

Power Solutions, LLC

Terms & Conditions of Sale

1. DEFINITIONS: "Purchase Contract" means collectively the Parties' written, verbal or electronic agreement that authorizes purchase, manufacture (where applicable) and shipment of Goods, including Buyer's purchase order cover; any quote by Seller, these Terms and Conditions; all specifications, exhibits, attachments, referenced documents; and any future written amendments agreed to by the Parties.

"Goods" means any materials, equipment, services or work product by or on behalf of Seller as stipulated in the Purchase Contract. "Seller" means Power Solutions, LLC. "Buyer" means the person or entity issuing a purchase order, as identified on the purchase order cover. "Party" means Buyer or Seller and "Parties" means Buyer and Seller. "Good Industry Practices" means the exercise of that degree of skill, diligence, prudence and foresight which can reasonably be expected from a competent person in the same type of business under similar circumstances consistent with all applicable requirements.

2. ACCEPTANCE AND TERMS: Written or electronic affirmation by the receiving Party of any quote or purchase order shall be deemed to be acceptance of the Purchase Contract and these Terms and Conditions shall apply. Any communication to the contrary, including within a purchase order, shall be a counteroffer or proposed amendment to be deemed accepted only if specifically affirmed by the recipient Party in writing. Shipment and delivery of Goods will not constitute Seller's acceptance of any counteroffer or proposed amendment. In the event of conflicts, Purchase Contract documents have priority as follows: (1) these Terms and Conditions, (2) Seller's quote, if any, (3) the purchase order cover, and (4) other attachments, specifications, exhibits, communications or referenced documents.

3. TERMINATION: Buyer may not terminate the Purchase Contract or any part for convenience. Buyer may terminate for cause. Such termination may take effect: (1) upon 14 days' notice, during which Seller shall have opportunity to cure, after default or breach of material terms of the Purchase Contract, (2) upon 28 days' notice, during which Seller shall have opportunity to cure, after furnishing materially defective Goods or Goods that do not conform to the Purchase Contract, or (3) immediately upon Seller's bankruptcy, dissolution, or suspension of payment by judicial decree. If Buyer give notice of termination pursuant to (1) or (2) above and the breach or failure cannot be timely cured, if and only so long as within the given time Seller (a) begins curative efforts, (b) notifies Buyer of its plan and a reasonable timetable for curing, and (c) continues remedial efforts in accordance with the plan until the breach or failure is cured, the Purchase Contract cannot be terminated for cause.

4. CHANGES: Seller has no obligation to agree to any modifications. Before processing begins, Buyer may request modifications in writing. If Seller agrees to a requested modification and its costs change as a

result, the Parties shall adjust the Purchase Contract price accordingly.

5. CONFIDENTIALITY: All financials and technical information that one Party provides to the other in connection with the Purchase Contract shall be deemed proprietary and confidential and the recipient shall not disclose it to third parties without the disclosing Party's written consent. This obligation shall survive termination of the Purchase Contract. On request, the receiving Party shall return all confidential information and any reproductions to the disclosing Party. This confidentiality obligation does not apply to information in the public domain through no fault of the receiving Party or to information lawfully in the receiving Party's possession prior to the Purchase Contract date. This obligation shall not apply to the extent appropriate for any Party to enforce its right hereunder.

6. DELIVERY: Seller shall use reasonable efforts to comply with specified delivery dates.

7. PAYMENT: Invoices shall be due according to their terms. Amounts not timely received shall bear interest at 1.5% per month until paid. Buyer shall be liable for and shall reimburse Seller for all costs of collection including attorney's fees. If Buyer defaults, in addition to all other remedies available herein and at law, Seller may enter Buyer's or its customer's premises and reclaim Goods. Buyer grants a security interest to Seller in the Goods to secure all amounts due under the Purchase Contract. This is a security agreement and affords Seller all rights of a secured party under the UCC.

8. WARRANTIES: Seller shall have no warranty obligation whatsoever and may deny and warranty claim unless Buyer complies with, and causes its customer to comply with, all procedures in this Warranties section. During the period specified in this section Seller warrants that the Goods shall be (1) furnished in accordance with the terms of the Purchase Contract, (2) new and unrepaired (unless used Goods are specified in the Purchase Contract), and (3) free from defects in materials and workmanship. Seller, at its sole expense, shall promptly repair, replace or correct any warranty violations or refund an equitable portion of the Purchase Price during the 12 month period after delivery to the final destination point or within the 12 month period after first commercial use at the final destination point, whichever is later, but in no event beyond 18 months from the date of delivery to Buyer. This warranty shall apply to repaired or replaced work for 12 months from the date of repair or replacement or until expiration of the original warranty period, whichever is later. All goods used by Seller in the course of fabricating and/or supplying the Goods to Buyer only carry such warranty as is given by the manufacturer thereof. Such warranties, if any, are hereby assigned by Seller to Buyer. Seller shall furnish these third party warranties to Buyer on request. Buyer shall have the

right to assign these warranties to Buyer's customers. No warranty claim shall enable dual recovery by Buyer or its customer. If a third party component supplier provides less of a warranty than Seller's hereunder, Seller shall and hereby does assign the supplier's warranty in lieu of Seller's as to such component. SELLER HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES. SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. Seller's sole obligation under this warranty is limited to and shall be fully discharged by Seller, at its expense and option, by repairing defective goods or supplying similar goods without charge. Notwithstanding anything to the contrary in the Purchase Contract, this Warranties section is the exclusive remedy available to Buyer or its customer for a warranty claim. Under no circumstances, in contract, tort or otherwise, shall Seller's total liability in connection with any Purchase Contract exceed the amount received by Seller pursuant to the purchase orders(s) applicable to the claim(s).

Seller shall not be liable for any breach of warranty arising from: (a) failure to follow Seller's oral or written instructions as to storage, installation, use or maintenance of Goods, or (if no instructions apply) Good Industry Practices; (b) alteration or repair of Goods without Seller's written consent; (c) normal wear and tear, willful damage, negligence, abnormal or improper working or storage conditions, or misuse; (d) Goods which continue to be used or are allowed to deteriorate after a defect is suspected; or (e) failure to follow any procedure in this Warranties section.

Buyer shall deliver notice of any alleged defect to Seller within 10 business days after discovery. The notice shall include or shall be followed promptly by: (i) Purchase Contract number; (ii) Seller's release number; (iii) Claim Site location; (iv) any applicable well name; (v) copies of any daily rig reports and drilling and completion reports; and (vi) name, phone number and email address of each person relevant to the claim. Thereafter, upon Seller's reasonable request Buyer shall promptly provide additional information related to the claim. "Claim Site" means the physical location where any defect in Goods is discovered.

Buyer shall provide Seller reasonable access to the Claim Site and Goods associated with any warranty claim to enable Seller and its representatives to evaluate the claim. Buyer shall segregate all Goods from the same Purchase Contract or release number to facilitate inspection and testing. Buyer shall make all such Goods available to Seller for testing. Upon Seller's request, Buyer shall promptly make a split sample available to Seller to conduct an independent third-party analysis. All testing by or for any Party shall be done by an accredited, independent, third-party laboratory and only upon notice to the other Party. Both Parties shall be permitted to participate in development and approval of any testing protocol for

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Goods relating to any warranty claim and they shall cooperate with respect to test dates and times so each Party and any applicable mill may have a representative present at every test. Each Party shall fully inform and permit the other to participate in all aspects of any testing process. Immediately after availability, each Party shall provide the other a copy of all test results.

9. RETURNED GOODS: Seller will only credit buyer for net footage of returned Products (i.e. Rig Returns) that are returned to Seller's stock at the yard of origin within 30 days of Seller's dispatch of the Products. The return is subject to the Seller's visual inspection and confirmation that the Product's condition is suitable for return. Seller will charge the buyer a fee for re-stocking (minimum \$400.00) plus inspection and repair costs necessary to return the Products to their original state.

Seller reserves the right to disallow return of certain Products (i.e. special orders) based on the circumstances of the sale.

10. LIMITED LIABILITY: No Party shall be liable hereunder for special, incidental, indirect, consequential, punitive or exemplary damages, including lost revenue or profit.

11. PATENTS, TRADEMARKS: Seller warrants that Buyer's use or sale of the Goods will not infringe any U.S. patent or trademark.

12. PRICE: Unless specified in the Purchase Contract, Buyer shall pay taxes and additional charges such as shipping, handling, packaging, loading, labeling or crating.

13. FORCE MAJEURE: A "force majeure" delay means a delay caused by an act of God; acts of government; war or acts of the public enemy; fire; severe weather or floods; strikes; riots; or other causes beyond the reasonable control of the Party affected, but only to the extent such delay is not caused by the acts or omissions of the Party so delayed and only to the extent such Party, after becoming aware of it, is unable to make up for the delay with reasonable effort. If any force majeure delays Seller's performance, the delivery date may be extended by Seller as reasonably necessary.

14. ENTIRE AGREEMENT: The Parties intend for the Purchase Contract to be the final expression of their agreement and a complete and exclusive statement of its terms and conditions. Prior dealings between the Parties or usage of trade (before or after the date of the Purchase Contract) shall not be relevant to supplement or explain any term used in the Purchase Contract. Acceptance or acquiescence in a course of performance shall not be relevant to determine the meaning of the Purchase Contract, even though the accepting or acquiescing Party has knowledge of the nature of the performance or usage of trade and an

opportunity for objection. The invalidity, in whole or in part, of any provision of the Purchase Contract shall not affect the remainder of any other sections of the Purchase Contract, and the affected provision shall be deemed modified so that it is enforceable to the maximum extent permissible to reflect as closely as possible the economic intention of the Parties as evidenced from the Purchase Contract. Nothing in the Purchase Contract shall be construed as creating any right in any third party.

15. COMPLIANCE WITH LAW AND STANDARDS: Seller certifies that unless specifically exempted, all Goods furnished under the Purchase Contract shall be sold in compliance with all applicable laws, acts, rules, orders and regulations, including, but not limited to the following laws: (1) the Civil Rights Act of 1964, as amended; (2) the US Equal Pay Act, as amended; (3) the Age Discrimination in Employment Act, as amended; (4) Executive Order 11246 and 11141 (Title 41, Chapter 60, Code of Federal Regulations); (5) the Vietnam Era Readjustment Act of 1974, as amended; (6) the Federal Rehabilitation Act of 1973, as amended; and (7) Executive Order 11758 (Title 20, Chapter 6, Part 741, Code of Federal Regulations), and all regulations, rules, and orders thereunder and later amendments. If the Purchase Contract exceeds \$10,000, Seller certifies it is in compliance with requirements for non-segregated facilities in 41 C.F.R. Chapter 60-1.8.

16. TITLE AND RISK OF LOSS: Title to Goods shall transfer to Buyer upon receipt by Buyer or its agent. Goods shall remain at Seller's risk until shipped or transferred to Buyer by Seller or its agent.

17. WAIVER: A party's failure to exercise or enforce any right in the Purchase Contract, or any other right or privilege under law, or a Party's waiver of any breach by the other, shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless the Party gives such waiver in writing.

18. LIENS: Seller warrants the Goods will be free and clear of all liens or encumbrances other than Seller's security interest.

19. SHIPMENT: Seller shall ship the Goods in accordance with the shipping instructions and freight terms outlined in the purchase order unless the Parties agree otherwise in writing.

20. MODIFICATION: All changes to the Purchase Contract must be in writing signed by the Parties. No modification of the Purchase Contract will be effective without the signed written agreement of the Parties. All references to writings shall include email and other written electronic communications.

21. NOTICES: The Parties shall send all notices pursuant to the Purchase Contract by first class prepaid certified mail, properly addressed and return

receipt requested, by messenger or hand delivery, by FedEx or similar express courier delivery, or by email in which case a confirmatory paper copy must be simultaneously sent by another means permitted hereunder. Buyer shall send notices to Seller 1209 Pointe Centre Drive, Suite 201, Chattanooga, TN 37421 or to facsimile number (423) 648-7674. Notices sent in accordance with this provision shall be deemed to have been received 4 days after sent by certified mail, at the time of receipted delivery by messenger, 2 days after sending by FedEx or similar courier, and at the time of transmission by email. Changes in a Party's address for notice may be made in like manner.

22. APPLICABLE LAW AND VENUE: The Purchase Contract and transactions relating to it shall be governed and interpreted in accordance with the laws of the State of Tennessee, without reference to principles of conflict of laws. Venue for all judicial or arbitration shall be in Hamilton County, Tennessee and each Party consents to personal jurisdiction in such venue.

23. OWNERSHIP OF DOCUMENTS: Seller hereby grants Buyer a license to use all drawings, specifications, calculations, technical data and other documents that Seller submits in connection with the Purchase Contract for any reasonable purpose relating to installation, operation or maintenance of the Goods. Buyer shall return all such materials to Seller upon request.