

Shanahan Engineering

General Terms and Conditions of Sale



1. **DEFINITIONS**

In these terms and conditions the following expressions will have the following meaning unless inconsistent with the context:

"Affiliate" means in relation to a Person any other Person that: (a) directly or indirectly controls or is controlled by the first Person; or (b) is directly or indirectly controlled by a Person that also directly or indirectly controls the first Person. A Person controls another Person if that first Person has the power to direct or cause the direction of the management of the other Person, whether directly or indirectly, through one or more intermediaries or otherwise, and whether by ownership of shares or other equity interests, the holding of voting rights or contractual rights, by being the general partner of a limited partnership, or otherwise.

"Business Day" means any day other than a Saturday or Sunday or a public or bank holiday in Dublin, Ireland.

"Company" means the EthosEnergy Group Company named on the quotation.

"Company Group" means the Company, its co-venturers, its Affiliates, employees, subcontractors and agents, but shall not include any member of the Customer Group.

"Company Site" means the location of the EthosEnergy Group Company named on the quotation or such other location that the Company may specify in its quotation.

"Consequential Loss" means consequential or indirect loss under English Law; and loss and/or deferral of production; loss of product; loss of contracts; loss of use; loss of power or cost of replacement power; loss of or damage to goodwill; loss of use or corruption of software, data or information; loss of revenue; loss of bargain; loss of profit or anticipated profit (if any); any financial or economic loss; or loss of earnings in each case whether direct or indirect whether or not foreseeable at the date upon which the Parties entered into the Contract.

"Contract" means any contract between the Company and the Customer for the Works formed in accordance with Clause 2.2, incorporating these General Terms and Conditions and an acknowledgement of order issued by the Company.

"Customer" means the person, firm or company whose order is accepted by the Company.

"Customer Group" means the Customer, its co-venturers, its Affiliates, employees, subcontractors and agents, but shall not include any member of the Company Group.

"Customer Property" means any property owned by or in the control of the Customer in respect of which the Company carries out Services under the Contract.

"General Terms and Conditions" means the terms and conditions of sale set out in these General Terms and Conditions of Sale (subject to Clause 2.3).

"Intellectual Property Rights" means all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions.

"Party(ies)" means either Customer or Company or both Customer and Company, depending on the context.

"Person" means a natural person or a legal entity, including any partnership, limited partnership, limited liability company, corporation, firm, trust, body corporate, government, governmental body or agency, or unincorporated venture.

"Products" means any physical item, part, module or assembly which the Company provides to the Customer in its performance of the Services.

"Services" means any services which the Company provides to the Customer under the Contract including, but not limited to, where specified in the Company's quotation, the repair and overhaul of Customer Property and the provision of engineering and/or site personnel.

"Scope of Work" means the technical description detailing the Works to be performed or to be provided as set out by the Company in its quotation for the Works or such other technical specification as agreed between the Parties.

"Third Parties" means any party other than the Company Group or the Customer Group.

"Works" means all the work that the Company is required to carry out in accordance with the provision of the Contract including the provision of all Products and Services.
2. **APPLICABILITY**

2.1 The General Terms and Conditions shall be a part of and govern the Contract entered into between the Company and the Customer for the provision of the Works to the exclusion of all previous oral or written representations and all other terms and conditions, including any terms and conditions which the Customer purports to apply under any purchase order or other acceptance of the Company's quotation, whether or not such document is referred to in the Contract formed in accordance with 2.2 below. The Company's performance is expressly limited to the terms set out in the Contract unless the Company agrees otherwise in writing.

2.2 Each purchase order or acceptance of the Company's quotation for the provision of Works will be deemed to be an offer by the Customer to purchase the Works upon the General Terms and Conditions. The Contract is formed and the General Terms and Conditions shall be deemed accepted by the Customer upon the earlier of: a) the order being accepted by the Company by way of an acknowledgement of order; or b) mobilisation of the Company's personnel at the Customer's request; or c) commencement of the Services.

2.3 The Customer must ensure that the terms of its purchase order and any applicable Scope of Work are complete and accurate.
3. **THE PRODUCTS AND SERVICES**

3.1 The quantity and description of the Works will be as set out in the Scope of Work.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Works represented by or described in them. They will not form part of the Contract and this is not a sale by sample.

3.3 The Company may make changes to the Scope of Work, design, materials or finishes of the Works which:
 - 3.3.1 are required to conform with any applicable safety or other statutory or regulatory requirements; or
 - 3.3.2 do not materially affect their quality or performance.

3.4 The Company agrees to operate in accordance with the Customer's quality management system, health & safety management system and all other processes and procedures applicable to the services as described while attending any Customer site.
4. **PRICE AND PAYMENT**

4.1 The price payable for the Works will be the price set out in the Company's quotation and is stated exclusive of VAT or any other applicable sales tax or duty, without any deductions whatsoever and is based upon current costs for labour, materials, wages, freight, packing, insurance, taxes, subcontractor charges, and all other charges relating to the provision of the Works.

4.2 The Company may, by giving notice in writing to the Customer at any time before delivery of the Products or performance of the Services, adjust the price in the event of any increase in costs due to: (i) any factor beyond Company's control (including but not limited to foreign exchange fluctuations, increases in taxes and duties, tariffs and increases in labour, materials and other manufacturing costs); (ii) changes in the scope of the Works; or (iii) any delay caused by Customer's instructions or lack of instructions.

4.3 The Company may invoice the Customer for the Works on or at any time after performance commences and payment is due in the currency stated in the Company's quotation fourteen (14) days after the date of such invoice (subject to Clause 4.5 below). Time for payment will be of the essence. No payment will be deemed to have been received until the Company receives cleared funds.

4.4 The Company shall, where appropriate, submit weekly time and expense sheets for approval by the Customer. Time and expense sheets not signed off or disputed within five (5) Business Days of receipt by the Customer shall be deemed to be approved and invoiced accordingly.

4.5 Except as set out in Clause 4.4 above, the Customer, in good faith and within ten (10) days of invoice date, may dispute any item on an invoice by notifying the Company in writing of the reasons for such dispute. The Company and the Customer shall promptly use all reasonable endeavours to resolve such dispute, with the disputed item immediately due for payment upon settlement. Payment of the undisputed portion of the price shall be made by the Customer without set off within fourteen (14) days of the invoice date in accordance with Clause 4.3 and in such manner and to such account as stated in the invoice.

4.6 If Customer fails to make any payment due to Company under this Contract by the due date, then, without limiting Company's remedies under this Contract, Customer shall pay interest on the overdue sum at the higher of the maximum rate permitted by applicable law or 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount. In addition, Company shall be entitled to the Company's costs of collection, including, without limitation, legal fees.

4.7 The Company reserves the right to suspend provision of the Works in the event that payment is not made in accordance with the provisions of this Clause 4. For the avoidance of doubt this shall entitle the Company to invoice for all costs incurred or committed, including, but not limited to, demobilisation, travel, accommodation, plus full overhead and profit recovery, in relation to the provision of the Works, up to the date of such suspension including all costs incurred for which the Company is liable during and/or resulting from such suspension. In addition, as soon as Customer is late in paying any invoice, then all other invoices from the Company to the Customer (under all contracts) will become immediately and automatically due and payable and the Company shall have the right to charge interest in accordance with Clause 4.6 above. If applicable, and on receipt of payment in full, Parties will agree a date for the recommencement of the Works.
5. **WARRANTY AND LIABILITY**

5.1 In respect of Works which are proved to the reasonable satisfaction of the Company not to have been provided or performed with the skill and care commensurate with the recognized standards prevailing in the industry (fair wear and tear to Customer Property and Products excepted) the Company will, during the period of three (3) months from the completion of the Works, at the Company's option, repair or replace any defective Products, re-perform the relevant defective portion of the Services or provide a refund or credit to the Customer for the relevant portion of the Products and/or Services.

5.1.1 The Company's obligation under this Clause 5.1 will apply only where:
 - a. the relevant Customer Property and/or Products were operated and maintained in accordance with applicable manufacturer's guidelines and standards, overhaul manuals, service bulletins and customer handbooks;
 - b. the relevant Customer Property and/or Products have been in use under normal operating conditions, have not been subjected to misuse, neglect or accident and have not subsequently been repaired or altered, except by the Company;
 - c. where the Customer Property and/or Products are to be stored for any period prior to installation, the relevant item has been stored in accordance with the manufacturer's (or the Company's, if applicable) recommended storage procedures and conditions laid down in the maintenance instructions prepared by the manufacturer;
 - d. the defective Services have been performed by a member of the Company Group (the Company accepts no liability for any work performed by a member of the Customer Group and/or any Third Party); and
 - e. warranty claims are received by the Company within fourteen (14) days of delivery where the defect should be apparent on reasonable inspection of the relevant Customer Property and/or Products, or within fourteen (14) days of the same coming to the knowledge of the Customer where the defect is not one which should be apparent on reasonable inspection, and in any event no later than the expiry of the relevant warranty period.

5.1.2 Notwithstanding anything herein to the contrary, the Company makes no warranty in respect of Customer or Third Party designed, manufactured, or supplied Products or Services and makes no warranty in respect of the accuracy or completeness of any service history provided to the Customer in respect of used Products supplied under the Contract. Furthermore, the Company shall have no warranty obligations for defects in the Works to the extent such defects are caused by incomplete, inaccurate, or faulty information, designs, or specifications provided by the Customer. The Company will, where applicable, provide reasonable assistance to the Customer in securing the benefit of any warranties provided by such Third Parties to the Company.

5.1.3 The Customer shall assume all responsibility and expense for, all access requirements, removal, reinstallation, and freight for Products and/or Customer Property in connection with the foregoing remedies and where the Company is to re-perform the Services or carry out repairs at the Customer's premises, the Customer agrees to allow the Company access to such premises as the Company may reasonably require for this purpose.

5.1.4 In the event the Company chooses to replace any defective Products in accordance with Clause 5.1, title in those defective Products transfers to the Company at the time the defective Product is replaced. The Company shall have the right but not the obligation to remove the defective Product from the Customer's site and return it to the Company's premises. The Customer shall provide all necessary assistance and documentation in order to facilitate this. In the event the Company chooses not to remove the defective Product from the Customer's site, the Customer shall be obliged to dispose of the defective Product.

5.1.5 The same warranty obligations and conditions as set out in this Clause 5.1 shall apply to warranted Products and/or Services repaired or replaced by the Company, provided however that this shall not serve to extend the warranty beyond six (6) months from the start date of the original warranty period specified in Clause 5.1.

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5.1.6	If the Customer asserts a timely warranty claim, in accordance with this Clause 5.1, the Company shall promptly evaluate the warranty claim and advise the Customer within thirty (30) days whether the Company contests the warranty claim. If the claim is not a valid warranty claim (to the reasonable satisfaction of the Company) then all costs of the claim evaluation shall be the responsibility of the Customer. In the event the Customer elects to engage a Third Party or parties to correct the Products and/or Service claimed to be in breach of the warranty in this Clause 5, prior to the expiration of said thirty (30) day period, the Company is released from any warranty obligation in respect of such Service and/or Products.		
5.2	It is expressly agreed the foregoing warranty is Customer's sole remedy in the event of any defects and is made in lieu and excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.		
5.3	Except as provided in Clauses 5.1 to 5.2 (inclusive), 11.2 and 13, and except insofar as the Company's liability may not be excluded or limited by law, the Company will be under no liability to the Customer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or loss howsoever caused arising out of or in connection with:	9.2	In the event that the Customer temporarily suspends the performance of any Works, the Customer shall specify immediately in writing which part of the Works shall be suspended, the effective date of the suspension, the expected date of resumption and the mobilisation and support functions which are to be maintained during the suspension period. The Company shall advise the Customer of any price or schedule change necessitated by the suspension and the Works shall only be suspended when there is agreement upon such price adjustment.
5.3.1	any of the Products, Customer Property or the provision of the Services;	9.3	The Company, at its option, shall be relieved of its obligation to provide the Works hereunder without further obligation, if the Customer suspends part of the Works beyond three (3) months of the starting date originally specified, or if the Works are suspended for more than three (3) months.
5.3.2	any breach by the Company of any of the express or implied terms of the Contract;	9.4	In any event contemplated by this Clause 9 where the Works are suspended or delayed, the Company shall be entitled to invoice the Customer immediately for all Works completed as at the date of such suspension (for the avoidance of doubt this shall entitle the Company to invoice for all costs incurred or committed, including, but not limited to, demobilisation, travel, accommodation, plus full overhead and profit recovery, in relation to the provision of the Works, up to the date of such suspension, and including all costs incurred for which the Company is liable during and / or resulting from the such suspension) and the date for completion of the Works shall be extended in all cases by an amount of time equal to the length of the suspension or delay. The Customer shall be obliged to make payment in accordance with Clause 4.3.
5.3.3	any use made or resale by the Customer of any of the Products and/or the Customer Property or any product incorporating the Products and/or the Customer Property;		
5.3.4	any statement made or advice given or not given by or on behalf of the Company;		
5.3.5	any latent defects arising from the Company's failure to discover or repair latent defects unless such discovery or repair and the means to effect such are set out in the Scope of Work; or	9.5	The Company shall not be obligated to fulfil this Contract if such fulfilment is prevented or made commercially impractical by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.
5.3.6	otherwise under the Contract.	9.6	In the event the Customer temporarily suspends the performance of any Works as a result of a Force Majeure event, the Company will be entitled to invoice for all costs incurred for which the Company is liable during and/or resulting from such temporary suspension.
5.4	The Customer acknowledges that the above provisions of this Clause 5 and Clause 15 are reasonable and reflected in the price which would be higher without those provisions and the Customer will accept such risk and insure accordingly.	10.	CHANGES TO THE SERVICES The Customer may request changes to the Works at any time by notice in writing to the Company. Upon receipt of such a request, the Company shall, within a reasonable period, respond in writing setting out any anticipated resulting change in price or time for completion. The Customer shall respond to the Company's notice in writing within fourteen (14) days indicating whether it accepts or rejects such changes and if no response is received from the Customer within this period, the Customer shall be deemed to have accepted those changes and the Contract shall be varied accordingly as from the end of the fourteen (14) day period (or such earlier date as the Customer's written acceptance of the changes is received by the Company). In the event the Customer rejects such changes, the Company shall have the right to suspend the Works, until such time as agreement is reached between the Parties including payment for services to date.
5.5	To the fullest extent permitted by law, the Parties agree that no action or proceedings may be brought or commenced under or in connection with this Contract at any time beyond 2 years from completion of the Works.	11.	INTELLECTUAL PROPERTY RIGHTS
6.	DELIVERY/DURATION SCHEDULES	11.1	Neither the Customer or the Company shall have the right to use, other than for the purpose of the Contract, whether directly or indirectly, any Intellectual Property Rights of the other Party and such rights shall remain with the Party providing such Intellectual Property Rights.
6.1	Products shall be delivered by the Company to the Customer ex works (EXW INCOTERMS 2020 packed but not loaded) Company Site, unless otherwise specified in the Company's quotation.	11.2	While providing Works to the Customer, the Company may develop additional expertise, know-how and other Intellectual Property Rights which are the Company's exclusive property and which Company may freely utilize in providing Works for its other customers. Except where expressly and specifically indicated in writing in a separate development agreement, and in exchange for appropriate payment, Company does not develop any Intellectual Property Rights for ownership by the Customer under this Contract with Customer, and the Company retains sole ownership of any Intellectual Property Rights created during the course of providing Works hereunder. Notwithstanding the above, the Company grants the Customer an irrevocable, world-wide, royalty-free, non-transferable, non-exclusive licence to use such Intellectual Property Rights to the extent required to use the Works. Such licence shall not be sub-licensed or transferred.
6.2	Shipping and completion schedules are estimates only based on typical manufacturing cycles and anticipated conditions prevailing at the time of Contract formation and rely upon prompt receipt of all information and approvals (if required) from the Customer. The Company will make every reasonable effort to meet the Customer schedules but time for delivery and performance shall not be of the essence. If, despite those reasonable efforts the Company is unable for any reason to fulfil any delivery or performance on the specified date, the Company will be deemed not to be in breach of the Contract.	11.3	The Company may, in the performance of this Contract, furnish or install equipment, components, materials and supplies which may be (a) standard commercial products of the Company; (b) purchased from other sources; (c) manufactured by or a repair method/process used by the Company to meet the specific circumstances arising under this Contract; (d) manufactured by the Company in accordance with Customer instructions; or (e) supplied by the Customer. The Customer understands that the Company has made no investigation and gives no warranty in respect of the risk of possible infringement of third party Intellectual Property Rights in relation to items in categories (b), (c), (d) and (e) above, and accordingly, the Customer agrees that the Company shall have no liability in this respect.
6.3	To the extent any liquidated damages are payable by Company for any delay or failure to achieve any specified levels of performance, such liquidated damages shall be Company's sole liability and Customer's sole remedy for any such failure and all other remedies at law shall be excluded to the fullest extent permitted by law.	11.4	As to items detailed under condition 11.3(a), the Customer shall notify the Company promptly in writing and give the Company information, assistance, and exclusive authority to evaluate, defend, and settle any claim brought by any third party asserting infringement of their Intellectual Property Rights. The Company shall then at its own expense and option (a) settle such claim; (b) procure for the Customer the right to use such product; (c) replace or modify it to avoid infringement; (d) remove it and refund the price less a reasonable amount for depreciation; or (e) defend against such claim. This clause sets out the Customer's sole remedy against the Company in respect of claims in relation to infringement of third party Intellectual Property Rights.
7.	PERMITS AND TAXES	11.5	The Intellectual Property Rights produced by or on behalf of the Company Group in relation to the Works, whether produced by the Company or otherwise shall at all times be and remains the property of the Company whether in the form of a hard copy or stored electronically or otherwise.
7.1	The Customer shall, at its own expense, secure any permits or any other authorisation (including but not limited to compliance with export and/or import requirements) which may be required to permit the Company to perform the requested Works. Any applicable duties or sales, use, excise, value-added or similar taxes will be in addition to the price and shown separately on each invoice, or alternatively, the Customer may provide the Company with an exemption or direct-pay certificate acceptable to the taxing authorities. The foregoing shall also apply in respect of any costs associated with visa and/or work permit requirements and the Customer shall further provide all reasonable assistance to the Company in meeting such requirements.	11.6	The Customer shall indemnify, defend, and hold harmless the Company against any claims, liabilities, costs, and expenses (including legal fees) arising from any third-party intellectual property infringement caused by the Company's adherence to the Customer's designs, specifications, or instructions, or the use of materials/components supplied by the Customer.
7.2	The Customer agrees to save, indemnify, defend and hold the Company harmless from any costs, claims, actions, demands or expenses incurred or suffered in connection with any permits, licences, taxes, fines or payments of any kind made by the Company on behalf of the Customer in fulfilling the Customer's duties under this Clause 7.	12.	TERMINATION
8.	TITLE, RISK AND RIGHT OF LIEN	12.1	The Company may by notice in writing served on the Customer terminate the Contract immediately if the Customer:
8.1	Title in any Products shall only pass to the Customer once all amounts due in respect thereof and all other sums which are or become due to the Company from the Customer on any account have been received in cleared funds by the Company.	12.1.1	is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Customer fails to remedy such breach within fourteen (14) days of service of a written notice from the Company, specifying the breach and requiring it to be remedied. Failure to pay any sums in accordance with Clause 4 is a material breach of the Contract which is not capable of remedy;
8.2	Title to Customer Property repaired, modified, inspected, tested, or maintained under these terms and conditions shall remain with Customer.		
8.3	Risk of damage to or loss of Products or any Customer Property shall pass to Customer EXW INCOTERMS 2020 packed but not loaded, Company Site. In the event the Company loads the Products or any Customer Property on behalf of the Customer, both Parties agree that the Company is acting as the Customer's agent and does not assume any risk of damage or loss in respect of those Products and/or Customer Property.		
8.4	The Company shall have a lien upon all Products and Customer Property in the Company's possession. In the event of non-payment of any invoice within the time period specified in Clause 4, the Customer shall be in default and the Company shall be entitled to exercise its lien.		
8.5	In the event of Customer's default (including failure by the Customer to take delivery of any Products and/or Customer Property when they are ready for delivery or to provide any instructions, documents, licences or authorisations required to enable Products and/or Customer Property to be delivered), the Company shall have the option, but shall not be obliged to:		
8.5.1	store or arrange for the storage of the Products and/or Customer Property at the Customer's expense until actual delivery or payment in full takes place; and/or		
8.5.2	following written notice to the Customer, sell any of the Products and/or Customer Property at the best price reasonably obtainable in the circumstances and charge the Customer for any shortfall below the price payable under the Contract or account to the Customer for any excess achieved over the price, in both cases having taken into account any charges related to the sale, including all the costs sustained for the storage of the Products and/or Customer Property.		
9.	DELAYS, SUSPENSION, DEFERMENT		
9.1	If the Company is prevented from performing any or all of its obligations by circumstances which arise from or are attributable to acts, events, omissions or accidents beyond the reasonable control of the Company, including, but not limited to, strikes, lockouts or other		

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12.1.2	financial position deteriorates to such an extent that in the Company's reasonable opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;		
12.1.3	becomes bankrupt, insolvent, makes any composition with its creditors, has a receiver or administrator appointed or dies;		
12.1.4	has any distraint, execution or other process levied or enforced on any of its property;		
12.1.5	ceases or threatens to cease trade;		
12.1.6	undergoes a change of control ("change of control" means any transfer of ownership or controlling interest, whether directly or indirectly, including through merger, acquisition, or other corporate restructuring, to a third party not previously approved in writing by the Company); or	17.	INSURANCE
12.1.7	the equivalent of any of the above occurs to the Customer under the jurisdiction to which the Customer is subject.	17.1	At all times throughout the duration of the Contract (and any warranty period provided by the Customer) the Customer shall procure and maintain the following insurances with insurers of good repute:
12.1.8	and the Company fail to reach agreement on a change to the Works in accordance with Clause 10 within period which is reasonable in the circumstances.	17.1.1	employer's liability insurance with a minimum level of indemnity of five million pounds sterling (£5,000,000) against each and every occurrence;
12.2	The termination of the Contract howsoever arising is without prejudice to the rights, duties and liabilities of either the Customer or the Company accrued prior to termination.	17.1.2	public and products liability insurance with a minimum level of indemnity of five million pounds sterling (£5,000,000) per occurrence and unlimited in the aggregate;
12.3	The Company will be entitled to suspend deliveries and/or performance of the Works otherwise due to occur following service of a notice specifying a breach under Clause 12.1.1 until either the breach is remedied or the Contract terminates, whichever occurs first.	17.1.3	to the extent the Works involve construction or commissioning services the Customer shall procure and maintain or procure that any end customer procures and maintains Construction All Risk Insurance. The deductible on such policy shall not exceed five hundred thousand United States dollars (US\$500,000);
12.4	Upon termination in accordance with Clause 12.1, the Company shall be entitled to invoice the Customer immediately for all Works completed as at the date of termination (for the avoidance of doubt this shall entitle the Company to invoice for all costs incurred or committed including, but not limited to, demobilisation, travel, accommodation, plus full overhead and profit recovery, in relation to the provision of the Works, up to the date of such termination) and such invoices shall become immediately due.	17.1.4	the Customer shall procure and maintain or procure that any end customer procures and maintains All Risks Property Insurance on existing property / facility / plant including plants taken over during the course of the Contract. The policy shall cover "all risks" of physical loss or damage including coverage for boiler and machinery (electrical and mechanical breakdown), in an amount equal to the replacement value of the relevant property. The deductible on such policy shall not exceed five hundred thousand United States dollars (US\$500,000); and
13.	INDEMNITIES	17.1.5	any other insurances which are required by law;
13.1	The Company 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 personal injury including death or disease or loss of or damage to the property of the Customer Group or Third Parties to the extent that any such injury, loss of or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Company Group.		together (the "Insurances"). The Customer will be responsible for payments of all premiums and deductibles in respect of the Insurances.
13.2	The Customer shall be responsible for and shall save, indemnify, defend and hold harmless the Company Group from and against all claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of personal injury including death or disease or loss of or damage to the property of the Company Group or Third Parties 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.	17.2	The Customer shall comply with all recommendations and requirements of its insurers in relation to the Insurances and shall not take or omit to take any action or permit anything to occur in relation to the Insurances as would entitle the relevant insurer to refuse to pay any claim under the Insurance.
13.3	The Customer shall save, indemnify, defend and hold harmless the Company Group from and against any claim of whatsoever nature arising from (i) pollution emanating from any reservoir or from the property of the Customer Group howsoever arising, (ii) fire, explosion or blowout of any well or reservoir; (iii) damage to or escape of product from any facility including any pipeline or other subsurface facility; (iv) the discharge of trash, waste oil, bilge water or other pollutants or from the removal of wreckage.	17.3	The Customer shall ensure that each of the Insurances shall contain a clause waiving the insurer's subrogation rights against the Company Group and for the insurance in Clause 17.1.3 and 17.1.4 shall ensure any insurance taken out by any end customer includes a waiver of subrogation rights against the Company Group. Customer shall ensure that the Insurances include Company Group as an additional insured. All Insurances shall be primary in relation to any insurance Company Group may have in place, without right of contribution from any Company Group insurance
13.4	The Company shall save, indemnify, defend and hold harmless the Customer Group from and against any claim of whatsoever nature arising from pollution occurring on the premises of the Company Group or originating from the property and equipment of the Company Group arising from relating to or in connection with the performance or non-performance of the Contract.	17.4	The Customer agrees that it will provide to the Company on request:
13.5	If either Party becomes aware of any incident likely to give rise to a claim under the above indemnities in this Clause 13, it shall notify the other and both Parties shall co-operate fully in investigating the incident.	17.4.1	copies of all documents relating to the Insurances (including all insurance policies and schedules and all documents evidencing any amendments, extensions, renewals or variations to the Insurances) and the Company shall be entitled to inspect the originals of such policies and documents during ordinary business hours; and
13.6	The indemnities given by the Company in this Contract shall be conditional on the Customer giving the Company prompt written notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.	17.4.2	evidence that the premiums payable under the policies relating to the Insurances have been paid and that the Insurances are in full force and effect.
13.7	In the event the Company indemnifies the Customer for a claim arising under this Clause 13, the Customer may not settle such claim without the prior written consent of the Company.	17.5	If the Customer is in breach of Clause 17.1, 17.2, 17.3 and/or 17.4, the Company may pay any premiums required to keep the Insurances in force or itself procure such insurance and may in either case recover the amount of such premiums, together with any costs and/or expenses incurred in procuring such insurance from the Customer on written demand. Customer shall save, indemnify, defend and hold Company Group harmless for Customer's failure to comply with the provisions of this Clause 17.
14.	CONSEQUENTIAL LOSS	18.	VARIATION, SURVIVAL OF TERMS AND ENTIRE AGREEMENT
	Notwithstanding any provision to the contrary elsewhere in the Contract, the Company shall save, indemnify, defend and hold the Customer Group harmless from and against the Company Group's own Consequential Loss howsoever arising and the Customer shall save, indemnify, defend and hold the Company Group harmless from and against the Customer Group's own Consequential Loss howsoever arising. For the purposes of this Clause 14 "Customer Group" shall include any other party for which the Works are ultimately being performed including but not limited to any owner and / or operator of the relevant site.	18.1	The Contract contains the entire agreement between the Parties in relation to its subject matter. Nothing in this Clause 18 will exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.
15.	LIABILITY	18.2	The Contract may not be rescinded, modified, amended or terminated without the express written consent of an authorised representative of each Party.
15.1	Except insofar as the Company's liability may not be limited by law, the liability of the Company arising out of or in connection with the Contract will not exceed an amount equal to the lower of the monies received by the Company under the Contract or the applicable purchase order value. This limitation of liability shall limit such liability not only in contract but also in tort or otherwise at law.	18.3	The provisions of Clauses 1, 5, 7, 8, 11, 12.4, 13, 14, 15, 16, 17, 18, 21, 22, 24, 26, 27, 29, 30 and 31 shall survive termination of these General Terms and Conditions.
15.2	The Company shall incur no liability whatsoever for any loss or damage to people or property howsoever arising to the extent that it is acting under instruction from the Customer Group and the Customer shall save, indemnify, defend and hold harmless the Company from any claims, losses, damages, costs (including legal costs) expenses and liabilities in respect of the same.	18.4	Should changes in any applicable laws, rules, regulations, tariffs and taxes, including any change in the interpretation of the same, made after the date of this Contract, result in any increase in the cost to Company of performing the Works or result in any increase in the time taken for performance then Company shall be entitled to a corresponding price and / or schedule increase to reflect this.
15.3	In the event of any damage to Customer Property arising as a result of negligent performance of the Works by the Company, the Company's liability shall be limited to Ten Thousand United States Dollars (US\$10,000) per incident of damage to such Customer Property and limited to an aggregate total of USD \$100,000. Such liability shall count towards the overall limitation of liability set out in Clause 15.1. The limitation of liability in this Clause 15.3 extends to include the property of any other party for which the Works are ultimately being performed including but not limited to owner and / or operator of the relevant site and Customer shall save, indemnify, defend and hold Company Group harmless from and against any liability in excess of this.	19.	NOTICES
15.4	For the avoidance of doubt any and all limitations of the Company's liability set out herein shall represent the aggregate cumulative limitation of the liability of the Company Group to the Customer Group.	19.1	All notices required or permitted under these terms and conditions must be made in writing and delivered by hand, first class post, airmail, electronic mail or facsimile to the relevant Party at its registered office.
16.	HAZARDOUS MATERIALS	19.2	The notice will be deemed to have been duly served:
	The Customer shall, within a reasonable time before performance of the Works is due to commence, identify and notify the Company in writing of any hazardous materials and/or conditions that may be encountered by Company personnel whilst at the Customer's site or any other location which the Customer requires the Company to attend in its performance of the Works. Such notification shall include any material safety data sheets	19.2.1	if delivered by hand, at the time of delivery;
		19.2.2	if delivered by first class post, 48 hours after being posted or in the case of airmail fourteen (14) days after being posted (excluding days other than Business Days);
		19.2.3	If delivered by electronic mail, upon receipt of a delivery receipt by the sender or by an email from the recipient confirming receipt, whichever is received first.
			provided that, where in the case of delivery by hand or transmission by fax, such delivery occurs after 4.00pm on a Business Day, or on a day other than a Business Day, delivery will be deemed to occur at 9.00am on the next following Business Day.
			This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
		20.	WAIVER
			No failure or delay to exercise any right power or remedy on the part of the Company will operate as a waiver nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy.

Shanahan Engineering

General Terms and Conditions of Sale

21.	SEVERABILITY If any provision of these terms and conditions is found to be unenforceable or void in whole or in part, that provision will, to the extent required, be severed from the Contract and will be ineffective without as far as possible, modifying any other provision or part of the Contract and the remaining terms and conditions will continue to be valid.	AGENCY WORKERS	32.1 To the extent the Company acts as an employment agency as defined in the Irish Temporary Agency Workers) Act, 2012 or equivalent legislation (the "Act") and provides an agency worker as defined in the Act the following provisions shall also apply.
22.	CONFIDENTIALITY The Company and the Customer shall maintain the confidentiality of all information obtained from each other in connection with the Works or otherwise. Such confidential information, which includes but is not limited to records, books, financial data, projections, computer records, Intellectual Property Rights, methodologies, technical concepts, specifications, processes, or other documents, shall not be disclosed to any Third Party and shall not otherwise be exploited commercially, except with prior written consent or as required by law or regulatory body. If the Company or the Customer is legally required to disclose any confidential information of the other, it will notify the other Party prior to making such disclosure and take all available steps to limit such disclosure. Notwithstanding the above, the restrictions stated above shall not apply to any such confidential information: a. which was generally available to the public at the time of disclosure or at any time thereafter; b. which was already known by the receiving Party at the time of disclosure; c. which is independently developed by a Party; or d. which becomes known to a Party from a source other than the disclosing Party without breach of any contractual obligation.	32.2	The Customer acknowledges that the agency worker is performing the Work under the direction and control of the Customer. Accordingly, the Customer acknowledges and agrees that Company has no legal liability (and assumes no contractual liability) to the Customer for any actions or omissions (including negligent actions or omission) of the agency worker.
23.	ASSIGNMENT The Company may assign any right or interest in the Contract to an Affiliate of the Company. Customer may not assign any right or interest in the Contract without the written consent of Company.	32.3	The Customer will be responsible for complying with all statutory and regulatory obligations relating to the agency worker whilst the agency worker undertakes the Work at the Customer's site and accordingly the Customer confirms that the agency worker will receive a health and safety induction prior to commencing work at the Customer's site and that all necessary risk assessments will be undertaken.
24.	NO THIRD PARTY BENEFICIARIES No provision of this Contract shall in any way inure to the benefit of any third person to make such person a third party beneficiary of this Contract or of any one or more of the terms hereof and the parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.	32.4	The Customer shall save, indemnify, defend, and hold Company harmless against all losses, claims and liabilities suffered by Company arising from any loss or injury caused to the agency worker while performing the Work at any site other than the Company's site.
25.	NO PARTNERSHIP Nothing contained in the Contract, and no action taken by the Parties pursuant to the Contract, will be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Party's behalf.	32.5	The Customer shall promptly provide Company with all such information in the possession of the Customer as the Company reasonably requires to enable the Company to comply with its obligations under the Act.
26.	DISPUTE RESOLUTION The Parties agree that they will exercise their rights and perform their obligations under this Contract acting in good faith and in the same spirit of co-operation and with the objective of avoiding disputes arising between them.	32.6	If the agency worker is entitled to adjusted terms and conditions (including equal pay) as provided for under the Act, the Customer will pay Company any additional amounts as required.
26.1		32.7	The Customer shall ensure that the agency worker enjoys the same basic working and employment conditions as the basic working and employment conditions to which the agency worker would be entitled to if they were employed by the Customer under a contract of employment to the work that is the same as, or similar to the Work, including access to collective facilities.
26.2	In the event that a dispute arises between the Parties they will take all reasonable steps to negotiate a settlement of the dispute within 14 days of the dispute arising. In the event either Party concludes after fourteen (14) days of giving the other Party notice of such dispute, controversy, or claim that the matter cannot be resolved in such manner, such Party may submit the matter to be resolved by the senior management of the Parties.		
26.3	In the event that the senior management of the Company and Customer cannot resolve the dispute within 21 days after receiving notification of the matter in dispute (or such longer period as the parties may agree) the matter in dispute will be referred to final and binding arbitration in London, United Kingdom, under the auspices of, and pursuant to the rules of, the London Court of International Arbitration (LCIA) as then in effect. The arbitration proceedings shall be held in English. Any award issued as a result of such arbitration shall be non-appealable. The Parties agree to abide by and perform any award rendered by the arbitral tribunal. Any defence of sovereign immunity shall be waived.		
26.4	Nothing in this Clause 26 will prevent any Party applying for any interdict, injunction or other preliminary or interim order for the purpose of protecting its commercial interests where that Party, acting reasonably, has justification to seek such preliminary or interim protection.		
27.	GOVERNING LAW The Contract and/or these terms and conditions shall be governed by English Law. The United Nations Convention on the International Sale of Goods will not apply to this Contract.		
28.	HEADINGS The clause headings used in these General Terms and Conditions are for ease of reference and convenience only and in no event affect the interpretation of the Contract and/or these terms and conditions.		
29.	BUSINESS ETHICS AND COMPLIANCE The Customer and the Company shall adhere to the standards set out in the EthosEnergy Group Business Ethics Policy, a copy of which is available on request and shall fully comply with this policy and with all other customary standards of business conduct. The Parties shall comply with all applicable laws, statutes, regulations and codes including those relating to anti-bribery, anti-corruption and anti-slavery from time to time in force including but not limited to the Bribery Act 2010 and Modern Slavery Act 2015 or any re-enactment or amendment thereof. The Customer will perform its obligations under the Contract in such a way as to ensure that the Company and the Customer will not be in breach of the Anti-Terrorism Crime and Security Act 2001 (as amended) or any UN Security Council resolution. Customer shall defend, save, indemnify and hold Company harmless from any penalties, fines, damage awards, administrative actions or liabilities asserted or assessed against the Company Group for Customer's failure to comply with this Clause 29. Company shall have the right to terminate the Contract immediately in the event Customer is in breach of this Clause.		
30.	END-USER CONTROLS The Customer certifies that the Works will not be used, directly or indirectly, in any weapons of mass destruction (WMD) proliferation or related programs and that any resale, re-export, or transfer of the Works shall comply with all applicable UN, US, EU, UK, and national export control regulations. Customer also certifies that any resale, re-export, or transfer of the Works shall not violate any applicable UN, US, EU, UK, or National Economic Sanctions, including but not limited to Article 12g of Council Regulation (EU) No 833/2014, nor will the Products and/or Works be, directly or indirectly, resold, re-exported, transferred, or otherwise to any person or entity that is subject to any prohibition, denial order, or is otherwise deemed impermissible under UN, US, EU, UK, or national economic sanctions programs. Customer shall comply with an End-User Undertaking if requested.		
31.	NON-SOLICITATION If the Customer engages or employs any personnel provided by the Company in connection with the Work in any capacity or any position of whatsoever kind, to commence during the Work or within twelve (12) months of the end date, then Customer shall pay Company a fee of an amount equal to the then current annual remuneration of the individual or seventy five thousand United States dollars (\$75,000) whichever is the higher.		