

Curtis Power Solutions LLC

STANDARD TERMS AND CONDITIONS OF SALE

GENERAL: Unless otherwise specified in this Proposal, all sales made by Curtis Power Solutions (SELLER) are made on the following terms and conditions:

The terms and conditions set forth herein shall constitute the only terms and conditions applicable to the sale of engines, systems, accessories, options and other products by SELLER. Inconsistent or additional terms, including inaccurate prices in BUYER's order, impose no obligation on SELLER. The Proposal with these terms and conditions contains the entire agreement between the parties and supersedes all prior discussions, representations, and negotiations, whether oral or written. Any agreement imposing additional or different obligations on SELLER must be in writing and signed by an officer of SELLER.

No order shall be binding on SELLER until and unless accepted by SELLER in writing. SELLER may refuse to accept any order for any cause that SELLER deems sufficient and shall not be liable for any claims of any nature because of failure to accept.

SELLER is a Dealer / Manufacturers Representative acting as the agent for the various suppliers quoted in the proposal. The Terms and Conditions of this proposal are the Terms and Condition of each of the suppliers and the Terms and Conditions of SELLER, except where there exists a point of conflict, in which case the Terms and Conditions of the supplier will prevail for the point of conflict. Copies of the Terms and Conditions for each supplier will be available upon request. Acceptance of this proposal is deemed to be acceptance of the Terms and Conditions of SELLER.

The equipment, services or testing specified in this proposal constitute the only items being offered and are our interpretations of the specifications and application requirements. No other items, accessories or services are included or implied.

SELLER is proposing this equipment as a materials supplier only. SELLER is not acting as a Subcontractor and is therefore exempt from all Subcontractor provisions in the contract documents including but not limited to subcontractor performance and retainage. SELLER does not provide field labor of any kind other than as outlined in this proposal. Though SELLER on occasion provides application information on their products, they are not responsible in any way for the design indicated in the contract documents.

PRICES: Unless otherwise specified, all prices quoted are f.o.b. the U.S.A. office that they are received from, are firm for thirty days and include standard commercial packaging. Prices are exclusive of all national, federal, state, municipal, local or any other governmental excise, sales, use, occupational or like taxes or duties now in force or enacted in the future. Any such tax, fee, or charge of any nature whatsoever imposed by any governmental authority on, or measured by, the transaction between SELLER and the BUYER shall be paid by the BUYER in addition to the prices quoted or invoiced. In the event SELLER is required to pay any such tax, fee or charge, at time of sale or at any time thereafter, the BUYER shall reimburse SELLER therefore.

PAYMENT TERMS: Invoices will be issued upon delivery of goods. Payment terms will be Net Thirty (30) Days from invoice date unless otherwise expressly agreed to in writing by SELLER. SELLER reserves the right to add to any account outstanding for more than thirty (30) days a service charge of two per-cent (2%) of the principle amount due at the end of each month or the maximum allowable legal interest rate, if a lesser amount. It is unacceptable for the BUYER to withhold any amount from SELLER as retainage for failure of BUYER to receive payment from other parties.

STOCK EQUIPMENT: All stock equipment is available on a first-come, first-serve basis. No equipment will be held without an accepted customer purchase order.

EXPORT: Orders for export must be accompanied by an Irrevocable Letter of Credit drawn on a bank approved by the SELLER, payable (a) when products are delivered to a common carrier at SELLER's plant or (b) upon presentation of invoice and bill of lading at BUYER's bank. Expiration date of the Letter of Credit must be valid for sixty (60) days beyond SELLER's estimated delivery date. BUYER shall instruct SELLER in detail as to method of shipment and any special packing or crating required by BUYER; resulting costs shall be added to quoted prices. All exchange, interest, banking, collection and other charges shall be at BUYER's expense.

REASSIGNMENT: This purchase order shall not be reassigned all or in part without written authorization of the SELLER.

DELIVERY: Delivery is defined as when the equipment is ready for pickup at our dock, available for shipment from our dock or the dock of the manufacturer of the product, or available for witness testing at our facility. Delivery dates are estimates only. No contract will be made to ship in a specified time unless in writing and signed by an officer of the SELLER. All equipment will be delivered to BUYER's duly authorized shipping representative and Title and risk of loss shall pass to BUYER upon SELLER's delivery to BUYER's designated carrier. The BUYER should state explicitly the method of shipment preferred. In the absence of shipping directions, the SELLER will use its discretion, forwarding by express or parcel post when packages are small. BUYER shall pay all transportation, freight and similar charges, as well as the cost of insuring the shipment against loss to the point of delivery. If SELLER is required to pay any such charges at the time of shipment or thereafter, BUYER shall reimburse SELLER thereto.

STORAGE: BUYER's failure to take delivery of equipment within 30 days of availability will be subject to storage charges. Charges for equipment stored indoors will be 0.067% of the sale price of the equipment stored per day of storage. Charges for equipment stored outdoors will be 0.0333% of the sale price of the equipment stored per day of storage if stored outdoors plus the cost of any additional packaging required to properly protect the equipment. This will be billed at the end of each month of storage. This charge will continue until equipment ships either from CURTIS POWER SOLUTIONS dock or the dock of the manufacturer of the product. Equipment that is en-route and re-directed to our facility may require special handling such as a mobile crane to off-load and load which will be at the BUYER's expense. Outside or long term storage may require additional handling which will be quoted at the time storage is requested. Equipment stored indoors for more than Twelve (12) months or stored outdoors for more than six (6) months will require a pre-startup procedure to assure that the unit will properly start and operate at the project site. The cost for this procedure will be passed on to the Buyer.

PACKAGING: Note that standard packaging is suitable for travel but not suitable for storage. Unless already quoted, packaging for storage, if required, would be an additional cost to the BUYER.

OFF-LOADING / RIGGING and EQUIPMENT WEIGHTS: The costs of off-loading / rigging are the responsibility of the BUYER and in no case will be paid either in total or in part by SELLER. Equipment weights and dimensions are estimates only, except where they appear on "As Built" Submittals or represented by the manufacturer in writing as accurate to within a stated tolerance. SELLER will not bear responsibility nor accept any costs for circumstances which occur due to the purchaser's use of estimated weights and dimensions.

PERFORMANCE: The SELLER shall be obligated to furnish only the deliverables described in the submittal data (if provided) and as described in this proposal. SELLER is not responsible for any effect of equipment provided by others.

CLAIMS: The responsibility of SELLER ceases upon delivery of any goods, in good order, to the Carrier. Claims for factory shortages will not be considered unless made, in writing, to SELLER within ten (10) Calendar days after receipt of the goods and accompanied, by reference, to our

Bill of Lading and factory order numbers. All goods are shipped at BUYER's risk. Claims for shortages or damage in transit must be filed by BUYER against the Transportation Company. Any other claim, including any warranty claim, must be provided to SELLER through written notice within ten (10) days of when the BUYER knows or should know, through reasonable diligence, of its claim against SELLER or the claim is barred.

FORCE MAJEURE: SELLER shall not be liable for any delay or failure to perform its obligations hereunder, if such delay or failure is due to causes beyond the reasonable control of SELLER, whether caused by acts of God, unavailability or shortages of materials or energy necessary to produce and/or deliver equipment by usual modes of transportation, fire, flood, war, embargo, strikes, labor disputes, explosions, riots, laws, rules, regulations, restrictions or orders of any governmental authority or any cause beyond the reasonable control of SELLER or its suppliers.

CANCELLATION: Cancellation of order, or any part thereof, will not be effective unless accepted by SELLER in writing. In the event that SELLER accepts cancellation, BUYER shall be liable to SELLER for cancellation charges including but not limited to the costs incurred by SELLER and such profit as would have been realized by SELLER, from the transaction, had the Agreement not been canceled by the BUYER. BUYER will pay in full for any work which is complete and will pay SELLER's total costs plus profit for work in process, raw materials and supplies on hand or for materials for which commitments have been made by SELLER and additional charges SELLER may incur.

ORDER CHANGES: SELLER reserves the right to submit a new quotation for change to the listed bill of materials or project specifications and signed acceptance must be given by the BUYER for those changes to take effect.

WARRANTY: SELLER warrants the machinery or equipment to be delivered against defects in material and workmanship under the normal use and service for which it was designed for a period of years (2) year after startup not to exceed 24 months from acceptance unless otherwise noted. Any alterations to the components of the equipment performed by the BUYER shall void warranty. SELLER's obligation under this warranty is LIMITED TO THE REPAIR OR REPLACEMENT of material inclusive of shipping or travel expenses. A purchase order will be requested and credit issued upon the return of any and all such defects. This warranty does not include any consumable items (belts, filters, lubricants, fuels, etc). This warranty does not extend to components not manufactured by SELLER but the manufacturer's warranty will be passed through SELLER to BUYER. EXCEPT AS EXPRESSLY STATED IN THE WARRANTY SECTION, SELLER DISCLAIMS, ON BEHALF OF ITSELF AND ITS SUPPLIERS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR SPECIFIC PURPOSE, SUITABILITY OR PERFORMANCE.

LIMITATION OF LIABILITY: SELLER'S LIABILITY WITH RESPECT TO THE MACHINERY OR EQUIPMENT SOLD SHALL BE LIMITED TO A CORRECTION OF THE DEFECTS AS DEFINED IN THE WARRANTY CLAUSE ABOVE. SELLER'S LIABILITY UNDER, FOR BREACH OF, OR ARISING OUT OF THIS AGREEMENT AND/OR SALE, WHETHER ARISING OUT OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO REFUND OF THE PURCHASE PRICE. IN NO EVENT SHALL SELLER BE LIABLE FOR COSTS FOR PROCUREMENT OF SUBSTITUTE GOODS BY THE BUYER AND IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL CONSEQUENTIAL, INCIDENTAL, OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, SALES, USE, TIME, DATA, ENVIRONMENTAL DAMAGE, FUELS, LUBRICANTS, OR FLUIDS) WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, EQUIPMENT PERFORMANCE, BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE. THIS EXCLUSION ALSO INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD PARTY CLAIMS AGAINST BUYER. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT THE POTENTIAL LIABILITY OF SELLER ARISING OUT OF THIS AGREEMENT AND/OR SALE.

INDEMNIFICATION: BUYER SHALL DEFEND (WITH A MUTUALLY AGREEABLE ATTORNEY) INDEMNIFY, HOLD HARMLESS AND REIMBURSE SELLER AND ITS AGENTS AND EMPLOYEES FROM ALL CLAIMS, DAMAGES AND LOSSES (INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES AND COSTS) ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY ARISING OUT OF OR RELATED TO BUYER'S OPERATION OF THE MACHINERY OR EQUIPMENT OR FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS HEREIN.

WAIVER OF JURY TRIAL: BUYER HEREBY WAIVES ANY RIGHT BUYER MAY HAVE TO A TRIAL BY JURY IN ANY ACTION BROUGHT BY OR AGAINST SELLER.

ACCEPTANCE OF TERMS: The acceptance of SELLER's proposal or of SELLER's acknowledgment of BUYER's order or of the goods or of SELLER's invoice constitutes BUYER's agreement to all terms and conditions contained herein and exclude all other terms and conditions, heretofore or hereafter issued by BUYER. The failure by SELLER to enforce at any time any of the provisions of this contract, or to exercise any election or option provided herein, shall in no way be construed as a waiver of such provisions or options, nor in any way to affect the validity of this agreement or any part thereof, or the right of SELLER thereafter to enforce each and every such provision. BUYER hereby acknowledges that he has not entered into this agreement in reliance upon any warranty or representation by any person or entity except for the warranties or representations specifically set forth herein.

MODIFICATION: The foregoing terms and conditions may not be altered, modified, waived, abandoned, or terminated in any manner whatsoever by the BUYER, unless said changes and/or modifications are expressly agreed to in writing by the SELLER.

APPLICABLE LAW: The contract arising out of SELLER's confirmation of BUYER's purchase order shall be governed by and construed in accordance with the laws of the State of Virginia. Additionally, if any legal action or inquiry is taken against SELLER, such action must be filed with a Court of competent jurisdiction in the State of Virginia and no other state or province.

SECURITY INTEREST: Buyer hereby grants a security interest to Seller in the equipment being sold hereunder until all amounts due hereunder have been fully paid in cash. The equipment shall also secure the prompt and full payment by Buyer of all of Buyer's obligations to Seller and its assignee.

FURTHER ASSURANCES/DOCUMENTATION COSTS: Buyer agrees to deliver from time to time at Buyer's cost copies of such corporate records, books of accounts, and financial statements as Seller may request for any purchase. Further, Buyer agrees, if required by Seller, to sign one or more financing statements, pursuant to the Uniform Commercial Code, and to pay the amount of any official fees or taxes, or Seller's other expenses resulting from the preparation and filing of said financing statements(s) or any amendment, continuation or termination thereof. In addition, from time to time, Buyer agrees to sign and deliver to Seller such other and further documents and assurances as Seller may require to maintain priority of its security interest in the equipment and to pay all costs, including fees, taxes and Seller's expenses, associated therewith.

CONCLUSION: All orders accepted by SELLER are with the express condition that the BUYER agrees with these Terms and Conditions of Sale. SELLER, and its suppliers, failure to object to the provisions contained in the BUYER's purchase order, including without limitation any BUYER's precedence or conflicts clause or like term, or other communications shall not be deemed a waiver of the Terms and Conditions of Sale hereby nor acceptance of such provisions. No representations or guarantees other than those contained herein shall be binding upon SELLER unless made in writing and signed by an Officer of SELLER.

Date _____ Signature _____