



# ENERGEX DEALER APPLICATION

USA& Caribbean Authorized  
Energex Distributor  
800-523-1829 Ext 101

Please complete all applicable fields and email to Support@hotelservicecorp.com

<b>Company Name (Full Legal Name)</b>		<b>Doing Business As</b>	
<b>Billing Address</b>		<b>Shipping Address</b>	
<b>City/ St/Zip</b>		<b>City/St/Zip</b>	
<b>Phone</b>	<b>Fax</b>	<b>Billing Contract</b>	<b>Email Address</b>
List Branches/Locations (If Applicable) Attach separate sheet if necessary		Will you have purchases that are tax exempt? Y N If Yes, Tax cerficate must be returned with application.	
Principal's Name _____ Title _____		Principal's Name _____ Title _____	
<b>Check One</b>			
<input type="checkbox"/> Proprietorship (Solely Owned)		<input type="checkbox"/> Partnership	
<input type="checkbox"/> Corporation		<input type="checkbox"/> Government	
		<input type="checkbox"/> Other _____	
<b>Date Business Started</b>	<b>Type of Business</b>	<b>DUNS #</b>	
Has this business or its principal's ever filed bankruptcy? <input type="checkbox"/> Y <input type="checkbox"/> N If Yes, when? _____		Are you now or have you been in a lawsuit resulting in a judgement against your company? <input type="checkbox"/> Y <input type="checkbox"/> N	
Has your company or any owner, principal officer, director or manager been convicted of a felony or been involved in drug trafficking or money laudering? <input type="checkbox"/> Yes <input type="checkbox"/> N If Yes, please explain.			
<b>MANDATORY:</b> Do you accept the limitation of forms of payment in the ANTI-MONEY LAUNDERING RESTRICTIONS IN SECTION 16(b) of the Sale Terms and Conditions? MUST INTIAL HERE _____			

### COMMERCIAL TRADE REFERENCES- List 3 verfiabe references ( must be at least \$1,000.00 each)

Name	City	St	Phone	Account #
Name	City	St	Phone	Account #
Name	City	St	Phone	Account #

### BANK REFERENCE

Name	City	St	Phone	Account #
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Hotel Service Corporation (HSC) Standard Terms & Conditions of Sale herein attached shall be applicable to all sales irrespective of receipt of contrary or additional terms, unless HSC expressly agrees otherwise in writing and said writing is signed by an authorized HSC representative. By signing this application, the applicant hereby agrees to the Terms & Conditions on the reverse side or attached herein.

Dealer \_\_\_\_\_ Signature \_\_\_\_\_ Title \_\_\_\_\_ Date: \_\_\_\_\_

## Distributor's Terms & Conditions of Sale ("Terms & Conditions")

**1. ACCEPTANCE:** Acceptance of any order is subject to credit approval by Distributor, acceptance of the order by Distributor and, when applicable, Distributor's Vendor (i.e. manufacturers, vendors, or other third parties that provide goods to Distributor for resale to Dealer). If Distributor, in its sole discretion, determines that Dealer's ability to pay or credit becomes unsatisfactory or it has reasonable grounds for insecurity, Distributor reserves the right, upon notice to Dealer, to demand adequate assurance of due performance from Dealer and/to terminate this agreement with no liability to Distributor. BY REQUESTING A QUOTE FROM DISTRIBUTOR OR PRESENTING AN ORDER TO DISTRIBUTOR, DEALER CONFIRMS THAT THESE TERMS & CONDITIONS SHALL GOVERN ALL PURCHASES OF GOODS, MATERIALS AND/OR SERVICES PROVIDED TO DEALER BY DISTRIBUTOR (COLLECTIVELY "GOODS") BY DEALER FROM DISTRIBUTOR. DISTRIBUTOR OBJECTS TO AND REJECTS ANY CHANGES OR ADDITIONAL OR DIFFERENT TERMS (CONTAINED IN A PURCHASE ORDER ACCEPTED BY DISTRIBUTOR, OR OTHERWISE) AND NO SUCH TERMS WILL CHANGE THESE TERMS & CONDITIONS UNLESS ACKNOWLEDGED IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF DISTRIBUTOR. NO DISTRIBUTOR EMPLOYEE OR AGENT HAS THE AUTHORITY TO MODIFY THESE TERMS & CONDITIONS VERBALLY. DISTRIBUTOR OBJECTS TO AND REJECTS ANY TERMS BETWEEN DEALER AND ANY OTHER PARTY, AND NO SUCH TERMS, INCLUDING BY NOT LIMITED TO ANY GOVERNMENT REGULATIONS OR "FLOWDOWN" TERMS, SHALL BE A PART OF OR INCORPORATED INTO ANY ORDER FROM DEALER TO DISTRIBUTOR, UNLESS AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF DISTRIBUTOR.

**2. PRICES AND TAXES:** Dealer agrees to pay the prices quoted by Distributor and is responsible for additional applicable shipping and handling charges, taxes and duties. Distributor shall collect applicable taxes unless Dealer submits a valid tax exemption certificate, and indicates which Goods are covered by it. Prices on special-order Goods may be subject to change before Distributor's acceptance of such order, Distributor shall notify Dealer of any change, and Dealer may at its discretion cancel the special-order Goods if the revised prices are unacceptable, without charge.

**3. PAYMENT:** 50% deposit of material cost due upon order, balance upon delivery date of product. Retainage shall not apply, and Dealer shall not hold back any retainage from Distributor, even if ability to collect funds from any other party. Credit card sales are billed at the time of purchase. Dealer expressly represents it is solvent at the time it places any purchase order with Distributor. Distributor, in its sole discretion, may determine that Dealer's financial condition requires full or partial payment prior to manufacture or shipment. Distributor may obtain and use your credit history for credit evaluation purposes. Distributor may apply payments to any outstanding invoices unless Dealer provides specific payment direction.

**4. REMEDIES FOR NON-PAYMENT:** If Dealer fails to make any payment due, Distributor reserves the right to suspend performance. Dealer agrees to pay a charge on all amounts past due at the rate of 1 ½ per month (18% per year) of the maximum lawful rate, whichever is less. In the event of non-payment, Dealer agrees to pay Distributor's reasonable attorney fees and court costs, if any, incurred by Distributor to collect payment and all applicable interest charges. Dealer acknowledges that transactions to which these terms relate are commercial transactions.

**5. TITLE AND RISK OF LOSS OR DAMAGE:** As to Goods delivered by Distributor's truck, title passes upon delivery at the place Dealer receives possession; and, thereafter, all risk of loss or damage shall be on Dealer. Claims for Goods damage in transit to Dealer from Distributor, or Distributor's Vendor (i.e. manufacturers, vendors, or other third parties that provide goods to Distributor for resale to Dealer) shall be the Distributor's sole responsibility.

**6. QUOTATIONS:** All quotations expire thirty (30) days from the date of the quotation unless otherwise part of the Dealer Pricing List which expires 1 year from acceptance of Dealer application by Distributor. This time limit applies even if Dealer uses the quotation to submit a job or project bid to any other party.

**7. ASSIGNMENT:** An order shall not be assigned by Dealer without the express written consent of Distributor. Consent will not be required, however, for internal transfers and assignments as between either party and its affiliates, and nothing herein shall limit either party's right to factor of sell receivables.

**8. RETURN OF PRODUCTS AND ORDER CANCELLATION:** Distributor shall accept returns of normal stock Goods for a period of thirty (30) days following shipment for exchange or refund of the purchase price; provided, that Goods must be in their original cartons, unopened and unused and are subject to appropriate restocking/cancellation fees equal to 10% of purchase price. Any Goods, stock or direct, order by Distributor as Dealer-specific and/or non-returnable to its Vendor are subject to a restocking/cancellation fee of 100% of the cost of the Goods.

**9. TERMINATION:** Either party may terminate the whole or any part of the other party's performance under a purchase order if there is a material breach of these Terms & Conditions. In the event of any such breach, the non-breaching party will provide the breaching party with written notice of the nature of the breach and the non-breaching party's intention to terminate for default. In the event the breaching party does not cure such failure within ten (10) days of such notice, the non-breaching party may, by written notice, terminate the order, provided, that the breaching party shall continue its performance to the extent not terminated.

**10. INTERPRETATION RESPONSIBILITY; PRODUCT USE AND SAFETY:** Distributor does not guarantee that the Goods it sells conform to any plans and specifications or intended use. When plans and specifications are involved, Dealer is solely responsible for verifying Distributor's interpretations of such plans and specifications, and it is Dealer's sole responsibility to assure that Distributor's Goods will be accepted on any specific job. When Distributor offers substitute Goods on any proposal, Dealer is solely responsible for confirming their acceptability. BEFORE DEALER USES OR INSTALLS ELECTRICAL PRODUCTS, IT IS DEALER'S RESPONSIBILITY TO CONSULT THE NATIONAL ELECTRIC CODE AND ANY PERTINENT LOCAL, STATE OR NATIONAL CODES, RULES REGULATIONS FOR APPROVED INSTALLATION PROCEDURES AND PRECAUTIONS. NOTHING DISTRIBUTOR SELLS IS FOR USE IN CONNECTION WITH "SAFETY-RELATED" APPLICATIONS OF A NUCLEAR FACILITY OR ANY HAZARDOUS ACTIVITY WHERE FAILURE OF A SINGLE COMPONENT COULD CAUSE SUBSTANTIAL HARM TO PERSONS OR PROPERTY.

**11. DELIVERY:** Distributor shall deliver the Product for each order by a mutually agreed upon project delivery date. Upon notification to Dealer from Distributor of a delay beyond the mutually agreed upon delivery date, Dealer has the option to accept such delay or cancel the order with 100% refund of any deposits made toward that order.

**12. EXCUSABLE DELAYS:** Distributor shall have no liability if its performance is delayed or prevented by any acts of nature. In the event of any such delay, the date of delivery or performance shall be extended for a period equal to the time lost by reason of delay. Should shipments be held or stored beyond the delivery date for convenience of Dealer, Distributor may, at its option, assess reasonable charges for any expense incident to such delay.

**13. CLAIMS:** Claims for any nonconforming Goods must be made by Dealer, in writing, within ten (10) days of Dealer's receipt of such Goods and must state with particularity all material facts concerning the claim then known to Dealer. Failure by Dealer to give notice within such ten (10) day period shall constitute an unqualified acceptance of such Good by Dealer, and a waiver of any right to reject or revoke acceptance of such Good.

### **14. WARRANTIES.**

(a) **DISTRIBUTOR'S WARRANTIES:** Distributor warrants that all Goods sold are new and free from defects, and upon payment in full by Dealer, the Goods will be clear of any security interest liens. Distributor is a Distributor and not a manufacturer and makes no independent Warranties other than those set forth herein.

(b) **VENDORS WARRANTIES:** Distributor, upon Dealer's request, shall effectuate the Vendor Warranties and or remedies provided to Distributor by its Vendor which shall be incorporated as part of these Terms & Conditions as set forth below:

a. Energex Inc., and or its subsidiaries and its affiliates, (the "manufacturer") warrants its products hereinafter referred to as "the product" or "products" to be in conformance with its own plans and specifications and to be free of defects in materials and workmanship under normal use in service for a period of one (1) years from the date of installation by a qualified electrical, mechanical, or controls company. The manufacturer obligation shall be limited within the warranty period, at its option, to repair or replace the product or any part thereof. This warranty does not apply in the following cases: misuse, failure to follow operating and maintenance instructions, alterations, abuse, accident or tampering and repair by anyone other than the manufacturer. This warranty is exclusive and expressly in lieu of all other warranties, obligations or liabilities whether written, oral, expressed or implied, including any warranties of merchantability or fitness for a particular purpose, or otherwise. In no case shall the manufacturer be liable to anyone for any consequence or incidental damages for breach of this warranty or any other warranty.

b. Energex Inc. represents and warrants that the products sold and serviced by its Authorized Distributors, the equipment and the documentation, or any part of any of the foregoing, will not infringe or constitute a misappropriation of any right of any third party, including any copyrights, mask work rights, patent rights, trademark rights, trade secret rights or confidentiality rights. All patents, rights, control logic and artificial intelligence (AI) functions are exclusively owned by Energex Inc.

(c) **INTELLECTUAL PROPERTY INFRINGEMENT:** DISTRIBUTOR DISCLAIMS ANY AND ALL WARRANTIES AND OR INDEMNIFICATIONS AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY NATURE. DISTRIBUTORS SHALL, CAUSE MANUFACTURER TO GRANT FOR THE DEALER SUCH WARRANTY OR INDEMNITY RIGHTS AS A MANUFACTURER MAY CUSTOMARILY GIVE WITH RESPECT TO SUCH GOODS.

(d) **LIMITATIONS:** THERE ARE NO OTHER WARRANTIES WRITTEN OR ORAL, EXPRESS, IMPLIED OR BY STATUTE. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES. NO REPAIRS OF GOODS ARE OTHER COSTS ARE ASSUMED BY DISTRIBUTOR UNLESS AGREED TO, IN ADVANCE, IN WRITING.

**15. LIMITATIONS OF LIABILITY:** UNLESS APPLICABLE LAW OTHERWISE REQUIRES, DISTRIBUTOR AND ANY VENDOR'S TOTAL LIABILITY TO DEALER, DEALER'S CUSTOMERS OR TO ANY OTHER PERSON, RELATING TO ANY PURCHASES GOVERNED BY THESE TERMS & CONDITIONS, FROM THE USE OF THE GOODS FURNISHED OR FROM ANY ADVICE, INFORMATION OR ASSISTANCE PROVIDED BY DISTRIBUTOR (BY ANY METHOD, INCLUDING A WEB SITE), IS LIMITED TO "TOTAL PRICE" VALUE OF THE ORDER GIVING RISE TO THE CLAIM. NEITHER DISTRIBUTOR NOR ITS VENDORS SHALL BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, INCIDENTAL, DIRECT CONSEQUENTIAL OR PENAL DAMAGES (INCLUDING, BUT NOT LIMITED TO BACKCHARGES, LABOR COSTS, COST OF REMOVAL, REPLACEMENT, TESTING OR INSTALLATION, LOSS OF EFFICIENCY, LOSS OF PROFITS OR REVENUES, LOSS OF USE OF THE GOODS OR ANY ASSOCIATED GOODS, DAMAGE TO ASSOCIATED GOODS, LATENESS OR DELAYS IN DELIVERY, UNAVAILABILITY OF GOODS, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, FACILITIES OR SERVICES, DOWNTIME, OR CLAIMS FROM DEALER'S CUSTOMER OR OTHER PARTIES). IF DISTRIBUTOR FURNISHES DEALER WITH ADVICE OR OTHER ASSISTANCE WHICH CONCERNS ANY GOODS SUPPLIES HEREUNDER, OR ANY SYSTEM OR EQUIPMENT IN WHICH ANY SUCH GOODS MAY BE INSTALLED, AND WHICH IS NOT REQUIRED PURSUANT TO THESE TERMS & CONDITIONS, THE FURNISHING OF SUCH ADVICE OR ASSISTANCE WILL NOT SUBJECT DISTRIBUTOR TO ANY LIABILITY, WHETHER BASED CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS.

### **16. MISCELLANEOUS**

(a) **EXPORTS:** If Goods are sold for export, Distributors standard terms and conditions for export sales apply. Acceptance of export orders is not valid unless confirmed in writing by Distributor. Dealer, not Distributor, is responsible for compliance with all United States export control rules and regulations. Dealer shall not name Distributor as shipper or exporter of record in connection with the export of any Goods purchased from Distributor.

(b) **ANTI-MONEY LAUNDERING RESTRICTIONS:** Distributor rejects questionable orders and payments. Except for preapproved credit arrangements, Distributor rejects third-party payments, cashier's checks, money orders and bank drafts. Distributor accepts only checks imprinted with Dealers name, Wire transfers originated in Dealer's account, and credit or debit cards in Dealers name. All payments must be by single instrument in the amount of invoice, less credits, from banks acceptable to Distributor.

(c) **GOVERNING LAW:** These terms and conditions and all disputes related to it shall be governed by the laws of the state of Florida, United States of America, without giving affect too it's conflict of law rules.

(d) **DISTRIBUTOR PARTIES:** For the purpose of these Terms and Conditions, the term Distributor show mean the Distributor party set forth on the quotation or other sales agreement to which these Terms and Conditions are attached or in which they are incorporated by reference.