

SUPPLY TERMS AND CONDITIONS For BIPV Limited

1 INTERPRETATION

1.1 Definitions.

In these Standard Terms, the following definitions apply:

"BIPVco products" means the BIPVco solar photovoltaic roofing products Metektron, Flextron and Powerply (or any part of them) set out in the Purchase Order.

"Business Day" means a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

"Contract" means the contract between us and you for the sale and purchase of the BIPVco products pursuant to a Purchase Order in accordance with these Standard Terms.

"Delivery" shall have the meaning given to it in clause 6.2.

"Event Outside Our Control" means any act or event beyond our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

"Framework Agreement" means the framework agreement entered into between you and us on [INSERT DATE] in connection with the supply by us of BIPVco products from time to time;

"Intellectual Property Rights" shall mean patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and 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.

"Purchase Order" means your order for the BIPVco product, as set out in your sale order form.

"Standard Terms" means the terms and conditions set out in this document as amended from time to time in accordance with clause 8 of the Framework Agreement.

"Warranty" means the warranty given by us to you [on Delivery].

"we/our/us" means BIPV Limited (registered in England and Wales with company number 08756648 and its registered office at The GCell Building, South Lake Drive, Imperial Park, Newport NP10 8AS).

"you" means the person or firm who purchases the BIPVco products from the us.

1.2 In these Standard Terms, the following rules apply:

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a party includes its personal representatives, successors or permitted assigns.

1.2.3 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.4 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to writing or written includes faxes and emails.

2 **BASIS OF CONTRACT**

2.1 Each Contract shall come into force upon BIPVco's acceptance of a Purchase Order in accordance with clause 3.5 of the Framework Agreement or such later date as is specified in the Purchase Order.

2.2 Notwithstanding the foregoing, we shall have the right to cancel the Contract and/or hold any and/or all orders placed by you and any and/or all shipments of BIPVco products, regardless of any prior confirmation or acceptance by us, if-

2.2.1 you are or become insolvent;

2.2.2 you make an assignment for the benefit of creditors, or a receiver is appointed to take charge of all or any part of your assets or business;

2.2.3 you are the subject of a bankruptcy or reorganisation proceeding, whether voluntary or involuntary; or

2.2.4 you fail to timely perform any of your obligations under the Contract and such failure is not cured within ten (10) days of us giving to you written notice to you of such failure.

- 2.3 BIPVco reserves the right to make any changes in the specification of the BIPVco products which are required to conform with any applicable safety or other statutory or regulatory requirements or, where products are to be supplied to the specification, which do not materially affect their quality or performance.

3 **OUR BIPVCO PRODUCTS**

Any samples, drawings, descriptive matter, or advertising produced by us and any descriptions or illustrations contained on our website, our catalogues or brochures are produced for the sole purpose of giving an approximate idea of the BIPVco products described in them. They shall not form part of the Contract or have any contractual force.

4 **YOUR OBLIGATIONS**

You are permitted to use and display the BIPVco products provided that you reference them as "made by BIPVco".

5 **OUR RIGHTS TO END THE CONTRACT**

- 5.1 We may end the Contract for a BIPVco product at any time by writing to you if you do not make any payment to us when it is due and you still do not make payment within 14 days of us reminding you that payment is due.
- 5.2 If we end the Contract in the situation set out in clause 5.1 above we will refund any money you have paid in advance for BIPVco products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the Contract.

6 **DELIVERY**

- 6.1 Unless otherwise specified in the Purchase Order, you shall collect the BIPVco products from the location set out in the Purchase Order ("**Collection Location**") within [ten Business Days of us notifying you that the BIPVco products are ready for Delivery.
- 6.2 In relation to Contracts under which:-
- 6.2.1 you will collect the BIPVco products, delivery will be completed on the completion of the loading of the BIPVco products at the Collection Location;
- 6.2.2 we have agreed to deliver the BIPVco products to your premises (or such other premises notified by you to us) ("**Delivery Location**"), delivery will be completed on the unloading of the BIPVco products at the Delivery Location,
- ("Delivery").
- 6.3 Any dates quoted for Delivery are approximate only, and the time of Delivery is not of the essence. We shall not be liable for any delay in delivery of the BIPVco products that is caused by:-
- 6.3.1 an Event Outside Our Control; or

- 6.3.2 your failure to provide us with instructions that are relevant to the supply of the BIPVco products.
- 6.4 If you fail to take or accept Delivery of the BIPVco products within ten Business Days of us notifying you that the BIPVco products are ready, then, except where such failure or delay is caused by an Event Outside Our Control or our failure to comply with our obligations under the Contract:
 - 6.4.1 delivery of the BIPVco products shall be deemed to have been completed at 9.00 am on the eleventh Business Day after the day on which we notified you that the BIPVco products were ready; and
 - 6.4.2 we shall store the BIPVco products until delivery takes place, and charge you for all related costs and expenses (including insurance), when not withstanding clause 7.1, risk in the BIPV products shall pass to you
- 6.5 If forty Business Days after the day on which we notify you that the BIPVco products are ready for delivery you have not taken Delivery, we may resell or otherwise dispose of part or all of the BIPVco products and, after deducting reasonable storage and selling costs, account to you (to the extent that you have paid for the BIPVco product) for the balance of the sums received following such sale or charge you for any shortfall.
- 6.6 Subject to clause 6.7, you shall inspect and either accept or reject all BIPVco products within ten (10) business days of Delivery ("**the Inspection Period**"). If you fail to effectively reject any BIPVco products in a written document (including electronic communication) delivered to us within the Inspection Period you shall be deemed conclusively to have accepted the BIPVco products delivered.
- 6.7 You may reject any BIPVco products delivered to you that do not comply with the specification for the BIPVco product attached to or referred to (as the case may be) in the Purchase Order ("**Specification**"): and
 - 6.7.1 notice of rejection is given to BIPVco within the Inspection Period: and
 - 6.7.2 none of the events listed in clause 6.8 apply.
- 6.8 We shall not be liable to you for a BIPVco products' failure to comply with the Specification in any of the following events:
 - 6.8.1 you makes any further use of those BIPVco products after giving notice in accordance with clause 6.7;
 - 6.8.2 the defect arises because you failed to follow our oral or written instructions for the storage, commissioning, installation, use and maintenance of the BIPVco products or (if there are none) good trade practice regarding the same;
 - 6.8.3 the defect arises as a result of us following any drawing, design or Specification supplied to us by you;
 - 6.8.4 you alter or repair those BIPVco products without our written consent;

- 6.8.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - 6.8.6 the BIPVco products differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 6.9 If you reject BIPVco products under clause 6.6 then, we shall, at our sole discretion:
- 6.9.1 repair or replace the rejected BIPVco product; or
 - 6.9.2 repay the price of the rejected BIPVco product in full.
- Once we have either repaired, replaced or refunded the cost of the rejected BIPVco product in accordance with this clause 6.9, we shall have no further liability to you for the rejected BIPVco products failure to comply with the Specification.
- 6.10 These Standard Terms shall apply to any repaired or replacement BIPVco products supplied by us.
- 6.11 You must comply with all applicable laws and regulations of the country for which the BIPVco products are destined. We will not be liable or responsible if you break any such law.

7 INTERNATIONAL DELIVERY

- 7.1 If you order BIPVco products for Delivery outside of the United Kingdom, your order may be subject to import duties, taxes and other official charges which are applied when the delivery reaches that destination. Please note that we have no control over these charges and we cannot predict their amount.
- 7.2 You will be responsible for payment of any import duties, taxes and other official charges payable upon importation of the BIPVco products as well as any and all costs and risks of carrying out customs formalities and you will reimburse us to the extent that we pay any such import duties, taxes and other official charges in relation to the BIPVco product(s) that we are delivering to you. Please contact your local customs office for further information before placing your order for further information on applicable rates and charges.
- 7.3 You are responsible for:-
- 7.3.1 obtaining at your own risk and expense any import license or other official authorisation for the importation of your BIPVco products at your destination; and
 - 7.3.2 customs clearance at your destination.

8 TITLE AND RISK

- 8.1 The risk in the BIPVco products shall pass to you on Delivery.
- 8.2 Where the BIPVco products are paid for in advance of Delivery, title shall pass on Delivery.

- 8.3 Where the BIPVco products are not paid for in advance, title to the BIPVco products shall not pass to you until we receive payment in full (in cash or cleared funds) for the BIPVco products the subject of the Contract.
- 8.4 Until title to the BIPVco products has passed to you, you shall:
- 8.4.1 store the BIPVco products separately from all other goods held by you so that they remain readily identifiable as our property;
 - 8.4.2 not remove, deface or obscure any identifying mark or packaging on or relating to the BIPVco products;
 - 8.4.3 maintain the BIPVco products in satisfactory condition and keep them insured against all risks for their full price from the date of Delivery;
 - 8.4.4 notify us immediately if you become subject to any of the events listed in clause 2.2.1 to 2.2.3; and
- 8.5 give us such information relating to the BIPVco products we may require from time to time.
- 8.6 Notwithstanding clause 8.2 and 8.3, title to the products supplied by the seller shall not pass to the buyer until the seller receives payment in full (in cash or cleared funds) for all monies owed the seller pursuant to the contract (which for the avoidance of doubt) shall include but not be limited to any delivery charges.

BIPVco reserves the right to repossess any products in which they hold title without notice. You irrevocably authorise BIPVco to enter your premises during normal business hours for the purpose of repossessing BIPVco products in which BIPVco retains title or inspecting the products to ensure compliance with the storage and identification requirements of sub-clause 8.4

9 INTELLECTUAL PROPERTY AND PRODUCT SOFTWARE

All Intellectual Property Rights in the BIPVco products belong to us and or our licensors (as applicable). Nothing in this Contract shall effect the transfer of any Intellectual Property Rights in the BIPVco products to you.

10 PRICE OF BIPVCO PRODUCTS AND DELIVERY CHARGES

- 10.1 The charges payable by you for the BIPVco products will be determined in accordance with clause 3 of the Framework Agreement ("**the Price**").
- 10.2 The Price does not include VAT. You shall (where applicable) be responsible for pay any such VAT at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the BIPVco products in full before the change in VAT takes effect.
- 10.3 The Price of a BIPVco product does not include delivery charges. Our delivery charges are as advised to you during the order process, before you confirm your Purchase Order.

- 10.4 We reserve the right, by giving written notice to you at any time before Delivery, to increase the Price to reflect any increase in the cost to us which is due to any factor beyond our control (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the BIPVco products which are requested by you, or any delay caused by any instructions given by you or failure by you to give us adequate information or instructions.
- 10.5 Unless other payment and credit terms are specifically agreed in advance in writing with us with respect to each Purchase Order and accepted by us, you shall render payment in sterling in full to us within [five] [(5)] days of the date that this Contract comes into force (as determined by Clause 2.1 of these Standard Terms).
- 10.6 If for any reason whatsoever a payment is not timely made, we reserve the right to suspend the delivery of the BIPVco product until such past due amounts are paid in full by you.
- 10.7 If you fail to make any payment due to us under the Contract by the due date for payment, then you shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
- 10.8 You hereby agree to make all payments when due and you shall have no right of set-off.

11 **OUR WARRANTY FOR THE PRODUCTS**

- 11.1 Except as expressly stated in the Warranty, we do not give any representation, warranties or undertakings in relation to the BIPVco products. Any representation, condition or warranty which might be implied or incorporated into these Standard Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular we will not be responsible for ensuring that the BIPVco products are suitable for your purposes.
- 11.2 None of our resellers, agents, partners, affiliates or employees are authorised to make any modification, extension, or addition to the Warranty.

12 **OUR LIABILITY**

- 12.1 Nothing in these Standard Terms limits or excludes our liability for:
- 12.1.1 death or personal injury caused by our negligence;
 - 12.1.2 fraud or fraudulent misrepresentation;
 - 12.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 - 12.1.4 in relation to consumers only, defective products under the Consumer Protection Act 1987.

- 12.2 Subject to clause 12.1, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- 12.2.1 any loss of profits, sales, business, or revenue;
 - 12.2.2 loss or corruption of data, information or software;
 - 12.2.3 loss of business opportunity;
 - 12.2.4 loss of anticipated savings;
 - 12.2.5 loss of goodwill; or
 - 12.2.6 any indirect or consequential loss.
- 12.3 Subject to clause 12.1, our total aggregate liability to you in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed an aggregate amount of 100% of the price of the BIPVco product ordered under the Contract to which the claim relates.

13 **EVENTS OUTSIDE OUR CONTROL**

- 13.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control.
- 13.2 If an Event Outside Our Control takes place that affects the performance of our obligations under a Contract:
- 13.2.1 we will contact you as soon as reasonably possible to notify you; and
 - 13.2.2 our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of BIPVco products to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

14 **COMMUNICATIONS BETWEEN US**

- 14.1 When we refer, in these Standard Terms, to "in writing", this will include e-mail and fax.
- 14.2 If you are a consumer and you wish to contact us you can contact us by telephoning our customer service team at +44 (0)330 1131439 or by e-mailing us at info@bipvco.com.
- 14.3 If you are a business:
- 14.3.1 any notice or other communication given by you to us, or by us to you, under or in connection with the Contract shall be in writing and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service or e-mail or fax;

- 14.3.2 a notice or other communication shall be deemed to have been received: if delivered personally, when left at our registered office; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second business day after posting or if sent by e-mail, one business day after transmission on the basis that a transmission report is generated.
- 14.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.
- 14.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15 **HOW WE MAY USE YOUR PERSONAL INFORMATION**

- 15.1 We will use the personal information you provide to us to:
 - 15.1.1 provide the BIPVco products;
 - 15.1.2 process your payment for such BIPVco products; and
 - 15.1.3 inform you about similar products or services that we provide, but you may stop receiving these at any time by contacting us.
- 15.2 You agree that we may pass your personal information to credit reference agencies and that they may keep a record of any search that they do.
- 15.3 We will not, without your prior consent in writing, give your personal data to any other third party.

16 **OTHER IMPORTANT TERMS**

- 16.1 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Standard Terms
- 16.2 You may only transfer your rights or your obligations under these Standard Terms to another person if we agree in writing.
- 16.3 This Contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 16.4 Each of the paragraphs of these Standard Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 16.5 If we fail to insist that you perform any of your obligations under these Standard Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.

- 16.6 If there is an inconsistency between any of the provisions of these Standard Terms and the provisions of the Framework Agreement, the provisions of these Standard Terms shall prevail.
- 16.7 The Framework Agreement and these Standard Terms constitutes the entire agreement between us in relation to the Contract and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 16.8 You agree that you shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Framework Agreement or these Standard Terms. You agree that you shall have no claim for innocent or negligent misrepresentation based on any statement in the Framework Agreement or these Standard Terms.
- 16.9 Any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 16.10 We both irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with a Contract or its subject matter or formation (including non-contractual disputes or claims).