



Additional Terms And Conditions For PROSeries Rentals (Collectively the "Terms")

EnerSys Delaware Inc. –

July 24, 2015

These terms and conditions (the "Terms") apply to all PROSeries Service Rental Agreements between EnerSys and its Customer for rentals (collectively the "Transfer") of batteries (collectively the "Products") made by EnerSys and its subsidiaries, affiliates, agents, representatives or other third parties Transferring EnerSys' Products to Customer under the PROSeries Service Rental Program (the "Program"). The term "Customer," as used herein, shall refer to the party to whom EnerSys is Transferring Products hereunder. Customer shall have no right or option to purchase the Products under the Program.

- 1. Tax:** All government charges upon the production, shipment or Transfers of Products, direct or indirect, including those required to be collected by EnerSys, shall be paid by Customer or, in lieu thereof, Customer shall cooperate fully with EnerSys, and furnish EnerSys with an exemption certificate or other applicable documents acceptable to the taxing authority.
- 2. Limited Warranty:** ALL PRODUCTS PROVIDED HEREUNDER ARE PROVIDED "AS IS," AND ENERSYS MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING SUCH PRODUCTS. ALL OTHER WARRANTIES ARE EXCLUDED INCLUDING, WITHOUT LIMITATION, EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OF TRADE, OR COURSE OF PERFORMANCE.
- 3. Indemnification:** Customer shall indemnify, defend and hold harmless EnerSys and its directors, officers, employees, affiliates and assigns from and against any and all losses, damages (including incidental and consequential damages), expenses (including court costs, reasonable attorneys' fees, interest expenses and amounts paid in compromise or settlement), suits, actions, claims, penalties, liabilities or obligations related to, caused by, arising from or on account of (i) Customer's storage, handling, use, sale, or shipping of Products or any other act or omission of Customer; (ii) Customer's negligence, willful misconduct or violation of applicable laws; (iii) any third party's allegation that the Products or any item into which the Products are attached or shipped or incorporated infringes or misappropriates any copyright, patent, trade secret, trademark, trade name, or other property interest or proprietary rights of such third party to the extent the Products, or any portion thereof, are manufactured to the specifications or with parts provided by Customer; (iv) breach by Customer of any of these Terms; and (v) use of the Products in any nuclear facility or related applications or activities arising out of a "nuclear incident" as defined in the Atomic Energy Act.
- 4. Limitation of Liability:** REGARDLESS OF THE FORM OF ACTION, ENERSYS' LIABILITY IN ANY WAY RELATING TO THE PRODUCTS OR THESE TERMS SHALL NOT EXCEED THE PRICE PAID BY CUSTOMER. ENERSYS, ITS AFFILIATES, AND THEIR OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE, DOWNTIME, LOSS OF GOODWILL, BUSINESS INTERRUPTION, DELAY IN PERFORMANCE, OR LOST OPPORTUNITIES, REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE IN CONNECTION WITH THE SUPPLY OR SUBSEQUENT USE OF THE PRODUCTS, EVEN IF ENERSYS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ENERSYS WILL NOT BE LIABLE FOR ANY DAMAGES RESULTING FROM THE REMOVAL OF THE PRODUCTS EXCEPT TO THE EXTENT CAUSED BY ENERSYS' INTENTIONAL WRONGFUL ACTS.
- 5. General:** Customer shall not assign its rights or delegate its obligations without EnerSys' prior written consent. Any provision found invalid or unenforceable under applicable law, shall to that extent be deemed omitted, and the rest of these Terms or the Agreement shall be in full force and effect. This Agreement may only be modified by a writing signed by an authorized EnerSys representative. EnerSys' waiver of any term or breach hereof shall not be construed as a waiver of any other term or existing or future breach. This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania without reference to conflicts of law principles. Any suit, action or other proceeding seeking to enforce, or in any way relating to, any provision of these Terms shall be brought only in the Court of Common Pleas of Berks County, Pennsylvania or the United States District Court for the Eastern District of Pennsylvania. Supplier irrevocably consents and submits to the jurisdiction and venue of such courts and irrevocably waives any objection which it may have to the laying of the venue of any suite, action or proceeding brought in some courts. The parties waive any right to jury trial. Clerical errors in quotations and specifications may be corrected at any time by EnerSys. This Request is binding on both parties and their successors and permitted assigns.