



GENERAL TERMS AND CONDITIONS OF SALE

Version v1.0 (Last updated October 14, 2024)

These General Terms and Conditions of Sale (these “**Terms**”) apply to the sales of Products (as defined below) by MacLean Power, LLC d/b/a MacLean Power Systems or its affiliate (collectively, “**MPS**”). Exhibit A (*Doing Business with MPS*) is incorporated herein by reference.

1. Certain Definitions. As used herein, “**Agreement**” means solely these Terms and the Sales Documents, and expressly excludes Buyer Documents; “**Buyer**” means the purchasing or customer entity identified in the Sales Documents; “**Buyer Documents**” means requests for proposals, Orders, terms and conditions, or other documents issued by Buyer related to the purchase of Products; “**Goods**” means goods offered or sold by Seller to Buyer as identified in the Sales Documents; “**Orders**” means purchase orders, modifications thereof, and any other similar documents issued by Buyer for the purchase of Products; “**Products**” means the Goods and any Related Offerings identified in the Sales Documents; “**Quotations**” means any written quotations, proposals, bids, or similar documents issued by Seller for the sale of Products to Buyer; “**Related Offerings**” means any additional equipment, tooling, Services, Software, subscriptions, or other offerings made available by Seller along with or related to Goods; “**Sales Documents**” means (i) Quotations, order acknowledgments or other sales documents issued by the Seller related to the sale of Products to Buyer, and (ii) a statement of work executed by Seller for the provision of Services by Seller to Buyer, and expressly excludes Buyer Documents; “**Seller**” means the MPS entity identified in the Sales Documents; “**Services**” means any services to be provided by Seller set forth in the Sales Document; and “**Software**” means computer programs, operating systems, interfaces, software-as-a-service, applications or other software specified in the Sales Documents.

2. Formation; Inconsistent Terms. Quotations are an offer to sell. All Orders placed by Buyer are expressly conditioned upon and confirms Buyer’s acceptance of these Terms. Buyer will be deemed to have accepted these Terms by any of the following: (a) signing and returning to Seller a copy of any Quotation; (b) sending to Seller a written acknowledgment of the Quotation; (c) placing an Order or giving instructions to Seller respecting manufacture, assortment, or delivery of the Products (including instructions to bill and hold) following receipt of any Quotation; (d) failing to cancel a pending Order within 10 days after receiving these Terms; (e) accepting delivery of all or any part of the Products; (f) paying for all or any part of the Products; or (g) indicating in some other manner Buyer’s acceptance of these Terms. The Agreement will be formed upon Seller’s written acceptance of the Order (e.g., by issuing an order acknowledgment). Order acceptance is in Seller’s discretion, and is subject to verification of minimum quantities, packing, availability, lead times, and other applicable requirements or circumstances. Each accepted Order will be interpreted as an independent transaction, independent of other Orders. Cancellations, deferrals and modifications are subject to written approval by Seller and may require additional fees. Notice is given that Seller objects to any additional or different terms or conditions in any Buyer Documents, which will be of no force or effect. Seller will not be deemed to have in any way enlarged or modified its liabilities or obligations under the Agreement by filling any Order or by failing to further object to Buyer’s terms or conditions. No waiver, modification, or addition to these Terms, or any assignment of Buyer’s rights or obligations under them is valid or binding on Seller unless in writing and signed by a Seller authorized representative.

3. Prices; Quotations. Prices are subject to change upon written notice by Seller, and, unless otherwise set forth in the Agreement, are in U.S. dollars. Unless otherwise extended in writing by Seller, all prices on a Quotation will expire and become invalid upon the expiration date stated therein; provided however, Seller reserves the right to update its Quotation pricing in the event of an increase in tariffs, levies, duties, freight or importation cost, supplier pricing, or a material exchange rate fluctuation. Buyer is responsible for, (i) applicable sales, use, excise, value-added, withholding or other taxes levied, unless Buyer is exempt, and (ii) all export and import tariffs, duties, and customs fees.

4. Payment. Unless otherwise set forth in the Agreement, payment terms are net 30 days from date of invoice. Invoices may be rendered separately for each shipment (including any early shipment). Buyer may not debit, offset, or chargeback any amount payable to Seller without Seller’s prior written consent and credit memoranda. All amounts not paid to Seller when due will incur a carrying charge of 1.5% per month to the extent allowed by law and otherwise at the highest written contract rate allowed by law. In addition, Seller may suspend shipments of open orders until Buyer’s account is current. Seller, in order to satisfy itself of the ability of Buyer to meet its obligations under the contract, may conduct periodic credit reviews in accordance with standard commercial practices. If, in the judgment of Seller, the financial condition of Buyer, at any time, does not prove worthy of extending credit, the Seller may require full or partial payment in advance of production or shipment. In addition to any security interest granted by applicable law, Buyer grants a security interest to Seller in all Goods to secure all obligations of Buyer to Seller, whether or not arising under the Agreement. Seller may file a financing statement and at Seller’s request, Buyer will sign financing statements and other documents, evidencing and confirming the security interest. Buyer may not sell, exchange, transfer, convey, mortgage, pledge, hypothecate or grant a security interest in any Goods which are subject to the Agreement if payment thereof will not have been made in full to Seller.

5. Delivery. Shipping dates are estimates only. Seller will use commercially reasonable efforts to meet shipping dates and Seller shall not be liable for any late or delayed delivery. The Agreement is for a shipment contract. Unless otherwise agreed to in writing, the Goods will be delivered (i) for U.S. orders, F.O.B Origin (UCC) and (ii) for non-U.S. orders, Ex Works (Incoterms

2020), in each case at Seller's dock. Seller may, in its sole discretion, use any commercial carriers and method and route of transportation for the shipment of Products. Except as otherwise provided in the Agreement, Buyer is responsible for any freight, transportation, insurance, shipping, storage, handling, demurrage or similar charges. Whether or not Seller prepays shipping charges, title and risk of loss passes to Buyer upon tender of the Goods to a carrier and Seller is not responsible for the carrier's performance including but not limited to delays, damage, and/or scheduling errors. Requests for Proof of Delivery documents must be received within fourteen (14) calendar days of invoice receipt.

6. Testing. Any Buyer testing and inspection requirements, including any methods, beyond Seller's standard test procedures must be requested in advance of placing the Order, and are subject to Seller's prior written approval. Buyer is solely responsible for and shall pay all costs related to or arising out of any such Buyer requirements. If the parties have agreed in writing to inspection or testing prior to shipment, Buyer must provide a contact for inspection or testing no later than four weeks prior to the scheduled ship date or such inspection or testing is waived.

7. Acceptance; Returns; Shortage. Buyer must notify Seller of any suspected discrepancies and shortages within five (5) business days of the shipping date (the "**Notification Date**"), otherwise such claims will be deemed waived. Quantities are subject to applicable manufacturer allowances. Buyer shall be deemed to have accepted the Products unless written notice of rejection is given to the Seller by the Notification Date. Product returns must be made pursuant to Seller's return policy, as modified from time to time. Seller reserves the right to apply a re-stocking fees to any returns.

8. Services. Seller shall use commercially reasonable efforts to perform the Services. Any changes to the Services shall require written agreement of Seller. If applicable, Buyer shall make available reasonable access to its systems, premises, documents, data, or other materials necessary to provide the Services ("**Buyer Materials**"). Completion times are only estimates. Buyer will be responsible for, and assumes the risk of, any problems resulting from the content, accuracy, completeness, competence or consistency of Buyer Materials or its personnel. To the extent that Buyer does not timely provide the access, quality, level of detail and/or scope of Buyer Materials required to perform the Services, Seller shall be excused from performance until such items/access are provided or the applicable deficiencies corrected. Unless the Agreement specifies Buyer owns any deliverables, Seller hereby grants Buyer a perpetual, worldwide, royalty-free, non-exclusive license to use, copy, modify, or develop derivative works of the deliverables but only for internal purposes and otherwise in accordance with the description of Buyer's use and any restrictions set forth in the Agreement.

9. Third-Party Software and Subscriptions; Collected Data.

a) Buyer's use of certain Goods may require third-party Related Offerings, including, without limitation, cellular or data subscriptions and/or Software made available by third-parties (collectively, "**Third-Party Offerings**"), and such Third-Party Offerings are resold by Seller. Use of all such Third-Party Offerings is subject to separate agreement(s) provided by a third-party (collectively, "**User Agreement(s)**"), and Customer will be bound by any such User Agreement(s). If there is a conflict or inconsistency between these Terms and those of a User Agreement, the terms of the User Agreement will control. If a User Agreement or other license terms do not accompany a Third-Party Offering, then Seller hereby grants Buyer a personal, non-exclusive, revocable, non-assignable right to access and use such Third-Party Offering solely as necessary for Buyer to enjoy the benefit of the Third-Party Offering as it relates to the Goods. Nothing in these Terms shall be construed to grant any rights or license to use any Third-Party in any manner or for any purpose not expressly permitted by the applicable User Agreement. Third-Party Related Offerings may be dependent on the availability and coverage of wireless networks, telecommunications networks, satellite positioning systems, and/or the Internet, which involve facilities owned and operated by third parties. SELLER IS NOT RESPONSIBLE FOR THE OPERATION, AVAILABILITY OR FAILURE OF SUCH THIRD-PARTY OFFERINGS, OR ANY THIRD-PARTY SYSTEMS OR FACILITIES. Seller is not responsible for any modification or damage to, or loss of any programs, data, or other information stored on any media or any part of any Products, or stored or hosted in connection with the Products, or for the consequence of such damage or loss (such as business loss in the event of system, program or data failure). Third-Party Offerings may be made available electronically, and cannot be returned without Seller's express prior written authorization.

(b) Buyer owns all right, title and interest to Collected Data (as defined below). Buyer hereby grants to Seller and its Affiliates (as defined below) the non-exclusive, worldwide, irrevocable, perpetual, royalty-free right to use Collected Data to develop, maintain, and improve the Products, and any other products and services of MPS or its Affiliates, including, without limitation, analytics, model training, and machine learning. Buyer will provide Collected Data to Seller upon request in a manner reasonably agreeable to both parties. Seller owns all right, title and interest to Anonymized Data (as defined below). As used in the Agreement, "**Affiliate**" means an entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with a party, where "ownership" means the direct or indirect ownership of more than fifty percent (50%) of an entity's outstanding voting rights or other equivalent voting interests; "**Anonymized Data**" means any Collected Data that has been aggregated and/or de-identified in such a manner that Buyer cannot be identified from the data when it is shared outside of Seller and its Affiliates; and "**Collected Data**" means any information or other data of any type that is collected by the Products.

10. Limited Warranty; Sole and Exclusive Remedies; Disclaimers.

(a) *Goods.* Seller warrants to Buyer only that Goods sold by Seller will be free from defects in material and workmanship during the applicable Warranty Period. Unless otherwise agreed in writing the Seller, the "Warranty Period" shall mean the shorter of (i) 18 months from the date of shipment or (ii) 12 months from the date of installation. Seller's warranties will apply only if the Goods: (1) have been installed, configured, maintained, stored and used in conformity with Seller's applicable documentation and instructions and the highest industry practices; (2) have been subjected to normal use for the purpose for which the Goods were designed, intended and approved for in writing by Seller; (3) have not been improperly installed or modified, or subjected to misuse, abuse, negligence or accident; (4) have not been altered, modified or repaired by persons other than Seller in any respect which, in the judgment of Seller, adversely affects the condition or operation of the Goods, including without limitation using non-Seller components; and (5) have been fully paid for. This limited warranty expressly excludes (A) damage caused by accident, lightning or other electrical discharge, fresh or salt water immersion or spray (outside of Seller specifications); (B) exposure to environmental conditions for which the Goods is not intended; (C) normal wear and tear; and (D) consumable parts, including, without limitation, batteries. When Goods have been designed to Buyer specifications, Seller is not responsible for the design, fit, or function of Goods. As Buyer's sole and exclusive remedy for any breach of the express warranty herein, defective or non-conforming Goods or parts thereof discovered during the express Warranty Period will be repaired or replaced by Seller without any additional charge and shipped to Buyer, F.O.B. original delivery point, for reinstallation by Buyer at its cost, subject to the terms hereof. In lieu of repair or replacement, if Seller elects, Seller may, upon return of such Goods and making a determination of nonconformity or defect, keep the Goods and refund the purchase price. Buyer's remedies are limited (even in the event of Seller's default of its warranty obligations or a failure of an item to meet its intended purpose) exclusively to those provided in this Section. Buyer must contact Seller to request warranty coverage, a return authorization number, and other instructions relating to the return of Goods. The replacement or repair of Goods by Seller does not give rise to any new warranty, and the warranty period provided for in these Terms will not be extended. This warranty does not include reimbursement for the expenses of labor, transportation, removal, installation or reinstallation of the Products.

(b) *Services.* Seller warrants that the Services will be performed in a professional and workmanlike manner. Buyer must notify Seller in writing and with sufficient detail of any breach of such warranty within fifteen (15) days after provision of the non-conforming Services, otherwise such claims will be deemed waived. Upon timely receipt of property written notice, as Buyer's sole and exclusive remedy, Seller will, at its option, (i) re-perform the Services at no additional cost to Buyer or (ii) credit Buyer the fees actually paid to Seller associated with the non-conforming Services. This Services warranty is personal to Buyer and may not be assigned, transferred or passed through to any third party.

(c) *Third-Party Offerings.* Third-Party Offerings are made available "AS IS", except to the extent the manufacturer or provider honors any warranty expressly made by it.

(d) THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF, AND SELLER DISCLAIMS AND EXCLUDES, AND BUYER WAIVES, ALL OTHER EXPRESS AND IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AGAINST REDHIBITORY DEFECTS, CONFORMITY TO ANY REPRESENTATION, DESCRIPTION, OR SPECIFICATION, PERFORMANCE, NON-INFRINGEMENT, AND OF ANY OTHER TYPE, REGARDLESS OF WHETHER ARISING BY LAW (STATUTORY OR OTHERWISE), COURSE OF PERFORMANCE, COURSE OF DEALING, OR ANY OTHER LEGAL OR EQUITABLE BASIS. IN THE EVENT DISCLAIMER OF WARRANTY STATEMENTS ARE DISALLOWED BY LAW, SUCH EXPRESS OR IMPLIED WARRANTIES SHALL BE LIMITED IN DURATION TO THE LESSER OF THE APPLICABLE WARRANTY PERIOD OR THE MINIMUM PERIOD REQUIRED BY LAW.

11. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR ANY EXEMPLARY, PUNITIVE, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO: LOSS PROFITS OR REVENUES; INCREASED COSTS; LOSS OF DATA; DAMAGE TO EQUIPMENT, TOOLING, PREMISES, OR WORK-IN-PROCESS; COST OF CAPITAL; COST OF PURCHASED POWER; SUBSTITUTE OR ADDITIONAL EQUIPMENT, FACILITIES OR SERVICES, PRODUCTION INTERRUPTION OR START-UP; OR THE CLAIMS OF THIRD PARTIES FOR SUCH DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER'S LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THE AGREEMENT OR THE MANUFACTURE, SALE, DELIVERY, OR USE OF THE PRODUCTS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, WILL NOT EXCEED THE AMOUNT RECEIVED BY SELLER FOR THE PRODUCTS GIVING RISE TO THE CLAIM UNDER THE ORDER. THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR THE SALE OF PRODUCTS, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING

THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF WHETHER SELLER HAS DEFAULTS IN ITS WARRANTY OR OTHER OBLIGATIONS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL, CONSEQUENTIAL OR SPECIFIED OTHER DAMAGES, OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE LIMITATIONS OR EXCLUSIONS IN THIS AGREEMENT MAY NOT APPLY, OR MAY NOT FULLY APPLY TO BUYER.

12. Additional Buyer Responsibilities. BUYER MUST INSTALL AND USE THE PRODUCTS IN A SAFE AND LAWFUL MANNER IN COMPLIANCE WITH APPLICABLE HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS AND LAWS AND GENERAL INDUSTRY STANDARDS OF REASONABLE CARE. It is Buyer's or other users' responsibility to provide all proper dies, devices, tools, training, and means that may be necessary to effectively protect all personnel from serious bodily injury which otherwise may result from the method of particular installation, use, operation, setup, or service of the Products. Buyer should comply with all safety standard, including without limitation, American National Standards Institute (ANSI) Safety Standards, Occupational Safety and Health Administration (OSHA), and similar municipal, federal and state regulations, and other sources to insure the safe use of Products. Buyer shall not resell any Products unless it is an authorized MPS distributor or reseller. If Buyer is purchasing for resale, Buyer shall not make or pass on to Buyer's own customers any warranty, condition or representation on behalf of Seller other than, or inconsistent with, Seller's applicable limited warranty. Buyer must create, maintain, and make available to Seller, permanent records of the installation, maintenance, use and disposition of the Products. Buyer assumes all risks of using the Products alone and in connection with other equipment. Seller has no responsibility to determine the adequacy of the foundation, utilities, skills of Buyer's staff, or any other matter. Buyer assumes all risk of using the Products in its location and in connection with other equipment or improvements.

13. Indemnification.

a) *By Buyer.* Buyer will defend, indemnify, and hold harmless Seller and its affiliates, parents, subsidiaries, officers, directors, employees, insurers, and agents from and against any loss, injury, death, damage, liability, claim, deficiency, action, award, judgment, interest, penalty, fine, cost, fees (including import and export customs fees), or expense (including reasonable attorney and professional fees and costs), and the cost of enforcing any right to indemnification hereunder ("**Claims**") arising out of, related to, or occurring in connection with: (i) any acts or omissions by Buyer arising out of, in connection with, or relating to Buyer's purchase, handling, transportation, possession, use, and, if applicable, demonstration, marketing, sale, disposition, or distribution of Products; (ii) any misuse, misapplication, or modification of Products by Buyer, including the use of Products in an unintended and incorrect application; (iii) the failure to store, install, operate, or maintain Products in accordance with any instructions; (iv) any negligence or misconduct of Buyer; (v) any act (or failure to act) by Buyer in contravention of any safety procedures or instructions Seller provides to Buyer; (vi) any statements, representations, suppression of information, or failure to disclose information of any kind by Buyer with respect to Products, including without limitation, any representations or warranty given, or allegedly given, by Buyer to a third party, regardless of whether the statement or representation is oral, written, express, or implied; (vii) infringement of any patent or copyright, or misappropriate any trade secrets, of a third party by any Goods manufactured by Seller according to Buyer's design or specifications, and (viii) Buyer's breach, violation, or failure to comply with the Terms, or any law, including without limitation, the Foreign Corrupt Practices Act (United States) or any similar laws, any export control laws of Canada, the United States, or any other country having jurisdiction over Buyer or its business. Buyer will notify Seller promptly, and in any event within 30 days, of any accident or malfunction involving Products which results in personal injury or damage to property and will cooperate fully with Seller in investigating to determine the cause of such accident or malfunction, including allowing Seller access to Products and Buyer's related reports for Seller's inspection. If Buyer fails to provide such notice and cooperation to Seller, Buyer will indemnify Seller from any claims arising from such accident or malfunction whether or not the Products are non-conforming or defective.

b) *By Seller.* Seller will defend any suit or proceeding brought against Buyer by a third-party based on a claim that any Goods of Seller's design furnished to Buyer constitute an infringement of any U.S. patent or copyright, or misappropriate any trade secrets, of a third party. Buyer must notify Seller promptly, in writing, of such claim. Seller will not be liable if alleged infringement is the result of the application or use to which such Goods are put by Buyer or others if different than Seller's written documentation. If the Goods become, or in Seller's opinion are likely to become, the subject of an infringement claim, Seller may, at its option and expense: (i) procure for Buyer the right to continue using the Goods; (ii) replace or modify the Goods so that they become non-infringing; or, (iii) accept return of the Goods and refund Buyer the amounts paid by Buyer to Seller for the Goods. Notwithstanding the foregoing, Seller will have no obligation under this section or otherwise with respect to any infringement claim based upon any: (1) misuse or modification of the Goods by Buyer or its employees or agents; (2) use of the Goods in combination with other materials, goods, Goods, or services for which the Goods were not intended to be used; (3) failure of Buyer to implement any update provided by Seller that would have prevented the claim; (4) Goods that Seller made to Buyer's specifications or designs; or (5) Goods that are not manufactured by Seller.

14. Confidential Information. “**Confidential Information**” means all proposals, specifications, samples, patterns, designs, plans, drawings, schematics, bills of material, test results, analysis, recommendations, models, documents, data, business operations, pricing, discounts, or rebates and other non-public information furnished by Seller, in any form, during bidding, negotiating and performing the Agreement. Confidential Information is confidential and the property of Seller, whether or not marked “Confidential”. Confidential Information does not include information that is: (i) in the public domain, through no fault of Buyer, at or after the time such Confidential Information was disclosed to Buyer by Seller; (ii) rightfully known by Buyer free of any obligation of confidence at the time of disclosure to Buyer by Seller, as evidenced by written records; or, (iii) rightfully obtained by Buyer from a third party without similar restriction from such party and the disclosure of which from such third party does not constitute a violation of an obligation by such third party to Seller, each as evidenced by written record. Buyer must treat as confidential any Confidential Information using no less than reasonable care, and Buyer may use such Confidential Information only to evaluate its business relationship with Seller related to the purchase of Products and to enable Buyer to perform under the Agreement. In addition, only those employees and contractors of Buyer having a need-to-know and bound by contract by the same confidentiality provisions as Buyer may be given access to such Confidential Information, and Buyer shall be liable for any breach of the Agreement by such employees or contractors. Buyer must maintain, for Seller’s inspection, written records which must include the names and address of such employees and contractors granted such access. Buyer will indemnify Seller from all expenses and damages related to the improper use or disclosure by Buyer or its employees and contractors. No license or other right to Confidential Information is granted to Buyer. Upon Seller’s request, Buyer will promptly return, or certify in writing the destruction of, all documents and other materials received from Seller. Seller will be entitled to seek injunctive relief for any violation of this Section, without having to establish the insufficiency of a remedy at law.

15. Intellectual Property; Feedback.

a) Any Intellectual Property (as defined below) owned or licensed by Seller and used by Seller in connection with the performance of its obligations will remain the exclusive property of Seller and its licensors, as the case may be. Nothing in this Agreement will be deemed to grant Buyer any license or any other rights in such Intellectual Property. The term “**Intellectual Property**” includes without limitation all of the following: (i) inventions, discoveries, patents, patent applications and all related continuations, divisional, reissue, utility model, design and process patents, applications and registrations thereof, certificates of invention; (ii) works, copyrights, registrations and application for registration thereof; (iii) computer software programs, data and documentation; (iv) trade secrets, confidential information, know-how, techniques, designs, prototypes, enhancements, improvements, work-in progress, research and development information; and (v) all other proprietary rights relating to the foregoing. Any Intellectual Property developed by Seller in the performance of the Agreement will remain the property of Seller, whether or not Seller charges for design, research, development, testing, or similar services. Any patentable features developed by Seller will be the property of Seller and Seller will be under no obligation to refrain from using in its business any information, manufacturing processes or unpatented disclosures which may pass to it from Buyer in the performance of the Agreement. For clarity, unless otherwise provided in the Agreement, Seller will retain title to and possession of any models, patterns, dies, molds, jigs, fixtures, tools, and test equipment (“**Tooling**”) made for or obtained for the performance of any order, including Tooling paid for by the Buyer.

b) Buyer may from time to time provide suggestions, comments, or other feedback (collectively, “**Feedback**”) to Buyer with respect to the Products. Both parties agree that all Buyer is and will be given entirely voluntarily, and shall not be considered Confidential Information of Buyer. Buyer shall not provide any Feedback that is subject to license terms that seek to require any of Buyer’s products, technology, service, or documentation incorporating or derived from such Feedback, or any of Buyer’s intellectual property to be licensed or otherwise shared with any third party. Buyer hereby grants to MPS a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid-up license to use and otherwise exploit the Feedback.

16. Non-Seller References; Modifications; Authority of Seller Representatives.

a) Non-Seller part numbers, specifications, drawing numbers, and cross-references are solely provided for administrative convenience and does not require any Goods be produced in accordance therewith. Buyer is solely responsible for ensuring the Goods purchased are compatible with Buyer’s use case.

b) Unless otherwise provided in the Agreement, Seller reserves the right to modify the specifications, materials, or manufacturing methods of Goods ordered by the Buyer if the modification will not materially affect the quality or performance of the Goods. Products may be discontinued, modified, or changed without incurring any obligation to the Seller.

c) No agent, employee or representative of Seller has authority to bind Seller to any affirmation, waiver, representation or warranty concerning the Products, not contained in the Agreement. An affirmation, waiver, representation or warranty will not be deemed to be part of the basis of the Agreement and will not be enforceable, unless it is expressly included within the Agreement, it is not a part of the basis of the Agreement.

17. Miscellaneous

a) *Breach*. If (i) Buyer defaults in the performance of its obligations, (ii) Buyer advises Seller that it will default in the performance of its obligations, or (iii) any action is started by or against Buyer seeking the appointment of a trustee or receiver or the entry of an order for debtor's relief for Buyer, then Seller may cease performance of its obligations, recover the Goods in transit or delivered, disable delivered Products, and otherwise enforce its remedies for Buyer's default. Seller will be awarded interest, consequential and incidental damages and costs (such as interest and actual reasonable attorney fees) in any proceeding to enforce its remedies in which it obtains relief or damages or in which it prevails in the defense of any action by Buyer. All rights granted to Seller and all limitations in favor of Seller in the Agreement and by law are cumulative, except that Seller will be entitled to only a single full recovery. Seller will not be liable for any action taken pursuant to a good faith exercise of any of its rights under the Agreement or law.

b) *Waiver*. Seller's failure or delay in enforcement of any provision will not constitute a waiver of a breach or of that provision.

c) *Force Majeure*. Seller shall not be responsible for any delay, impairment, or failure in any performance, in whole or in part, due to any event, circumstance, or occurrence that is not within Seller's control (a "**Force Majeure**"). Force Majeure includes, without limitation, acts of God, war, warlike conditions, blockade, insurrections, seizures, embargoes, riots, governmental restriction, duty, tariff, strikes, labor disturbances, unavailability of anticipated usual means of supplies, materials, labor, transportation or loading facilities, wrecks, pandemics, epidemics, quarantine, fire, flood, earthquake, explosion, dissolution of a supplier's business, hacking or other malicious attack, the adoption or enactment of any law, ordinance, regulation, ruling or order, any unforeseen change in circumstances, or any other causes beyond Seller's reasonable control. If Seller's performance is delayed, impaired, or prevented by Force Majeure, Buyer agrees that Seller may, at Seller's option: (i) suspend or terminate performance; and/or (ii) increase pricing and/or extend schedules for delivery or performance, in each case, without liability or penalty to Seller. The delivery or performance date will be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay. If Seller is delayed by any acts or omissions of Buyer, or by the prerequisite work of Buyer's other contractors or suppliers, Seller will be entitled to an equitable price and performance adjustment.

d) *Choice of Law; Jurisdiction and Venue; Waiver of Jury Trial*. The Agreement is exclusively governed, construed and enforced under the governing laws stated below. The exclusive venue/jurisdiction stated below shall have exclusive jurisdiction over Buyer and Seller and the claims arising under or related to the Agreement or any controversy arising from the relationship, unless waived in a writing signed by Seller. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE TRANSACTION(S) CONTEMPLATED HEREBY. Any declaration of unenforceability of a provision will be as narrow as possible and will not affect the enforceability of the other provisions. A tribunal with jurisdiction reform a provision of the Agreement, at the request of Seller, to the extent minimally required for enforcement. The U.N. Convention on the International Sales of Goods does not apply.

Seller Location*	Governing Law	Exclusive Venue/Jurisdiction
Chateauguay, Quebec CANADA	Province of Quebec, and the applicable federal laws of Canada	Provincial and federal courts located in Montreal, Quebec CAN
All others	State of Delaware and the applicable federal laws of the United States	State and federal courts located in Wilmington, Delaware USA

* As indicated on the Seller order acknowledgment.

e) *Severability*. Any provision found to be unenforceable by a final unappealed order entered by the court or tribunal will be severed from this Agreement. Such severance will be as narrow as possible and may not affect the remainder of this Agreement in such action and other actions, unless the court or tribunal also finds, on the request of Seller that without such provision as originally written, the Agreement is not likely to meet the reasonably commercial expectations of Buyer and Seller and in such case, the court or tribunal will enter an equitable judgment of rescission, termination or reformation of this Agreement as necessary to reach an equitable result.

f) *Assignment*. No right or interest in the Agreement may be assigned by Buyer without the prior written consent of the Seller, by operation of law or otherwise. Any assignment attempted by Buyer will be void and ineffective for all purposes unless made in conformity with this section.

g) *No Waiver*. No failure to exercise and no delay in exercising on the part of Seller any right, power, or privilege will waive nor will any single or partial exercise of any right, power, or privilege preclude further exercise of the same right, power, or privilege.

h) *Headings*. The headings in the Agreement have been inserted for convenience only and shall have no substantive effect. The language of all parts of the Agreement shall in all cases be considered as a whole, according to its fair meaning, and not strictly for or against any of the parties. The parties hereby acknowledge and agree that the language of the Agreement shall be considered jointly drafted.

i) *Notice*. Any notice required hereunder shall be in writing, and shall be deemed received (a) when delivered personally, (b) 5 days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (c) 1 day after having been sent by a reputable commercial overnight carrier with written verification of receipt. All notices shall be addressed to the parties' address on the face of the order acknowledgement (or as subsequently changed by written notice to the other party); and if to Seller, with a required copy to: MacLean Power Systems, Attn: Legal Notice, 3033 East First Avenue Suite 501, Denver, CO 80206 USA.

j) *Compliance with Laws*. Buyer may not engage in any transaction with respect to the Products, by way of resale, lease, shipment or otherwise, which violates any statute or regulation of the United States of America, or any other applicable laws. Buyer may not use or otherwise export or re-export the Products except as authorized by the laws of the jurisdiction in which they were obtained. In particular, but without limitation, the Products may not be exported or re-exported in violation of export laws, including if applicable export or re-export into any US-embargoed countries or to anyone on the US Treasury Department's list of Specially Designated Nationals or the US Department of Commerce Denied Person's List or Entity List. Buyer represents that it is not located in any country or on any list where the provision of Products to Buyer would violate applicable law. Buyer also agrees not to use or enable use of the Products for any purposes prohibited by applicable law or export or re-export any Product with knowledge that it will be used in the design, development, production or use of chemical, biological, nuclear or ballistic weapons. Laws and regulations change frequently. Buyer is responsible for knowing the law pertaining to export/import procedures in the country of destination of the Product. Buyer shall defend, indemnify and hold Seller harmless against any liability (including attorneys' fees) arising out of Seller's failure to comply with the terms of this paragraph.

k) *Integration and Modification*. The Agreement is a final, complete and exclusive statement of the Agreement of Buyer and Seller, and supersedes all previous quotations, conversations, understandings, and agreements pertaining to the Products. No modifications, limitations, waivers or discharge of the Agreement or any of its terms will bind Seller unless in a writing signed by Seller's authorized officer. Notwithstanding anything to the contrary in this Agreement, no modifications, limitation, waiver or discharge of any provision of the Agreement will affect Buyer's previously accrued liabilities to Seller. Seller may correct unilaterally mathematical and typographical errors in the Agreement. A course of performance, course of dealing, or custom in the trade will not modify or waive any right of Seller.

l) *Order of Precedence*. Any conflict or inconsistency in the Agreement will be resolved in the following order of precedence: (1) Seller's order acknowledgement, (2) the Quotation, (3) Doing Business with MPS, and (4) the Terms. Buyer Documents shall be of no force or effect.

m) *Third-Party Beneficiaries*. The Agreement is only for the benefit of Buyer and Seller, except all disclaimers and limitations applicable to Seller will be also for the benefit of Seller's affiliates, agents, employees, contractors, and suppliers. If any other provisions of the Agreement are determined to apply to third parties, all other provisions including limitations, waivers, and disclaimers also apply.

n) *Independent Parties*. The parties are independent contractors and expressly disclaim any partnership, franchise, joint venture, agency, employer/employee, fiduciary or other special relationship.

o) *Drafting*. These Terms shall be construed and interpreted without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. Buyer and Seller acknowledge that: (i) they are merchants in respect to the Goods produced by Seller; (ii) they have had an opportunity to review the Agreement; and (iii) the provisions of the Agreement are reasonable when considered as a whole.

[***]



Exhibit A
Doing Business with MPS
(Last updated October 14, 2024)

This Exhibit A supplements and is incorporated into the General Terms and Conditions of Sale (the “**Terms**”), and may be changed by Seller at any time. Capitalized terms used but not defined herein shall have such meaning given in the Terms.

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- I. Utility, Civil Construction, and Telecommunications¹
- II. Special Warranties
- III. Dotson Iron Castings

I. Utility, Civil Construction and Telecommunications

1. Quotations

Unless otherwise specified, Quotations are subject to Buyer’s written acceptance within 30 days of issuance to be considered valid. The Seller may modify Quotations prior to their expiration date if it has not yet been accepted by Buyer. Seller’s quoted prices apply for the quantity stated on Buyer’s RFQ, if applicable. For accepted Quotations, Seller reserves the right to make price adjustments on items where order quantities deviate from the original quoted quantity, or which have exhibited volatility in costs. Seller reserves the right to rescind or adjust prices on items with no order activity within 120 days of the Quotation date. Quoted lead times are subject to confirmation upon receipt of an Order. All clerical errors in Quotations are subject to correction.

2. Orders

- (a) The minimum charge for any individual Buyer order is \$1,000 net. Orders not meeting this minimum will be automatically increased to, and billed at, this minimum charge. Additionally, individual line items on Buyer’s order may be subject to either a minimum price or quantity. The foregoing may be waived by Seller in its sole discretion.
- (b) If a price discrepancy exists on an Order, the order will not be processed until the price issue is resolved and the Order is amended in writing. Seller’s prices are based on standard packaging suitable for domestic shipments in the 48 contiguous United States. If special packaging is required by Buyer, the Buyer may be invoiced additional charges.
- (c) Each release on a multi-release Order will be treated as an individual Order with respect to freight allowance and minimum order value.
- (d) Buyer can request additions to an Order prior to shipping, subject to approval of the Seller. Any such additions will require a revised Order. Pricing, availability, and lead times are subject to re-confirmation by Seller at the time of receipt of the revised Order. For clarity, revised Orders are subject to the acceptance by Seller in accordance with the Terms.
- (e) Orders must be placed for standard package quantities. Orders with lines that are not placed with standard package quantities will be held until Seller contacts the Buyer to authorize an adjustment to standard package quantities.
- (f) Items built for specific Buyer’s requirements, even if provided in Seller’s catalog, are non-standard. Orders for these items will be accepted on a non-cancellable, non-returnable basis.

3. Lead Times and Shipping

- (a) Seller will assign a shipment date based on scheduled availability, capacity, lead times, and other considerations, and are subject to updating based on changes in circumstances.
- (b) Requests for shipments by Buyer earlier than the acknowledged shipping date as shown on Seller’s portal will require the Buyer to pay freight, including any expedited charges. Any Order with a requested ship date outside standard lead time will be shipped within lead time, unless the order is deferred at Buyer’s request. Requests for shipping deferments must be approved by Seller and are subject to price adjustment.
- (c) Seller reserves the right to ship in advance of the acknowledged shipping date. Seller will use commercially reasonable efforts to notify Buyer in such instance.
- (d) Seller reserves the right to make shipment in installments or partial deliveries which will be separately invoiced and paid when due without regard to subsequent deliveries.
- (d) The quantity shipped and invoiced may vary by +/- 10% the ordered quantity and the order will be considered as shipped completely without further consequence.
- (e) Seller acknowledges that the delivery location may not be known at the time an Order is placed (e.g., for delivery to project sites). Buyer must provide the delivery address at least 30 days before Seller’s acknowledged shipping date. When possible, Buyer will accept delivery at an alternate site for staging to the project site. Any failure to provide a delivery address in a timely manner or project delays resulting in a rescheduled shipping date of greater than 10 calendar days from the Seller’s acknowledged shipment date will incur a 1.5% service charge per month for the total order value.

¹ Telecommunications offerings are sold by MacLean Senior Industries, LLC.

(f) If Buyer requests storage of Goods before delivery, Seller will attempt to provide or arrange such storage, but a reasonable charge for storage as computed by Seller plus all expenditures incurred for space, insurance, and handling will be charged to Buyer. Invoices for Goods stored at Buyer's request will be provided at the beginning of the storage period and periodically thereafter, and payment will be due net 30 days from the date of invoice.

4. Freight Terms

(a) As a special exception to the delivery provisions in the Terms, Orders for authorized Goods meeting the following criteria are eligible for freight prepaid and allowed: (i) any single Order or release with a value of \$7,500 net or more, (ii) shipment at one time to a single delivery point within the 48 contiguous United States, and (iii) Buyer is not an original equipment manufacturer (OEM). Seller reserves the right to approve all such Orders, and to route all qualified freight allowed shipments via least expensive surface route. Buyer will assume all charges for specified transportation via more expensive means. Seller may combine multiple eligible Buyer Orders into a single shipment to minimize freight charges. Goods from MPS Stockton CA (e.g., Inertia) are not eligible for prepaid and allowed shipping under this section.

(b) Buyer can request freight collect for any Order. UPS cannot ship freight collect without Buyer providing their account number. All OEM orders will be freight collect.

(c) For shipments outside the contiguous U.S., contact Seller for freight terms.

(d) Seller reserves the right to select shipping point, method, and route of shipment. When Buyer selects method (including flatbed trailers or expedited items) and/or route or timing of shipment, any resultant additional expenses will be invoiced to the Buyer. No credit for any shipping or freight cost will be allowed to Buyer if Buyer accepts shipment or product at Seller's factory or warehouse or otherwise supplies its own transportation. Seller will not be liable for any cartage or storage charges at destination.

(e) Buyer will pay Seller for additional handling charges for small, expedited, drop, emergency, storm, or other shipments outside Seller's normal and ordinary course of business. Use of expedited freight, if requested, requires Seller's agreement and the most economical freight will be used.

(f) For telecommunications orders, drop shipments are subject to a 5% handling fee.

(g) Buyer must pay freight for all orders requesting delivery to a location other than to a recognized Buyer stocking warehouse. Exceptions may be made for civil market buyers, transmission project orders, full truckload quantities, and export orders.

5. Delivery Issues

Any issues noticed at the point of delivery must be clearly stated on the carrier's Delivery Receipt (LTL Carriers) or Bill of Lading (Truckload or Intermodal Carriers), and is a requirement for filing a claim. The freight terms will dictate the responsible party for filing a claim with a transportation provider.

6. Exports

For Goods exported from the U.S., (a) the quoted shipping dates are subject to receipt of all export documents and authorizations, (b) Buyer will provide Seller, in writing in advance, with the ultimate destination and identity of the end-user prior to shipment, (c) Buyer will pay for any packaging for international shipments, and (d) Buyer will select and be solely responsible for the freight forwarder, carrier, and/or broker.

7. Returns

Returns are authorized at the discretion of Seller. No material can be returned without first obtaining a written return goods authorization from Seller. A copy of such authorization must be included with any returned Goods. Goods accepted for return must be in their original, unopened cartons, in standard package quantities, of current design and manufacture, in resalable condition, and purchased within the past 12 months. Only stock items as determined by Seller are eligible for return. All returns are subject to a restocking and handling charge of 25% of the original net value of the products at time of purchase. Any non-authorized product, product returned in non-standard pack, or any product deemed to be non-resalable will be scrapped and no credit given.

Material authorized for return must be shipped prepaid to the Seller's destination within 60 days of authorization. No products will be accepted for return in the month of December. The value of returns must total at a minimum of \$500.

8. Cancellations

(a) Cancellation of part or all of an Order is subject to approval by Seller and Buyer's acceptance of Seller's cancellation charges, which will be the greater of (i) Seller's actual costs related to accommodating the cancellation, which include, without limitation, costs associated with engineering, overhead, raw materials, lead times, work in process, tools, dies, fixtures, storage, transportation, and interest, or (ii) 15% of the applicable purchase price.

(b) Storm orders are not eligible for cancellation.

(c) Special order items, non-stock items, items not listed in the Seller catalog, or items listed with a special price are subject to review of the Seller before a cancellation will be considered, and may require additional charges.

(d) Seller may cancel any sale hereunder prior to delivery in Seller's sole discretion without liability to Buyer (except for refund of monies already paid).

II. Non-Standard Warranty Periods

The Warranty Period for Inertia Line Switchgear is 24 months from date of shipment, subject to all limitations and disclaimers of warranties and remedies provided in the Agreement.

III. Dotson Iron Castings

For transactions involving Dotson Iron Castings, please see *Doing Business with Dotson*, available at <https://www.macleapower.com/legal> or a successor URL, which is incorporated herein by reference.