BayWa r.e. Solar Systems S.r.l Terms of Use for Solar-Planit ITALY

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1. Scope

1.1. These *Terms of Use for Solar-Planit* (the **"Terms"**) shall apply to the use of the Solar-Planit software-as-a-service (the **"Software"**) offered by BayWa r.e. Solar Systems S.r.l, Via Micheline, 2, 37030 Colognola ai Colli (VR), ITALY (the **"Provider"**).

1.2. The person or entity using the Software shall be referred to as the **"Customer"**. The Service Provider reserves the right to only accept entrepreneurs (as defined in § 14 of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*) as Customer.

1.3. The Provider and the Customer are also referred to herein as a **"Party"** each, and jointly as the **"Parties"**.

1.4. Deviating contractual terms and conditions issued by the Customer shall only apply if expressly confirmed in writing by the Provider.

2. Registration, right to use

2.1. The Customer shall only be entitled to use the Software in accordance with the Terms after duly registering on https://www.solar-planit.it/solarplanit/ (the **"Website"**) and agreeing to the Terms.

2.2. The Provider makes Software available on a named user basis. Therefore, to register, the Customer must provide, at a minimum (subject to changes at the Provider's sole discretion): a valid business name and address, and the name and personal email addresses of those of Customer's employees who will be using the Software (a **"User"** each). The Provider shall provide for appropriate data protection as detailed in Section 10. The Customer shall be fully responsible towards the Provider for the Users' actions and their full compliance with the Terms.

3. Using the Software

3.1. After successfully registering and agreeing to the Terms, the Customer is entitled to use the Software by accessing it via the Website.

3.2. The Customer is solely responsible for ensuring the availability of a suitable internet connection in order to use the Software. The Customer shall use the Software at its own expense and risk.

4. Fees

4.1. The Provider does currently not charge any fee to the Customer for the use of the Software.

4.2. However, the Provider reserves the right to introduce fees for the use of the Software (or parts of it) at its sole discretion, with effect for the future, by giving three (3) month prior text form notice to the Customer.

5. Scope of the right of use

5.1. After successfully registering in line with these Terms, the Customer is entitled to use the Software on the Website solely for the Customer's own planning activities.

5.2. The above use right shall be a simple, non-transferable, content-limited right of use covering the Customer's own use only. As between the Parties, any and all copyrights and other intellectual property rights regarding the Software and its brands, including rights to publication, reproduction, adaptation, provision and other similar rights, shall remain exclusively with the Provider; the same shall apply to any and all technical property rights.

5.3. The Customer is only permitted to use the Software through the Customer's Users and for the Customer's own planning activities. Any further use shall require the express prior written consent of the Provider; this shall apply in particular should the Customer wish to perform any of the following actions regarding the Software or parts thereof:

5.3.1. Copy the Software for disclosure to third parties;

5.3.2. Electronically transmit the Software or make it publicly available;

5.3.3. Download or reverse engineer the Software.

5.4. The Customer shall defend, indemnify and hold harmless the Provider against and from any and all claims asserted by third parties resulting from any use of the Software by the Customer or any User, except for use in full compliance with the Terms.

5.5. The Customer alone shall be responsible for the correctness and completeness of all data entered by him into the Software.

6. No guarantee

6.1. The Provider shall aim at making the Software accessible via the Website without interruption other than for regular updates and maintenance.

6.2. The Provider expressly offers no guarantee regarding the Software, its features or availability.

6.3. The standards and norms used in the Software's calculations shall be those shown in the Software. The Provider shall endeavour to make available all applicable standards for the country in which the Provider operates according to its above address; however, the Provider shall have no obligation to implement any specific standard or norm and it remains the Customer's responsibility to verify the application of correct standards and norms to the Customer's use cases. In case of questions, the Provider will reasonably support the Customer.The Provider's liability for defects shall be governed by §§ 523 and 524 German Civil Code (Bürgerliches Gesetzbuch – BGB).

7. Term and termination

7.1. Either Party may ordinarily terminate the Terms by giving two (2) months prior text form notice to the respective other Party.

7.2. Upon expiry of the notice period

7.2.1. the Customer shall stop using the Software and shall ensure the Users stop using the Software; and

7.2.2. the Provider shall have no obligation whatsoever to continue storing any data entered into the Software by or on behalf of the Customer; and

7.2.3. the Provider may deactivate the Users.

8. Communication

8.1. The Customer shall address all communication to the Provider regarding the Software or the Terms to info.solarsystems(at)baywa-re.it, unless a different email address has been named by the Provider or agreed by the Parties.

8.2. The Provider shall address all communication to the Customer regarding the Software or the Terms to any of the registered email addresses, or any other contact detail provided by the Customer in the context of the Software or the Terms.

9. Liability

9.1. Regardless of their legal grounds, the Provider shall only be liable for damages, including unlawful acts, if and insofar as such damages are caused by the Provider's grossly negligent or wilful violation of an obligation.

9.2. The exclusion or restriction of claims pursuant to the above provisions shall also apply to claims asserted against employees and agents of the Provider.

9.3. The Customer shall

9.3.1. take all reasonable measures to backup the data generated in the Software by the Customer; and

9.3.2. keep confidential, and shall ensure its employees keep confidential, all access credentials regarding the Software.

10. Data protection and use of data

10.1. The Provider shall process and use the personal data entered by the Customer only for the purpose of the Customer's use of the Software, or as stated in the Provider's data protection policy. The Provider may use data processors in line with applicable data protection laws.

10.2. The Provider shall be entitled to collect, process and/or use all other data entered by the Customer if and insofar as this is necessary in order to facilitate the use of the Software by the Customer, or to improve, develop or further develop existing and new features to the Software.

11. Final provisions

11.1. The Terms are governed by German law excluding conflict of laws rules and excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

11.2. The sole place of jurisdiction for any dispute over or in relation to the Terms or its subject matter shall be Tübingen, Germany, unless a deviating mandatory statutory place of jurisdiction applies. By deviation from the preceding sentence, Provider shall be free to choose the Customer's seat as place of jurisdiction.

11.3. Should individual provisions of this Licence Agreement be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provision, the Parties undertake to agree on a valid provision that most closely approximates the economic intent of the invalid or unenforceable provision.

11.4. The Terms may be amended by Provider's text form notice to the Customer. The Customer must be notified of any amendment no less than three (3) months prior to the amendment becoming effective (**"Amendment Date"**). The Customer has the right to terminate with effect as of the Amendment Date by giving text form notification no less than 6 weeks prior to the Amendment Date. Provider's notice to the Customer must contain a reference to such termination right. The Provider's right to introduce fees according to Clause 4.2 remains unaffected.

11.5. Except for amendments under Clauses 4.2 and 11.4, any deviation from the Terms or other agreement between the Parties regarding the Terms' subject matter shall be made in writing. This shall include scans of handwritten signatures pasted into electronic documents as well as (simple) electronic signatures produced by way of an electronic signing process made available by a service provider (such as Adobe Sign or DocuSign).