



Standard Terms and Conditions for the Sale of Ageto Renewable Controller (ARC)

These Standard Terms and Conditions (these “**Terms**”) govern the supply of the ARC Equipment and the provision of the Services by Ageto, LLC, a Colorado limited liability company (“**Ageto**”) to you (hereinafter referred to as the “**Customer**”). Customer and Ageto may be referred to hereinafter individually as a “**Party**” and collectively as “**Parties**.”

As used herein, this “**Agreement**” means these Terms, including all referenced schedules and exhibits, and the accompanying Quote and Proposal.

This Agreement shall be binding upon the Parties on the first of:

1. The Customer making an initial payment to Ageto for the ARC Equipment in accordance with the applicable Quote, purchase order and/or invoice for such ARC Equipment; or
2. The Customer signing this Agreement and returning the executed version to Ageto.

These Terms prevail over any differing or additional terms printed or otherwise contained in Customer’s purchase order, acknowledgement, confirmation, payment, or acceptance of this Agreement regardless of whether or when Customer has submitted its purchase order or such terms. Fulfillment of Customer’s purchase order does not constitute acceptance of any of Customer’s terms and conditions and does not serve to modify or amend these Terms. Customer agrees that such differing or additional terms or alterations shall not constitute any part of the contract between the Parties. Furthermore, unless otherwise agreed to in writing signed by an authorized representative of Ageto, any such differing or additional terms or alterations to this Agreement are deemed by Ageto to be “material” alterations and Ageto hereby objects to such alterations.

NOW, THEREFORE, in consideration for the recitals, mutual covenants and promises made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

SECTION 1. DEFINITIONS

1.1. “ARC Equipment” means the ARC Hardware and the Software set forth on the Quote.

1.2. “ARC Hardware” means the Ageto control cabinet set, which includes the following: (i) Industrial PC and

touchscreen; (ii) power supply and UPS; (iii) Ethernet switch; (iv) remote communications; and (v) any other hardware provided by Ageto related to the use of the foregoing as set forth on the Quote.

1.3. “Confidential Information” means all information that a Party (a “**Disclosing Party**”) discloses to another Party (a “**Receiving Party**”) that falls within one or more of the following categories: (i) any information identified as Confidential Information herein; (ii) any information that falls within the definition of a “trade secret” as defined under C.R.S. § 7-74-102(4), as amended; (iii) any information, including a formula, pattern, compilation, program, device, method technique, or process that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; (iv) any information which the Receiving Party knows or reasonably should know that the Disclosing Party is required to keep confidential under a binding obligation with a third party; and (v) all information provided to a Receiving Party which the Receiving Party knows or reasonably should know could be detrimental to the interests of the Disclosing Party if disclosed or used without authorization, whether or not such information is identified as confidential. Information that falls into any one or more of the following categories will not constitute Confidential Information: (1) information that is or becomes part of the public domain through no fault of the Receiving Party; (2) information that the Receiving Party can show by documentary evidence was known by it prior to its receipt from the Disclosing Party; (3) information that the Receiving Party can show by documentary evidence was independently developed by or for it without relying on any Confidential Information; (4) information that the Receiving Party can show by documentary evidence was rightfully received from a third party who is not under any obligation to maintain the confidentiality of such information, under circumstances not involving a violation of the rights of the Disclosing Party.

1.4. “Consulting Services” means the engineering and other professional services provided by Ageto as set forth in this Agreement.

1.5. “Facility” means the site or facility where the ARC Equipment will be installed.

1.6. “Intellectual Property” means copyrights, trademarks, trademark applications (including intent-to-use applications), trade names, moral rights, trade secrets, patents, patent applications, inventions, invention disclosures, know-how, designs, software, database, and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

1.7. “Proposal” means Ageto’s written proposal for the design and installation of the ARC Equipment and associated Services to be supplied or provided to Customer.

1.8. “Quote” means a pricing quotation for the purchase of the ARC Equipment and the provision of the Services set forth in the applicable Proposal.

1.9. “Services” means the Consulting Services, the Commissioning, the Support Services, and any other services provided or performed by Ageto from time to time under this Agreement.

1.10. “Software” means the software installed on the ARC Hardware, including any Software Updates and Maintenance Updates.

1.11. “Standard Fees and Expense Policy” means the standard fees charged by Ageto for certain Services and Ageto’s policy regarding reimbursement of its travel expenses, which may be updated from time to time, and a copy of which can be found on Ageto’s website at agetoenergy.com/termsandconditions.

1.12. “Warranty Period” means the 12-month period starting on the date Ageto completes Commissioning of the ARC Equipment, provided, however, that the Warranty Period automatically terminates upon termination of this Agreement.

SECTION 2. SCOPE

2.1. Scope. This Agreement controls and governs: (i) the sale of the ARC Hardware; (iii) the installation of the ARC Equipment; (iv) Customer’s right to access and use the Software solely in connection with the ARC Hardware; (v) and the provision of the Services.

2.2. Entire Agreement. This Agreement, together with all written instructions issued hereunder by Ageto, comprises the complete and final agreement between the Parties and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and

warranties, and communications, both written and oral. No agreement or other understanding in any way purporting to modify these Terms shall be binding upon Ageto unless agreed to by Ageto in writing on or subsequent to the date of this Agreement.

SECTION 3. PROPOSAL; QUOTE; PROJECT PHASE

3.1. Proposal. Prior to or concurrently with the execution of this Agreement, Ageto will send Customer a Quote and accompanying Proposal. Customer acknowledges that in preparing the Quote and the Proposal, Ageto has relied upon information provided by Customer during the intake process. If any information provided by Customer is inaccurate or incomplete, this may require changes to the Proposal. Customer agrees that (i) Customer shall be responsible for any costs associated with any such changes to the Proposal after the execution of this Agreement, and (ii) Ageto may in its sole discretion charge a Delay Fee in connection with such changes.

3.2. Quote. Customer acknowledges that the Quote includes estimates for certain Services and other expenses (including Services in connection with the Commissioning), which will be billed to Customer as provided or incurred pursuant to the Standard Fees and Expense Policy. Customer acknowledges that the actual cost for such Services and expenses may be different than as listed in the Quote. Ageto will send Customer an invoice promptly after the provision of such Services or after such expenses are incurred.

3.3. Project Phase. Within a reasonable amount of time after the execution of this Agreement, Ageto shall commence performance of certain Consulting Services, including a sizing analysis, asset selection, and specifications (including any Customer Requested Specifications) for the ARC Equipment, and any additional Consulting Services set forth in the Proposal or as otherwise requested by Customer (the “Project Phase”). Fees charged for such Consulting Services are set forth on the Standard Fees and Expense Policy and may be invoiced to Customer prior to or after provision of the Consulting Services. All fees paid for the Consulting Services are non-refundable. Ageto may provide an estimate of the fees for the Consulting Services in the Quote. Customer acknowledges that such estimates for fees for the Consulting Services may be more or less than the fees for Consulting Services performed by Ageto and invoiced to Customer.

3.4. Additional Consulting Services. In addition to Consulting Services provided in connection with the Project Phase, Ageto may at various times (including prior to delivery of a Proposal) provide additional Consulting Services to Customer. Such Consulting Services shall be invoiced in accordance with Section 3.3.

3.5. Customer Requested Specifications.

(i) During the Project Phase, Customer may request to incorporate into the ARC Equipment (i) certain of Customer's Intellectual Property, software, materials, algorithms, concepts, data, designs, developments, documentation, discoveries, HTML, XML and other codes, inventions, multimedia files (including audio, graphic, photographic, and video files), object codes, programs, source codes, texts, or other technology ("**Customer Provided Technology**"); or (ii) other custom designs that alter Ageto's customary ARC Equipment or that otherwise deviate from Ageto's recommended specifications for the ARC Equipment (collectively, "**Customer Requested Designs**," and together with Customer Provided Technology "**Customer Requested Specifications**").

(ii) Ageto shall evaluate and consider in good faith the feasibility of incorporating any such Customer Requested Specifications into the ARC Equipment, but Ageto shall have the right, in its sole discretion, to accept or reject such requests. To the extent Ageto agrees to incorporate any Customer Requested Specifications, Customer hereby grants to Ageto a perpetual, irrevocable, fully-paid, royalty-free, worldwide license to use, reproduce, modify, and create derivative works based upon such Customer Requested Specifications solely for the purpose of incorporating such Customer Requested Specifications into the ARC Equipment.

3.6. Changes. From time to time during the Project Phase, Customer may request changes to the design, drawings, specifications, descriptions, shipping instructions, or delivery schedule for the ARC Equipment. Any such change must be delivered to Ageto in writing and accepted by Ageto in writing, which acceptance may be withheld in Ageto's sole reasonable discretion. If such acceptance results in an increase or decrease of the cost of, or time required for, performance of this Agreement, an equitable adjustment will be made by Ageto and invoiced to the Customer. In addition, if Ageto accepts any such changes, Ageto may in its sole discretion charge Customer a Delay Fee.

SECTION 4. HARDWARE ASSEMBLY AND COMMISSIONING

4.1. Assembly of ARC Equipment. Upon completion of the Project Phase, Ageto shall commence assembly of the ARC Equipment, which includes but is not limited to programming the Software and assembling the ARC Hardware (the "**Assembly Phase**"). If at any time during the Assembly Phase, Customer requests to cancel its order for the ARC Equipment or this Agreement is otherwise terminated due to a breach by Customer, then Customer shall pay to Ageto all direct charges incurred by Ageto with respect to the assembly of

the ARC Equipment, including, but not limited to, cost of production, cost of materials, cost of the components, restocking charges, and transportation charges.

4.2. Title and Risk of Loss. Ageto shall deliver the ARC Hardware to Customer EXW Fort Collins, Colorado (Incoterms® 2020), provided, however, that title to the ARC Hardware (excluding the Software) provided under this Agreement will pass to Customer upon (i) acceptance by Customer in accordance with Section 6.1; and (ii) full payment by Customer for the ARC Equipment in accordance with the applicable invoice.

4.3. Commissioning - Generally. Within a reasonable amount of time after the ARC Equipment has been assembled in accordance with this Agreement, Ageto shall, as appropriate, place into service and configure the ARC Hardware, demonstrate and test the ARC Equipment, grant Customer access to the Software, and provide Customer basic training on the use of ARC Equipment (such services collectively, the "**Commissioning**"). Upon mutual agreement of Customer and Ageto, Ageto may perform the Commissioning remotely. Notwithstanding the foregoing, Ageto's obligation to perform the Commissioning shall be conditioned upon Customer's satisfaction of the responsibilities and covenants set forth in Section 4.4. Customer may request changes to the time, date, and location of the Commissioning, provided, however, that if any such change results in an increase or decrease of the cost of, or time required for, performance of the Commissioning, an equitable adjustment will be made by Ageto and invoiced to the Customer. Any such change must be delivered to Ageto in writing and accepted by Ageto in writing, which acceptance may be withheld in Ageto's sole reasonable discretion. FOR THE AVOIDANCE OF DOUBT, THE QUOTE SHALL CONTAIN AN ESTIMATE OF AGETO'S FEES AND EXPENSES FOR THE COMMISSIONING, BUT THE ACTUAL FEES AND EXPENSES SHALL BE INVOICED AFTER COMMISSIONING. THE ACTUAL FEES AND EXPENSES OF THE COMMISSIONING MAY BE MORE OR LESS THAN COSTS ESTIMATED ON THE QUOTE.

4.4. Commissioning - Customer's Responsibilities.

(i) Customer shall provide Ageto access to the Facility as required for the Commissioning.

(ii) Customer shall inspect the Facility prior to Ageto's arrival to the Facility and notify Ageto of any conditions that could adversely affect or prevent Ageto's ability to safely install the ARC Equipment, and any hazards that may not be readily apparent to Ageto (collectively, "**Adverse Conditions**"). To the extent an Adverse Condition results in a delay of Commissioning or additional expertise in engineering an appropriate solution, such time shall be billed at standard

Ageto commissioning rates set forth the Standard Fees and Expense Policy.

(iii) Prior to the Commissioning, Customer shall provide Ageto with notice of any safety requirements or training necessary to access the Facility.

(iv) Customer shall, at its sole expense and at its own risk, provide a qualified electrician (“**Electrician**”) that has the requisite knowledge and specialized training to work safely on energized circuits to install the ARC Equipment on behalf of the Customer with due diligence, in a good, safe, and workmanlike manner and in accordance with the installing guidelines provided by Ageto to Customer. Ageto shall have no liability for the services provided by the Electrician. Without limiting the generality of the foregoing, Ageto shall be under no obligation to repair or replace any ARC Equipment damaged by the Electrician.

(v) Customer shall provide an English-speaking authorized agent of Customer to be present during the Commissioning.

(vi) Customer shall provide: (i) site wiring for the communication network between energy sources; (ii) system one-line diagrams of the electrical system to which the ARC Equipment will be connected; (iii) internet connection for remote monitoring; and (iv) any other equipment, documentation, hardware, or item as reasonably requested by Ageto to assist in the Commissioning and use of the ARC Equipment.

(vii) Customer shall complete, sign, and return the ARC Commissioning Ready Checklist (the “**Checklist**”), provided to Customer by Ageto, prior to scheduling the Commissioning. If Customer has not prepared the site for Commissioning in accordance with the Checklist when Ageto arrives on-site at the scheduled time of the Commissioning, Customer shall be charged a Utilization Fee (as set forth on the Standard Fees and Expense Policy) in addition to all other fees and expenses due under this Agreement.

(viii) The Customer’s obligations under this Section 4.4 shall survive the termination of this Agreement.

4.5. Commissioning – Ageto’s Responsibilities.

(i) Ageto shall furnish the ARC Equipment and all personnel required to perform and complete the Commissioning, except that any electrical work shall be completed by the Electrician.

(ii) Ageto shall perform the Commissioning with due diligence, in a good, safe, and

workmanlike manner, using skilled, competent, and experienced personnel.

(iii) Ageto shall provide Customer with documentation concerning the features and use of the ARC Equipment in a user manual (the “**Documentation**”).

SECTION 5. RIGHT TO USE SOFTWARE

5.1. Rights to Software. Subject to Customer’s payment of all the fees due pursuant to this Agreement and Customer’s compliance with all use restrictions contained in this Agreement and any and all third-party end-user license agreements (“**EULAs**”) relating to the Software, Ageto grants to the Customer a non-exclusive, revocable, non-transferable, non-sublicensable, limited right to access and use the Software solely in connection with its operation and internal use of the ARC Hardware and in accordance with this Agreement and all limitations imposed by Ageto’s licensors (the “**Use Right**”).

5.2. Limitations; Revocation of License. Except for the Use Right, this Agreement does not grant to Customer or any other person any other right, title, or interest by implication, estoppel, or otherwise, and all such rights, titles and interests are hereby reserved. Ageto may revoke the Use Right if the Customer fails to comply with the terms and conditions set forth in this Agreement and does not remedy such failure within thirty (30) days after receiving notice thereof. Notwithstanding the foregoing, Ageto may immediately revoke the Use Right if there is any use or dissemination of the Software not expressly permitted herein. Ageto shall not be liable for any loss, cost, expense, or damage resulting from or occurring as a consequence of such revocation.

SECTION 6. ACCEPTANCE OF ARC EQUIPMENT

6.1. Acceptance Procedure. The criteria to determine the acceptance of the ARC Equipment shall include the specifications and functionality described in the Documentation (the “**Acceptance Criteria**”). For fifteen (15) days following the Commissioning, the Customer may reject the ARC Equipment if the ARC Equipment does not materially conform to the Acceptance Criteria by providing written notice to Ageto of the specific reasons why the ARC Equipment does not materially conform to the Acceptance Criteria. If so rejected, Ageto shall remediate the issues identified in the rejection notice and notify the Customer when the ARC Equipment is ready for re-testing, at which point the fifteen (15) day acceptance procedure will be repeated. If the ARC Equipment is not accepted during the second or any subsequent acceptance procedure, the Customer’s sole and exclusive remedy is to request a refund of any fees paid for the ARC Equipment and return the ARC Equipment to Ageto via a

method approved in writing by Ageto. If the Customer notifies Ageto in writing that it accepts the ARC Equipment or does not issue a notice of rejection within fifteen (15) days, then the Customer shall be deemed to have accepted the ARC Equipment.

6.2. Non-Refundable. Unless otherwise expressly stated herein, upon acceptance in accordance with Section 6.1, all payments made by Customer for the ARC Equipment are non-refundable.

SECTION 7. WARRANTY

7.1. Warranty. Ageto warrants that during the Warranty Period the ARC Equipment shall be free from material defects and shall materially conform to applicable specifications, drawings, designs, and samples as set forth in the Documentation (the “**Warranty**”).

7.2. Remedy. If Customer discovers any material defect or deficiency in the ARC Equipment within the Warranty Period, and Customer has notified Ageto of the material defect or deficiency within a reasonable period of time after its discovery, Ageto shall promptly investigate the defect or deficiency. If Ageto determines that the cause of the defect or deficiency is **not** due to a limitation stated in Section 7.3, Ageto shall promptly repair, re-perform, or replace the defective or deficient portion of the ARC Equipment (and shall provide all labor, equipment and Services necessarily incidental to effecting such correction of the defect or deficiency). Ageto will not charge additional fees for labor or time to remedy any such defect; *provided, however*, that to the extent such remedy requires an on-site visit to the Facility, Customer shall reimburse Ageto for its travel and other expenses in connection with such on-site visit, in accordance with the Standard Fees and Expense Policy. If such repair, re-performance, or replacement does not remedy the materially defective or deficient portion of the ARC Equipment, then, upon Customer’s request, Ageto shall refund a prorated (based on the length of time the ARC Equipment was in use) portion of the payments made by Customer for the ARC Equipment. If Ageto agrees to provide such refund, then Ageto may condition the refund on Customer’s return of the ARC Equipment at Ageto’s expense. The foregoing remedies shall be Customer’s sole and exclusive remedy for any breach of the Warranty.

7.3. Limitations. The warranty in this Section 7 does not cover or apply to any of the following, as determined in Ageto’s sole discretion: (i) Customer Requested Specifications; (ii) defects caused by inadequate maintenance of the ARC Equipment by Customer; (iii) Customer’s use of the ARC Equipment in a manner in which it was not intended to be used; (iv) modification, changes, or repairs made to the ARC

Equipment by Customer without Ageto’s written consent (a “**Customer Modification**”); (v) defect caused by the negligence or intentional conduct of the Customer; and (vi) minor defects caused by ordinary wear and tear. Upon Customer’s request, Ageto may elect to repair, re-perform or replace any defective or deficient portion of the ARC Equipment resulting from any of the foregoing; *provided, however* that Customer shall be responsible for the additional fees for labor, time and expenses to remedy any such defect, which shall be billed in accordance with Ageto’s then-current Standard Fees and Expense Policy.

7.4. DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES STATED ABOVE, AGETO HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, WRITTEN, ORAL, STATUTORY, OR OTHERWISE, CONCERNING THE EFFECTIVENESS, ACCURACY OR COMPLETENESS OF RESULTS, SAFETY, USEFULNESS FOR ANY PURPOSE, OR LIKELIHOOD OF SUCCESS (COMMERCIAL, REGULATORY OR OTHER) OF ARC EQUIPMENT, INCLUDING WITHOUT LIMITATION ANY (A) WARRANTY OF QUALITY OR MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; AND (E) WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

7.5. Third Party Products. The ARC Equipment may contain, include or be packaged together with products supplied by a third party (“**Third Party Products**”). Third Party Products are not covered by the Warranty. For the avoidance of doubt, AGETO MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION ANY (A) WARRANTY OF QUALITY OR MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; AND (E) WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. Third Party Products may be covered by a manufacturer’s warranty To the extent that it is legally able to do so, Ageto will assign and transfer to Customer all warranties received from the supplier of any Third Party Products. As applicable, certain suppliers may provide their own warranties directly to Customer. Customer shall contact the supplier any Third Party Products directly to make a claim under any manufacturer warranty covering a Third Party Product. Ageto shall not be responsible for facilitating or coordinating a warranty claim for any Third Party Products.

SECTION 8. SUPPORT SERVICES

8.1. SUPPORT SERVICES DISCLAIMER. AGETO SHALL PROVIDE THE SUPPORT SERVICE DESCRIBED IN THIS SECTION 8 (THE “**SUPPORT SERVICES**”), AT NO ADDITIONAL COST TO CUSTOMER, DURING THE WARRANTY PERIOD. FOLLOWING THE EXPIRATION OF THE WARRANTY PERIOD CUSTOMER MAY PURCHASE ADDITIONAL SUPPORT SERVICES AT AGETO’S THEN PREVAILING RATES.

8.2. Software Updates. Ageto may from time to time offer paid upgrades to the Software (the “**Software Updates**”). If Customer purchases any Software Updates, such Software Updates shall be provided under the terms and conditions set forth in this Agreement or any new terms applicable at the time of purchase. Software Updates must be purchased separately and are not included in the Support Services.

8.3. Scheduled Maintenance. Ageto may from time to time provide updates to the Software for maintenance or to improve the Software functionality (such updates, “**Maintenance Updates**”). Customer hereby acknowledges that all or any portion of the ARC Equipment may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance in connection with a Maintenance Update, and the foregoing shall not constitute a breach of this Agreement. Ageto shall use reasonable efforts to provide notice to the Customer of any scheduled periods of unavailability.

8.4. Error Reporting. If the Customer experiences errors, interruptions, problems, defects, or issues (collectively, “**Errors**”) with the ARC Equipment, the Customer may report the Error to Ageto using the support email address, support telephone number, or electronic support system provided by Ageto. The report should contain a description of the Error encountered and, where possible, a description of how to repeat the condition that gave rise to the Error, and other diagnostic information as available (“**Error Report**”).

8.5. Error Solution. Upon receipt of an Error Report, Ageto shall use its best efforts to resolve the Error through (i) troubleshooting, (ii) providing updates to the Software, or (iii) replacing parts of the ARC Equipment that may be causing the Error.

8.6. Additional Fees. If after investigation of the cause of the Error, Ageto determines in its reasonable discretion that the Error was caused due to (i) Customer Requested Specifications, (ii) Customer Modifications; (iii) inadequate maintenance of the ARC Equipment by Customer, (iv) Customer’s use of the ARC Equipment in a manner in which it was not intended to be used, or (v) negligent act or omission of the Customer, then such Error resolution shall be billed in

accordance with Ageto’s then-current Standard Fees and Expense Policy.

8.7. Feedback. Customer grants Ageto the right to use any feedback or ideas provided by Customer concerning the ARC Equipment or any aspect of Ageto’s products or services in any manner Ageto desires without compensation or any other obligation to Customer.

SECTION 9. COMPENSATION AND PAYMENT TERMS

9.1. Fees. Customer agrees to pay Ageto the fees for the ARC Equipment and the Services set forth in the applicable Quote and/or invoice (collectively, the “**Fees**”). The Fees may be comprised of fixed fees or hourly or daily labor charges, all as specified in the relevant invoice. Customer further agrees to reimburse Ageto for all reasonable out-of-pocket expenses incurred in connection with Ageto’s performance of the Services. Such reimbursement requests will be in accordance with Ageto’s then-current Standard Fees and Expense Policy.

9.2. Invoicing Schedule. Unless otherwise stated in the applicable Quote and/or invoice, or as otherwise provided in writing by Ageto, the total Fees for the ARC Equipment and the Services shall be payable as follows:

- (i) a portion of the Fees will be invoiced upon execution of this Agreement;
- (ii) a portion of the Fees will be invoiced prior to the Commissioning; and
- (iii) the remaining portion of the Fees will be invoiced upon completion of the Commissioning. Any additional fees for Services not contemplated in the original Quote or otherwise due and payable pursuant to this Agreement shall be invoiced as they are performed or incurred.

9.3. Delay Fee; Repricing. If at any point following the execution of this Agreement, the Commissioning is delayed for more than 15 months through no fault of Ageto (as determined in Ageto’s reasonable discretion), Ageto hereby reserves the right to (i) upon the eventual performance of such Commissioning, charge a Delay Fee as set forth on the Standard Fees and Expense Policy, and (ii) increase the Fees set forth in the applicable Quote with respect to the ARC Equipment.

9.4. Payments. Unless otherwise explicitly stated on an invoice, Customer’s payment will become due and payable in United States currency within thirty (30) days of the invoice date. Any balance unpaid after thirty (30) days will accrue interest at the lesser of one percent (1%) for each month or fraction thereof that the invoice is overdue or the maximum rate allowed by applicable law. In the event of a dispute

regarding any amounts invoiced hereunder, while such a dispute is being resolved, Customer shall not withhold payment of any undisputed amounts due and payable to Ageto. In the event that payments are not received within thirty (30) days of the date of invoice, Ageto may suspend performance of its obligations hereunder until it has received payment in full or immediately terminate this Agreement upon notice to Customer. Customer shall be liable and shall reimburse Ageto for all attorneys' fees and costs in any collection matter under this Agreement.

SECTION 10. INTELLECTUAL PROPERTY OWNERSHIP AND RESTRICTIONS

10.1. Ownership of Software. Customer acknowledges that (i) the Software is being licensed, not sold, to Customer, (ii) the Software and all Intellectual Property rights associated therewith are the exclusive property of Ageto and its licensors, and (iii) no ownership rights to the Software or any Intellectual Property rights associated therewith are being conveyed to the Customer under or in connection with this Agreement.

10.2. Ownership of Ageto's Intellectual Property. Customer acknowledges that, (i) Other than Customer Requested Specifications, the design, selection, compilation, organization and format of the ARC Hardware constitutes copyrightable subject matter of Ageto, (ii) all Intellectual Property rights associated with the ARC Hardware, other than the Customer Requested Specifications, are the exclusive property of Ageto and its licensors, and (iii) no ownership or other rights to the Intellectual Property rights associated with the ARC Hardware are being conveyed to the Customer under or in connection with this Agreement.

10.3. Restrictions on Use of ARC Equipment. The Customer shall not (and shall not allow any third party to): (i) reverse engineer, access or discover any source code or underlying ideas or algorithms of any part of the ARC Equipment, or attempt to do any of the foregoing; (ii) copy, distribute, modify, adapt, publicly perform, publicly display, provide, sell, sublicense, lease, lend, or otherwise use or allow person not a Party to this Agreement to access or use the ARC Equipment; (iii) list or otherwise display or copy any object code of any part of the ARC Equipment; (iv) develop any improvement, modification, or derivative work of any ARC Equipment or include a portion thereof in any other software, equipment or item; (v) upload, post, or otherwise transmit any material that contains software viruses or any other malicious computer code, files, or programs designed to interrupt, destroy, or limit the functionality of the ARC Equipment to any third-party software or hardware or equipment or property; (vi) allow the transfer, transmission, export, or re-export of the

ARC Equipment (or any portion thereof) or of Ageto's technical data to any country outside the country of Commissioning; (vii) bypass or breach any security device or protection used for or contained in the ARC Equipment; (viii) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, warranties, disclaimers, proprietary rights or other symbols, notices, marks, or serial numbers on or relating to the ARC Equipment; (ix) perform benchmark tests without the prior written consent of Ageto (any results of such permitted benchmark testing shall be deemed Ageto's Confidential Information); or (x) use the ARC Equipment in any way that infringes any third party's rights including a third-party's Intellectual Property rights or in a manner detrimental to Ageto's commercial interests.

SECTION 11. FEEDBACK; DATA

11.1. Feedback. For so long as the ARC Equipment is being used by the Customer, Ageto may collect information or feedback from the Customer in the course of providing the Services, or directly solicit Customer's input regarding the ARC Equipment or the Services (the "Feedback"). Ageto may use the Feedback for any purpose permitted by applicable law, including but not limited to improvements to or modifications of ARC Equipment, the development of new ARC Equipment, or any other commercial or general business purpose. Customer hereby consents to the collection of such Feedback and to Ageto's use of such data in any manner permitted by law. Ageto will own, and Customer assigns to Ageto, all right, title and interest in and to the Feedback, and to any new, additional, or improved services or features, including all Intellectual Property rights therein or resulting therefrom. The Feedback shall constitute Confidential Information of Ageto.

11.2. Data. For so long as the ARC Equipment is being used by the Customer, Ageto may access, monitor and collect any and all data regarding and generated by Customer's use of the ARC Equipment, including but not limited to, energy data, building load, utility usage, and PV production (collectively, "Data"). Such monitoring shall be solely at Ageto's expense and shall not impact Customer's use of the ARC Equipment. Ageto may use the Feedback for any purpose permitted by applicable law, including but not limited to improvements to or modifications of ARC Equipment, the development of new ARC Equipment, or any other commercial or general business purpose. Customer hereby consents to such monitoring and to the access, monitoring and collection of such Data and to Ageto's use of such Data in any manner permitted by law. Customer acknowledges and agrees that, excepting only that portion of the Data that constitutes public domain information, Ageto will own all right, title and interest in and to the Data, and Customer hereby assigns to Ageto all right, title

an interest in and to the Data. The Data shall constitute Confidential Information of Ageto.

11.3. Customer's Use of Data. Without limiting Section 11.2, Ageto hereby grants to Customer, subject to the other terms and conditions of this Agreement, the right to incorporate or merge the Data with Customer's internal projects or data solely for purposes of enabling Customer to view, analyze, compare, and use the Data with Customer's data for Customer's internal business purposes only.

SECTION 12. REPRESENTATIONS AND WARRANTIES

12.1. Ageto's Representations and Warranties.

(i) Ageto represents and warrants to Customer that: (i) this Agreement has been validly executed and delivered by Ageto and that this Agreement constitutes the legal, valid and binding obligation of Ageto enforceable against Ageto in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain those remedies may be pending; (ii) Ageto has all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and (iii) that the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all requisite action on the part of Ageto.

(ii) Ageto represents and warrants that it has the authority to grant, license, or assign any rights to be granted, licensed or assigned (as applicable) by Ageto under this Agreement to Customer.

12.2. Customer Representations and Warranties.

(i) Customer represents and warrants to Ageto that: (i) this Agreement has been validly executed and delivered by Customer and that this Agreement constitutes the legal, valid and binding obligation of Customer enforceable against Customer in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain those remedies may be pending; (ii) Customer has all requisite power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and that the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all requisite action on the part of Customer; and (iii) Customer's execution and delivery of this Agreement and

Customer's performance or compliance with the terms of this Agreement will not conflict with, result in a breach of, constitute a default under, or require the consent of any third party under any license, sublicense, lease, contract, agreement or instrument to which Customer is bound or to which Customer's Facility is subject.

(ii) Customer represents and warrants to Ageto that there are no pending or threatened lawsuits, actions or any other legal or administrative proceeding against Customer which, if adversely determined against Customer, would have a material adverse effect on Customer's ability to perform its obligations under this Agreement.

(iii) Customer represents and warrants that none of the Customer Requested Specifications infringe on any third party's rights.

(iv) Customer represents and warrants that it has the authority to grant, license, or assign any rights to be granted, licensed or assigned (as applicable) by Customer under this Agreement to Ageto.

SECTION 13. INDEMNIFICATION

13.1. Infringement.

(i) Ageto will indemnify, defend, and hold harmless Customer and its directors, officers, employees and agents against any and all losses, liabilities, judgments, awards and costs (including reasonable legal fees and expenses) in any claim, action, suit or proceeding brought by a third-party (individually and collectively, "**Claim**") arising out of an allegation that any portion of the ARC Equipment (excluding any Customer Requested Specification, Customer Modification, or Third Party Products) when used as contemplated by this Agreement, infringes any third party's Intellectual Property rights. If a court or a settlement enjoins the use of any portion of the ARC Equipment, or if in Ageto's reasonable opinion, any portion of the ARC Equipment is likely to become the subject of a Claim, Ageto will have the option to modify such portion of the ARC Equipment so that it becomes non-infringing, to substitute a substantially equivalent non-infringing Software, to obtain for Customer a license to continue using the ARC Equipment, or if none of the preceding remedies are available, to refund a pro rata amount of fees paid with respect to such portion of the ARC Equipment and terminate this Agreement. Ageto will have no obligation under this Section 13.1(i) for any Claim if Ageto has offered such modified or replacement portion of the ARC Equipment, and the Claim or liability results from Customer's failure to use the modified or replacement portion of the ARC Equipment. Further, Ageto will have no obligation under this Section 13.1(i) for any Claims that result

from: (a) use of the ARC Equipment in a combination with materials, services or products not supplied by Ageto, if such portion of the ARC Equipment would not have infringed the Intellectual Property rights of the party bringing the Claim absent such combination; or (b) modifications to the ARC Equipment by any party other than Ageto without Ageto's approval, if such portion of the ARC Equipment would not have infringed the Intellectual Property rights of the party bringing the Claim absent such modifications.

(ii) Customer will indemnify, defend, and hold harmless Ageto and its affiliates, directors, officers employees and agents (the "**Ageto Indemnified Parties**") against any and all losses, liabilities, judgments, awards and costs (including reasonable legal fees and expenses) in any Claim arising out of an allegation that the Customer Requested Specifications or Customer Modification infringes any third party's Intellectual Property rights or that Customer's use of the ARC Equipment in violation of this Agreement infringes any third party's Intellectual Property rights. If a court or a settlement enjoins the use of a portion of Customer Requested Specifications or Customer Modification, or if in Customer's reasonable opinion, a Customer Requested Specification or Customer Modification is likely to become the subject of a Claim of infringement, Customer will have the option, at Customer's sole cost and expense, to modify, or request that Ageto modify, the Customer Requested Specifications or Customer Modification so that it becomes non-infringing, to substitute a substantially equivalent non-infringing technology, or to obtain a license to continue using the Customer Requested Specification or Customer Modification.

13.2. General Indemnification. Customer shall indemnify the Ageto Indemnified Parties against any and all losses, liabilities, judgments, awards and costs (including reasonable legal fees and expenses) in any third party Claim arising out of breach of this Agreement due to an act of omission by the Customer, its employees, or agents, including the Electrician, including any and all Claims relating to bodily injury or death or damage to tangible personal property arising directly out of any act or omission of Customer, its employees, or agents, including the Electrician, in the course of performing Customer's obligations hereunder.

SECTION 14. LIMITATION OF LIABILITY

14.1. DIRECT DAMAGES. AGETO'S LIABILITY FOR DIRECT DAMAGES UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED IN THE AGGREGATE THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER TO AGETO UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS

PRECEDING THE EVENT OR EVENTS GIVING RISE TO THE LIABILITY.

14.2. NO CONSEQUENTIAL DAMAGES. IN NO EVENT WILL AGETO BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, REVENUES, DATA, USE, ANY OTHER ECONOMIC ADVANTAGE, INCURRED BY AGETO ARISING OUT OF OR RELATING TO THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, EVEN IF AGETO KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION 15. CONFIDENTIALITY

15.1. Protection of Confidential Information. Except as otherwise provided or permitted in this Agreement, the Receiving Party will not do any of the following, directly or indirectly, without the written consent of the Disclosing Party: (i) disclose, transfer, or otherwise communicate to any third party any Confidential Information; or (ii) use Confidential Information for any purpose other than to perform its obligations or exercise its rights under this Agreement. The Receiving Party will not permit any of its respective agents or employees to take any action prohibited by this Section 15.1.

15.2. Availability of Injunctive Relief. The unauthorized use or disclosure of Confidential Information would be highly prejudicial to the interests of the Disclosing Party and would materially damage the Disclosing Party. Therefore, the Disclosing Party will be presumed entitled to injunctive relief to protect its Confidential Information against unauthorized disclosure or use in violation of this Agreement.

15.3. Court Order. The Receiving Party will not be in breach of the obligations hereunder to the extent that, based upon the advice of counsel, it provides Confidential Information under a court order or discloses Confidential Information as required by law. Before the Receiving Party discloses Confidential Information under this Section 15.3, it must (i) notify the Disclosing Party of the court order or legal requirement, (ii) give the Disclosing Party a reasonable opportunity to contest or limit the required disclosure, and (iii) provide reasonable assistance at the Disclosing Party's expense, except to the extent it is illegal to do any of the foregoing.

15.4. Return of Confidential Information. At any time the Disclosing Party may request that the Receiving Party: (i) immediately deliver to the Disclosing Party the originals and all copies of any and all materials and writings received from, created for, or belonging to the Disclosing Party which relate to

or contain any Confidential Information; or (b) that the Receiving Party permanently delete any and all Confidential Information from all computers and other electronic data storage devices in the Receiving Party's or its agent's or employee's control. Customer hereby acknowledges that making the foregoing request during the Term may materially affect the Services provided by Ageto. If Customer requests certain Services, Ageto may again obtain Confidential Information for which a subsequent request to return or delete must be made.

SECTION 16. TERM AND TERMINATION

16.1. Term. The term of this Agreement shall begin on the effective date and shall remain in full force and effect until the Customer no longer uses the ARC Equipment and provides Ageto with at least thirty (30) days' notice of such non-use, unless otherwise terminated in accordance with this Agreement (the "Term").

16.2. Termination.

(i) **Automatic Termination.** This Agreement automatically terminates upon the earlier of: (a) return of the ARC Equipment to Ageto for any reason whatsoever, or (b) expiration of the Term.

(ii) **Termination for Material Breach.**

Either party may terminate this Agreement immediately if the other party commits a material breach of this Agreement.

16.3. Effect of Termination. Upon termination of this Agreement, Ageto may, at its sole option, remove the Software from the Arc Equipment and terminate the Customer's right to use the Software.

SECTION 17. GENERAL TERMS

17.1. Assignment. Neither this Agreement nor any right or obligation hereunder may be assigned or otherwise transferred by Customer (whether voluntarily, by operation of law, or otherwise) without the prior express written consent of Ageto; provided, however, that Customer, without such consent, may assign this Agreement and its rights and obligations hereunder in connection with any of the following transactions: (i) the transfer or sale of all or substantially all of Customer's business or assets; (ii) the transfer or sale of the Facility; (iii) the sale, spin-off, or creation of a subsidiary or affiliated entity of the assignor; or (iv) a merger, consolidation, change in control or similar transaction to which Customer is a party. Customer must provide Ageto with prompt written notice of any assignment, and any permitted assignee will be deemed to have assumed all the obligations of Customer under this Agreement, including those set forth in any end-user license agreements

then in place. Ageto may freely assign this Agreement without Customer's consent.

17.2. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be sent by prepaid, certified mail, return receipt requested, express courier service, or by email (with proof of receipt) addressed to Ageto's address provided to Customer, or Customer's address provided to Ageto. The effective date of any notice sent pursuant to this Agreement shall be the date when actually received. Either party may change its address by written notice to the other party given in accordance with this Section 17.2.

17.3. Modification. No modification of this Agreement shall be effective unless contained in a writing signed by an authorized representative of each Party. This Agreement is not intended to give any rights to third parties.

17.4. Independent Contractor. This Agreement shall not render Ageto or any of Ageto's agents an employee, partner, agent of, or joint venturer of the Customer. Ageto is and will remain an independent contractor in its relationship to the Customer. No Party shall have the right, power, or authority to bind any other Party to the fulfillment of any condition, contract, or obligation or to create any liability binding on any other Party.

17.5. Further Assurances. Each Party shall execute all further documents and take all further acts reasonably necessary or appropriate to carry out this Agreement.

17.6. Force Majeure. Ageto will not be liable for any failure or delay in performance of its obligations hereunder arising out of or caused, directly or indirectly, by forces beyond Ageto's reasonable control, including without limitation by interruptions, loss, or malfunctions of utilities, communications, computer, or network services, or delays from a manufacturer.

17.7. Severability. If any provision of this Agreement is held invalid or unenforceable, the Parties intend that the provision be enforceable to the maximum extent permitted under law and therefore desire and request that the court reform the invalid or unenforceable provision to render it enforceable to the maximum extent permitted. If the court refuses to modify or reform the provision, then the provision shall be severed from this Agreement with no effect upon the remaining provisions of this Agreement.

17.8. Equitable Remedies. Customer acknowledges and agrees that Ageto would be irreparably harmed if Customer breached or threatened to breach this Agreement. Accordingly, Customer agrees that Ageto shall have the right to seek and obtain injunctive relief, including without limitation specific performance, without necessity of posting bond or other surety

for any breach or threatened breach of this Agreement, in addition to all other rights and remedies available at law or in equity.

17.9. Dispute Resolution.

(i) If any claim, question, dispute or disagreement (each, a “**Dispute**”) arises from or in connection with this Agreement, the Parties shall use their best efforts to settle the Dispute amicably. If they cannot settle the Dispute amicably despite their best efforts, the Dispute must be resolved via arbitration, except as set forth below. Arbitration will occur in Denver, Colorado, in accordance with the Commercial Arbitration Rules (expedited procedures) of the American Arbitration Association then in effect, and shall be resolved individually, without resort to any form of class action or representative action, and Customer agrees that it shall not seek to aggregate any claims with other persons. Reasonable discovery will be allowed, the extent of which will be determined in the discretion of the arbitrator. The arbitrator may award attorneys’ fees, costs and expenses to the substantially prevailing party if the arbitrator finds that the non-prevailing party’s conduct was characterized by fraud or dishonesty or was otherwise patently unreasonable under the circumstances.

(ii) The existence of the arbitration proceedings, the contents of the arbitrator’s award, and other non-public information regarding any Dispute will be Confidential Information, regardless of whether it is specifically designated as such.

(iii) The arbitrator’s award will be final, non-appealable, and binding on the Parties and may be enforced by any court of competent jurisdiction. The arbitrator will render a brief written statement of the basis for the award, upon request of either party made before the award is issued.

(iv) Notwithstanding the other provisions of this Section 17.9, Ageto shall have the right seek resolution of any Dispute in a court of law in lieu of submitting such Dispute to binding arbitration. Further, with respect to any Dispute subject to binding arbitration, Ageto shall have the right to remove the Dispute any to a court of law at any time prior to the issuance of the arbitrator’s award. Customer shall have no right to remove a Dispute subject to binding arbitration to a court of law or to initially seek resolution of any Dispute in a court of law.

17.10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the

State of Colorado, other than such laws, rules, regulations and case law that would result in the application of the laws of a jurisdiction other than the State of Colorado. CUSTOMER WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. Customer submits to the jurisdiction and venue of the state and federal courts located in Denver, Colorado, and waives any objection Customer may have to such courts.

17.11. Attorneys’ Fees. If the Parties become involved in litigation or arbitration arising out of or related to this Agreement in which the services of an attorney or other expert are reasonably required, the prevailing Party will be fully compensated for the cost of its participation in such proceedings, including court costs, expenses and the reasonable costs incurred for attorneys’ fees and experts’ fees.

17.12. Waiver. No covenant or term of this Agreement shall be deemed to be waived by any Party except in a writing signed by a person authorized by such Party, and any waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver.

17.13. Survival. Any provisions of this Agreement that by its nature should continue beyond the expiration or termination of the Term or this Agreement to give effect to the Parties’ intent shall survive expiration or termination of the Term or this Agreement including but not limited to Section 2, Section 4.7, Section 5, Section 9, Section 10, Section 11, Section 12, Section 13, Section 14, Section 15, and this Section 17.

17.14. Counterparts. This Agreement may be executed and delivered in counterparts (including by means of electronic signatures), all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, effective as of the date executed by the Customer in accordance with the one of the methods set forth above in the Preamble.

If by signing this Agreement:

Customer: _____

By: _____

Name: _____

Title: _____

Address: _____

Email: _____

Standard Fees and Expense Policy

Effective October 1, 2023

Ageto ARC control system commissioning will be billed at the following rates in calendar year 2023. Both onsite and remote commissioning services may be offered, depending on the project requirements. For additional information, please contact Ageto.

Standard Service Rates

- **Weekday:** \$2,150 USD
- **Saturday:** \$3,225 USD (1.5x Weekday rate)
- **Sunday/Holiday:** \$4,300 USD (2.0x Weekday rate)
- **Remote Support:** \$215 USD per hour (billed in two (2) hour increments)
- **Consulting Services:** \$195 USD per hour (billed in 1 hour increments)

Standard Fees

- **Utilization Fee:** \$5,000 USD
- **Delay Fee:** \$5,000 USD

Expense Reimbursement Policy

- **Travel Day:** \$750 USD
- **Other Expenses:** Expenses such as flights, hotel, car rental, fuel, and meals will be charged at cost +10%
- Flights longer than 8 hours will be booked in business class
- Travel time will be charged per day of travel
- Ageto will make all travel arrangements

Notes

- Work is based on a standard working day of up to ten (10) hours, Monday through Friday
- Standard working day hours includes travel to and from the jobsite
- Working above and beyond the initial (10) hours requires prior approval from the commissioning engineer
- Working non-standard hours (ex. overnight shift) requires prior approval from the commissioning engineer
- Saturdays are charged at one-and-one-half times (1.5x) the regular Weekday daily rate
- Sundays and Holidays will be charged at two times (2.0x) the regular Weekday daily rate
- Hardship locations will be charged at one-and-one-half times (1.5x) the standard service rates
- If commissioning engineer is required to remain at location/on standby, the standard Weekday daily rate will be charged
- Mobilization requests with less than 5 days advance notice incurs an additional cost equal to the standard Weekday rate. Ageto will accommodate such request in its sole discretion.