

# TERMS AND CONDITIONS

## EnerMech International Standard Terms and Conditions of Sale and Service



### 1. DEFINITIONS

For the purpose of these Terms and Conditions the following definitions apply:-

**“Claim”** shall mean all liabilities loss, claims, fines, penalties, demands, causes of actions, proceedings and damages including legal fees court costs and expenses;

**“Customer”** means person, persons, firm or company named in the Contract to whom EnerMech will be providing Services and/or Equipment;

**“Customer Group”** means the Customer, its subcontractors (other than EnerMech) its and their respective affiliates and agents, its and their respective directors, officers and employees (including agency personnel but shall not include any member of the EnerMech Group);

**“EnerMech”** means the entity named in the Contract;

**“EnerMech Group”** means EnerMech, its holding company, its and their subsidiaries, affiliates and agents and its and their respective directors, officers and employees;

**“Equipment”** means all equipment, tools, products, materials and supplies and/or merchandise sold by it and/or provided in connection with services performed by EnerMech under the Contract;

**“Restricted Person”** means (i) any person included on one or more of the Restricted Party Lists, (ii) any person owned by or acting on behalf of a person included on one or more of the Restricted Party Lists, or (iii) a person ordinarily resident in or an entity that is located in or organized under the laws of a Restricted Country.

**“Restricted Party Lists”** includes the list of sanctioned entities maintained by the United Nations; the Specially Designated Nationals and Blocked Persons List, the Foreign Sanctions Evaders List, and the Sectoral Sanctions Identifications List, all administered by OFAC; the U.S. Denied Persons List, the U.S. Entity List, and the U.S. Unverified List, all administered by the U.S. Department of Commerce; the consolidated list of Persons, Groups and Entities subject to EU Financial Sanctions, as implemented by the EU Common Foreign & Security Policy; and similar lists of restricted parties maintained by other applicable governmental entities.

**“Services”** means all services furnished by EnerMech, including services of employees and equipment, tools and/or other merchandise necessary to perform the Contract; and

**“Special Conditions”** means those Special Conditions set out in the Contract including any documentation set out therein

### 2. APPLICABILITY

- 2.1. The agreement in writing concluded between EnerMech and the Customer including any Special Conditions, specifications and any other documents that are expressly incorporated into it, and incorporating these Terms and Conditions shall constitute the entire contract (the **“Contract”**) between the parties and may not be amended except in writing by an EnerMech authorised representative.
- 2.2. All Services and/or Equipment furnished to Customer will only be on these Terms and Conditions, notwithstanding different or additional terms and conditions contained on any of Customer's forms, which are hereby objected to and which will not be binding on EnerMech. In the event of a conflict between these Terms and Conditions and the provisions of any of Customer's printed or other prepared form of purchase orders, work or service orders, job or delivery tickets, or other similar forms, the provisions of these Terms and Conditions shall prevail. These Terms and Conditions shall not be altered, changed or modified, except as specifically provided herein or by the written agreement of Customer and EnerMech.
- 2.3. Any quotation issued by EnerMech is valid for a period of 30 days only from the date of issue provided that it has not previously been withdrawn by EnerMech. Quotations issued by EnerMech do not constitute an offer and are subject to change at any time. Any orders placed in response to a quotation or otherwise will only be binding when accepted in writing by EnerMech. All instructions, notices, agreements, authorizations, approvals and acknowledgements shall be in writing.

### 3. SHIPPING, DELIVER, TITLE & RISK OF LOSS

- 3.1. Equipment shall be delivered EXW (at location named by EnerMech) (Incoterms 2010). Risk for loss or damage shall pass to the Customer upon delivery to the Customer. Title shall pass to the Customer upon receipt of payment in cleared funds by EnerMech of amounts due in respect of the Contract. For the avoidance of doubt, any such transfer of title in the Equipment shall not imply transfer of ownership of any intellectual property therein.
- 3.2. EnerMech may deliver the Equipment in instalments. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract. Delivery dates are intended to be an estimate and time and date for delivery shall not be made of the essence by notice or otherwise and are dependent on prompt receipt by EnerMech of all information and assistance required or requested by EnerMech to permit EnerMech to carry out its obligations under the Contract. EnerMech shall not be liable for any damage, losses or expenses incurred by Customer if EnerMech fails to meet the estimated delivery dates.

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- 3.3. In the event that the equipment is not collected by Customer on actual date of delivery, EnerMech may (at its discretion) place Equipment in storage at the sole cost, expense and risk of the Customer.

#### 4. NON-DELIVERY

The quantity of any consignment of Equipment as recorded by EnerMech on dispatch from EnerMech's place of business or other designated location shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide evidence proving the contrary. EnerMech shall not be liable for non-delivery of Equipment (even if caused by EnerMech's negligence) unless Customer gives written notice to EnerMech of the non-delivery within forty-eight (48) hours of the date and time when the Equipment would in the ordinary course of events have been received. Any liability of EnerMech for non-delivery of the Equipment shall be limited to, at EnerMech's sole discretion, either replacing the Equipment or issuing a credit note against any invoice raised for Equipment

#### 5. WARRANTY

- 5.1. EnerMech warrants the Equipment sold by EnerMech, when properly stored, commissioned, installed, used and maintained, and Services performed by EnerMech, shall be free from defects in material and workmanship. EnerMech's obligation under this warranty shall be limited to replacing or repairing the part or parts of the Equipment, at EnerMech's option, which prove to be defective in material or workmanship within; in respect of Equipment commencing on the date of delivery and expiring 6 months after delivery; in respect of Services commencing on the date on which EnerMech has determined that the performance of the Services has been completed and expiring 3 months thereafter ("Warranty Period"), provided the Customer gives EnerMech prompt notice of any defect and provides proof in a form and substance satisfactory to EnerMech (acting in its sole discretion) including all relevant data and documentation needed to assess equipment performance and operations. Any defective part or parts must be returned freight prepaid by Customer to an authorised service centre designated by EnerMech for inspection. EnerMech will deliver any replacements for defective Equipment to Customer prepaid to the delivery destination provided by the original order. Equipment returned to EnerMech for which EnerMech provides replacement under this warranty shall become the property of EnerMech.
- 5.2. The foregoing warranty is in lieu of all other warranties or guarantees, whether oral, written, expressed, implied or statutory and EnerMech makes no warranty as to fitness for purpose or merchantability. EnerMech's warranty obligations and Customer's remedies are solely and exclusively as stated herein.
- 5.3. The Warranty Period shall not be extended for repaired or replaced parts or Equipment or re-performed Services. Such parts or Equipment or Services shall remain under warranty only for the unexpired portion of the Warranty Period. EnerMech's sole liability shall be (at its option) to repair or replace parts or Equipment or reperform Services under this condition. EnerMech may in its sole discretion credit Customer's account for a portion or such parts or Equipment and/or Services determined by EnerMech to be defective.
- 5.4. The foregoing warranty does not apply to
- (a) defect caused or contributed to by abrasive materials, corrosion due to aggressive fluids, lightening, improper voltage supply, mishandling or misapplication;
  - (b) Equipment or parts which are normally consumed in operation, or have a normal life inherently shorter than the Warranty Period;
  - (c) alterations or repairs carried out without prior written approval of EnerMech, or using equipment and accessories for a purpose other than that for which such equipment and accessories are intended;
  - (d) installations carried out by the Customer unless Customer's personnel have been appropriately trained and certified by EnerMech;
  - (e) installations in which Customer has not used the application engineering practices for the Equipment as approved by EnerMech;
  - (f) defective Equipment or Services where Customer makes further use of the Equipment after the earlier of the Customer's awareness of the defect or the time when the Customer ought to have become aware of such defect;
  - (g) defects arising from or in connection with information, drawings, chart interpretations, technical specifications or instructions provided by the Customer to EnerMech.

#### 6. PATENT INFRINGEMENT

- 6.1. If Customer receives a claim or otherwise becomes aware that any Equipment or part thereof manufactured by EnerMech infringes or allegedly infringes a patent or other intellectual property right, Customer shall notify EnerMech immediately in writing and give EnerMech information, assistance and exclusive authority to evaluate, defend and settle such claim or potential infringement, EnerMech shall then at its own expense and option
- (a) settle such claim;
  - (b) procure for Customer the right to use such Equipment; or
  - (c) replace or modify it to avoid infringement or

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- (d) remove it and refund the purchase price (including transportation and installation costs) less a reasonable amount for depreciation; or
- (e) defend against such claim.
- 6.2. The Customer shall save, indemnify, defend and hold harmless the EnerMech Group from all claims, losses, damages, costs (including legal costs), expenses and liabilities of every kind and nature for, or arising out of, any alleged infringement of any patent or proprietary or protected right arising out of or in connection with the performance of the obligations of the Customer under the Contract.
- 6.3. All rights in any intellectual property created, designed, or conceived by EnerMech in connection with or arising out of the performance of the Contract by EnerMech shall vest exclusively in EnerMech, unless otherwise agreed in writing.

### 7. INDEMNITIES

- 7.1. All exclusions and indemnities given under this Clause 7 (save for those under Clause 7.2(c) and 7.3(c)) shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.
- 7.2. EnerMech shall be responsible for and shall save, indemnify, defend and hold harmless the Customer Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
  - (a) loss of or damage to property of EnerMech Group whether owned, hired, leased or otherwise provided by EnerMech Group arising from or relating to the performance of the Contract;
  - (b) personal injury including death or disease to any person employed by EnerMech Group arising from or relating to the performance of the Contract;
  - (c) and personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of EnerMech Group.
  - (d) For the purposes of this Clause 7.2(c) "third party" shall mean any party which is not a member of EnerMech Group or the Customer Group
- 7.3. Customer shall be responsible for and shall save, indemnify, defend and hold harmless EnerMech Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of:
  - (a) loss of or damage to property of the Customer Group whether owned, hired, leased or otherwise provided by the Customer Group arising from or relating to the performance of the Contract
  - (b) personal injury including death or disease to any person employed by the Customer Group arising from, relating to or in connection with the performance or non-performance of the Contract; and
  - (c) subject to any other express provisions of the Contract, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer Group.
  - (d) For the purpose of this Clause 7.3(c) "Third Party" shall mean any party which is not a member of EnerMech Group or the Customer Group.
- 7.4. At EnerMech's option, either the repair or replacement or reimbursement of the full cost of EnerMech's equipment, tools and/or instruments which are lost or damaged while in the Customer's sole care custody and control or are lost in-hole during the provision of the Services or are lost or damaged due to abrasion or corrosion occasioned by well effluents unless such loss or damage is due to the sole negligence of EnerMech.
- 7.5. Notwithstanding Clause 7.2 Customer shall be liable for, and shall defend, indemnify and hold EnerMech Group harmless from and against any and all claims which arise out of the performance or non-performance of the Contract in relation to the following, and whether or not resulting from, or contributed by, the negligence of EnerMech Group;
  - (a) loss of or damage to any well or hole or any third party oil and gas production facilities;
  - (b) reservoir seepage or pollution originating underground or from the property of the third party oil and gas production facilities;
  - (c) blow-out, fire, explosion, cratering of any well or reservoir or any other uncontrolled well condition (including the costs to control a wild well and the removal of debris); and
  - (d) damage to or escape of product, or substance from any facility of the Customer, or under the control of the Customer, in respect of those Services or part of the Services.
- 7.6. Notwithstanding anything to the contrary in the Contract, Customer shall be responsible for and shall save, indemnify, defend and hold EnerMech Group harmless from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of any acts or omissions of the employees or agents of EnerMech Group in connection with the performance of the Services (or any part of the Services), where, in accordance with the Contract, the employees of EnerMech Group are under the supervision, direction or control of the Customer in respect of those Services or part of the Services.

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### 8. INSURANCE

The Customer shall maintain levels of insurance sufficient to cover their respective liabilities and obligations under the Contract and at law. The Customer shall provide proof of the relevant insurance coverage, where requested.

### 9. PRICES AND PAYMENT

- 9.1. All prices are subject to change without notice. Prices do not include packing and preparation of export shipment, inland or ocean freight, loading, unloading, insurance or forwarding fees, taxes, or duties of any kind or other similar charges applicable to the Equipment, Services and/or the Contract. Customer agrees to pay such charges incurred by EnerMech on Customer's behalf together with additional handling charges upon receipt of EnerMech's invoice for the same.
- 9.2. Unless EnerMech and Customer otherwise agree in writing to payment terms other than those specified herein, payment shall be made in accordance with remittance instructions furnished by EnerMech
- (a) All payments shall be made within 30 days after date of EnerMech's invoice.
  - (b) Time for payment shall be of the essence.
  - (c) EnerMech may suspend credit to Customer and may withhold shipment of Equipment ordered, suspend or cancel performance under the Contract if in its sole judgement the financial condition of the Customer warrants such action. Suspension of performance may result in rescheduling days.
  - (d) Prices do not include applicable taxes or duties. Customer is solely responsible for paying all applicable taxes and duties. EnerMech will add taxes to the price where required by applicable law, and Customer will pay all such taxes unless Customer provides EnerMech with a duly executed tax exemption certificate in a form satisfactory to EnerMech.
  - (e) The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
  - (f) All payments payable to EnerMech under the Contract shall become due immediately on termination regardless of any other provision.
  - (g) If credit terms are not met, in addition to its other legal rights EnerMech has the right to
    - (i) defer or cancel, at its option, the Services and/or further shipments of Equipment; and
    - (ii) charge Customer interest at the maximum rate permitted by applicable law on the unpaid balance due.Customer will indemnify EnerMech for all costs including legal fees and court costs EnerMech incurs in connection with past due amounts by Customer.

### 10. CONFIDENTIALITY

- 10.1. The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by EnerMech or its agents and any other confidential information concerning EnerMech's business or its Equipment which the Customer may obtain and the Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of the Contract and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Customer. This clause does not apply where the confidential information:
- (a) was in the public domain prior to disclosure Customer;
  - (b) has become part of the public domain through no fault or breach of Customer;
  - (c) was in Customer's possession prior to the date of the Contract and was not subject to obligations of confidentiality;
  - (d) was given without restriction to Customer by a third party duly authorised or otherwise entitled to do so, and who did not receive the same in any way from EnerMech;
  - (e) is required to be produced by order of a court or in any arbitration proceedings or under the requirements of any law and/or by the rules of any relevant stock exchange; or
  - (f) EnerMech has given its prior written consent to the disclosure

### 11. FORCE MAJEURE

EnerMech reserves the right to defer the date of delivery of Equipment and/or the date of performance of Services, to cancel the Contract, or reduce the volume of the Equipment and/or amend the scope of the Services ordered by the Customer (without liability to Customer) if it is prevented from or delayed in the carrying out the Contract due to circumstances beyond its reasonable control, including but not limited to, natural disasters, forces of nature, earthquake, tidal wave, landslide, flood, lightening, hurricane, typhoon, storm or other weather condition not included in normal planning, epidemic and plague; changes in law or regulations, governmental actions; acts of civil or military authority; fire; explosion; lock-outs, strikes and/or labour disputes (whether or not relating to either party's workforce); civil commotion; protests; war; national

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emergency; riot; civil insurrection; acts of terrorism; restraints or delays in transportation; restraints or delays in manufacturing and inability of EnerMech to obtain adequate or suitable supplies from usual sources, or acts of Customer resulting in commercial impracticability. In the event of any such delay, the date of delivery and or/ performance shall be deferred for period equal to the time lost by reason of the delay. Neither EnerMech nor Customer shall be entitled to any damages, costs or expenses arising from or incurred as a result of a Force Majeure event.

### 12. LIMITATION OF LIABILITY

- 12.1. For the purpose of this Clause 12.1 and Clause 12.2 the expression "Consequential Loss" shall mean (in each case whether or not foreseeable at the date of the purchase order;
- (a) any and all consequential, indirect, special, incidental, punitive and/or special loss and/or damage; and
  - (b) loss and/or deferral or production, loss of product, loss of goodwill, loss of use, loss of revenue, profit or anticipated profit, cost of capital, loss of business opportunity, loss of contracts, in each case whether direct or indirect to the extent that such loss, deferral and/or cost are not included in Clause 12.1; and
  - (c) claims for service interruption or failure to supply, costs and expenses incurred in connection with labour overhead, transportation or substitute facilities or supply sources, labour performed in connection with the removal and replacement of Equipment or any other loss or damage incurred as a result of or otherwise in connection with interruption of services in each case to the extent that such claim is not included in Clause 12.1 or Clause 12.2.
- 12.2. Notwithstanding any provision to the contrary elsewhere, in no case will EnerMech be liable for Consequential Loss and the Customer shall be liable for and shall save, indemnify, defend and hold harmless EnerMech Group from and against any and all Consequential Loss even if caused by EnerMech's sole, joint, comparative contributory or concurrent negligence, fault, strict liability or product liability, and regardless of the form or action, whether in contract, tort (including negligence), breach of warranty, indemnity, statute, strict liability or otherwise.
- 12.3. The total liability of EnerMech on any claim whether in contract, tort (including negligence whether sole or concurrent) or otherwise arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any Equipment or the furnishing of any Services under the Contract, or the performance or nonperformance of the Contract shall not exceed the price actually received by EnerMech from the Customer for the specific Services or for the specific Equipment under the Contract.
- 12.4. Customer understands and agrees that the forgoing liability limitations are essential elements of the Contract and that in the absence of such limitations the material and economic terms of the Contract would be substantially different.

### 13. TERMINATION

- 13.1. EnerMech may terminate the Contract:
- (a) immediately upon notice to the Customer if the Customer is delinquent for more than 30 days in the payment of any sum due to EnerMech Group;
  - (b) immediately upon notice to the Customer if it is in breach of any obligation under the Contract and the Customer has failed to remedy such breach within thirty days of written notice to the Customer requiring the breach to be remedied;
  - (c) immediately upon notice to the Customer if there is any change in the ownership, management or control of the Customer;
  - (d) immediately upon notice to the Customer if the Customer ceases or threatens to cease to carry on business or
  - (e) substantially the whole of its business or EnerMech has reasonable cause to believe that the Customer is unable to pay its debts when due;
  - (f) without notice to the Customer if the Customer becomes insolvent or bankrupt, enters into liquidation, or a receiver, administrator, administrative receiver, manager, trustee or similar officer is appointed in relation to it or over any of its assets or any action is taken or threatened by or against it analogous to the foregoing in any jurisdiction; or
  - (g) immediately upon notice to the Customer if a case of Force Majeure continues for 60 days or more.
- 13.2. Where EnerMech terminates any Contract under this Clause 13, the Customer shall within seven (7) days pay to EnerMech: (a) all amounts invoiced by EnerMech under the Contract which remain unpaid at the date of termination; (b) a fair and reasonable price in respect of work completed or in progress but not invoiced at the date of termination; (c) all costs (including without limitation a sum in respect of overheads) incurred by EnerMech connected with termination; (d) all suppliers' and sub-contractors' termination charges.
- 13.3. Termination of any Contract by EnerMech shall be without liability or obligation of any kind on the part of EnerMech. Such termination shall not affect the rights of EnerMech accrued prior to the date of termination.
- 13.4. The Customer may not cancel or reschedule the delivery date of any Equipment and/or Services to be provided under the Contract without the prior written consent of EnerMech. In the event that EnerMech provides such consent, any such cancellation or rescheduling of Equipment and/or Services by Customer will result in a charge to Customer to be determined by EnerMech. Purchase orders once placed and accepted by EnerMech may be cancelled only with EnerMech's consent. Any cancellation at Customer's request may result in a cancellation charge equal to



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- (a) 20% of standard Equipment/Services; and
- (b) 100% of the full Contract price for non-standard or special Equipment/Services.

Cancellation charges for accessories and components sourced from third parties will be charged at full price. EnerMech shall, at its sole discretion, adjust the price and delivery dates or make such other amendments as may be required as a result of any change order agreed to be issued by the Customer and EnerMech. No amendment to the Contract shall be valid unless agreed in writing by EnerMech (at its sole discretion).

### 14. BUSINESS ETHICS and ANTI-BRIBERY/ANTI-CORRUPTION

- 14.1. The Customer acknowledges that it has received and reviewed the EnerMech Supplier Code of Business Conduct, a copy of which is available at [www.enermech.com](http://www.enermech.com) (the "Supplier Code of Business Conduct"). The Customer undertakes that it shall, and shall ensure that its partners, members, beneficial owners, subcontractors and affiliates shall, comply with the Supplier Code of Business Conduct.
- 14.2. Neither Customer nor EnerMech shall make any payment or take any action that could be construed to be the payment of money or other thing of value to any person for the purpose of influencing any act or inducing any person to assist in obtaining or retaining business in any country in a manner which is illegal or which would subject EnerMech to civil or criminal penalties, or which is inconsistent with Supplier Code of Business Conduct.
- 14.3. The Customer agrees that it shall take no action or use or spend any funds, regardless of the source, in violation of all applicable laws and regulations including without limitation applicable laws, regulations or orders relating to antibribery, influence peddling or anti-corruption, such as the United States Foreign Corrupt Practices Act and the United Kingdom Bribery Act 2010 ("Anti-Corruption Laws") and applicable laws, regulations, rules or guidelines relating to money laundering ("Anti-Money Laundering Laws").
- 14.4. The Customer shall immediately notify EnerMech if it becomes aware of, or has reasonable grounds to suspect, any violation or potential violation of this Clause 14.

### 15. WAIVER

WAIVER Either party's failure to enforce any provision of this Contract shall not be construed to be a waiver of such provision or the right of such party to enforce each and every such provision.

### 16. ENTIRE AGREEMENT

This Contract shall constitute the entire agreement between the parties relating to the sale of the Equipment and/or Services and supersedes all previous communications, representations or agreements, either oral or written, with respect to the subject matter hereof. No prior representations or statements relating to the sale of Equipment and/or Services made by any EnerMech representative, which are not stated herein, shall be binding on EnerMech.

### 17. ASSIGNMENT

The Customer shall not assign, charge, sub-contract or delegate its rights or obligations under the Contract, in whole or in part, without the prior written consent of EnerMech.

### 18. APPLICABLE LAWS

EnerMech agrees that in the performance of this Contract it shall comply with all applicable laws, statutes, rules and regulations or orders.

### 19. GOVERNING LAW

The laws of the State of Texas shall govern the validity, construction, interpretation and effect of these Terms and Conditions for Services and/or Equipment provided in the United States of America, Central America and South America. The laws of the State of Western Australia shall govern the validity, construction, interpretation and effect of these Terms and Conditions for Services and/or Equipment provided in Australia and New Zealand. For Services and/or Equipment provided in any other area, the laws of England shall govern the validity, construction, interpretation, and effect of these Terms and Conditions.

### 20. DISPUTE RESOLUTION

- 20.1. Any dispute between the parties in connection with or arising out of the Contract shall be conducted in the English language and be resolved by means of the following procedure:
  - (a) the dispute shall initially be referred, by means of a formal notice, to the representative of each party who shall discuss the matter under dispute and make all reasonable efforts to reach an agreement;
  - (b) if no agreement is reached under Clause 20 (a) above, within thirty (30) days of the date of the formal notice, the dispute shall be referred to an appropriate senior executive of each of the parties who shall meet to discuss the matter in dispute and make all reasonable efforts to reach an agreement;

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- (c) if no agreement is reached under Clause 20(b) above within ninety (90) days of the date the dispute was referred to the senior executives of each party, the dispute shall be settled by binding arbitration conducted in accordance with the Arbitration rules of the London Court of International Arbitration which shall take place in London, England.

20.2. Notwithstanding the existence of a dispute at any stage contemplated by this clause, the Customer and EnerMech must continue to perform the Contract.

### 21. ANTI-SLAVERY AND HUMAN TRAFFICKING

- 21.1. For the purpose of the Clause, Anti-Slavery Laws means all applicable Anti-Slavery and Human Trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015 (UK)
- 21.2. In performing any of its obligations under the Contract, the Customer shall:
  - (a) comply with all applicable Anti-Slavery and Human Trafficking laws, statutes, regulations (and codes) from time to time in force, including but not limited to, the Modern Slavery Act 2015 and comply with the Supplier Code of Business Conduct as updated from time to time;
  - (b) not engage in any activity, practice or conduct that would constitute an offence under Sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.
- 21.3. Customer represents and warrants that:
  - (a) It conducts its business in a manner that is consistent and in compliance with the Supplier Code of Business Conduct and this Clause.
  - (b) Neither the Customer nor any of its officers, employees has been convicted of any offence involving slavery and Human Trafficking; and has been or is the subject of any investigation, inquiry or enforcement proceedings.
- 21.4. Customer shall notify EnerMech as soon as it becomes aware of any breach, or potential breach of the Supplier Code of Business Conduct; or any actual or suspected Slavery or Human Trafficking in a supply chain which has a connection with this Contract.
- 21.5. Customer shall during the term of the Contract and for the period of two years after termination of the Contract, permit EnerMech on reasonable notice during normal business hours (save in circumstances of suspected breach) to have access to and take copies of Customer's records (and those of its subcontractors/suppliers) and to meet with the Customer's personnel to audit Customer compliance with its obligations under this Clause. Customer shall comply with all reasonable requests or directions of EnerMech to enable EnerMech to verify that Customer is in full compliance with its obligations under this Clause.
- 21.6. Notwithstanding any other provision of the Contract (including any provision which would otherwise exclude or limit liability under the Contract), Customer shall indemnify and hold harmless EnerMech Group against any and all liabilities, damages, losses suffered or incurred by, or awarded against, EnerMech Group arising out of or in connection with any breach by Customer of this Clause. EnerMech may terminate this Contract with immediate effect by giving written notice to Customer if Customer commits a breach of this Clause.

### 22. COMPLIANCE WITH TRADE LAWS

- 22.1. Customer will remain in full compliance with applicable laws, regulations or orders relating to economic and trade sanctions, export or import control ("Trade Laws").
- 22.2. Customer warrants that the Equipment will not be exported, re-exported, sold, transferred, diverted, sub-rented or otherwise disposed of in violation of relevant laws and regulations including: (a) U.S. Export Administration Regulations and the International Traffic in Arms Regulations ("ITAR"); (b) applicable EU export control regulations, sanctions and embargoes administered; (c) applicable U.S. sanctions and embargoes administered by the US Department of Treasury; or (d) the Trade Laws.
- 22.3. Customer will be responsible for obtaining any necessary export licenses or other documentation prior to the exportation or re-exportation of any Equipment acquired from EnerMech under the Contract. Further, Customer shall give notice of the need to comply with such laws and regulations to any person, firm or entity which it has reason to believe is obtaining any such Equipment from Customer with the intention of exportation. Each party shall secure, at its own expense, such licenses and export and import documents as are necessary for each respective party to fulfill its obligations under the Contract. If approvals cannot be obtained, EnerMech may terminate, cancel or otherwise be excused from performing any obligations it may have under the Contract. Any export classification made by EnerMech shall be for EnerMech's internal use only and shall not be construed as a representation or warranty regarding the proper export classification for such Equipment or whether and export license or other documentation is required for the exportation of such Product. This Clause 22 shall survive termination of the Contract.
- 22.4. Customer represents, warrants and undertakes that it does not, and shall not do business and/or conduct any direct or indirect dealings with any entity that is located, organized or resident in a country or territory subject to comprehensive sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control (each a "Restricted Country"), which currently includes: Cuba, Iran, North Korea, Syria and Crimea.

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## EnerMech International Standard Terms and Conditions of Sale and Service



- 22.5. Neither the Customer, nor its subsidiaries, affiliates, predecessors, officers, directors, or agents, is currently a Restricted Person

### 23. MISCELLANEOUS

- 23.1. EnerMech and the Customer agree that any Special Conditions set out in the Contract will take precedence over the general terms and conditions set out in these Terms and Conditions.
- 23.2. All samples, drawings, descriptive matter, specifications and advertising issued by EnerMech and any descriptions or illustrations contained in EnerMech's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Equipment and/or Services described in them. They shall not form part of the Contract.
- 23.3. The Customer shall at its own expense secure any permits or any other authorizations (including but not limited to work permit and visas for employees of EnerMech) which may be required to permit EnerMech to perform the Services. The Customer agrees to indemnify EnerMech against any costs, claims, actions, demands or expenses incurred or suffered in connection with the Customer's failure to obtain any permits or authorizations required to perform the Services.
- 23.4. Any notice to be given under, or in connection with the matters contemplated by these Terms and Conditions shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by facsimile, e-mail or pre-paid recorded delivery or registered post to the address and for the attention of the person stated in the Purchase Order (or as otherwise notified by that party hereunder). Any such notice shall be deemed to have been received
- (a) if delivered personally, at the time of delivery;
  - (b) in the case of pre-paid recorded delivery or registered post, forty-eight (48) hours from the date of posting;
  - (c) in the case of registered airmail, five (5) days from the date of posting; and
  - (d) in the case of fax, at the time of transmission; and
  - (e) in the case of electronic mail, forty-eight (48) hours after the time of sending.
- 23.5. If deemed receipt occurs before 9am on a business day the notice shall be deemed to have been received at 9am on that day and if deemed receipt occurs after 5pm on a business day, or on a day which is not a business day, the notice shall be deemed to have been received at 9am on the next business day. For the purpose of this Clause, a "business day" means any day which is not a weekend or a public holiday in the place at or to which the notice is left or sent.
- 23.6. Nothing in these Terms and Conditions shall be construed as establishing or implying any partnership or joint venture between the parties or as the agent of the other. Nothing in these Terms and Conditions shall be construed as establishing or implying an employer/employee relationship between EnerMech and any employees of the Customer and/or its affiliates.
- 23.7. No one other than a party to the Contract shall have the right to enforce any of its terms.
- 23.8. Customer shall, and shall ensure that its subcontractors and sub-suppliers report, file and pay any and all taxes, duties and levies in respect of income, corporation, revenue or similar taxes, howsoever described, and all fines, penalties and interest thereon duly assessed on the income, profits and gains accruing to Customer or any subcontractor or subsupplier in performance of the Contract in the country or countries in which the Services and/or Equipment are rendered or supplied, or any other country. Customer shall defend, indemnify and hold harmless EnerMech Group against any and all Claims relating to taxation howsoever arising in connection with said income, profits and gains of Customer
- 23.9. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force.
- 23.10. From time to time as requested by EnerMech, Customer shall certify by way of declaration to EnerMech that it has complied with its obligations, representations, and warranties of Customer as set forth in this Clauses 14, 21, 22 and 23.6