TERMS AND CONDITIONS of SALES - ENENSYS

Article 1 - General Agreement

This General Terms and Conditions of Sales as set forth herein apply exclusively to contracts between ENENSYS or ENENSYS Affiliate and any professional (herein after called the "CUSTOMER"). Hereinafter be referred to individually as the "Party" and collectively as the "Parties. These General Terms and Conditions (herein after called the "Agreement") govern all the sales of ENENSYS products
The present General Terms and Conditions are expressly agreed upon by the CUSTOMER. Acceptance by the CUSTOMER of these General Terms and Conditions means that ENENSYS will under no circumstances be bound by any of the CUSTOMER's own general terms and conditions of purchase.

"Affiliate" shall mean any entity controlling, controlled by, or under the same control as, any other entity. For the purpose hereof, the term "control", when used in respect of any entity, shall mean, directly or indirectly, the possession of at least 50% of voting rights or the power and authority to elect board directors or representatives of the entity by means of contractual arrangements or otherwise.

Article 2 - Orders

2.1 Orders shall take the form of purchase orders. They shall be placed by the CUSTOMER to ENENSYS either by mail, E-mail or fax.

2.2 ENENSYS reserves the right to accept or reject orders. The order is considered to be accepted if it is not rejected by ENENSYS within 8 (eight) working days following the receipt of the order.

2.3 The CUSTOMER shall inform ENENSYS of any modification of the order within 8 (eight) days from sending of the order. Any modification of the order will be only binding subject to express acceptance by ENENSYS.

Article 3 - Price

3.1 The prices are listed on ENENSYS published price list at the date the order is placed or as shown on the ENENSYS quotation to the CUSTOMER.

3.2 All prices are stated in Euros or in US Dollars excluding VAT, sales taxes or any other taxes and shipment not included.

Article 4 - Ownership

4.1 The ownership of the products is transferred upon receipt by ENENSYS of the full payment of the order made by the CUSTOMER, free and clear of all third-party liens, security interests, claims and/or encumbrances of any kind or nature.

4.2 The CUSTOMER undertakes to inform third parties of ENENSYS' ownership and intellectual property rights in all relevant circumstances, especially in case of claim, seizure, bankruptcy proceedings or turnaround.

Article 5 - Transfer of Risks

Risk of loss or damage shall pass to the CUSTOMER upon delivery of the products to the CUSTOMER as defined in the applicable INCOTERM ICC 2020.

Article 6 - Delivery

6.1 Delivery terms are "Ex-Works" (INCOTERM ICC 2020) at the time of the availability of the products at ENENSYS mentioned address subsequent to a regular prior notice of the delivery to the CUSTOMER.

6.2 The parties may agree on different terms and conditions of delivery, subject to the express acceptance by ENENSYS of the CUSTOMER's order.

6.3 Delivery date is approximate. Late delivery shall neither entitle the CUSTOMER to terminate the contract, nor render ENENSYS liable for any damages for breach of contract whether entire or partial, or for nondelivery if delays are caused by circumstances beyond its control.

6.4 Upon receipt, CUSTOMER shall inspect the received products. In case of any discrepancy, loss or damage, CUSTOMER shall (i) notify the carrier or shipping agent as required by the contract for carriage and (ii) advise ENENSYS within three (3) working days from date of receipt. Should CUSTOMER fail to notify ENENSYS within three (3) days from date of receipt of the products of any non-conformity to the order, then the delivery shall be deemed compliant thereto. CUSTOMER cannot cancel the ENENSYS order as consequence of non-conformity. Products shall not be returned to ENENSYS without its prior written consent. Product returns shall be made at CUSTOMER's own costs and expenses.

Article 7 - Warranty

"Hardware" means the hardware provided by ENENSYS as defined in the product(s) documentation.

"Firmware" means software embedded into ENENSYS's Hardware, that can be changed remotely.

"Software" means ENENSYS machine-readable, object code version of the computer programs delivered as a standalone product, to be executed on CUSTOMER provided hardware in accordance with ENENSYS specification.

ENENSYS warrants that its products (either Hardware or Software) shall conform in all material respects to their respective published specifications.

7.1 Hardware with Firmware products are supplied with a standard warranty of 1 year from the Delivery Date to the CUSTOMER.

7.2 Software products have no warranty and should be supported by contracting either an Advanced or a Premium Maintenance & Support Agreement (M&SA)

7.3 In case of defect on a Hardware or Firmware product during the warranty period, the CUSTOMER shall inform ENENSYS in writing the nature of the defect.

7.4 If, based on the information provided by the CUSTOMER, ENENSYS confirms the Hardware product is defective, ENENSYS may at its own choice either repair or replace the defective product. In the case of a Hardware defect, the product may be returned to ENENSYS only when a Return Material Authorisation ("RMA") is issued by ENENSYS. The cost of shipment of any defective product to ENENSYS shall be paid by the CUSTOMER. ENENSYS shall pay for the return shipment to the CUSTOMER.

7.5 In case of defective product outside the warranty period and not covered by Maintenance Support Agreement ("M&SA), a repair quote should be requested from ENENSYS by CUSTOMER.

7.6 Warranty, maintenance and support will not be provided in case the CUSTOMER writes or creates any computer program to be linked or installed on the ENENSYS product (either Hardware or Software product). Support for testing outside documented scenarios, use of specific data streams or third-party application to be combined with the ENENSYS product should be negotiated in a framework of a project outside standard warranty, and/or standard support & maintenance conditions.

7.7 ENENSYS grants no other warranty, neither express or implied, than the one listed above. ENENSYS shall not be liable for any lost profits, lost data or any form of incidental, consequential, special or indirect damages, whether **based on breach of contract, tort, negligence, product liability or otherwise** even if advised of the possibility of such damages. ENENSYS GLOBAL LIABILITY ARISING OUT OF OR RELATED TO THE PERFORMANCE OF THIS AGREEMENT SHALL NOT EXCEED IN AGGREGATE 20% OF THE FEES ACTUALLY PAID BY CUSTOMER IN CONNECTION HEREWITH. No action arising out of any alleged breach of this Agreement may be brought by either Party more than two (2) years after the cause of action has occurred.

7.8 Hardware Maintenance & Support Agreement ("M&SA") will not be extended 7 years after the purchase of the product. A Firmware Maintenance & Support Agreement may be authorized if the product has not entered into End Of Service (EoS) stage.

Article 8 - ENENSYS Software license grant

8.1 Save as otherwise agreed in writing in a specific CUSTOMER agreement and subject to the payment of the relevant License fees stipulated in the ENENSYS commercial proposal attached to the order, ENENSYS grants to the CUSTOMER a personal, worldwide, non-exclusive, non-assignable, non-transferable and non-sub-licensable right to use the ENENSYS Software, exclusively for the CUSTOMER' use. Commercial use is not authorized for products licensed only or exclusively for testing product. In respect of Firmware, ENENSYS hereby grants CUSTOMER, a non-transferable, non-exclusive, royalty-free license. Use of Firmware is restricted solely for Hardware Products.

8.2 The foregoing rights are subject to the CUSTOMER warranting that any third parties involved in any use of the product strictly comply with the ENENSYS Software documentation and license restrictions below.

Any uses of the ENENSYS Software other than those expressly permitted under this Agreement, or otherwise agreed upon in writing between the Parties, are forbidden. In this respect and, in particular, the CUSTOMER agrees not to and shall not permit third parties to:

(i) Market, licence, sublicense distribute or otherwise transfer the ENENSYS Software and,

(ii) use, market, license, sublicense, distribute or otherwise transfer any parts or components of the ENENSYS Software on a stand-alone basis, and

(iii) install or use in whole or part of the ENENSYS Software other than to perform its function as defined in the ENENSYS Software documentation, and

(iv) Alter, remove, conceal or modify any information indicating the owner of the intellectual property rights relating to the ENENSYS Software, including brands, tags, labels, trade names, trademarks, logos, or Copyrights in any material (installers, documentation, datasheet, …) provided with the ENENSYS Software, and

(v) Modify or adapt the ENENSYS Software, as ENENSYS exclusively reserves the right to correct, adapt and modify the ENENSYS Software to that end and

(vi) Decompile, disassemble and/or translate all or part of the ENENSYS Software or attempt to discover any source code or underlying ideas or algorithms of the ENENSYS Software in whole or in part, except as permitted by mandatory provision of applicable law, and

(vii) Write or create any computer program to be linked with or installed on the ENENSYS Software, or on ENENSYS Software components, and

(viii) Remove or bypass any protection mechanism and/or license key of the ENENSYS Software.

Article 9 – Software & Professional Service Acceptance

Upon delivery of Software or, as the case may be, completion of the Services as part of an order or a Statement of Work (SOW), ENENSYS will notify the CUSTOMER of the readiness of the relevant deliverables for CUSTOMER'S testing (the date of such notification being referred to hereinafter as the "Delivery Date"). The deliverables shall be delivered to the CUSTOMER at ENENSYS's expense. The CUSTOMER shall notify ENENSYS within a period of thirty (30) days from the Delivery Date if any of the deliverables do not materially conform to the specifications mutually agreed upon by the Parties. ENENSYS shall, within a reasonable time from the receipt of such notice, modify or otherwise improve the relevant deliverables in an effort to make them conform. If no written notification of material non-conformance is received by ENENSYS within thirty (30) days from the Delivery Date, the relevant deliverables shall be deemed accepted by the CUSTOMER (the "Acceptance Date").

Article 10 – Invoicing & Payment

10.1 Payment shall be made in Euros or in US Dollars as specified on the Quotation or commercial proposal by wire transfer at CUSTOMER'S costs.

10.2 Hardware and/or Software deliverables are invoiced, unless otherwise agreed in writing, at Delivery Date.

10.3 For professional services, the costs will be invoiced as follow:

- 50% of price are invoiced to CUSTOMER at reception of the order.
- 50% of price are invoiced at acceptance of the services according to the Order or Statement of Work.

10.4 Maintenance & support services (M&SA), shall start at the Delivery Date of the Hardware or Software product and will be invoiced in advance annually or in full.

10.5 For Hardware and/or Software, unless otherwise agreed in writing, payment shall be done by CUSTOMER before ENENSYS product delivery.

10.6 Software As A Service (SAAS), except as specified in the commercial proposal, will be invoiced on a monthly basis one month before the beginning of the service period.

10.7 For ENENSYS professional services, SAAS and Maintenance, unless otherwise agreed in writing, payment shall be made by the CUSTOMER within a maximum of 30 (thirty) days from the date of invoice or as specified on the invoice.

10.8 For Software, unless otherwise agreed in writing, a temporally License will be used before final payment. At reception of final payment by CUSTOMER, ENENSYS will grant the final license. For Software As A Service (SAAS), ENENSYS will expend the license at reception of service payment by CUSTOMER,

10.9 Late payment will automatically imply a penalty fee equal to the three times the current French legal interest rate, without any prior notice.

Article 11 - Intellectual Property Rights

11.1 The products, including all modifications, enhancements, upgrades, updates, revisions and new releases made to them, the documentation related to the products and any confidential information of ENENSYS, and all rights therein, including without limitation any intellectual property rights relating thereto, are owned solely by ENENSYS and, as the case may be, its third party licensors. Nothing shall be interpreted as to assign or transfer any Intellectual Property Rights to the CUSTOMER. All documents given by ENENSYS to the CUSTOMER remain ENENSYS' exclusive property as ENENSYS is the sole owner of intellectual property rights on these documents. The CUSTOMER agrees that these documents are for his internal use only, to the exclusion of any other use. As a general rule, the CUSTOMER undertakes to not interfere in any way with ENENSYS intellectual property rights.

11.2 The sale of products does not grant the CUSTOMER any right under any patent or any other intellectual property owned by ENENSYS or any third party, by implication or otherwise.

11.3 ENENSYS declares that it owns or controls the intellectual property rights on its products. ENENSYS does not infringe to the best of its knowledge any third-party intellectual property rights. Software and Firmware licenses fully cover the ENENSYS patents related to their implementation. Any use of the products does not cover additional Essential Patents needed for their implementation (ie patents that are necessarily and unavoidably required for compliance with International Standards and subject to Licensing). The CUSTOMER expressly acknowledges and agrees that it is solely responsible for identifying any such SEP and for obtaining, at its own expense, any necessary licenses from the relevant patent holders. **ENENSYS shall not indemnify CUSTOMER or any of its end users against Essential Patent claims related to the implementation of international standards.**

11.4 ENENSYS is not liable for any infringement or claim of infringement if caused in whole or in part by, or relates to

(i) the use by CUSTOMER or CUSTOMER's end-users of the ENENSYS's products in combination with any other software, device or equipment or

(ii) for an application other than the one for which the ENENSYS's products are designed or intended to be used or

(iii) a modification of the ENENSYS's products by CUSTOMER or CUSTOMER's end users not authorized in writing by ENENSYS or

(iv) ENENSYS compliance with CUSTOMER's or CUSTOMER's End user detailed written design specifications of the ENENSYS product(s).

11.5 The CUSTOMER shall promptly notify ENENSYS in writing of any claim, action or proceedings brought by a third party alleging that the use of the products or software infringes such third party's intellectual property rights. The CUSTOMER shall grant ENENSYS full control of the defense and settlement of such claim and shall provide all reasonable assistance required by the latter. The CUSTOMER shall not, without ENENSYS's prior written consent, acknowledge liability nor enter into any settlement. The CUSTOMER's failure to comply with any of these obligations shall automatically relieve ENENSYS of any warranty obligations relating to such claim.

11.6 The warranty provided herein by ENENSYS shall be strictly limited to the reimbursement of (i) damages and interest awarded by a final court decision holding that the use of the products or software in accordance with this Agreement infringes a third party's intellectual property rights and (ii) reasonable and duly justified legal costs and attorneys' fees awarded by such court. All other costs and expenses are expressly excluded from the warranty.

11.7 Any legal or statutory warranty is expressly excluded, to the maximum extent permitted by applicable law.

Article 12 – Confidentiality

For a period of five (5) years from Delivery Date of the ENENSYS's product for any reason, CUSTOMER shall treat as strictly confidential all information relating to ENENSYS Hardware, Firmware and Software, Deliverables, know-how, any other technical, financial or commercial information or documents, irrespective of its nature and format. CUSTOMER agrees not to disclose or allow to be disclosed either directly or indirectly, in whole or in part, the confidential information of which it is aware, to any third party whatsoever, other than to employees needing such information for the performance hereof. Without prejudice to any other conditions of this Agreement, CUSTOMER agrees, in relation to this, to take all necessary measures to ensure that any employees are subject to the same obligations of confidentiality as set out in this article. CUSTOMER agrees not to use the confidential information in a context other than the Agreement, including for its own use and agrees to return immediately upon request of ENENSYS all documents or other formats containing the confidential information which it may have received in the context of the performance of this Agreement as well as any copies thereof.

Article 13 – International sanctions

The purchase of goods and services by the CUSTOMER and access to the associated technology are for the CUSTOMER's own use, and not for resale, export, re-export or transfer. The CUSTOMER is required to observe and comply with the export control and economic sanctions laws of the United States, the European Union (EU) and other applicable jurisdictions. The CUSTOMER represents that is not the subject or target of economic sanctions by the United States, the EU or others applicable jurisdictions, and that is lot

located in any country or territory (including, but not limited to, Cuba, Iran, North Korea, Syria, Russia, Belarus, as well as Crimea and any other non-government controlled areas of Ukraine, notably the Donetsk, Luhansk, Zaporizhzhia, and Kherson regions) that is the subject or target of such sanctions. The CUSTOMER hereby declares: (i) that it is not, and that none of its subsidiaries, legal representatives, directors, officers, or employees are persons subject to international sanctions prohibiting or restricting relations with such persons; (ii) that none of the aforementioned entities is a person (a) owned or controlled by a person subject to international sanctions, (b) located, incorporated, or resident in a territory subject to international sanctions, (d) engaged in business with a person subject to international sanctions, (d) having received funds or other assets from a person subject to international sanctions; (e) engaged in any activity with a person located, incorporated, or resident in a territory subject to international sanctions, to the extent that such activity would violate the laws, regulations, and provisions applicable to the CUSTOMER.

Article 14 - Governing Law-Jurisdiction

14.1 French law will apply exclusively to these Terms and Conditions of Sale and any subsequent sales contract.

14.2 In case of dispute, and failure of any settlement, litigation shall be of the sole competence of the courts under the jurisdiction of the Court of Appeal of ***Rennes (France)***.

14.3 Both Parties have entered into this Agreement as independent contractors, both legally and financially. Consequently, the Agreement shall not in any way constitute a joint entity, agency relationship, joint venture or partnership or any relationship of an employer and employee as between the Parties nor shall either party hold themselves out as being part of such an entity or relationship.

14.4 The Agreement sets out the entire agreement between the Parties in relation to its subject matter. Except in case of a dedicated signed agreement, it supersedes all prior documents, Terms & Conditions, or agreements between the Parties and may only be modified by a document signed by the relevant Parties.

14.5 If one or more of the terms of this Agreement is considered to be invalid as such or as a result of the application of a law, regulation or the decision of a competent body having jurisdiction, it will be treated as not forming part of this Agreement and all other conditions will remain in force.

14.6 No failure by a Party to exercise any of its rights under this Agreement in relation to a failure to comply by the other Party shall operate as a waiver thereof.