

Terms and Conditions

Those doing business with Electric Motor Repair Co, Inc (hereinafter “EMR”) are subject to the following terms and conditions. These terms and conditions are subject to *reasonable* change without notice at the sole determination of Electric Motor Repair.

(a) Services. EMR is responsible for providing services according to written contracts signed by both parties only (the “Services”). Those contracting with EMR (hereinafter “clients”) acknowledge and represent that an authorized representative has reviewed the engagement documents and that all necessary and appropriate clauses are explicitly contained therein. Clients acknowledge and represents that clients, and any of client’s employees, contractors, representatives, or agents (the “clients personnel”), will comply with all laws and regulations, business conduct requirements, and health and safety guidelines otherwise applicable to the Services, or applicable to EMR and/or clients.

(b) Non-Exclusivity. EMR is not required to work exclusively with clients and may enter into other arrangements with third parties. Clients represent and warrant to EMR that neither client nor client personnel are under any contractual or other restrictions or obligations which are inconsistent with the terms and execution of these terms, or which will interfere with the performance of the Services.

(c) Payment. Invoices are prepared at net 30 and unpaid invoices shall accrue interest as permitted by statute.

(d) Acknowledgment. Clients acknowledge that all services rendered hereunder will be as an independent entity. Nothing in this Agreement should be construed to deem as the partner, employee, or agent of clients, nor will clients or the clients personnel have any authority to bind EMR in any respect. Clients agree that EMR is not an employee or affiliate of clients. Acts inconsistent with this paragraph shall not waive EMR’s right to consider itself an independent contractor.

(e) Indemnification. Clients agree to indemnify, defend, and hold harmless EMR and its respective owners, officers, directors, agents and employees from and against all claims, losses, and liabilities whatsoever (including costs, expenses, and attorneys’ fees) arising out of (a) damage to property, injury to, or death of persons, arising wholly or in part from the acts or omissions of clients or the clients personnel; (b) any claims brought or alleged against EMR relating to claims for any workers’ compensation, overtime claims, employee tax liability claims, or benefits arising wholly or in part from the services provided by EMR; or (c) any other claims brought, or liabilities imposed, against EMR by clients or any other entity or individual (including governmental bodies and courts) that arise out of the Services, whether relating to status as an independent contractor or otherwise. In the event of any such claims brought or threatened by any party against EMR, clients agree to cooperate in all reasonable respects in the defense of such claims, including reaffirming the assertions made in these Terms and Conditions.

Clients recognize that if ultra-hazardous activities such as remediation of toxins and possibly deadly substances, work near or involving explosives and or fireworks...*etc* may be required by the scope of services that indemnifications and other liability related clauses herein shall apply to such ultra-hazardous activities.

(f) Payment Upon Completion or Termination. Upon completion or termination, EMR will have no further obligation or liability. Clients will pay to EMR all remaining amounts owed for Services rendered prior to the date of completion or termination of the services. Upon termination and, in any case, upon EMR's request, the clients shall return immediately to EMR all Confidential Information, trade secret information, any information deemed proprietary and any copies thereof.

(g) Concept and Ideas. Those concepts and ideas disclosed by EMR to clients or which are first developed by clients during the Term and which relate to EMR or the Client's present, past or prospective business activities, services, and products, all of which shall remain the sole and exclusive property of EMR. The clients shall have no publication rights and all of the same shall belong exclusively to EMR or such parties to whom EMR has licensed same.

(h) Confidential Information. For the purposes of these Terms and Conditions, Confidential Information shall mean and collectively include: all information relating to the business, plans and/or technology of EMR or the clients including, but not limited to technical information including inventions, methods, project work plans, processes, specifications, characteristics, assays, raw data, scientific preclinical or clinical data, records, databases, formulations, clinical protocols, equipment design, know-how, experience, and trade secrets; developmental, marketing, sales, customer, supplier, consulting relationship information, operating, performance, and cost information; computer programming techniques whether in tangible or intangible form, and all record bearing media containing or disclosing the foregoing information and techniques including, written business plans, patents and patent applications, grant applications, notes, and memoranda, whether in writing or presented, stored or maintained in or by electronic, magnetic, or other means. Notwithstanding the foregoing, the term "Confidential Information" shall not include any information which: (a) can be demonstrated to have been in the public domain or was publicly known or available prior to the date of the disclosure to clients; (b) can be demonstrated in writing to have been rightfully in the possession of clients prior to the disclosure of such information to clients by EMR; (c) becomes part of the public domain or publicly known or available by publication or otherwise, not due to any unauthorized act or omission on the part of clients; or (d) is supplied to clients by a third party without binder of secrecy, so long as that such third party has no obligation to EMR or the Client or any of its affiliated companies to maintain such information in confidence.

(i) Non-Disclosure to Third Parties. Except as required by the Services, clients shall not, at any time now or in the future, directly or indirectly, use, publish, disseminate or otherwise disclose any Confidential Information, Concepts, or Ideas to any third party without the prior written consent of EMR which consent may be denied in each instance and all of the same, together with publication rights, shall belong exclusively to EMR.

(j) Documents, etc. All documents, diskettes, tapes, procedural manuals, guides, specifications, project workplans, PHG deliverables, drawings, designs and similar materials,

lists of present, past or prospective customers, customer proposals, invitations to submit proposals, price lists and data relating to the pricing of EMR or the Client's products and services, records, notebooks and all other materials containing Confidential Information or information about Concepts or Ideas (including all copies and reproductions thereof), that come into client's possession or control by reason of EMR's performance of the relationship, whether prepared by clients or others: (a) are the property of EMR, (b) will not be used by clients in any way other than in connection with the performance of the Services, (c) will not be provided or shown to any third party by clients, (d) will not be removed from EMR's or client's premises (except as the Services require), and (e) at the termination (for whatever reason), of client's relationship with EMR, will be left with, or forthwith returned by clients to EMR.

(k) Patents, etc. The clients agree that EMR and the clients, respectively, are and shall remain the exclusive owners of the Confidential Information and Concepts and Ideas. Any interest in patents, patent applications, inventions, technological innovations, trade names, trademarks, service marks, copyrights, copyrightable works, developments, discoveries, designs, processes, formulas, know-how, data and analysis, whether registrable or not ("Developments"), which EMR, as a result of rendering the Services under these Terms and Conditions, may conceive or develop, shall: (i) forthwith be brought to the attention of EMR by clients and (ii) belong exclusively to EMR or to such other party to whom EMR assigns such rights. No license or conveyance of any such rights to the clients is granted or implied under these Terms and Conditions.

(l) Assignment. The clients hereby assigns and, to the extent any such assignment cannot be made at present, hereby agrees to assign to EMR, without further compensation, all of his/her right, title and interest in and to all Concepts, Ideas, and Developments. The clients will execute all documents and perform all lawful acts which EMR considers necessary or advisable to secure its rights hereunder and to carry out the intent of these Terms and Conditions. To the extent that clients fail to promptly execute a document so provided, clients hereby irrevocably appoint EMR as its attorney in fact to execute such documentation.

(m) Breach. Clients agree that any breach of these Terms and Conditions that would cause irreparable damage to EMR and that, in the event of such breach, EMR shall have, in addition to any and all remedies of law, the right to an injunction, specific performance, the right to recover attorney's fees and any costs incurred to enforce this agreement or other equitable relief to prevent the violation or threatened violation of client's obligations hereunder.

(n) Waiver. Any waiver by EMR of a breach of any provision of these Terms and Conditions shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision hereof. All waivers by EMR shall be in writing.

(o) Severability. In case any one or more of the provisions or parts of a provision contained in these Terms and Conditions shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of these Terms and Conditions; and these Terms and Conditions shall, to the fullest extent lawful, be reformed and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and

such provision or part reformed so that it would be valid, legal and enforceable to the maximum extent possible. Without limiting the foregoing, if any provision (or part of provision) contained in these Terms and Conditions shall for any reason be held to be excessively broad as to duration, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the fullest extent compatible with then existing applicable law.

(p) Special Terms. In certain engagements, EMR will have granted greater rights or accepted greater obligations under contract with the clients. Where EMR provides such a term to clients and informs clients in writing that any assignment is subject to those terms (the “Special Terms”), these Terms and Conditions shall be deemed amended, for that engagement only, in a manner that would provide EMR with all rights expressly granted hereunder and all rights required to fulfill the obligation to such clients under the Special Terms, and clients shall accept all responsibilities that may arise that relate to compliance with the Special Terms.

(q) Assigns. Clients shall not have the right to assign its rights or obligations hereunder without the prior written consent of EMR. These Terms and Conditions shall be binding upon and inure to the benefit of the EMR's heirs, successors, assigns and legal representatives. These Terms and Conditions may be assigned by EMR and will take effect for the benefit of any successors or assigns of EMR created by merger, reorganization, sale of assets or otherwise. Clients hereby consent to such assignment and enforcement of such rights and obligations by EMR’s successors or assigns.

(r) Headings. Headings and subheadings are for convenience only and shall not be deemed to be a part of these Terms and Conditions.

(s) Notices. Any notices or other communications required hereunder shall be in writing and shall be deemed given when delivered in person or when mailed, by certified or registered first class mail, postage prepaid, return receipt requested, addressed to the parties at their addresses specified in contract or to such other addresses of which a party shall have notified the others in accordance with the provisions of this paragraph.

(t) Governing Law. These Terms and Conditions shall be construed in accordance with and governed for all purposes by the laws of the State of New Jersey applicable to contracts executed and wholly performed within such jurisdiction without regard for other choice of law provisions.

(u) Survival. These Terms and Conditions shall survive the expiration the completion or termination of services.