

ON-POWER, INC.

GENERAL TERMS AND CONDITIONS OF SALE

Except as otherwise expressly stated in the On-Power, Inc. (the "Seller") proposal or any resulting contract between the parties, these Terms and Conditions together with the conditions set forth in Seller's proposal shall be the only and entire contract for the sale between the parties. Unless otherwise expressly stated in Seller's proposal or any resulting contract, these Terms and Conditions shall be in lieu of all terms and conditions appearing on the face and/or reverse side of any purchase order or other document submitted by the Buyer.

PRICE

The prices set forth in Seller's proposal are in United States dollars and include the cost of factory testing, packing, other than required metal gas turbine containers, if any, in accordance with good commercial practice. Unless otherwise expressly agreed, prices are valid for a period of 30 days from the date of the proposal. All prices are for delivery EX-WORKS (As defined in ICC Rules "Incoterms").

PAYMENT

Invoices will be issued in accordance with the payment schedule stated in the proposal or resulting contract between the parties. Payments are due within 30 days of the invoice date. Upon Seller's request, Buyer shall post an irrevocable letter of credit or other security in Seller's favor in a form and at an institution satisfactory to Seller. Past due payments will subject to late charges as the maximum rate permitted by law. In addition to its other rights and remedies, Seller shall have the right to suspend work in the event of failure of timely payment.

TAXES

The Seller's prices do not include sales, use, excise, value added, personal property or other taxes, duties or fees that may be imposed relative to sale or use of equipment. Consequently, in addition to the price specified in the proposal or resulting contract, the amount of any present or future sales, use, excise, value added, personal property or other tax, duty or fee applicable to the sale or use of equipment or services hereunder, whether or not withheld, shall be paid by the Buyer, or in lieu thereof the Buyer shall provide the Seller with a tax-exemption certificate acceptable to the taxing authorities.

Buyer agrees to assist and authorize Seller to file for and receive a duty drawback from the U.S. Customs Service on any and all equipment designated by Seller as eligible for drawback as a result of export of any equipment. Any taxes, duties, fees, charges or assessments of any nature levied by any governmental authority other than the U.S.A. in connection with this transaction shall be for Buyer's account and shall be paid directly by Buyer to the governmental authority concerned. If Seller is required by law or otherwise to pay such levy and/or fines, penalties, or assessments in the first instance, or as a result of Buyer's failure to comply with any applicable laws or regulations governing the payment of such levies by Buyer, the amount of any payments so made by Seller shall be promptly reimbursed by Buyer to Seller upon submission of Seller's invoices.

DELIVERY

The delivery dates set forth in the proposal are based on the prompt receipt of all necessary information, drawings, specifications, material samples and scheduled payments from the Buyer. Unless otherwise specifically agreed, the delivery of equipment and/or materials hereunder shall be EX-WORKS. Risk of

loss shall pass to the Buyer at the time the goods are delivered to the carrier. Shipment or freight terms shall not affect risk of loss. Damage or loss which may occur subsequent to the time of shipment shall not release the Buyer from any of its obligations under the contract.

ACCEPTANCE

Buyer waives its right to revoke acceptance, it being the intent of the parties that Buyer's remedies for any nonconformity detected after the acceptance be limited to those expressly provided herein for breach of warranty.

WARRANTIES

The Seller warrants that the skid mounted equipment supplied under this proposal or the resulting contract will be free from defects in materials and workmanship. That warranty shall be in effect for a period of twelve (12) months after first beneficial use of the equipment or eighteen (18) months from the date of delivery or notification of readiness to deliver by Seller, whichever period expires soonest.

If any such equipment proves to be defective in material or workmanship and such equipment is returned to the Seller's factory within the warranty period, transportation charges prepaid (unless covered under a service contract with Seller) and such equipment is found by the Seller to be defective in materials or workmanship, it shall be repaired or replaced free of charge. Return to the Buyer of such warranty equipment will be via the most economical shipping means. Additional charges for air freight or by other special handling shall be paid in advance of shipment by the Buyer. If Buyer desires repair to be accomplished at its facility, all expenses incurred by the Seller above and beyond those which would have been incurred if the repair been performed at Seller's plant, shall be the Buyer's responsibility. The foregoing constitutes Buyer's sole and exclusive remedy for breach of warranty of Seller.

Major off-skid accessories and equipment not of Seller's manufacture are warranted only to the extent of the original manufacturer's warranty. All spare parts, repaired parts and retrofit kits are warranted for a period of 180 days from the date of original shipment by Seller. This warranty does not extend the original warranty period.

The warranty shall be applicable only if the equipment furnished hereunder is used, operated, maintained and repaired in accordance with the recommendations of the Seller and the manufacturer of the equipment as set forth in service and support manuals, bulletins or other written instructions furnished to Buyer. The warranty shall not apply to the effects of corrosion, erosion, wear and tear or usage under conditions more severe than specified.

The Buyer acknowledges that it has and has had full responsibility for and control over the use, operation and maintenance of its equipment and systems and the performance of its employees. Accordingly, except as explicitly set forth herein, the Seller makes no representations or warranties of any kind relating to the Buyer's equipment, systems, or any components, parts or modules thereof, or the operation or performance of any of the foregoing alone or in conjunction with any equipment or services provided by Seller.

EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH HEREIN, SELLER HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

PATENTS

If Buyer receives a claim that any equipment or part thereof manufactured by Seller infringes a U.S. patent, Buyer shall notify Seller promptly in writing and give Seller all available information, assistance and exclusive authority to evaluate, defend and settle such claim. Seller shall then as to any such claim, at its own expense and option (1) settle such claim, or (2) procure for Buyer the right to use such equipment or (3) replace or modify the equipment to avoid infringement, or (4) defend against such claim.

If any court of competent jurisdiction in the United States holds such equipment or the use thereof to constitute infringement, Seller, shall pay any costs and damages finally awarded on account of such infringement, and if the use of such equipment is enjoined, Seller shall take at its option one or more of the actions under (2), or (3) above. With respect to any equipment not manufactured by Seller, the patent indemnity given by the manufacturer thereof shall apply.

The obligations of Seller set forth herein above shall not apply to equipment, products or systems manufactured by Seller to Buyer's design or specification, or under Buyer's direction, or for a specific, custom application of Buyer. THE PATENT WARRANTY OBLIGATIONS RECITED ABOVE ARE WRITTEN IN LIEU OF ALL OTHER PATENT WARRANTIES WHATSOEVER, WHETHER ORAL, WRITTEN, EXPRESS OR IMPLIED.

INDEMNITY

The Buyer shall indemnify and hold the Seller harmless from and against any and all claims, damages, fines, losses, attorneys fees, expenses and liability for injuries to persons or property arising out of, connected with or resulting from, without limitation, the use or operation of Buyer's facilities, systems and equipment, unless such injury was caused solely by the negligent acts or omissions of the Seller.

The Buyer accepts sole responsibility for the use, operation and implementation of any and all equipment, materials, systems or services obtained from the Seller, including, without limitation, responsibility for the compliance with all applicable national, provincial, federal, state or local laws, rules regulations, orders and decrees. The Buyer further agrees to indemnify and hold Seller harmless from and against any and all claims, actions, liabilities, damages or losses and any costs or expenses suffered or incurred by the Seller in connection with or as the result of the Buyer's failure to comply with applicable laws.

LIMITATION OF LIABILITY

The total liability of Seller (including its subcontractors) on any claim, whether in contract, tort (including negligence of any degree), infringement or otherwise, arising out of, connected with, or resulting from the manufacture, sale, delivery, resale, repair, replacement or use of any equipment or the furnishing of any service or recommendations shall not exceed the price allocable to the product or service or part thereof which gives rise to the claim and in no event shall the total liability of Seller hereunder exceed the contract price.

IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, ALLEGED NEGLIGENCE, OR OTHERWISE, SHALL THE SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES SUCH AS, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF POWER SYSTEM, OR OTHER PRODUCTS SUPPLIED BY SELLER, COST OF CAPITAL, COST OF

PURCHASED REPLACEMENT EQUIPMENT, DOCK CHARGES, COST OF MAINTAINING CREWS, INCLUDING CREWS' WAGES, OR OTHER SIMILAR ITEMS OF DAMAGE.

CANCELLATION

Orders shall not be subject to cancellation or modification, either in whole or in part, without the Seller's consent or as stated in the proposal or any resulting contract and then only under terms that will reimburse the Seller for all applicable costs incurred by it, including costs of materials and labor, engineering costs, cancellation charges from suppliers, overhead and a reasonable allowance for profit.

SECURITY INTEREST

Until full payment of all obligations of the Buyer hereunder, the Seller reserves and the Buyer hereby grants to Seller a security interest in and to all equipment furnished hereunder. If the Buyer defaults in payment of performance hereunder or becomes subject to insolvency, receivership, or bankruptcy proceedings or makes an assignment for the benefit of creditors, or without the consent of the Buyer voluntarily or involuntarily sells, transfers, leases or permits any lien or attachment on the equipment delivered hereunder, the Seller may treat all amounts then or thereafter owing hereunder by the Buyer to be immediately due and payable (subject only to credits required by law) and the Seller may repossess said equipment by any means available at law.

FACTORY TESTING

When factory testing is normal and customary for the equipment purchased, then test results certified by the Seller shall be considered by both the Buyer and the Seller as conclusive for any equipment guarantees made in Seller's proposal or any resulting contract. The Buyer may have a representative present when such factory tests are run if requested at the time any order is placed.

SERVICES ON-SITE

In the event Seller is to provide any services on site, such as, but not limited to inspection, installation, construction, supervision or training, the following conditions shall apply:

- Buyer shall provide assistance to Seller as may be necessary or reasonable to enable Seller to complete its work on site. Such assistance shall include without limitation provision of electric power, water and other utilities, reasonable security and protection for equipment, property and persons, access to roads and means of transport, fuels and lubricants in quantities sufficient to meet the requirements of the order including testing, permits and licenses.

- In the event Buyer or its employees, agents, subcontractors or other representatives are required to perform services at a remote site, in offshore waters or at any location outside the United States,, Buyer shall provide at no cost to Seller, all transportation for such persons from an agreed staging point to and from the site, all housing, food, facilities and medical care while at the site, and all transportation and any handling equipment necessary to transfer the goods, tools and equipment to the site.

- In the event Seller's employees, agents, subcontractors or other representatives are to perform services outside the United States, Buyer shall assist in their movement within or from any country where they are to perform, including without limitation, assistance in obtaining necessary visas and permits. Buyer shall be responsible for the payment of any applicable income or other taxes and other employee fees and assessments.

FORCE MAJEURE

Seller shall not be liable for delays in performance or nonperformance, nor for loss or damage to any equipment due to events or occurrences beyond its control or the control of its subcontractors or suppliers including but not limited to acts of God, accidents, strikes, war, insurrection, riot, fire, governmental controls, delays in transportation, and any other cause beyond Seller's reasonable control, including inability to obtain or delay in obtaining suitable labor or material required for this contract. In the event of such delay, time of performance, shall be extended for a reasonable period not to be shorter than the time lost by reason of the delay. When delays in the work are caused by the Buyer, Seller shall be reimbursed for the time and expenses caused by such delay.

If Seller discovers subsurface or latent or unknown physical conditions at the site which differ materially from conditions ordinarily encountered, and if those conditions cause an increase in the time or cost of completing Seller's work, an equitable adjustment shall be made in the completion schedule and price for completing the work.

SET OFFS

Neither Buyer nor any affiliated company or assignee if Buyer shall have the right to set off against any amounts which may become payable to the Seller under this contract or otherwise, any amounts which the Seller may allegedly owe or in fact owe the Buyer or any affiliated company or assignee on any warranty or other claim which Buyer may have whether arising under this contract or otherwise.

NON-DISCLOSURE

All engineering designs, data and drawings are proprietary to Seller. Buyer agrees to hold in confidence any information, specifications, know-how, reports, data and drawings which it acquires directly or indirectly from Seller and agrees not to use or disclose the same to any third party without the written approval of Seller in each instance.

COMPLIANCE WITH LAWS

Buyer warrants and guarantees that it has complied with and will comply with all applicable foreign and domestic federal, state and local laws, ordinances and regulations in the use, processing, procurement and sale of the materials, goods and products covered by this order, including but not limited to the U.S. Export Administration Act (the "EAR") and regulations issued thereunder, the U.S. Arms Export Control Act, the International Traffic in Arms Regulations (22 CFR 120-130) (the "ITAR"), the U.S. Foreign Corrupt Practices Act, the Fair Labor Standards Act and of the Regulations and Orders of the United States Department of Labor issued under Section 14 thereof and under the Occupational Safety and Health Act, all as amended from time to time. In the event Buyer is acquiring, manufacturing or selling defense articles, it will maintain a valid and current registration with the Directorate of Defense Trade Controls ("DDTC"). Buyer will provide a copy of its DDTC registration upon request by Seller. Buyer will advise Seller of any U.S. export classification of the goods or services provided to Buyer by Seller.

Each party agrees to comply with all applicable laws, including without limitation all export laws and regulations of the United States and other foreign jurisdictions. Without limiting the foregoing, the parties may have access to information and technology subject to the ITAR or the EAR. Accordingly, each party will comply with the requirements of the ITAR and the EAR, including the requirement for obtaining a U.S. export license or other foreign export authorization, if applicable, prior to export, re-export, transfer or re-

transfer to non-U.S. persons or entities, whether within or outside the United States. Each party shall first obtain the written consent of the other prior to export, re-export, transfer or re-transfer of the other's technical data or information, or submitting a request for authority to export, re-export, transfer or re-transfer any technical information or data of the other. This compliance requirement also applies to return to country of origin of foreign origin technical data that incorporates U.S. origin technical data, know-how, content, improvements or other modifications. The obligations in this paragraph shall survive the expiration or termination of this Agreement.

U.S. law prohibits U.S. persons and companies from exporting or providing services to countries with respect to which the U.S. Government maintains an embargo or sanction, or to those entities or individuals on the U.S. Government's list of restricted or denied parties. Buyer hereby represents and warrants that the good, services, technology and drawings provided under this Agreement will not be exported, re-exported or transferred directly or indirectly to any prohibited countries.

Buyer will not, directly or indirectly, offer, pay, give, promise or encourage the payment of any money or delivery of any item of value to any government official or any official, employee, agent or representative of any commercial enterprise for the purpose of influencing any act or decision of any such person in his or her official capacity or inducing any such person or entity to use his or her influence to influence or direct an act or decision of such organization or government entity.

GENERAL PROVISIONS

The definition of terms used, interpretation of this Agreement and rights of parties hereto shall be construed under and by the laws of the State of Ohio. Buyer hereby consents to jurisdiction in Ohio and agrees that any action or proceeding arising out of this Agreement or the performance of any party hereto may be brought in any court of competent jurisdiction in Ohio. In the event Seller institutes any action or proceeding for the collection of amounts not reasonably in dispute, Buyer shall indemnify and reimburse Seller for its reasonable attorneys fees and expenses and costs of court.

These terms will govern and the parties expressly disclaim application of the U.N. Convention on the International Sale of Goods. No waiver or modification of these Terms and Conditions shall be binding upon Seller unless made in writing and signed by a duly authorized representative of Seller.

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