



MacLean Power Systems Standard Terms and Conditions of Purchase

THE FOLLOWING STANDARD TERMS AND CONDITIONS OF PURCHASE (“TERMS AND CONDITIONS”) SHALL BE DEEMED INCORPORATED INTO AND SHALL FORM A PART OF EACH PURCHASE ORDER OR CONTRACT (“PURCHASE ORDER”) ISSUED BY MACLEAN POWER SYSTEMS LLC (“BUYER”), UNLESS OTHERWISE SPECIFIED IN THE PURCHASE ORDER:

A. DEFINITIONS:

For purposes of these Terms and Conditions: “Goods” shall refer to all goods, articles, materials, parts, components, accessories, processing and other items to be sold and all other deliverables to be provided to Buyer under the terms of the Purchase Order. “Services” shall refer to all services of any nature to be provided under the Purchase Order, including designing, assembling and installing any of the Goods. “Work” shall refer to and include the Goods and the Services. “Seller” shall refer to the supplier, vendor, contractor or subcontractor providing or performing the Work under the Purchase Order.

B. ORDER / ACCEPTANCE / APPLICABLE TERMS:

BUYER OFFERS TO PURCHASE THE GOODS AND/OR SERVICES (COLLECTIVELY, THE “WORK”) DESCRIBED IN ITS PURCHASE ORDER ONLY UPON THE TERMS AND CONDITIONS CONTAINED HEREIN. BUYER RESERVES THE RIGHT TO REVOKE THE PURCHASE ORDER WITHOUT NOTICE BEFORE ACCEPTANCE. THE PURCHASE ORDER SHALL BE DEEMED AGREED TO AND ACCEPTED BY SELLER AND BECOME A BINDING CONTRACT ON THE TERMS AND CONDITIONS CONTAINED HEREIN WHEN (1) SIGNED AND RETURNED TO BUYER, OR (2) SELLER ISSUES ITS ORAL OR WRITTEN ACKNOWLEDGMENT, OR (3) SELLER COMMENCES PERFORMANCE, OR (4) SELLER OTHERWISE ACCEPTS THE PURCHASE ORDER. BY ACCEPTING THE PURCHASE ORDER, SELLER WAIVES ALL TERMS AND CONDITIONS CONTAINED IN ITS QUOTATION, ACKNOWLEDGMENT, INVOICE, OR OTHER DOCUMENTS WHICH ARE DIFFERENT FROM OR ADDITIONAL TO THOSE CONTAINED HEREIN, AND ALL SUCH DIFFERENT OR ADDITIONAL TERMS AND CONDITIONS SHALL BE NULL AND VOID. All special terms and conditions or supplemental attachments which are attached to or referenced in the Purchase Order are made a part of the contract between the Buyer and the Seller as though fully set forth herein.

C. PRICE:

Unless otherwise stated on the Purchase Order, all prices stated herein are F.O.B. MACLEAN POWER SYSTEMS at the delivery address shown on the Purchase Order. The terms of any payment provided in the Purchase Order shall be calculated from, and any cash discount shall be deducted at expiration of the grace period dating from, the latter of (1) the date of receipt of an acceptable invoice, (2) the date acceptable Work is received or completed, or (3) the date Work is scheduled to be received or completed. Net invoices and cash discount invoices received without supporting papers shall not be paid until completed as specified. The date of receipt of final supporting papers completed in all cases governs date of receipt of an acceptable invoice. Buyer shall receive the benefit of the amount of any general reduction in the price of any Goods of the same or similar size, quantity and/or quality covered by this Purchase Order that may be made by Seller during the period of performance hereunder. Buyer shall have the right to set off against, or appropriate and apply to the payment or performance of any obligation, sum or amount owing at any time to Buyer under the Purchase Order or any other contractual agreement between Buyer and Seller, all deposits, amounts or balances held by Buyer for the account of Seller or any of Seller's affiliates and any amounts owed by Buyer to Seller or any of Seller's affiliates, whether arising under the Purchase Order or otherwise, regardless of whether any such deposit, amount, balance or other amount or payment is then due and owing.

D. WARRANTY:

Without limiting any warranties implied by law with respect to the Goods purchased and/or delivered hereunder, Seller warrants to Buyer, its customers, and their successors and assigns, that all Goods purchased and/or delivered hereunder shall (1) be new and unused, (2) be free and clear of liens and encumbrances and all claims of Seller and any third parties, (3) be of merchantable quality, (4) be free from defects in material and workmanship and, to the extent such Goods are not manufactured pursuant to detailed designs of Buyer or its customers, be free from defects in design, (5) conform strictly to all specifications, drawings, samples or descriptions furnished to Seller by Buyer and to all other requirements of the Purchase Order, and (6) be fit for the purposes of Buyer. Seller further warrants it has good and marketable title to all Goods sold and/or delivered hereunder and that no statute, order, regulation, or ordinance of any governmental body or agency has been violated in the manufacture, sales, and/or delivery of any Goods hereunder, without limitation on any of the foregoing, including, but not limited to, the Fair Labor Standards Act of 1938, as amended, and the rules, regulations, and orders issued thereunder. Additionally, if and to the extent the Work includes Services supplied by Seller, Seller expressly warrants to Buyer, its customers, and their successors and assigns, that all such Services furnished: (a) have been performed or prepared in a professional and workmanlike manner by personnel who are adequately trained, supervised and experienced and according to best industry standards and practices; (b) are suitable for the purposes intended whether expressed or implied, and (c) are in compliance with all applicable specifications and performance requirements. Seller agrees that Buyer's approval of any designs or drawings furnished by Seller hereunder or in contemplation hereof shall not relieve Seller of its obligations under this warranty. The foregoing warranties are in addition to any other representations and warranties in the Purchase Order or provided under law. Seller hereby agrees that, in addition to any other remedies which Buyer may have against Seller for breach of warranty, Seller will repair or replace at the option of the Buyer and at cost to the Seller, any or all the Work found in the sole judgment of the Buyer to be in breach of this warranty, and to indemnify Buyer for all costs and expenses (including incidental and consequential damages and all claims and damages sought by Buyer's customers, any of their customers, and any end-user) incurred by reason of such breach. Seller's warranties shall survive any inspection by, delivery to, acceptance by, or payment by Buyer for any or all of the Work furnished hereunder, shall be in addition to any other warranties or service guarantees given by Seller to Buyer, shall be construed as conditions as well as warranties, shall not be determined exclusive, and shall be for the benefit of both the Buyer and its customers, jobbers, and dealers, and their successors and assigns. Seller specifically agrees that Buyer need not inform it of the breach of any warranties hereunder within any particular time and specifically waives any right that may accrue to Seller on account of Buyer's failure to notify Seller of any breach of warranty within any period of time.

E. DELIVERY:

Buyer's production schedules are predicated upon the delivery of Goods to and/or performance of Services for Buyer at the delivery or performance time specified on the Purchase Order, and **TIME THEREFORE IS OF THE ESSENCE IN PERFORMING TO THE PURCHASE ORDER.** If deliveries are not made or Services not performed by the time specified, in addition to any other rights it may have at law, Buyer may refuse to accept such late deliveries or performance and may purchase similar Goods or Services elsewhere, and may hold Seller financially accountable for any loss occasioned thereby. If any deliveries are made earlier than the time specified herein, Buyer may return such Goods to Seller at Seller's cost or may store such Goods at Seller's cost until the specified time for delivery unless otherwise authorized by Buyer. Invoices and bills of lading exhibiting full routing information, including car number, shall be mailed to Buyer at the time of shipment. Invoices for prepaid freight shall be accompanied by receipted freight bills payable to the Buyer. If the Goods are to be delivered periodically or in installments, failure to deliver any one installment within the time specified shall authorize Buyer to refuse to accept the overdue and/or subsequent installments or to pay for any such installments and Buyer shall have the right to purchase the overdue installment and any and all subsequent installments on the open market without notice to Seller and may hold Seller for any loss occasioned thereby.

F. ACCELERATION / DECELERATION / STOP WORK:

Buyer may, upon written notice to Seller, make changes in the schedule without additional cost, liability, or change to the prices stated in the Purchase Order, and Seller shall promptly comply with such changes. Buyer may at any time, without additional cost, liability, or change to the prices stated in the Purchase Order, require Seller to stop all or any part of the Work called for by any Purchase Order for up to one hundred twenty (120) days (“Stop Work Order”). On receipt of a Stop Work Order, Seller shall promptly comply with its terms and take all reasonable steps to minimize the occurrence of costs arising from the Work covered by the Stop Work Order during the period of Work stoppage. Within the period covered by the Stop Work Order (including any extension thereof) Buyer shall either (1) cancel the Stop Work Order or (2) terminate or cancel the Work covered by the Stop Work Order. In the event the Stop Work Order is canceled by Buyer or the period of the Stop Work Order (including any extension thereof) expires, Seller shall, upon direction from the Buyer, promptly resume Work in accordance with the terms of the Purchase Order.

G. INSPECTION:

All Work covered the Purchase Order shall be subject to final inspection and approval at destination by Buyer. Buyer may reject all or part of any Work not conforming to the terms of the Purchase Order, including without limitation, all specifications, drawings, or descriptions furnished to Seller by Buyer. For all Goods rejected by Buyer as not conforming to the Purchase Order, Buyer may, in addition to any other rights it may have at law (1) prepare for shipment and ship the rejected Goods to Seller, at Seller's expense, or (2) require Seller to remove such Goods and if Seller shall fail to remove such Goods within thirty days after written notice by Buyer to do so, Buyer shall dispose of such Goods in any manner which Buyer may elect without any liability to Seller for the cost of such Goods. For all Goods which are retained by Buyer, but did not conform to the Purchase Order including, without limitation, all specifications, drawings or description furnished by Seller to Buyer, Buyer may correct such Goods in order to make them conforming and Seller shall bear all necessary costs of such corrective action, in addition to any of the foregoing remedies. Seller shall bear the expense of unpacking, examining, sorting, and reshipping any Goods rejected hereunder.

H. INDEMNIFICATION:

Seller agrees to indemnify, defend and save and hold harmless Buyer, its subsidiaries and affiliates, and its and their respective past, present and future members, shareholders, owners, directors, officers, agents and employees, and Buyer's and its subsidiaries and affiliates' customers, jobbers, and dealers, and all of their respective successors and assigns (collectively, "Buyer Indemnitees") from, and reimburse Buyer and Buyer Indemnitees for, any and all claims, damages (direct, indirect, incidental, consequential, foreseeable, unforeseeable or otherwise), suits, actions, judgments, liabilities, losses, costs and expenses (including attorneys' fees and litigation costs) of any nature (collectively, "Losses") arising out of or resulting from Seller's (and/or its subcontractors' or suppliers') performance or non-performance in connection with the Purchase Order, any action or inaction of Seller (and/or its subcontractors' or suppliers') in connection with the Purchase Order, and/or Seller's (and/or its subcontractors' or suppliers') breach of or failure to perform under or in accordance with the Purchase Order, including but not limited to (1) those arising from death of or injury to any person, and/or (2) those arising from loss of, damage to or loss of use of any property whatsoever, including but not limited to the Work or anything else delivered hereunder and any property of Buyer, any customer of Buyer, or any third party, and whether or not any act of omission of the Buyer contributed thereto. Seller further agrees to indemnify, defend and save and hold harmless Buyer and Buyer Indemnitees from, and reimburse Buyer and Buyer Indemnitees for, any and all Losses arising out of or resulting from the Work or any portion thereof alleged to constitute an infringement of any patent, trademark, copyright, intellectual property right, or other right of any third party.

I. PACKING AND CRATING:

All Goods shall be packed by Seller in suitable containers for protection in shipment and storage. Unless otherwise specified, prices set forth in this Purchase Order include all charges for packing, crating and for transportation to the point of delivery set forth herein. The number of the Purchase Order shall appear on each invoice, bill of lading and packing list and every package and shipment. An itemized packing list shall accompany each shipment made hereunder. Upon acceptance of this Purchase Order, Seller shall promptly notify Buyer as to the date of each shipment hereunder.

J. SPECIFIC PERFORMANCE:

Seller agrees that in the event of a breach by it of any provision hereof, Buyer may, upon proper action instituted by it, be entitled to an injunction to prevent further breach hereof and to a decree for specific performance according to the terms of this Purchase Order. Seller and Buyer expressly agree that this Purchase Order is the proper subject for the remedies of injunctive relief and specific performance in the event of breach hereof.

K. INSURANCE:

Seller agrees that it shall maintain at its expense liability and property damage insurance adequate to cover Seller's obligations as set forth herein and shall maintain proper workmen's compensation coverage on its employees engaged in the performance of the Work required hereunder. Seller agrees that all insurance policies shall include contractual coverage for this undertaking of Seller herein and be subject to the approval of the Buyer, including the policy forms and monetary limits, and that it shall furnish Buyer with certificates of such insurance coverage for it and the agreement of the appropriate insurance carrier to furnish Buyer with notice thirty (30) days beforehand of any material change or cancellation in any insurance coverage. Seller agrees that the failure of Buyer to request copies of insurance policies or certificates or to review and or approve any insurance of Seller shall not relieve Seller of its obligations to furnish insurance as required by the Purchase Order. Without limiting any of the foregoing, all material, tools, models, designs, patterns, drawings, and other personal property (including Goods) belonging to Buyer furnished by Buyer to Seller, or otherwise in Seller's custody or possession, shall be at Seller's risk from loss or damage from any and all hazards, except that Buyer, for Buyer's sole benefit, may insure such material, tools, models, designs, patterns, drawings, and other personal property (including Goods) against loss or damage resulting from loss due to fire, lightning, cyclone, tornado, wind storm and hail, explosion, earthquake, aircraft or vehicle, smoke, sprinkler leakage, flood, strike, riot and civil commotion, vandalism and malicious mischief. Seller further agrees that the purchasing of any insurance hereunder shall not otherwise relieve Seller from any of its liability to Buyer hereunder. The purchase or furnishing of any insurance by the Seller or Buyer on Goods in transit shall not alter the provision hereof that legal title to the Goods shall remain in Seller until delivered F.O.B. to MACLEAN POWER SYSTEMS as specified in the Purchase Order. On waterborne shipments, Seller shall also insure against marine perils, on an all risk basis, including war and terrorism risk, covering particular coverage irrespective of percentage for Buyer's accounts and expense to cover invoice value plus freight and charges and 10% added thereto plus insurance premium.

L. RISK OF LOSS:

All risk of damage to, or loss of the Goods covered hereby from any cause whatsoever shall be and remain in Seller until the Goods are delivered to Buyer at Buyer's delivery point specified herein.

M. TOOLS AND MATERIALS:

Title to, and the right to immediate possession of all material, tools, models, designs, patterns, drawings, and other personal property (including Goods) belonging to Buyer, or furnished by Buyer to Seller for use in performance hereunder, or paid for by Buyer shall be and remain in Buyer at all times and Buyer does not guaranty or warranty the accuracy or performance of any such items furnished by it. Upon termination or completion of the Purchase Order, all material, tools, models, designs, patterns, drawings, and other personal property (including Goods) belonging to Buyer and all spoiled or surplus Goods shall be returned free of charge to Buyer. All such material, tools, models, designs, patterns, drawings, and other personal property made for the manufacture of Goods hereunder or related to performance hereunder shall become the property of Buyer unless otherwise agreed on the Purchase Order, and shall be returned to Buyer at Seller's cost, at Buyer's discretion, upon completion of performance by the Seller hereunder. Seller assumes responsibility for and liability for loss of and damage to any such property while in Seller's possession, and until returned to Buyer.

N. CONFIDENTIALITY:

Seller shall treat as confidential all of Buyer's proprietary information, including, without limitation, knowhow and customer information, made available to Seller, directly or indirectly, and shall not disclose any such information to third parties unless specifically designated to do so by Buyer in writing. Seller shall limit access to such proprietary information to such of its employees as may reasonably be necessary to performance of Seller's obligations under this Purchase Order.

O. TERMINATION FOR DEFAULT:

The occurrence of any one or more of the following events shall constitute an "Event of Default": (1) any failure of Seller to deliver any Goods or perform any Services, when, as, and in the manner required by the Purchase Order; (2) disqualification of Seller as an approved supplier to Buyer or any of Buyer's customers; (3) any breach of or failure by Seller to perform or comply with any other term, provision, or obligation under the Purchase Order; (4) the occurrence of, or the taking of any action by Seller for the purpose of effecting or facilitating, any of the following: (a) the suspension, dissolution or winding-up of Seller's business, (b) Seller's insolvency, or its inability to pay debts, or its nonpayment of debts, as they become due, (c) the institution of reorganization, bankruptcy, liquidation or other such proceedings by or against Seller or the appointment of a custodian, trustee, receiver or similar person for Seller's properties or business, or (d) an assignment by Seller for the benefit of its creditors.

Upon the occurrence of an Event of Default, Buyer may, by notice to Seller, and at any time or times, take any, some, or all of the following actions: (i) terminate the Purchase Order, in whole or in part; (ii) produce or provide itself, or procure from other sources, any Goods or Services to be produced or provided by Seller under the Purchase Order, and recover from Seller the difference between the price for each such Goods or Service hereunder and the aggregate of all costs and expenses of any nature, including, without limitation, administrative and other indirect costs, paid or incurred by Buyer to produce, provide, or procure each such Item or Service; (iii) enter upon the premises of Seller and/or its subcontractors and suppliers, and take immediate possession of all of Buyer's property; (iv) require Seller to turn over any or all completed Work, work in process, raw materials, inventory, components, and supplies, and Seller's dies, tools, jigs, fixtures, equipment and patterns, used in the performance of the Purchase Order; and/or (v) exercise any other legal or equitable remedies Buyer may have. Buyer may take the foregoing actions without incurring any cost or liability to Seller, provided that Seller shall be entitled to compensation in the amount of the unpaid agreed price for any Goods completed, delivered and accepted by Buyer prior to termination, such compensation to be provided in the form of a setoff against any damages payable to Buyer as a result of any Event of Default or any other amounts owed to Buyer by Seller under the Purchase Order. Buyer shall determine the amount of compensation, if any, due Seller with respect to such termination and such determination shall be final. Upon termination, Buyer shall retain each and every claim, demand and liability it may have or acquire against the Seller as a result of any Event of Default. If Buyer exercises any termination rights under this paragraph and it is later determined that no Event of Default occurred or that termination was not otherwise proper hereunder, Buyer's action shall be treated as a Termination for Convenience under the following paragraph P.

P. TERMINATION FOR CONVENIENCE:

Buyer may terminate the Purchase Order at any time at its option in whole or in part for its convenience without penalty to Buyer, by giving written notice to the Seller. Any partial termination shall not alter or affect the terms of the Purchase Order with respect to, or result in a change to the price of, Work not terminated. After receipt of such notice, unless otherwise directed by Buyer, Seller shall: (1) immediately discontinue all terminated Work; (2) if so directed by Buyer, transfer title and deliver to Buyer all (a) completed Work, (b) work in process, and (c) materials produced or acquired in connection with such Work, which Work conforms to the requirements of the Purchase Order, does not exceed the Work authorized by Buyer, and cannot otherwise reasonably be used by Seller; and (3) take all action necessary to protect Work in Seller's or its subcontractors' or suppliers' possession in which Buyer has or may acquire an interest. Within ten (10) days of termination, Seller shall submit to Buyer its termination claim. Buyer's liability for any claim shall be limited to: (i) the unpaid Purchase Order price for Goods or Services completed, delivered and accepted by Buyer prior to termination; (ii) if and to the extent so specified in the termination notice, the unpaid Purchase Order price for Goods or Services completed, delivered and accepted by Buyer after the termination; and (iii) if and to the extent so specified in the termination notice, the reasonable value or cost (whichever is less) of any work in process and materials produced or acquired in connection with such Work and required to be transferred to Buyer under subparagraph P(2)(b) and/or (c); provided, however, in no event shall Buyer's liability exceed the price specified in the Purchase Order. In no event will Buyer be liable for lost profits or damages of any nature. The remedy set forth under this paragraph shall be Seller's sole and exclusive remedy (and the Buyer's sole liability) in the event of a termination hereunder, and Seller's failure to submit a timely and supported termination claim shall be deemed a waiver of all remedies.

Q. ASSIGNMENT:

Seller's rights, claims, obligations or duties under the Purchase Order may not be assigned, transferred or delegated, by operation of law or otherwise, without the express written consent of Buyer, which consent may be withheld in the sole discretion of Buyer. The prohibition set forth in this paragraph includes, without limitation (and the following shall be deemed to be "assignments" for which the consent of Buyer is required): (1) a consolidation or merger of Seller; (2) any direct or indirect change in the beneficial ownership or voting rights of more than fifty percent (50%) (measured individually or cumulatively since the date of the Purchase Order) of the ownership or voting interests of Seller; (3) any assignment or transfer which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other significant change in corporate or proprietary structure; and (4) the sale, assignment or transfer of all or substantially all of the assets of Seller.

R. WAIVER / REMEDIES:

The waiver by one party of any breach of the Purchase Order or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance, shall not operate or be deemed to waive any future breaches of the Purchase Order, and shall not be construed to be a waiver of any provision, except for the particular instance. No waiver or modification by Buyer of any provision of the Purchase Order shall be effective unless in writing and signed by a duly authorized officer or representative of Buyer. All rights and remedies herein given to Buyer are cumulative and are in addition to every remedy available now or hereafter existing at law, in equity, or by statute.

S. SEVERABILITY:

If any provision of the Purchase Order shall contravene or be invalid under the laws of any particular state, country, or jurisdiction which may be applicable, such contravention shall not invalidate the entire Purchase Order, but it shall be construed as if not containing the particular provision or provisions held to be invalid in that particular state, country or jurisdiction and the rights or obligations of the parties hereto shall be construed and enforced accordingly.

T. CHOICE OF LAW:

Regardless of the place of its execution or performance, the Purchase Order is to be governed by and construed according to the law of the state of Illinois, without regard to the conflict of laws principles specified therein, and Seller consents to the exclusive jurisdiction of and venue in any federal or state court located in Cook County, Illinois, in any action arising out of the Purchase Order, and waives any objection relating to such jurisdiction and venue.

Unless exempted, the Equal Opportunity Clauses as set forth in 41 CFR 60-1.4 (a) 41 CFR 60-225.5 (a), 41 CFR 60-300.5 (a) and 41 CFR 60-741.5 (a) as well as the provisions of 41 CFR 61-250.10, 41 CFR 61-300.10 and 29 CFR Part 471, Appendix A to subpart A, are incorporated by reference as terms and conditions of this agreement and are binding on Seller. Seller and its subcontractors / vendors also may be required to prepare written affirmative action programs as set forth at 41 CFR 60-2.1 and or otherwise comply with the regulations at 41 CFR Part 60.

U. FORCE MAJEURE:

Buyer shall not be liable for performance hereunder due to any contingency beyond Buyer's control, including, without limitation, acts of God, fires, strikes, lockouts, differences with or among workmen, accidents, wars, civil commotion, riot or insurrection, inability to secure transportation equipment, fuels or other material, government interference or regulation, or delays in transportation. Should any of the foregoing conditions continue for a period of 30 days after the occurrence, Buyer may, at its option, cancel this Purchase Order without incurring any liability therefore to the Seller or in any manner prejudicing the Buyer's right hereunder.

V. SURVIVAL:

It is agreed that the obligations of Seller, and Buyer's rights, under paragraphs C, D, E, G, H, J, K, L, M, N, O, P, R, S, T, V, W, and any other provisions of this Purchase Order necessary for Buyer to fully enforce its rights hereunder, shall survive the termination, expiration, cancellation, or completion of the Purchase Order.

W. ENTIRE AGREEMENT / AMENDMENTS / CONFLICTS:

This Purchase Order, any separate written contract or agreement between Buyer and Seller referenced in the Purchase Order ("Seller Agreement"), all special terms and conditions or supplemental terms incorporated into the Purchase Order ("Supplemental Terms"), and these Terms and Conditions, together constitute the entire agreement between Buyer and Seller regarding the subject matter hereof and supersede all prior agreements or understandings, oral or written, in connection herewith, may not be modified or amended except by written amendments signed by duly authorized representatives of Buyer and Seller, and shall be read, interpreted, and applied as a whole in a manner designed to reflect the overall intent of Buyer and Seller that Seller provide or perform Work in full accordance with the requirements of Buyer and the Purchase Order. In the event of any unresolved direct inconsistencies between or among the documentation, (1) the provision imposing the strictest requirement on Seller, as determined by Buyer, shall take precedence, or, (2) in the absence of the application of the foregoing provision, the order of precedence shall be: the Seller Agreement will govern first, the Purchase Order second, any Supplemental Terms third, and these Terms and Conditions last.



MACLEAN POWER LLC INTERNATIONAL TERMS AND CONDITIONS

GENERAL

These **Terms and Conditions of Sale** shall apply to MacLean Power LLC international sales of MacLean Power Systems ("MPS") products and any products from an MPS affiliate, MPS joint venture, or MPS supplier. Unless otherwise stated in writing by an authorized representative of MPS, any different or additional terms and conditions proposed in a customer purchase order, response to a quotation or other proposal, shall not be incorporated into any agreement for the sale of MPS products. All orders and shipments are subject to approval by MPS.

PRICES

All prices are quoted and invoiced in United States Dollars ("U.S. Dollars"). Unless otherwise stated, prices are exclusive of any sales, use, excise, import duties or other tax.

QUOTATIONS

Only price quotes on MPS letterhead are valid and, unless otherwise specified, are subject to purchaser's written acceptance.

PAYMENT TERMS

Standard payment term for MPS acceptance of the customer purchase order is letter of credit in accordance with the Uniform Customs and Practice for Documentary Credits International Chamber of Commerce Publication No. 600 ("UCP 600") confirmed by a prime United States bank payable at sight against shipping documents. MPS shall advise the customer of any change required for acceptance of the letter of credit.

PACKING

Prices for packaging of MPS products are based on standard packaging suitable for export shipment compliant with International Plant Protection Convention ("IPPC") regulations. Additional charges may be assessed by MPS for special packaging requested by the customer or additional export packaging not stipulated in the approved purchase order.

SHIPMENT

Product shipment shall be made following MPS receipt of the operative letter of credit with terms and conditions acceptable to MPS. Shipping dates provided by MPS are approximate and are based on conditions existing at time of MPS approval of the customer order for production. MPS will in good faith endeavor to ship by the estimated shipping date but shall not be responsible for any delay or damage resulting therefrom, including but not limited to, any steamship line delay to further advance safety on the vessel.

TRANSPORTATION

Unless otherwise specifically agreed by MPS, standard shipment terms for all products are ocean freight with delivery terms of FCA (Free Carrier to US Port of Export) in accordance with INCOTERMS 2010 of the International Chamber of Commerce ("ICC"). Order values must be a minimum U.S. Dollars \$7,500 to be shipped as FCA INCOTERMS. Orders less than U.S. Dollars \$7,500 will be shipped EXW (ExWorks MPS Factory).

Effective May 1, 2016

MacLean Power LLC
Kingsley Park Five 481 Munn Road, Suite 300 Fort Mill, SC 29715 USA
855-MPS-SHIP (Toll Free)

These International Terms & Conditions supersede all previously published terms & conditions from MPS, MPS affiliates, and companies acquired by MPS.

RISK OF LOSS & TITLE TRANSFER

Risk of loss or damage to the products and title transfer of the goods shall pass to the purchaser on MPS delivery in accordance with the shipment terms.

MANUFACTURING CLEARANCE

MPS shall provide the customer with confirmation when the purchase order is released to manufacturing. Purchase orders for products that are built to unique customer requirements are considered non-standard or non-stock MPS products and shall be released for product manufacture on MPS receipt of the operative letter of credit with terms and conditions acceptable to MPS.

At the sole discretion of MPS, a customer purchase order for a standard or stock MPS product that has not been customized may be released to manufacturing at the time of MPS order acceptance.

PRODUCT INSPECTIONS

All MPS products undergo in-process and pre-shipment inspections in accordance with standard industry practice. Any inspection requirement not explicitly stated in the MPS production control plan is subject to MPS approval. The purchaser shall bear the cost of any third party or purchaser in-house party inspection at an MPS plant. It is the responsibility of the purchaser to raise the need for any specific inspection at the time of customer request for quotation.

TOOLING & MANUFACTURING EQUIPMENT

MPS shall bear the cost of tooling unless otherwise negotiated with the customer. MPS shall own all tooling, dies and manufacturing equipment.

TESTING

Unless otherwise stated in writing, quoted prices include only industry standard production tests and test reports. Any special testing or type testing required by the purchaser must be requested at the time of quotation and shall be viewed as an additional cost subject to invoicing.

MODIFICATIONS

Unless otherwise provided, MPS reserves the right to modify the specifications, materials, or manufacturing methods of products ordered by the customer if the modification will not materially affect the quality or performance of the product.

ORDER CANCELLATION

The customer may cancel their purchase order within five (5) calendar days of order placement without penalty.

WARRANTY

MPS warrants that the product it manufactures and sells shall be free from defect in material and workmanship for a period of eighteen (18) months from date of shipment to the purchaser, or twelve (12) months from date of product installation, whichever is shorter. The warranty covers normal use only and does not apply to any products that are misused (used for a purpose other than originally intended), modified, repaired, or otherwise abused by the purchaser or others. MPS's sole obligation for breach of warranty shall be to repair or replace any defective goods FCA (Free Carrier to US Port of Export) as reasonably expeditious as possible. All installation and transportation expenses, and all other incidental expenses and damages shall be borne by the purchaser.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

Effective May 1, 2016

MacLean Power LLC
Kingsley Park Five 481 Munn Road, Suite 300 Fort Mill, SC 29715 USA
855-MPS-SHIP (Toll Free)

These International Terms & Conditions supersede all previously published terms & conditions from MPS, MPS affiliates, and companies acquired by MPS.

LIMITATION OF LIABILITY

IN NO EVENT SHALL MPS BE LIABLE FOR ANY TYPE OF LIQUIDATED DAMAGES WHETHER SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PENAL DAMAGES, WHETHER SUCH DAMAGES ARISE OUT OF OR ARE A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) STRICT LIABILITY OR OTHERWISE.

Such liquidated damages shall include, but not limited to, loss of profit or revenues, loss of use of the equipment or associated equipment, costs of substitute equipment, facilities, down time costs, increased construction costs, change out costs, or claims for damages.

MPS shall not be liable for any loss, claim, expense, or damage caused by, contributed to or arising out of the acts or omissions of the purchaser, whether negligent or otherwise.

PATENT INDEMNITY

MPS shall defend any suit or proceeding brought against the purchaser based on a claim that any goods of MPS's design furnished to the purchaser constitute an infringement of any U.S. patent. The purchaser must notify MPS promptly, in writing, of such claim. MPS will not be liable if alleged infringement is the result of the application or use to which such goods are put by the purchaser or other if different than MPS's application data.

The purchaser agrees to protect MPS and save it harmless from all expense and damages that result from claims or demands that goods manufactured by MPS according to the purchaser's design or specification infringe the right, title or interest of any third party because of being so produced. The purchaser shall defend MPS in such claims and pay all expenses and damages based on claimed infringement.

The foregoing states the entire liability of either party to the other with respect to infringement.

Effective May 1, 2016

MacLean Power LLC
Kingsley Park Five 481 Munn Road, Suite 300 Fort Mill, SC 29715 USA
855-MPS-SHIP (Toll Free)

GOVERNING LAW & JURISDICTION

These terms and conditions and all agreements between MPS and the purchaser shall be governed by the laws of the state of Illinois without reference to principles of conflicts of laws. The purchaser hereby submits to the exclusive jurisdiction of the applicable state or federal courts located in the state of Illinois.

FORCE MAJEURE

MPS shall not be liable for any delay or failure to perform its obligations, resulting directly or indirectly from or contributed to by any acts of God, acts of customer, acts of government or other civil or military authorities, strikes or other labor disputes, war, embargoes, delays in transportation, or other circumstances beyond MPS's reasonable control.

SEVERABILITY

If any provision or provisions of these terms and conditions shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

FOREIGN CORRUPT PRACTICES ACT

MPS fully complies with the United States Foreign Corrupt Practices Act of 1977 ("FCPA"). A purchaser in its performance under a purchase order agrees to comply with and abide by the FCPA and all other applicable laws and regulations. The purchaser represents and covenants that it will not take any actions that may subject MPS to liability under the FCPA or other applicable laws or regulations. The purchaser will indemnify and hold harmless MPS from any suits or penalties which may arise due to purchaser failure in this respect.

Please visit the MacLean-Fogg website at www.macleanfogg.com to view the FCPA Compliance Policy.