

ENERMECH INTERNATIONAL STANDARD TERMS & CONDITIONS OF RENTAL

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, damages and penalties including legal fees, court costs and expenses;

“**Customer**” means person, persons, firm or company named in the Contract to rent the Equipment hereinafter defined; “**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, consumables and supplies and/or merchandise rented or provided by ENERMECH;

“**Special Conditions**” means those Special Conditions set out in the Contract including any other document specified therein.

2. APPLICABILITY

2.1 These Terms and Conditions, together with any Special Conditions constitute the entire contract (the “**Contract**”) between the parties and may not be amended except in writing by an ENERMECH authorised representative. All rentals 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. Any quotation issued by ENERMECH is valid for a period of 30 days only from the date of issue provided that ENERMECH has not previously withdrawn it. 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 will only be binding when accepted in writing by ENERMECH. The failure of either party to enforce any provision hereof will not constitute a waiver or preclude subsequent enforcement thereof. No partial invalidity of this Contract will affect the remainder. All instructions, notices, agreements, authorizations, approvals and acknowledgements shall be in writing.

2.2 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 take priority. 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.

3. SPECIFICATION OF EQUIPMENT

3.1 All Equipment shall be required only to conform to the specification in Customer’s purchase order. For the avoidance of doubt no description, specification or illustration contained in any ENERMECH product, pamphlet or other sales or marketing literature and no representation whether written or oral, correspondence or statement shall form part of the Contract.

3.2 ENERMECH gives no undertaking that the Equipment is fit for any particular purpose and the Customer, having greater knowledge of its own requirements, relies entirely on its own skill and judgement in evaluating the suitability of the Equipment for ENERMECH purpose.

4. PRICE

4.1 Rental charges begin when each piece of Equipment departs ENERMECH’s store location or as specified in the Contract and will continue until it is returned to the same store location or a nearer point designated by ENERMECH, or until ENERMECH is notified in writing that such equipment is lost or damaged beyond repair (“**Rental Period**”). All rental charges are on a daily basis for a 24-hour day or any part stated therein (Customer shall be charged a full calendar day’s rental for any portion of a calendar day which day shall end at midnight).

4.2 Should there be any increase in the price and costs of raw materials, labour and overhead expenses that were not taken account of by ENERMECH in any estimate, quotation or order acknowledgment form signed by ENERMECH then ENERMECH reserves the right to increase the price upon giving written notice of such increase to the Customer at any time before completion of the Contract.

4.3 If ENERMECH and the Customer agree any variation to the Contract whereby additional work is to be undertaken by ENERMECH, ENERMECH reserves the right to reflect any increase in price and cost of raw material, labour and overhead expenses that may have taken place since the commencement of the Contract.

4.4 Any variation by the Customer in the design, quantification or specification of the Equipment following any instruction by the Customer in accordance with the provisions of the Contract shall allow ENERMECH to increase the price to reflect any additional costs that ENERMECH may incur as a result thereof. Unless otherwise agreed in a Contract, ENERMECH shall not be bound to accept any request for variation.

4.5 The price and all prices quoted are strictly net.

4.6 In addition to the price the Customer shall pay all:

- (i) delivery, freight, crantage and labour charges;
- (ii) all insurance costs;

- (iii) any sales or withholding taxes, customs duties, local and any other taxes where applicable at the appropriate rate prevailing at the time payment is due; and
 - (v) charges related to transportation or other services supplied by an outside contractor and purchased by ENERMECH in connection with providing the Equipment to the Customer, which may be charged to the Customer at a minimum of cost plus 15%.
- 4.7 Well conditions or other factors which prevent satisfactory operation of the Equipment (including loss of or damage to the Equipment) shall not relieve the Customer of the responsibility for paying the Price during the Rental Period.
- 5. PAYMENT**
- 5.1 Payment shall be made by the Customer to ENERMECH (in cleared funds) within (30) thirty days from the date of invoice. Time for payment shall be of the essence. ENERMECH shall be entitled to invoice the Customer at the time of delivery of the Equipment, or at any time thereafter.
- 5.2 Customer shall not withhold or defer payment on account of any Claim, counter-Claim or set-off.
- 5.3 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, 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 which ENERMECH incurs in connection with past due amounts by Customer.
- 6. DELIVERY**
- 6.1 Unless otherwise agreed, delivery of Equipment shall take place at the address specified in the Customer's purchase order.
- 6.2 Rentals will commence from the date notified in the mobilisation notice or as otherwise contractually agreed.
- 6.3 Any date or time given by ENERMECH for delivery of Equipment shall be an estimate only. Time for delivery shall not be of the essence.
- 6.4 If for any reason the Customer fails to accept delivery of any of the Equipment when it is ready for delivery, or ENERMECH is unable to deliver the Equipment on time because the Customer has not provided appropriate instructions, documents, licenses or authorisations:
- (a) all risk in the Equipment shall be borne by the Customer (including for loss or damage caused by ENERMECH's negligence);
 - (b) the Equipment shall be deemed to have been delivered; and
 - (c) ENERMECH may store the Equipment until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 6.5 The quantity of any consignment of Equipment as recorded by ENERMECH on despatch from ENERMECH's place of business shall be conclusive evidence of the quantity received by the Customer on delivery unless the Customer can provide conclusive evidence proving the contrary.
- 6.6 ENERMECH shall not be liable for any non-delivery of Equipment (even if caused by ENERMECH's negligence) unless the Customer gives written notice to ENERMECH of the non-delivery within (7) seven days of the date when the Equipment would in the ordinary course of events have been received.
- 6.7 Any liability of ENERMECH for non-delivery of the Equipment shall be limited to replacing the Equipment within a reasonable time or issuing a credit note at the pro rata price against any invoice raised for such Equipment.
- 7. SPECIAL EQUIPMENT/SERVICE CHARGES**
- 7.1 For all special Equipment purchased from another supplier by ENERMECH for a Contract, Customer will be charged for materials, shop time, plus either a minimum rental or the sales price for Equipment, whether used or not. All third party costs shall be charged at cost plus 15%.
- 7.2 Where applicable, standby rates may be applied under conditions specified in various sections of the applicable price list.
- 8. CANCELLATION**
- Purchase orders once placed and accepted by ENERMECH may only be cancelled with ENERMECH's consent.
- 9. RISK**
- All risk in the Equipment shall pass to the Customer upon dispatch and shall remain with the Customer throughout the Rental Period and the Customer shall keep the Equipment insured against this risk. The Customer shall, if required by ENERMECH, provide written evidence of such insurance.
- 10. TITLE TO EQUIPMENT**
- 10.1 Unless otherwise agreed in writing between the parties, the property and title in the Equipment shall not pass to the Customer and shall remain vested in ENERMECH throughout the Rental Period.
- 10.2 The Customer shall not do or permit or cause to be done any matter or thing whereby the rights of ENERMECH in respect of the Equipment are or may be prejudicially affected and it shall not assign, let, pledge, mortgage, charge, encumber, or part with possession of, or otherwise deal with, the Equipment or any interest therein.
- 10.3 The Customer shall store ENERMECH Equipment in a specially designated and clearly marked area which ensures the Equipment is easily identifiable as property of ENERMECH. The parties agree that ENERMECH shall have the right, to be

wholly exercised at its discretion without prejudice to any other remedies it may have, to enter any premises owned or occupied by the Customer:

- (a) to search for, inspect and examine the condition of the Equipment on reasonable notice to the Customer; and/or
- (b) without prior notice, to search for and recover the Equipment in any one or more of the following circumstances:-
 - (i) any sum due by the Customer to ENERMECH in respect of the Equipment or any part thereof becomes overdue for payment;
 - (ii) the Customer:
 - 1) enters into liquidation (other than for the purpose of effecting a reconstruction or amalgamation) whether compulsorily or voluntarily;
 - 2) compounds with or convenes a meeting of its creditors or has a receiver appointed of all or any part of ENERMECH assets;
 - 3) takes or suffers any similar analogous action to those listed at 1) - 2) above in consequence of a debt; or
 - 4) ceases for any reason to trade or carry on business;
 - (iii) on termination of the Contract, and the Customer shall be responsible for all costs, charges and expenses incurred by ENERMECH in ascertaining the location of and re-taking possession of the Equipment.

11. ENERMECH'S OBLIGATIONS/WARRANTIES

- 11.1 ENERMECH warrants that the Equipment, as at the commencement of the Rental Period, shall comply with the manufacturer of the Equipment's guidelines and instructions as in force at the commencement of the Rental Period.
- 11.2 Subject to Clause 11.3, where the Equipment is found to be defective or not to comply with the terms of Clause 11.1, ENERMECH shall, in ENERMECH's sole discretion, repair or replace the defective Equipment free of charge or, if in ENERMECH's sole discretion such repair or replacement is impossible or uneconomical, ENERMECH shall refund the price paid by the Customer in relation to the defective item(s) of Equipment.
- 11.3 The obligations of ENERMECH contained in Clause 11.1 shall be conditional upon:-
 - (a) notice being given of the defect within five (5) days of the defect becoming apparent;
 - (b) such notice being served within thirty (30) days of delivery;
 - (c) the defect not having arisen because the Customer failed to follow ENERMECH's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or in accordance with good trade practice.
- 11.4 Any Equipment to be repaired or replaced in accordance with Clause 11.2 shall be delivered to ENERMECH at the Customer's expense.
- 11.5 Subject to this Clause 11 and to Clause 12 all other conditions, warranties or other stipulations concerning the Equipment whether express or implied by common law or under statute are excluded to the fullest extent permitted by law, and in particular, but without limiting the foregoing generality, ENERMECH grants no warranties regarding fitness for purpose, use, quality or nature of the Equipment whether express or implied by statute or common law.

12. LIABILITY

- 12.1 ENERMECH's cumulative liability to the Customer under any Contract howsoever arising shall be limited to 100% of the Contract price.
- 12.2 ENERMECH will not have any liability whether contractual or in tort, for any indirect or Consequential Loss, costs, damages, charges or expenses arising out of or in connection with any Contract. For the purpose of this Clause 12.2 and Clause 14.5 "**Consequential Loss**" shall mean loss and/or deferral of production, loss of profit, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect and whether or not foreseeable at the date of the Contract.

13. CUSTOMER'S OBLIGATIONS/WARRANTIES

- 13.1 The Customer shall keep the Equipment in good repair and condition (fair wear and tear excepted, and EnerMech shall decide what constitutes fair wear and tear).
- 13.2 The Customer undertakes not to dress, change, alter or modify (or obtain services of any other party to dress, change, alter or modify) the Equipment in any way without ENERMECH's prior written approval.
- 13.3 Subject to Clause 18.2, all Equipment lost or damaged beyond repair during the Rental Period including whilst being transported to and from, or at, the location of the work, except to the extent resulting from fair wear and tear or latent defect, shall be paid for in full by the Customer at the reinstatement value documented or applicable at the time of loss plus rental charges until the reinstatement is made plus the cost of freight charges, customs duty and cost of exporting/importing such Equipment. In the event of the return of Equipment previously notified as lost, ENERMECH reserves the right to cancel any sale charges or alternatively, charge rental for the period between notification of loss and subsequent return of Equipment.

14. INDEMNITIES

- 14.1 Without prejudice to the provisions of Clause 11.2, 11.4, , 13.3 and 18.2, the Customer shall be responsible for and shall save, indemnify and hold harmless ENERMECH Group from and against:-

- (a) all claims, losses, damages, proceedings, causes of action and expenses (including court costs and other litigation costs arising in respect of/or as a result of loss or damage to the Equipment during the Rental Period;
 - (b) personal injury including death or disease to any person employed by the Customer Group arising from or relating to the performance of the Contract or the use of the Equipment;
 - (c) loss of or damage to the property of the Customer Group whether owned, leased, hired or otherwise provided by the Customer Group arising from or relating to the performance of the Contract and/or the use of the Equipment;
 - (d) personal injury including death or disease or loss of or damage to the property of any third party caused by the performance of the Contract.
- 14.2 The Customer shall be responsible for and shall save, indemnify and hold harmless ENERMECH Group from and against all claims, losses, damages, proceedings, causes of action and expenses including court costs and other litigation costs) of whatsoever nature arising from:-
- (a) pollution and/or contamination (including without limitation pollution or contamination emanating from any reservoir or in-hole below the rotary table or above the rotary table);
 - (b) any non-compliance or contravention of law or regulation; or
 - (c) without prejudice to Clauses 14.1 and 14.2:
 - (i) the loss or damage to any well or hole;
 - (ii) blow out, fire, explosion, cratering or uncontrollable oil condition (including the costs to control a wild well and the removal of debris);
 - (iii) damage to any reservoir, geological formation or underground strata or the loss of oil or gas therefrom;
 - (iv) the use of radioactive tools in relation to the use of the Equipment or any contamination resulting therefrom (including retrieval and/or containment and clean up), which arise(s) from the performance of the Contract.
- 14.3 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 (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.
- 14.4 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.
- 14.5 Notwithstanding any provision to the contrary elsewhere in the Contract and except to the extent of any agreed liquidated damages (including without limitation any predetermined fees) provided for in the Contract, the Customer shall save, indemnify, defend and hold harmless ENERMECH Group from the Customer Group's own Consequential Loss and ENERMECH shall save, defend, indemnify the Customer Group from ENERMECH Group's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the Contract.
- 14.6 All exclusions and indemnities given under this Clause 14 shall apply irrespective of cause and notwithstanding the negligence or breach of duty of the indemnified party or any other entity or party and shall apply irrespective of any claim under contract or otherwise at law.
- 14.7 The indemnities under this Clause 14 shall be limited to the extent necessary for compliance with the laws of the applicable jurisdiction, and to the extent that any laws are at variance with the indemnities provided herein, such indemnities shall be deemed to be amended so as to comply with such laws.

15. EXPORT CONTROL

Customer warrants that the Equipment will not be exported, re-exported, sold, transferred, diverted, subrented or otherwise disposed of in violation of relevant laws and regulations including: (a) US Export Administration Regulations and the International Traffic in Arms Regulations (ITAR); (b) applicable EU export control regulations, sanctions and embargoes administered; (c) applicable US sanctions and embargoes administered by the US Department of Treasury; or (d) any applicable foreign laws and regulations.

16. BUSINESS ETHICS

The Customer acknowledges receipt and warrants compliance with the EnerMech Code of Business Conduct, a copy of which is available at www.enermech.com.

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 working within a commercial organisation, a government entity, a political party, or a political party candidate for the purpose of influencing any act or inducing any person working within a commercial organization, a government entity or a political party to use his, her or its influence 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 EnerMech Code of Business Conduct.

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 Foreign Corrupt Practices Act of 1977 (FCPA) (15 U.S.C. § 78dd-1, as amended), the Bribery Act 2010 (UK) or the laws of the country within which the Customer operates or provides the Services.

The Customer shall promptly report to ENERMECH any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of the Contract.

17. TERMINATION

ENERMECH may terminate any Contract forthwith by notice in writing to the Customer;

- (a) by giving notice of the same to the Customer; or
- (b) if the Customer:
 - (i) commits a material breach of this Contract which in the case of a breach capable of remedy shall not have been remedied within thirty (30) days of the receipt by the Customer of a notice identifying the breach and requiring Customer remedy;
 - (ii) is unable to pay its debts as they fall due or enters into liquidation (other than for the purpose of effecting a reconstruction or amalgamation) whether compulsorily or voluntarily or compounds with or convenes a meeting of its creditors or has a receiver appointed of all or any part of its assets or takes or suffers any similar action in consequence of debt, or ceases for any reason to carry on business; or
 - (iii) fails to pay any sums due to ENERMECH within the thirty day period provided for in Clause 5, without prejudice to ENERMECH's right to receive interest for non-payment.

18. CONSEQUENCES OF TERMINATION

18.1 Upon the termination or expiry of any Contract howsoever arising:

- (a) ENERMECH shall be entitled to invoice the Customer for the price payable under that Contract until the Equipment is returned to ENERMECH's premises as directed by ENERMECH and the Customer shall pay such invoice in accordance with these Terms and Conditions; and
- (b) the Customer shall deliver the Equipment relating to that Contract to ENERMECH's premises as directed by ENERMECH.

18.2 Equipment which is returned at the end of the Rental Period shall be inspected by ENERMECH in accordance with industry recognised standards with all costs to the Customer's account unless stated otherwise. If any piece of Equipment is downgraded for any reason other than due to normal wear and tear such items shall be sold to the Customer at the price quoted or appearing on ENERMECH's price list. Excessive wear and tear (as determined by ENERMECH) will be recharged to the Customer at cost price plus any and all administrative and associated costs.

19. FORCE MAJEURE

19.1 If performance of the Contract by ENERMECH shall be delayed by any circumstances or conditions beyond the control of ENERMECH including (but without prejudice to the generality of the foregoing) any war, intellectual dispute, strike, lockout, riot, malicious damage, fire, storm, flood, act of God, accident, failure of production equipment, any statute, rule, byelaw, order, regulation or requisition made or issued by any government department, local or other duly constituted authority, then ENERMECH shall have the right to suspend further performance of the Contract until such time as the cause of delay shall no longer be present.

19.2 If performance of the Contract by ENERMECH shall be delayed by any such circumstances or conditions beyond the control of ENERMECH for a period of three (3) months, then ENERMECH shall have the right to be discharged from further performance of and liability under the Contract.

20. GOVERNING LAW

The laws of the State of Texas shall govern the validity, construction, interpretation and effect of these Terms and Conditions for Equipment hired 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 Equipment hired in Australia and New Zealand. For Equipment hired in any other area, the laws of England shall govern the validity, construction, interpretation, and effect of these Terms and Conditions.

21. DISPUTE RESOLUTION

Any dispute between the parties in connection with or arising out of the Contract shall 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 21(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 who shall make all reasonable efforts to reach an agreement;
- (c) if no agreement is reached under Clause 21(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.

- (d) Notwithstanding the existence of a dispute at any stage contemplated by this clause, the Customer and ENERMECH must continue to perform the Contract.

22. ANTI-SLAVERY AND HUMAN TRAFFICKING

(i) 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)

(ii) In performing any of its obligations under the Contract, the Customer shall:

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, comply with the EnerMech Code of Business Conduct as updated from time to time

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.

(iii) Customer represents and warrants that:

It conducts its business in a manner that is consistent and in compliance with the EnerMech Code of Business Conduct and this Clause.

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.

(iv) Customer shall notify ENERMECH as soon as soon as it becomes aware; of any breach, or potential breach of the EnerMech Code of Business Conduct; or any actual or suspected Slavery or Human Trafficking in a supply chain which has a connection with this Contract.

(v) 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.

(vi) 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.

(vii) Customer undertakes, warrants and represents that it does not, and shall not do business and/or conduct any economic interaction with any entity that is located organized or resident in a country of territory; that is or whose government currently is the target of countrywide sanctions; that is subject to specific restrictions on entities or individuals which are imposed by the United Nations Security Council, the European Union, or any UK or US government sanctions authority. Such authorities include (without limitation) HM Treasury, the Foreign and Commonwealth Office and the US Office of Foreign Assets Control.

Without limitation and unless notified in writing, the following countries have been identified as "watchlist" counties; Cuba, Iran, Libya, North Korea, Zimbabwe, South Sudan, Syria and Russia.

23. GENERAL PROVISION

23.1 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 (or registered airmail in the case of an address for service outside the United Kingdom) to the address and for the attention of the person stated in the Contract (or as otherwise notified by that party hereunder). Any such notice shall be deemed to have been received:-

- (i) if delivered personally, at the time of delivery;
- (ii) in the case of pre-paid recorded delivery or registered post, forty-eight (48) hours from the date of posting;
- (iii) in the case of registered airmail, five (5) days from the date of posting; and
- (iv) in the case of fax, at the time of transmission; and
- (v) in the case of electronic mail, forty-eight (48) hours after the time of sending.

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 Saturday, a Sunday or a public holiday in the place at or to which the notice is left or sent.

- 23.2 No failure or delay by any party in exercising any right, power or privilege under any Contract shall operate as a waiver nor shall any single or partial exercise preclude any further exercise of any right, power or privilege under any Contract or otherwise.
- 23.3 Nothing in these Terms and Conditions shall be construed as establishing or implying any partnership or joint venture between the parties 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.
- 23.4 No one other than a party to the Contract shall have the right to enforce any of its terms.
- 23.5 These Terms and Conditions and the documents referred to herein set out the entire agreement of the parties and supersede all prior agreements relating to the subject matter.
- 23.6 The Customer shall not assign, charge, sub-contract or delegate its rights or obligations under a Contract in whole or in part without the prior written consent of ENERMECH.
- 23.7 Customer shall strictly maintain the confidentiality of all confidential information concerning ENERMECH’s business, affairs, customers, clients, equipment and services which are acquired by, or disclosed to, Customer. Customer shall not use any confidential information concerning ENERMECH or the Equipment for any purpose other than to perform its obligations under the Contract.
- 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 sub-supplier in performance of the Contract in the country or countries in which the services 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 Group.