ENERGY CONTROL, INC.

TERMS AND CONDITIONS OF SALE – Rev1 - EQUIPMENT AND SERVICES -

ENERGY CONTROL, INC. ("Seller") agrees to perform the Services and/or sell the Equipment described hereon upon the following terms and conditions of sale which supersede any of Buyer's additional or inconsistent terms and conditions of purchase.

1. DELIVERY AND PERFORMANCE TERMS

(A) The delivery dates unless otherwise stated in the contract are subject to change and scheduling by the Seller. Buyer agrees that if Buyer requests delivery within a week of the scheduled delivery date, said delivery date and time must be confirmed in writing to Buyer by Seller. Buyer agrees to accept delivery at any time from 8:00 a.m. to 5:00 p.m. local time at the Seller's factory. Buyer agrees to accept delivery by 1:00 p.m. local time at any of Buyer's facilities in the continental United States and by 2:00 p.m. local time at any of Buyer's facilities outside the continental United States. Buyer agrees to pay all transportation and handling charges for products tendered for delivery. The Buyer agrees to promptly sign the delivery ticket when any such product is delivered to Buyer. All claims for shortage or damage in transit must be made to the carrier within ten (10) days after receipt of the goods by Buyer, unless otherwise agreed to by Seller in writing.

(B) All scheduled performance or delivery dates are approximate and Seller shall not be liable for loss, damage or delay resulting from causes beyond its reasonable control or caused by civil insurrection, war, fire, strikes or other labor disturbances. Acts of God, shortages of materials or failure of suppliers or subcontractors to satisfactorily meet scheduled deliveries, delay or failure by Buyer to perform its obligations under any agreement, or any other factor or event beyond Seller's reasonable control, UNDER NO CIRCUMSTANCE WILL SELLER BE RESPONSIBLE FOR OR BUYER BE ENTITLED TO DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR OWING TO ANY DELAYS IN DELIVERY OR PERFORMANCE WHATSOEVER.

In the event Seller's performance is delayed or interrupted at job-site by Buyer or others, resulting downtime of Seller's employees shall be paid by Buyer at Seller's normal billing rates, regardless of any other pricing terms of this contract with regard to any other aspect of this job. Seller shall use its best efforts to fill any such employee downtime with other necessary activities or other jobs and, to the extent such time is so utilized, will not invoice Buyer for such time.

2. IMPAIRMENT OF CREDIT

If Buyer is or becomes insolvent, or is unable to pay its debts as they mature, or files or has filed against it a bankruptcy, insolvency or similar petition, or if Seller in good faith doubts the ability of Buyer to pay, Seller may demand cash payment in advance before shipments are made.

3. TAXES

Sales, use, excise, or similar taxes, export license fees, duties, customs or similar charges, arising out of or relating to the sale, delivery, installation, or use of the Equipment or the performance of the Services described on the face hereof are not included in the price except as otherwise specified herein. All such taxes and/or charges are the responsibility of the Buyer and Seller shall have the right at any time to separately bill the Buyer for such taxes and/or charges. In no event shall such other manufacturer's warranty to the Seller; in no event shall such other manufacturer's warranty be applicable to any part or parts of the Equipment or any spare or replacement parts or in connection with any Services performed. SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OR FOR LOSS, DAMAGE, OR EXPENSE, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THE EQUIPMENT OR ANY SPARE OR REPLACEMENT PART OR ANY SERVICES FROM OR ANY OTHER CAUSE WHETHER BASED ON CONTRACT, TORT OR OTHERWISE, OR PROVIDED REGARDLESS OF ANY ADVICE OR RECOMMENDATIONS THAT MAY HAVE BEEN RENDERED CONCERNING THE PURCHASE, INSTALLATION OR USE OF THE EQUIPMENT OR ANY SPARE OR REPLACEMENT PART OR ANY SERVICES.

(C) SECURITY INTEREST

Claim of any breach of any warranty must be made by written notice to the Seller's home office within then (10) days of the discovery of any defect. The Seller agrees at its option to repair or replace, BUT NOT INSTALL, F.O.B. Seller's factory, any part or parts of the Equipment or any spare or replacement part which within the period hereof was proven to the Seller's satisfaction (including return to the Seller's plant, transportation prepaid, for inspection, if required by the Seller) to be defective within the above warranty. Expenses incurred thereafter by Buyer or user in replacing, repairing or returning the Equipment or any part or parts will not be paid or reimbursed by the Seller. The Seller agrees to repair or replace, at its option, any Services which within the period stated above shall have been proven to the Seller's satisfaction to be defective within the above warranty.

(E) PRIOR CONDITION OF EQUIPMENT

In no event shall Seller have any liability whatsoever for any failure, loss, damage or destruction of equipment which is due to the condition or state of the equipment, known or unknown, as it existed prior to the commencement of Seller's work.

6. SECURITY INTEREST

The Buyer hereby grants to Seller a security interest in any Equipment and all attachments, replacement parts, accessories, and any other equipment or materials furnished or supplied in connection with any Services, OR OWING TO ANY DELAYS IN DELIVERY OR PERFORMANCE WHATSOEVER.

In the event Seller's performance is delayed or interrupted at job-site by Buyer or others, resulting downtime of Seller's employees shall be paid by Buyer at Seller's normal billing rates, regardless of any other pricing terms of this contract with regard to any other aspect of this job. Seller shall use its best efforts to fill any such employee downtime with other necessary activities or other jobs and, to the extent such time is so utilized, will not invoice Buyer for such time.

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