreements ("FOSS-Licenses").

20.2. The FOSS components including the applicable FOSS-Licenses used in RBEI's Energy Monitoring Service shall be illustrated in the Service Description or in the Energy Monitoring Service itself, if providing via remote access explicitly requires the fulfilment of FOSS-License obligations.

20.3. The Customer shall be provided with an up-to-date list of FOSS components contained in the Energy Monitoring Service and the applicable FOSS-Licenses upon request.

## **21. Defect Claims**

21.1. Following a respective defect notification by Customer, defects in the Energy Monitoring Service including the documentation shall be dealt with by RBEI within the response times specified in the SLA. In the absence of a specification in the SLA, reasonable reaction times shall apply. The same shall apply with regard to other disruptions of the Energy Monitoring Service's usability for which RBEI is responsible. Any potential damage claims based on defective performance for which RBEI is responsible shall be governed by Section 8 of these Terms and Conditions.

## **C. PART THREE: CONDITIONS FOR ENERGY MONITORING HARDWARE**

The Customer purchases the Energy Monitoring Hardware corresponding to the ordered Energy Monitoring Service for a one-time payment.

Installation will be carried out by the Customer unless the Parties have agreed otherwise in the Proposal.

## **22. Delivery, Delivery Periods and Delivery Dates, Delay**

22.1. Delivery is made to the address agreed between the Parties.

22.2. Unless otherwise agreed, our deliveries shall be made according to the FCA (Inco-

terms 2010), where the place of performance for the deliveries and any subsequent performance shall also be.

22.3. Delivery periods and delivery dates are agreed individually or specified by us in the Proposal. The commencement of and compliance with the agreed delivery periods and delivery dates shall be subject to the fulfilment of all cooperation obligations on the part of Customer, in particular the timely receipt of documents and approvals, to be supplied by the Customer and compliance with the agreed terms of remuneration. If these conditions are not properly fulfilled in due time, delivery periods shall be extended and delivery dates shall be postponed accordingly. Our other statutory claims shall remain unaffected.

22.4. RBEI shall be entitled to make partial deliveries and to issue corresponding invoices in this respect, insofar as these are reasonable for Customer. Partial deliveries are reasonable if (i) the partial delivery can be used by Customer within the scope of the contractual purpose, (ii) the delivery of the remaining ordered goods is ensured and (iii) Customer does not incur any substantial additional costs (unless RBEI agrees to bear these costs).

22.5. Occurrence of a delay in delivery shall be determined in accordance with the statutory provisions. However, Customer may only withdraw from the contract within the framework of the statutory provisions if RBEI is responsible for the delay. Section 8 shall apply to claims for damages due to delay.

22.6. If agreed delivery periods cannot be complied with due to force majeure or other unavoidable events for which RBEI is not responsible (non-availability of the service e.g. due to war, terrorist attacks, import and export restrictions), the delivery periods and delivery dates envisaged for carrying out the deliveries shall be extended accordingly plus a reasonable period for the deployment. If events of force majeure or equivalent events last longer than 3 months, each contracting party shall have the right to withdraw from the contract if an adjustment of the contract is not possible.

### **23. Scope of Delivery; Nature of the Deliveries**

Only the agreed product or service descriptions, specifications and markings shall be regarded as the owed quality of our deliveries. Any deviating quality of the deliveries shall be deemed to have been accepted by Customer insofar as he has given his approval.

### **24. Duties and obligations of the Customer**

24.1. Customer shall ensure that the Energy Monitoring Hardware can be properly delivered at the agreed delivery time.

24.2. Customer is obliged to check the Energy Monitoring Hardware for proper functioning and completeness immediately after installation. Any defects will be reported immediately by Customer to RBEI (duty to inspect and give notice of defects). In the event of a breach of the duty to inspect and give notice of defects, the delivery shall be deemed to have been approved with regard to the corresponding defect.

24.3. Customer shall be fully responsible for securing the Energy Monitoring Hardware installed at its location and to protect it from tampering, destruction, theft, modification, disassembly, etc. Customer shall bear the cost of repair or replacement of Energy Monitoring Hardware which has been lost or damaged through circumstances for which Customer is responsible.

### **25. Warranty**

25.1. Statutory warranty claims are limited to one (1) year.

25.2. Prerequisite for warranty claims of Customer is that he has fulfilled his statutory obligations to inspect the deliveries and give notice of defects.

25.3. At RBEI'S request, Customer shall return the deliveries complained about to RBEI at his own expense. In the event of a justified complaint, RBEI shall reimburse the costs of the cheapest shipping route; this does not apply if the costs increase because the deliveries are located at a location other than the location of the intended use. In the event of an unjustified notice of defect, RBEI shall be entitled to demand reimbursement from Customer for the expenses incurred by RBEI (e.g. transport, labour and material costs), unless the lack of defectiveness was not recognisable to Customer.

25.4. In the event of a defect in the Energy Monitoring Hardware, RBEI will send the Customer an individual replacement component or, at RBEI's option, a new Energy Monitoring Hardware. Defective components or the Energy Monitoring Hardware must be returned to RBEI after receipt of the replacement components or after receipt of a new Energy Monitoring Hardware.

25.5. Claims for defects shall not exist in the case of defects which have arisen after the transfer of risk as a result of, for example the violation of operating, maintenance and installation instructions, unsuitable or improper use, incorrect or negligent handling, storage or installation or as a result of interventions in the delivered goods carried out by Customer or third parties.

25.6. Except as stated herein, the Energy Monitoring Hardware is provided as is. RBEI hereby disclaims all warranties, be it express, implied or statutory.



**26. Retention of title**

RBEI reserves the right to ownership of the deliveries until complete fulfilment of all claims to which RBEI is entitled and which still arise from the business relationship.

**Robert Bosch Engineering and Business  
Solutions Private Limited**