Alpha Technologies Services, Inc. (“Alpha”)

Terms And Conditions For The Purchase Of Services (these “Terms”)

For the purposes hereof, the term "**Customer**" shall refer to the party purchasing services from Alpha.

1. **Applicability**: The accompanying order confirmation (the "**Confirmation**") and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Confirmation, these Terms shall govern. These Terms prevail over any of Customer's general terms and conditions regardless whether or when Customer has submitted its request for proposal, order, or such terms. Provision of services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.
2. **Services**: EnerSys shall provide the services to Customer as described in the Confirmation (the "**Services**") in accordance with these Terms.
3. **Performance Dates**: EnerSys shall use reasonable efforts to meet any performance dates specified in the Confirmation, and any such dates shall be estimates only.
4. **Customer's Obligations**: Customer shall: (a) cooperate with EnerSys in all matters relating to the Services and provide such access to Customer's premises, and accommodation and other facilities as may reasonably be requested by EnerSys, for the purposes of performing the Services; (b) respond promptly to any request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for EnerSys to perform the Services in accordance with the requirements of this Agreement; (c) provide such customer materials or information as EnerSys may reasonably request to carry out the Services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; (d) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start; and (e) make sure the premises is safe and accessible and that reasonable precautions have been taken to protect the safety of EnerSys’ employees and agents.
5. **Customer’s Acts or Omissions**: If EnerSys’ performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, EnerSys shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay. EnerSys’ time for performance shall be deemed to be extended by the period of such prevention, delay, act or omission of Customer.
6. **Change Orders**: If either party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other party in writing. EnerSys shall, within a reasonable time after such request, provide a written estimate to Customer of: (a) the likely time required to implement the change; (b) any necessary variations to the fees and other charges for the Services arising from the change; (c) the likely effect of the change on the Services; and (d) any other impact the change might have on the performance of this Agreement. Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change (a "**Change Order**"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing. EnerSys may, from time to time change the Services without the consent of Customer provided such changes do not materially affect the nature or scope of the Services, or fees or performance dates set forth in the Confirmation.
7. **Payment**: Payments are due within thirty (30) days from the invoice date. Payments shall not be subject to offset or setoff. Acceptance of a partial payment by EnerSys shall not be a waiver of the right to be paid the remainder due. Past due amounts shall bear interest at one and one-half percent (1.5%) per month or the maximum amount allowed by law, whichever is less. Customer may not apply any adjustments to EnerSys’s invoice without EnerSys’s written authorization. Customer shall bear all collection costs including, without limitation, reasonable attorneys' fees and litigation costs. Any invoice disputes not raised in writing within ten (10) days from the invoice date are waived.
8. **Suspension or Termination of Services**: EnerSys may, without liability, suspend or cancel any or all Services if Customer breaches this Agreement, fails to pay any amounts due pursuant to this Agreement or should EnerSys have other reasonable grounds to be insecure with respect to Customer’s ability to perform.
9. **Standard of Services and Warranty**: EnerSys will provide the Services in a professional and workmanlike manner. ENERSYS DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE.
   EnerSys’ sole obligation under this warranty shall be at its option to (i) correct or re-perform the Services or (ii) refund any fees. EnerSys shall have no obligation to the extent that any nonconformity is caused by Customer, its representatives, agents, employees or any other third party.

10. **LIMITATION OF LIABILITY**: ALL CLAIMS BY CUSTOMER OR ANY THIRD PARTIES AGAINST ENERSYS OR ITS EMPLOYEES ARE LIMITED TO THE TOTAL AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT. ENERSYS AND ITS SHAREHOLDERS, AFFILIATES, DIRECTORS, OFFICERS AND EMPLOYEES SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE OR PROFITS, LOSS OF USE OF PROPERTY OR LOSS OF ANY OTHER OPPORTUNITY, OR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES INCURRED BY ANY PERSON. Any claim shall be deemed waived unless received by EnerSys in writing within six (6) months after the claim arose. To the extent permitted by law, any statutory or other remedies that are inconsistent with these Terms are waived.
11. **Insurance Coverage**: EnerSys and Customer shall maintain workers' compensation and general commercial liability insurance with limits customary to their particular lines of business. Upon EnerSys' request, Customer shall provide EnerSys with a certificate of insurance from Customer's insurer evidencing insurance coverage.
12. **Taxes**: Customer shall be responsible for all sales, use, excise, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer.
13. **Confidential Information**: Each party shall retain as confidential all information furnished to it (the "**Recipient**") by the other (the "**Disclosing Party**"), including but not limited to pricing and technical information, and not disclose such information to any third party for any purpose except to further the performance of this Agreement. Any information Customer intends to be covered by this paragraph will be clearly marked "**Confidential**." These restrictions will not apply to information that (i) the Recipient held prior to disclosure by the Disclosing Party; (ii) becomes public knowledge through no fault of the Recipient; (iii) is independently developed by the Recipient; (iv) is disclosed to a third party on obligation to keep such information confidential; or (v) must be disclosed or provided to any third party under applicable laws, regulations or other legal requirements.
14. **Property**: All of EnerSys' property which is used to provide the Services or disclosed to Customer, including but not limited to, any software, hardware, tools and equipment, shall remain the sole property of EnerSys.
15. **Assignment/Subcontracting**: Customer shall not assign this Agreement or any part thereof without EnerSys' prior written approval. EnerSys may, in its sole discretion, subcontract any portion of the Services. Subject to the foregoing, this Agreement shall benefit of and bind the parties' successors and permitted assigns.
16. **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 attorney's fees, interest expenses and amounts paid in compromise or settlement), suits, actions, claims, penalties, liabilities or obligations (collectively, "**Losses**") related to, caused by, arising from or on account of (i) Customer's negligence, willful misconduct or violation of applicable law, or regulations; and (ii) the failure of Customer to comply with any covenant, provisions or agreement of the Customer contained herein.
17. **Governing Law**: This Agreement shall be governed by and interpreted pursuant to the laws of the Commonwealth of Pennsylvania, excluding its principles regarding conflict of laws. Disputes hereunder shall be subject to the exclusive jurisdiction and exclusive venue of the Courts of Berks County of the Commonwealth of Pennsylvania or the United States District Court for the Eastern District of Pennsylvania. Parties waive any right to a jury trial.
18. **Force Majeure**: EnerSys will have no liability for any failure or delay due to any circumstance beyond its reasonable control, including, but not limited to, strikes, riots, wars, terrorism, flood, fire, explosion, acts of nature, delays due to tardy regulatory approval, acts of governments, acts or omissions of Customer or other parties, labor disturbances, delays in transportation or inability to obtain material or equipment. In the event of such delay in performance, the completion time will be extended as reasonably necessary.
19. **Severability**: If any provisions herein, or application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, such provision shall be modified to the extent necessary to permit its validity or enforceability, and the other terms shall be valid and enforced to the fullest extent.
20. **Waiver**: No delay or failure by either party in exercising any right under this contract and no partial or single exercise thereof shall constitute a waiver of such rights or any other rights hereunder.
21. **Relationship of Parties**: The parties are independent contractors, not agents, partners, employees of each other.
22. **Notices**: All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the face of the PO or address set forth above. A copy of each Notice should also be directed to the Enersys's Legal Department and office of the General Counsel. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this clause.

23. **Amendment and Modification**: This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each party.
24. **Survival**: Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Disclaimer of Warranties, Limitation of Liability, Confidentiality, Governing Law, Insurance, and Survival.