

Dated

2016

A SHADE GREENER MAINTENANCE LIMITED

AND

CHESTERFIELD BOROUGH COUNCIL

**MAINTENANCE, MANAGEMENT
AND MONITORING SERVICE
AGREEMENT**

Between

- (1) **A Shade Greener Maintenance Limited** a company incorporated in England with registered number 08584260 whose registered office is at Sterling House, Maple Court, Maple Road, Tankersley S75 3DP (the “**Service Provider**”); and
- (2) **Chesterfield Borough Council** of Town Hall, Rose Hill, Chesterfield S40 1LP (the “**Customer**”).

BACKGROUND

- (A) The Customer has solar panels and related equipment (including meters and fixings) installed at 381 domestic properties (the “**Equipment**”).
- (B) The Customer would like the Service Provider to maintain, manage and monitor the Equipment and the Service Provider has agreed to do so all on the terms of this agreement.

NOW IT IS HEREBY AGREED as follows:

1 Term of Agreement

- 1.1 This agreement shall commence on 1 February 2016 and shall, subject to prior termination provided for under this agreement, continue for an initial period of three years (the “**Initial Term**”) and after that shall continue on a rolling yearly basis unless terminated by either party in accordance with either of Clauses 1.2, 1.3 and 1.4.
- 1.2 Either party shall be entitled to terminate this agreement on the expiry of the Initial Term by giving not less than three calendar months’ written notice to the other party prior to the end of the Initial Term.
- 1.3 After the expiry of the Initial Term, either party shall be entitled to terminate this agreement at the end of the relevant year by giving not less than three calendar months’ written notice prior to the end of that year.
- 1.4 The Customer shall be entitled to terminate this agreement during the Initial Term by giving not less than one calendar months’ written notice to the other party if the Service Provider is in material breach of its terms in accordance with clause 1.5 (a). Subject to satisfactory performance by the Service Provider, the Customer shall enable the Service Provider to bid for a replacement contract after the valid termination of this agreement if the Customer is obliged to put the contract for such services out for tender. If the Service Provider is not awarded a new contract it shall use reasonable efforts to work with the new supplier(s) to assist in achieving a smooth transition to such provider. Any contract extension shall be at no less than the original contract rates.
- 1.5 Either party may terminate this agreement at any time by written notice from the relevant party to the other in the following circumstances:
 - (a) by either party if any other party is in breach of any material obligation under this agreement and, if the breach is capable of remedy, that party has failed to remedy such breach within 30 days of receipt of notice so to do (or within seven days of receipt of such notice in respect of breach of payment obligations by the Customer);
or

- (b) by either party with immediate effect from the date of service on the other of written notice if any other party:
 - (i) makes any voluntary arrangement with its creditors; or
 - (ii) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - (iii) has an encumbrancer take possession, or a receiver or trustee in bankruptcy is appointed, over any of its property or assets; or
 - (iv) becomes insolvent or ceases or threatens to cease, to carry on business.

2 Obligations of the Service Provider

- 2.1 The Service Provider shall monitor the performance of the Equipment on a daily basis.
- 2.2 The Service Provider shall on a quarterly basis submit the feed-in tariff generation readings to the nominated FIT licensee.
- 2.3 The Service Provider shall manage the ongoing liaison with the feed-in tariff licensee on behalf of the Customer which includes but is not limited to; annual declarations, providing screen shots, photos of meters, audit requests registration of AMR meters; and in doing so the Customer shall provide all reasonable assistance to the Service Provider.
- 2.4 The Service Provider will provide the Customer monthly reporting on the systems performance in such form as is agreed by the parties from time to time, including details of systems not working, meter changes, low reading panels and also to accommodate any reasonable monitoring requirements from energy providers.
- 2.5 The Service Provider will perform the services set out in the Schedule (the “**Services**”) for the duration of this agreement and in accordance with the provisions of this agreement.
- 2.6 The Services will be performed by the Service Provider in accordance with good industry practice, provided always that the Services and service standards detailed in the Schedule shall be amended to the extent reasonably necessary in order to reflect:
 - (a) any act, omission, or breach of any obligations by the Customer under this agreement and/or negligence by it; and/or
 - (b) any cause of delay which was beyond the reasonable control of the Service Provider, including any act of failure to act by the occupier of any property on which the Equipment is situated.

3 Obligations of the Customer

- 3.1 The Customer agrees to pay the Service Provider in respect of each of the 381 sites the sum of £87.00 plus VAT per site in respect of the fee for the Services for the first year of the Initial Term per site; with each subsequent yearly fee per site being adjusted to reflect the increase in the retail price index calculated by reference to the start date for each year against the immediately preceding year’s start date. This sum shall be paid in four equal instalments quarterly in arrears or on such other basis as is agreed with the Service Provider. The Service

Provider will inform the Customer within five business days of the anniversary of renewal of the agreement of the fee which will be due for the coming year.

3.2 The Customer undertakes to the Service Provider to (or to procure that the occupier of the property in question will do so) throughout the term of this agreement:

- (a) grant to the Service Provider such access to and such facilities at the property the Equipment is installed at as the Service Provider may require from time to time in order to discharge its obligations under this agreement;
- (b) upon becoming aware of any damage to either the Equipment or any part of the property to which the Equipment is affixed or within which the Equipment is contained (howsoever caused), inform the Service Provider as soon as reasonably practicable and shall not (unless in case of an emergency) take steps to make safe the Equipment unless expressly authorised to do so by the Service Provider;
- (c) not interfere with, move, relocate, make any modification, alteration or addition to the Equipment from the Effective Date without the consent of the Service Provider, and to only use the Equipment in accordance with all applicable laws and regulations, and the manufacturer's recommendations;
- (d) not to replace or carry out maintenance to the Equipment, and agrees that all maintenance shall only be provided by the Service Provider; and
- (e) maintain all other parts of the infrastructure at the property in a manner which will not adversely impact upon the operation of the Equipment.

4 Limitation of Liability

4.1 The Service Provider shall not be liable to the Customer for any direct, indirect, consequential, actual, punitive, incidental or other damages or for lost profits of any kind or nature whatsoever with respect to this agreement; save that nothing in this agreement shall be deemed to exclude any liability which cannot be properly excluded at law.

4.2 Subject to clause 4.1, the annual liability of the Service Provider under this agreement shall be no greater than the aggregate fee actually paid by the Customer to the Service Provider for the Services in respect of the contractual year in which the liability arises.

5 Entire Agreement

This agreement constitutes the entire agreement between the parties on the subject matter hereof and, except in the case of fraud, supercedes any prior written or oral agreement between them with respect to the subject matter. This agreement shall not be amended, altered or changed except by a further writing signed by the parties hereto.

6 Miscellaneous

6.1 This agreement is not assignable by the Customer. This agreement is assignable by the Service Provider only with the consent of the other parties, such consent not to be unreasonably withheld; save that the same may be assigned in security without consent to any lender of the Service Provider.

6.2 This agreement may be executed in several counterparts and any single counterpart or set of counterparts signed, in either case, by all parties hereto shall be deemed to be an original, and all the counterparts when taken together shall constitute one and the same instrument.

6.3 Any notice given pursuant to this agreement shall be addressed to the other party at its address set out above.

7 Governing Law

7.1 This agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts.

Signed by the parties or their duly authorised representatives on the date first above written.

SCHEDULE: THE SERVICES

The Service Provider shall during the term of this agreement for the Equipment provide a comprehensive monitoring, management and maintenance service which will comprise the following services, and such other services as is agreed by the parties from time to time:

1) If the Equipment fails to communicate the following procedure shall be followed:

- Call the Customer or occupying tenant to ask him to check that all the switches and circuit breakers are in the 'on' position.
- If this does not rectify the Equipment, arrange for an electrician to visit the property within five business days (unless the Customer or occupying tenant cannot accommodate such visit within that timeframe) and check the Equipment in the following order of actions:
 - Sim card: reset and test
 - RCD: reset and test
 - Change Sim to another network and test in order to improve signal
 - Move inverter away from the meter and test.
 - Meter exchange, configuration in line with MCS requirements e.g. update Certificate. Costs of replacement meters to be agreed with Customer before work commenced.

2) If the Equipment generated no power:

- Call the Customer or occupying tenant to ask to check that all the switches and circuit breakers are in the 'on' position.
- If this does not rectify the Equipment, arrange for an electrician to visit the site within five business days (unless the Customer or occupying tenant cannot accommodate such visit within that timeframe) and check the Equipment in the following order of actions:
 - If the inverter monitoring data suggests that the fault lies within the inverter, replace the inverter at a cost to the Customer of £500 plus VAT and the labour charge to fit (including travel) at a cost of £90 plus VAT.
 - If the inverter is not malfunctioning, identify where the fault is on the Equipment and repair and test. This should be done by a process of elimination by checking all electrical connections (first in the attic and then on the roof), cables, circuits etc.

3) If the power produced by the Equipment is below that of its peers (similar systems in similar location), call the Customer or occupying tenant and arrange for an electrician to visit the site within five business days (unless the Customer or occupying tenant cannot accommodate such visit within that timeframe) and check the Equipment as follows:

- Check whether there has been an intermittent inverter shut down due to variance in grid voltage. Report to DNO
- Identify whether underperformance is due to partial or total string failure.
 - If due to partial string failure: Identify the faulty string, then check each panel to determine the faulty panel. Costs of replacement panels to be agreed with the Customer before work commenced.
 - If total single string failure: Identify the faulty string and repair. This should be done by a process of elimination by checking all electrical connections (first in the attic and then on the roof), cables, circuits etc.
- If all voltages and currents from the array are correct, check the inverter and replace if necessary.

Where scaffolding is required to carry out the Services, the time period to attend and fix shall be subject to the reasonable timing of the erection of the scaffolding, but the Service Provider shall use its reasonable endeavours to get the scaffolding erected as soon as is practicable in the circumstances.

Where reference above is made to the Service Provider contacting the Customer, if permitted in advance specifically or generally by the Customer, such calls shall be made to the occupier/ tenant of the property in question. The Customer shall provide contact details for each tenant/ occupier at each site on which the solar PV systems are located for these purposes and shall from time to time as necessary update that information.

EXECUTION PAGE

Executed as a deed by)
A Shade Greener Maintenance Limited)
acting by a duly authorised signatory in the)
presence of:

.....
Signature of witness

Name

Address

.....

Occupation.....

Executed as a deed by)
)
Chesterfield Borough Council acting by a)
duly authorised signatory in the presence of:

.....
Signature of witness

Name

Address

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Occupation.....