



INTEGRATION TERMS AND CONDITIONS OF SALE

Phoenix Laser Solutions (hereinafter "PLS")

THESE TERMS AND CONDITIONS ("CONDITIONS") CAN BE MODIFIED ONLY BY TERMS AND CONDITIONS PROVIDED TO PURCHASER SPECIFICALLY BY PLS QUOTATION. THE TERMS AND CONDITIONS HEREIN APPLY TO ALL PROPOSALS AND QUOTATIONS MADE BY PLS, PURCHASE ORDERS ACCEPTED BY PLS OR CONTRACTS ENTERED INTO BY PLS.

The Conditions form a part of and are incorporated into the Quotation to which they are attached, in which they are incorporated by reference, or to which they otherwise relate. Such Quotation, including the Conditions and all attachments to the Quotation, constitutes an offer to sell by PLS to Purchaser and shall, together with:

- (a) any purchase order issued by Purchaser to PLS referencing the Quotation and/or the Services and Deliverables, or
- (b) any other acceptance of the Quotation by the Purchaser (any such purchase order or other acceptance, the "Purchase Order"),

constitute and create the agreement (such agreement, as amended, modified or supplemented from time to time, the "Contract") between PLS and Purchaser with respect to the Services and/or Deliverables.

The Quotation supersedes all prior correspondence, quotations and other communications, either oral or written, submitted by PLS. The making or issuance of the Purchase Order shall be deemed acceptance of the Quotation, including these Conditions, to the exclusion of any Purchaser terms and conditions which may be printed on the reverse of the Purchase Order or otherwise incorporated in or accompanying the Purchase Order. The failure of PLS to object to any provision in conflict with the Conditions or the Quotation, whether such provision is contained in or communicated as part of the Purchase Order, or otherwise communicated to PLS, shall not be construed as a waiver by PLS of the provisions of the Conditions or the Quotation, nor of the acceptance of such conflicting provision by PLS; any additional or different terms and conditions printed on the reverse of the Purchase Order, otherwise incorporated in or accompanying the Purchase Order, or otherwise communicated to PLS, are objected to and will not be binding on PLS unless specifically assented to by PLS in a written document signed by PLS and Purchaser.

These Conditions may only be changed in a written document executed by authorized representatives of Purchaser and PLS. Purchaser shall be deemed to have expressly and unconditionally accepted the Quotation, including the Conditions, to the exclusion of any Purchaser terms and conditions which may be printed on the reverse of the Purchase Order or otherwise incorporated in or accompanying the Purchase Order and any other additional or different terms and conditions inconsistent with the Quotation, and the Contract shall be deemed to have been formed on that basis, if:

- (a) Purchaser at any time accepts performance and/or delivery of any Services or other Deliverables referenced in the Quotation, and/or
- (b) Purchaser at any time makes any payment to PLS, or otherwise performs in a manner, required by, contemplated by, or consistent with, the Quotation. In the event of a conflict in the provisions of the documents, the following priority shall apply:
 - (i) the Quotation;
 - (ii) the Conditions; and
 - (iii) the Purchase Order.

Any change or amendment to the Product Design, Quotation, Purchase Order, Contract, Services or Deliverables, including, without limitation, the addition of any Services or Deliverables not set out in, or contemplated by, the original Quotation, shall be governed by the provisions of the Contract, including these Conditions. Any terms and conditions printed on the reverse or otherwise incorporated in or accompanying any purchase order, request, confirmation, acceptance or similar document, issued by Purchaser in respect of any such change or amendment or addition of Services and/ or Deliverables, other than provisions on the face of the purchase order, request, confirmation, acceptance or similar document describing the applicable change, amendment or additional Services and/or Deliverables and the price thereof, shall be void and of no force and effect notwithstanding any delivery or other performance under such purchase order, request, confirmation, acceptance or similar document, and are expressly rejected by PLS. PLS' offer is subject to PLS' approval of Purchaser's credit.

1. **PATENTS.** PLS shall defend any suit or proceeding brought against Purchaser, so far as based upon a claim that the design or construction of equipment sold by PLS infringes a United States Patent (excepting a claim based upon a design or modification incorporated in such equipment at the request of Purchaser): provided that Purchaser promptly notifies PLS of any such suit or proceeding in writing and provided that at PLS's expense (a) Purchaser gives PLS the right to defend or control the defense of any such suit or proceeding to include settlement and (b) Purchaser provides all necessary information and assistance for such defense. This obligation to defend shall extend, in the case of non-standard equipment sold by PLS to Purchaser to a claim based upon the use of the equipment but only when such use is not in combination with any other apparatus not provided by PLS. In the event said equipment, or any part thereof, is in such suit held to constitute infringement and the use of said equipment or part is enjoined, PLS will, at its own expense and obligation, either procure for the Purchaser the right to continue using said equipment or part, or replace same with non-infringing equipment, or modify it so it becomes non-infringing or remove said apparatus and refund the purchase price and the transportation costs thereof. THIS PARAGRAPH SETS FORTH PLS'S ENTIRE LIABILITY WITH RESPECT TO PATENTS.

Purchaser shall indemnify and save PLS harmless from all third party claims for alleged or actual infringement of any patent resulting from the use of apparatus or equipment secured or furnished by PLS in accordance with Purchaser's instructions, or designed and fabricated by Purchaser or by third parties in accordance with Purchaser's instructions, or from the use of any process designed or procured by Purchaser or effected by said apparatus or equipment (but in each case only if and to the extent that the liability would not have arisen apart from Purchaser's instructions) and Purchaser shall indemnify and save PLS harmless from and against all costs, counsel fees, expenses, and liabilities incurred in or about any



claim of or action for such infringement; provided PLS promptly transmits to Purchaser all papers served on PLS in any suit involving such claim of infringement, and provided further, that PLS permits Purchaser to have entire charge and control of the defense of any such suit.

2. **PLS INTELLECTUAL PROPERTY.** PLS expressly retains the rights to all intellectual property developed in the course of its performance hereunder, none of which shall be considered work-for-hire. Purchaser recognizes that PLS sells products identical or similar to the Products to other third parties. The Products and work product of PLS embody or incorporate trade secrets, patents, trademarks, copyrights, and other intellectual property of owned by PLS ("PLS Proprietary Information") which shall at all times remain the property of PLS. Purchaser agrees to hold confidential all PLS Proprietary Information. Purchaser shall not, without PLS's prior written consent, directly or indirectly, copy, duplicate, reverse engineer, or replicate all or any part of the Products or of PLS Proprietary Information, nor shall Purchaser permit any third party to do so. Purchaser shall not sell, lease, give, pledge or transfer the Products to any competitor of PLS. These provisions shall survive the termination of this Agreement.

3. **SHIPPING WEIGHTS AND DIMENSIONS.** Published weights are careful estimates but are not warranted. Dimensions shown in catalog or on data sheets are approximate. For construction purposes, certified dimension drawings can be obtained upon request. Drawing certification requests may be serviced only at additional cost to Purchaser.

4. **SHIPMENT COSTS.** Shipment shall be FOB PLS's facility, Purchaser to pay all shipping and related expenses. Expenses related to the packing, crating, rigging of items without PLS catalog numbers (non-standard equipment) shall also be at Purchaser's expense.

5. **DAMAGE CLAIMS.** All claims for breakage and damage whether concealed or obvious must be made to the carrier by the Purchaser as soon as possible after receipt of the shipment. PLS will be glad to render the Purchaser reasonable assistance.

6. **PAYMENT TERMS.** Terms to Purchasers with satisfactory credit are net 15 days from date of invoice, if not otherwise identified by PLS. Service or Finance Charges will be computed on all balances overdue at the rate of 1.0% per month, annual rate of 12% until payment is received and Purchaser agrees to pay all interest. Untimely payment(s) by Purchaser will constitute a breach. If Purchaser does not remedy such breach within ten (10) calendar days of written notice by PLS: the order may be terminated by PLS with reasonable cancellation charges due from Purchaser as outlined in Cancellation and Termination clauses. If the financial condition of the Purchaser at any time does not, in the judgment of PLS, justify continued performance on the terms of payment previously agreed upon, PLS may require additional or full payment in advance of the purchase price for the Services and Deliverables or other financial accommodations, and the failure of Purchaser to provide such payment or accommodations within a reasonable period of time after request therefore shall constitute a breach of a provision hereof by Purchaser.

7. **TAXES.** Prices quoted by PLS are exclusive of any federal, state or local taxes unless otherwise shown in PLS' quotation. The Purchaser shall pay or reimburse PLS for all applicable sales, use, excise, value added, or similar taxes applicable to the price, sale, supply or delivery of the goods and/or services furnished by PLS. Such taxes shall be due from Purchaser in addition to the price quoted by PLS. The Purchaser shall meet this obligation even if such taxes are not invoiced simultaneously with the transaction involved. Applicable tax exemption certificates must accompany any order to which the same applies. If PLS agrees in the Quotation that any prices are inclusive of some or all taxes, notwithstanding any such agreement, any new taxes that become effective following the date of the Quotation, increases in the rate of tax that become effective following the date of the Quotation, and taxes that become payable due to a change in the delivery location of the Services and/or Deliverables following the date of the Quotation, shall be for the account of and be paid in full by Purchaser.

8. **ACCESS.** Any access to PLS's facilities, records, or data by Purchaser, as well as respective agents or representatives, for whatever purpose, shall exclude access to proprietary processes of PLS and information of PLS and those parties other than Purchaser, as determined by PLS.

9. **CANCELLATION AND TERMINATION.**

(a) BY PURCHASER FOR CONVENIENCE: Failure of PLS to accept a Purchaser's request to change its purchase order or equipment specifications shall not be cause for Purchaser's cancellation of its order, with the following exception; Any order placed with PLS can be canceled by the Purchaser for convenience only upon payment of reasonable cancellation charges, which shall take into account expenses already incurred and commitments made by PLS. Purchaser shall pay PLS:

- (i) an amount to compensate PLS for all Services and other work performed prior to the termination,
- (ii) an amount to compensate PLS for all actual costs and expenses incurred prior to and/or in connection with the termination,
- (iii) an amount to compensate PLS for all liability incurred by PLS in connection with commitments made to third parties prior to termination for equipment and other goods, services, and labor (including, without limitation, as the case may be, the actual amount of any such commitment, any cancellation or termination fees, any lost deposits and any restocking charges), plus
- (iv) a twenty (20%) percent for overhead and profit on the foregoing amounts, to the date of termination. Upon such cancellation payment will also be due, as invoiced, for any outstanding charges which have already been invoiced.

(b) BY PLS DUE TO BREACH OF PURCHASER: If Purchaser becomes insolvent or bankrupt or breaches a provision of the Contract and does not remedy such breach within ten (10) calendar days of written notice by PLS, PLS may terminate the Contract effective ten (10) calendar days after said notice was given. In the event of such termination,

- (i) PLS shall have the right to take possession of all Deliverables and related materials and components, in whatever stage of design, manufacture, production or installation they are in at such time, except such Deliverables, materials, and components which have already been delivered to and paid for in full by Purchaser,



- (ii) PLS shall be under no obligation to finish the Services or Deliverables or provide further work, support or information to Purchaser, and
- (iii) Purchaser shall pay PLS:
 - 1. an amount to compensate PLS for all Services and other work performed prior to the termination,
 - 2. an amount to compensate PLS for all costs and expenses incurred prior to and/or in connection with the termination,
 - 3. an amount to compensate PLS for all liability incurred by PLS in connection with commitments made to third parties prior to termination for equipment and other goods, services, and labor (including, without limitation, as the case may be, the actual amount of any such commitment, any cancellation or termination fees, any lost deposits and any restocking charges), plus (iv) a reasonable amount for overhead and profit on the foregoing amounts, to the date of termination.

(c) BY PURCHASER DUE TO BREACH OF PLS: If PLS becomes bankrupt or insolvent or breaches a material provision hereof and does not commence to remedy such breach within ten (10) calendar days of being given written notice by Purchaser, Purchaser may terminate the Contract effective ten (10) calendar days after such notice was given. In the event of such termination, Purchaser shall take possession of the Deliverables (in whatever state of design or manufacture they are at such time) immediately and shall have a right to receive a refund of all amounts paid to PLS by Purchaser hereunder, less an amount representing payment for all Services and other work performed and Deliverables provided by PLS to the date of such termination. PLS shall not be entitled to anticipated profit or anticipated overhead charges. Upon such payment, Purchaser shall have the right to the continued use of the Deliverables then delivered. THE REMEDY PROVIDED TO PURCHASER IN THIS SECTION SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDY IN RESPECT OF ANY BANKRUPTCY OR INSOLVENCY OF PLS AND IN RESPECT OF ANY BREACH OF THE CONTRACT.

10. **WARRANTY.** PLS assigns to Purchaser the warranty offered by the original vendor of any commercial product that PLS might incorporate into equipment or otherwise provide to Purchaser. PLS will render reasonable assistance to aid Purchaser in securing any necessary product warranty services. The original product warranty period is not extended by the product's resale by PLS, except as the original vendor may provide.

PLS warrants for a period of one year or 2000 production hours (whichever comes first), (or thirty days in the case of repaired or replacement equipment) from the date of the PLS' final invoice or 15 months following the date of shipment, whichever occurs first, that equipment which is manufactured by PLS and furnished under the order will be free from defects in material and workmanship, each as determined, at the date of shipment by PLS, by generally recognized, applicable and accepted practices and procedures in the industry. Where system productivity figures have been stated or implied, they are understood to be ESTIMATES ONLY based on field and application data available to PLS at that time and are NOT GUARANTEED OR WARRANTED by PLS since they are contingent on the internal processes of Purchaser, or other factors beyond the control of PLS. PLS warrants any design or engineering services provided shall be performed and produced in accordance with generally accepted engineering standards, and if upon inspection by PLS, any design or engineering services prove defective, PLS will provide engineering and design services to correct the defect. In those situations where PLS has provided only engineering or design services, PLS' warranty does not include any reworking or remanufacturing caused by an error in PLS' engineering or design. PLS will not be liable for any design furnished by Purchaser, or specified by Purchaser, and incorporated into any Purchaser equipment or PLS equipment. PLS shall not be liable or responsible for any loss, injury, or damage resulting directly or indirectly from the use of software and/or programming services and/or component selection suggestions provided to Purchaser.

Satisfaction of this warranty, consistent with other provisions herein, will be limited to the replacement, or repair or modification of, or issuance of a credit for, the equipment or software involved, at PLS's option, only after return of such equipment in accordance with RETURN OF EQUIPMENT. Any warranty service (consisting of time, travel, and expenses related to such services) performed other than at PLS's facility shall be at Purchaser's expense. Such warranty satisfaction is available only if:

- (a) PLS is promptly notified in writing upon discovery of an alleged defect,
- (b) PLS's examination of the subject product or software discloses, to its satisfaction, that any defect has not been caused by misuse, neglect, improper installation, improper Purchaser specification, improper operation, improper maintenance, repair or alteration, accident, or unusual deterioration or degradation of the equipment or parts thereof due to physical environment or due to electrical electromagnetic noise environment, and
- (c) All outstanding payments owed PLS by Purchaser are current with payment terms outlined in quotation prepared by PLS and provided to Purchaser. Any additional services or parts supplied by PLS which are outside of the scope of the warranties contained in these terms shall be charged to Purchaser at PLS' applicable time and material rates.

In accordance with PLS's WARRANTY AND QUOTATION, the sale by PLS involves only the equipment and/or services identified therein such that PLS will not be obligated or liable for the application of or the sufficiency of such equipment and/or services related to the use thereof, except as specifically separately detailed and identified by PLS in writing. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESSED, IMPLIED OR STATUTORY INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS for a particular use and thereby excludes certification or the like for equipment performance, use or design with respect to any standard, regulation or the like (unless and to the extent independently approved in writing by PLS) AND EXTENDS ONLY TO PURCHASER OR PURCHASER PURCHASING FROM PLS OR ANY PLS DISTRIBUTOR SO AUTHORIZED, IN WRITING, TO EXTEND WARRANTY TO DISTRIBUTOR'S PURCHASER(S). IN NO EVENT SHALL PLS'S TOTAL AGGREGATE LIABILITY TO PURCHASER EXCEED AN AMOUNT EQUAL TO THE PURCHASE PRICE OF THE PRODUCT(S).

11. **RETURN OF EQUIPMENT.** Authority for return of equipment, whether under the Warranty Clause or otherwise must be obtained from PLS. Except for equipment being returned under the terms of warranty, no authority shall be granted for the return of equipment under any circumstances where the original invoice date for such equipment is more than thirty (30) days prior to the date that a request is made for



approval of the return of such equipment. Unless such authority has been granted, shipment may be refused. Should such shipment be received at PLS's facility, PLS may return such shipment at the expense of the original shipping party. All equipment returned should include reference to all pertinent order information for that equipment to include order, part, model, and serial numbers, as well as, details of the system from which the equipment was removed when appropriate. Cost for placing equipment returned for credit in a re-salable condition will be charged to Purchaser, except for, and PLS will pay transportation charges for return to the Purchaser only for, those returns based upon conditions or circumstances for which PLS is responsible by the Terms and Conditions herein. Material accepted for return, which is not covered by warranty is subject to a minimum restocking charge of \$50.00 or 30% of the billing invoice, whichever is greater, plus all transportation charges incurred by PLS. Equipment that has been modified by the Purchaser cannot be returned for credit under any condition. Apparatus returned must be carefully packed such as to reach PLS without damage and must be shipped to the locations stipulated by PLS at the time PLS approved the return of the equipment. The shipping container of all returned equipment must be clearly marked "RETURNED EQUIPMENT - PURCHASER SERVICE". No credit memorandum will be issued where the net amount involved is less than \$50.00 net, except where an error made by PLS is being corrected.

12. **CONFIDENTIALITY.** Each party to the Contract, quotation or terms and conditions (each a "Recipient") agrees to keep and maintain the confidentiality of the confidential information of the other party hereto (each an "Owner"). This Contract imposes no obligation on the Recipient where such information:

- (a) was known to the Recipient prior to receipt of the information on a non-confidential basis,
- (b) is or becomes a matter of public knowledge or publicly available through no fault of the Recipient,
- (c) is rightfully received by Recipient on a non-confidential basis from a third party,
- (d) is independently developed by Recipient without use of or reference to the information from Owner as established by the written records of Recipient; or
- (e) is publicly disclosed by Recipient with Owner's prior written approval.

Recipient agrees to protect the information in strictest confidence by using the same degree of care to prevent the unauthorized use, dissemination or publication of the information as Recipient uses to protect its own confidential information, provided that in no case shall such standard of care be less than a reasonable degree of care. Recipient may disclose such information only:

- (a) to those of Recipient's employees, advisors, consultants, and vendors who have a need to know such information provided that such employees, advisors, consultants, agents and vendors are under obligations of confidentiality to maintain the confidentiality of such confidential information,
- (b) to the extent required by a court or tribunal, and
- (c) to the extent otherwise specifically required by law.

Recipient shall not use the confidential information of the Owner for any purpose other than as necessary to review the quotation, terms and conditions or carry out the purposes of the Contract.

13. **SHIPMENT.** Scheduled or stipulated shipping dates are approximate and based upon prompt receipt of all necessary information from Purchaser, timely receipt of component materials supplied by Purchaser or PLS from outside vendors, and prompt payment by Purchaser of all required payments. PLS shall not be liable for any loss, damage, or delay in delivery due to causes beyond its reasonable control, including without limiting the generality of the foregoing any acts of God, acts of the Purchaser, acts of civil or military authority, fires, strikes, floods, epidemics/pandemics, quarantine restrictions or priorities established by any agency of the United States Government, war, riots, delays in transportation, transportation embargoes, inability to obtain materials, or due to other causes beyond its reasonable control (collectively, "Force Majeure Events") Failure of PLS to perform for any of these reasons aforesaid shall not be grounds for Purchaser's cancellation of its order but the delivery date shall be extended accordingly. Notwithstanding anything to the contrary contained herein, if PLS is unable to perform its responsibilities due to a Force Majeure Event that persists for more than thirty (30) days, Purchaser may terminate the agreement in writing and without any penalty. In such a situation, Purchaser will compensate PLS pursuant to the requirements above for termination due to Purchaser's convenience.

14. **EQUIPMENT ACCEPTANCE.** The following provisions apply with respect to the acceptance of any Products (other than Products constituting prototypes or proof of principle equipment, in respect no acceptance test will be required, except as otherwise set out in the Quotation): PLS and Purchaser shall agree in writing upon an acceptance test plan, setting out the criteria to be met and the testing process to be used during testing at PLS and subsequently at the Purchaser. Unless otherwise set out in the quotation or agreed between the parties, the testing will be conducted over a time reasonable in the circumstances, in no event to exceed a maximum of three (3) eight-hour days. The testing shall be deemed successful when the results of the testing are in compliance with the test plan. A Purchaser acceptance test shall be performed at the Purchaser's facility and such testing will be deemed successful when the results of the testing are in compliance with the test plan. PLS shall carry out such remedial work as is necessary to achieve successful acceptance testing at no additional charge to the Purchaser, provided that any changes requested by the Purchaser beyond those set forth in the specifications and PLS quotation may require additional charges which shall be mutually agreed upon and reflected in a change order issued by the Purchaser.

15. **SCOPE CHANGES.** PURCHASER SHALL ENSURE THAT ALL CHANGES ARE PROPERLY APPROVED BY PURCHASER'S AUTHORIZED PERSONNEL WITHOUT DELAY. The Purchaser is responsible for and shall pay PLS all increased costs, including overhead and profit thereon, due to changes to the scope, design, process, materials, and/or Specifications of or relating to the Services and/or Deliverables. For certainty, and without limiting the generality of the foregoing, where PLS has provided the Quotation in respect of the Product in reliance on drawings and/or other information specifying the dimensions, make up, and/or other characteristics of component parts or other inputs (the "Product Inputs") that will be manufactured or otherwise processed by the Product and/or the component parts or other outputs (the "Product Outputs") that will



result following manufacturing or processing by the Equipment, any change in the dimensions, make up or other characteristics of the Product Input, and/or the Product Output, shall constitute a change in the design, process, materials and/or Specifications of the Product for the purposes hereof. In respect of any change in design, process, materials or Specifications, the Contract price shall be increased or decreased as agreed between Purchaser and PLS, and the Contract schedule shall be extended or compressed as agreed by the parties. PLS may decline any proposed change in the design proposed by Purchaser, if PLS has concerns regarding safety, reliability, performance or warranty service.

16. **GOVERNMENT CLAUSES AND CONTRACTS.** Government contract clauses and any clauses essentially based upon Government Contract Regulations shall only apply to sales subject to Government Contract. In the event the sale is subject to a Government Contract, the terms and conditions of this sale shall include, if any, only those Government Contract Clauses - not inconsistent with terms and conditions herein - which applicable Regulations (and the Prime Contract and/or Subcontract to which this sale is subject) require to be included in a Contract or Subcontract such as this sale and only for the minimum necessary purposes of the clause. Equipment sold by PLS is not intended to be used, nor shall it be used, as a "Basic Component" under 10 CFR 21 (NRC).

17. **QUOTATIONS.** All written quotations automatically expire unless accepted within 30 days from the date quoted, except as otherwise offered in a binding quotation. Quotations to be binding, must specifically identify equipment and/or services and list the actual quantities involved. All quotations are offered subject to the prior sale of the various capacities of PLS. All stenographic and clerical errors are subject to correction. Quotations remain subject to price adjustments for increases in component costs and raw materials prior to manufacture by PLS, which price adjustments shall be communicated to Purchaser in writing by PLS.

18. **ASSIGNMENT.** This agreement may not be assigned by either party without the written consent of the other party except:

- (a) to a successor corporation by merger or consolidation of either party, or
- (b) to any corporation acquiring by sale, lease or otherwise substantially all of the property, assets and business of either party, or any division or segment thereof having control of the activities or business to which this agreement relates, or
- (c) to any corporation controlling, controlled by, or under common control with, either party.

19. **RESPONSIBILITY AND TITLE.** Title in the equipment and/or the tangible results of services provided shall remain with PLS as security only and until full payment is received therefore, including all taxes, service charges, Late Fees or any other related charges. Purchaser specifically agrees that this Contract constitutes a security agreement pursuant to the UCC, and authorizes PLS, at its own discretion and expense, to make a filing with UCC in order to secure PLC's rights to unpaid equipment or services. Remedies for failure to pay may include but are not limited to seizure and or repossession of equipment, engineering data or intellectual knowledge provided by PLS. Risk of loss or damage for the equipment shall pass to Purchaser upon delivery to the carrier at PLS' facility. Title in the equipment and/or the tangible results of services provided shall pass to Purchaser upon full payments of all amounts due to PLS under this Agreement. Unless expressly otherwise provided in the Quotation: delivery will be made to the Purchaser Ex-Works PLS' facility or other point of shipment, skidded for dedicated, domestic truck shipment, provided however that title to the Services and Goods will not pass to Purchaser until payment has been received by PLS in full and PLS shall not be responsible for freight, transportation, insurance, export or other special packaging requirements, insurance, shipping, storage, customs, excise, import duty, brokerage, handling, demurrage, or similar charges.

20. **PURCHASER INDEMNIFICATION.** At all times, Purchaser will control its facilities, operations and equipment and direct all personnel engaged in activities on Purchaser's premises, and Purchaser will indemnify and hold PLS harmless from all claims, damages and other adverse consequences (including costs and reasonable attorney's fees and expenses) arising from loss or damage to facilities or equipment, from interruptions in or interference with operations of Purchaser or other business enterprises or from bodily injury to or death of personnel performing services on Purchaser's premises or elsewhere for Purchaser on Purchaser's behalf.

Purchaser will also indemnify and hold PLS harmless against all claims asserted directly or indirectly against PLS for any claims of bodily injury, wrongful death, property damage, wrongful discharge, employment discrimination, unfair or illegal employment practices or defamation arising from actions or inactions of persons employed by, assigned to, or directed by Purchaser.

21. **SAFETY.** Purchaser acknowledges that any system or equipment sold hereunder is to be operated in accordance with certain safety rules and in conjunction with certain safety equipment. All equipment manuals, documentation and safety warnings will be provided in English unless otherwise noted. Purchaser agrees not to operate system or equipment in violation of said safety rules or with inoperative, defective or missing safety equipment or markings, except during maintenance or installation by qualified personnel. Purchaser agrees to indemnify, save, defend, and hold harmless PLS for all claims and causes of action arising out of Purchaser's operation of the system or equipment in violation of the safety rules or generally accepted safety standards, including OSHA standards, or with inoperative, defective, or missing safety equipment or markings.

22. **PARTS SUPPLIED BY PURCHASER.** If parts or sub-components are to be supplied to PLS by Purchaser, those parts or sub-components must be provided in sufficient quantity and in a timely manner as determined by PLS. Purchaser supplied parts or sub-components will be transported at the expense of Purchaser. Any special packing of parts, sub-components, or final assemblies to be returned to Purchaser shall be performed by PLS at additional expense to Purchaser. PLS will not be responsible for the loss of or damage to parts or sub-components supplied for the purposes of evaluation, assembly equipment debug, or equipment acceptance run. Purchaser supplied parts or sub-components shall conform to sample parts and/or part drawings provided to PLS at the time of equipment quotation and shall be free of burrs, oil, and other contaminants. Purchaser supplied parts or sub-components not meeting the aforesaid requirements may be refused by PLS or may be handled by PLS at a PLS identified cost in addition to the price contained within the quotation and may additionally cause changes to the equipment performance rate and/or the delivery date and/or the acceptance requirements as ordered by Purchaser.



23. **TECHNICAL SERVICES.** All information and/or software and/or devices, based on Purchaser's specification(s), directly or indirectly supplied by PLS are provided as suggestions only. Purchaser's direct employee(s) shall function and be considered as "engineer(s) in responsible charge" of any PLS activity related to Purchaser's order which is "the practice of engineering" as may be defined by applicable Pennsylvania law. Purchaser's practice and/or ability to specify, review, accept, reject, modify and/or integrate information and/or devices provided by PLS shall cause the responsibility for the development and use of such information and/or devices, whether modified or not, to pass to the Purchaser. Purchaser should obtain the services of a state-registered engineer if expert advice or engineering services are required or if Purchaser otherwise requires the services of an Engineer.
24. **INSTALLATION SERVICES.** Installation services are not included in the quoted price unless specifically detailed in PLS' quotation. If installation services are provided to the Purchaser (whether referenced in the quotation or provided as additional services subject to PLS' standard labor and material prices), PLS will not complete final electrical hook-ups to the Purchaser's power supply and Purchaser is responsible for having its own electricians complete such connections. In the event that local laws, ordinances or regulations in effect at Purchaser's site require inspections, approvals or supervision of such hook-ups, Purchaser is responsible for arranging and paying for these services as required. Any required permits shall be the responsibility of the Purchaser.
25. **PURCHASER OBLIGATIONS.** If order completion is contingent upon the completion of Purchaser obligations, all Purchaser obligations must be met fully, and in a timely fashion. If Purchaser obligations are not thus met the order may be terminated by PLS. Purchaser obligations which are not met fully in a timely manner may additionally cause changes to the equipment performance rate and/or the delivery date and/or the acceptance requirements as indicated by Purchaser's order. When services and/or equipment are provided by PLS, and any order item remains partially complete and may not be completed for 21 days, due to Purchaser's unfulfilled obligations or schedule change by Purchaser, such partially complete services shall be invoiced and due for payment.
26. **ARBITRATION.** Any dispute or claim arising out of or relating to this contract shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association. Judgment upon any award rendered in such proceedings may be entered in the any court having jurisdiction hereof.
27. **MISCELLANEOUS.**
- (a) Any contract, sale and/or purchase of the equipment and/or services including all terms and conditions thereof, is made under Pennsylvania Law and this any contract shall be governed by and construed in accordance with the Uniform Commercial Code of the Commonwealth of Pennsylvania.
 - (b) Should any part of these Terms and Conditions of Sale or any part of any quotation offered by PLS be deemed to conflict with any governing law or regulation, only that conflicting element shall be voided (or modified by PLS as permissible by law). All non- conflicting elements, phrases, and provisions of the subject document(s) shall remain valid and in full force.
 - (c) A Party's failure to insist in one or more instances, upon the performance of any term or terms of this Agreement shall not be construed as a waiver or relinquishment of its right to such performance or the future performance of such term or terms and the other Party's Purchaser's obligation with respect thereto shall continue in full force and respect.
 - (d) The paragraph headings in this Agreement are used for convenience only. They form no part of this Agreement and are in no way intended to alter or affect the meaning of this Agreement. (E) We hereby certify that goods were produced in compliance with all applicable requirements of Sections 6,7, and 12 of the Fair Labor Standards Act, as amended and of regulations and orders of the United States Department of Labor issued under section 14 thereof.
28. **LIMIT OF LIABILITY.** In no event will either party assume responsibility for or be liable whatsoever (a) for any compensatory, punitive, special, indirect, incidental or consequential damages, including but not limited to, loss of profit or revenue, loss of use, lost production, or consequential property damage; cost of capital; cost of replacement equipment or components; or claims resulting from contracts between such party and its purchasers and/or suppliers, or (b) for certification not otherwise specifically provided herein and/or for indemnification of Purchaser or others for costs, damages, or expenses each arising out of or related to the equipment or services of any order. IF PLS PROVIDES ANY INFORMATION, ADVICE, ASSISTANCE OR ITEM TO PURCHASER IN RELATION TO THE SERVICES AND/OR DELIVERABLES, OR ANY SYSTEM OR EQUIPMENT TO BE USED WITH OR WHICH RELATE TO THE SERVICES AND/OR DELIVERABLES, AND WHICH IS NOT REQUIRED PURSUANT TO THE CONTRACT, THE FURNISHING OF SUCH INFORMATION, ADVICE, ASSISTANCE OR ITEM WILL NOT SUBJECT PLS TO ANY LIABILITY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, UNLESS SUCH INFORMATION, ADVICE, ASSISTANCE OR ITEM IS PROVIDED BY PLS IN CONNECTION WITH ANOTHER AGREEMENT ENTERED INTO BY THE PARTIES.