PO Box 429, 805 Greenlawn Road, Murphy, NC 28906-0429 TEL: (828) 837-4029 FAX: (828) 837-4106

1. **Notice.** Sale of any Products or Services is expressly conditioned on Buyer's assent to these Terms and Conditions. Any acceptance of Seller's offer is expressly limited to acceptance of these Terms and Conditions and Seller expressly objects to any additional or different terms proposed by Buyer. No Buyer form shall modify these Terms and Conditions, nor shall any course of performance, course of dealing, or usage of trade operate as a modification or waiver of these Terms and Conditions. Any order to purchase products or receive services shall constitute Buyer's assent to these Terms and Conditions. Unless otherwise specified in the quotation, Seller's quotation shall expire thirty (30) days from its date and may be modified or withdrawn by Seller before receipt of Buyer's conforming acceptance.

2. **Definitions and Explanation.** "Seller" means the entity providing Products or performing Services under the Contract. "Buyer" means the party with whom Seller is providing Products or Services under the Contract. "Contract" means either the contract agreement signed by both parties, or the purchase order signed by Buyer and accepted by Seller in writing, for the sale of Products or Services, together with these Terms and Conditions, Seller's final quotation, the agreed scope(s) of work, and Seller's order acknowledgement. In the event of any conflict, the Terms and Conditions shall take precedence over other documents included in the Contract. "Contract Price" means the agreed price stated in the Contract for the sale of Products and Services, including adjustments (if any) in accordance with the Contract. "Products" means the equipment, parts, materials, supplies, and other goods Seller has agreed to supply to Buyer under the Contract. "Services" means the services Seller has agreed to perform for Buyer under the Contract. "Terms and Conditions" means these "Seller's Terms and Conditions", together with any modifications or additional provisions specifically stated in Seller's final quotation or specifically agreed upon by Seller in writing.

3. **Acceptance of Quote.** This Quote is Seller's offer to Buyer. Buyer's Acceptance is expressly limited to the terms of the Quote and Seller hereby objects to any additional or different terms in Buyer's acceptance. Buyer accepts this Quote as written by executing and returning to Seller the Purchase Order.

4. **Payment Terms.**
   (a) Terms of payment are net thirty (30) days, upon prior credit approval. Prior credit application approval required to obtain payment terms, otherwise payment may be required at time of order or prior to shipment
   (b) Buyer shall pay interest on all past due payments at the rate of 8% per annum or the highest rate permissible under applicable law. Buyer shall reimburse Seller for all costs incurred in collecting any past due payments, including, without limitation, attorney's fees and court costs.
   (c) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.
   (d) If Buyer disputes any invoice or portion thereof, it shall notify Seller in writing within thirty (30) days of receipt of said invoice, detail the reason for the dispute, and pay all undisputed amounts. All charges not timely disputed in writing shall be deemed undisputed and shall be due and payable as set forth above.
   (e) FOB origin
   (f) Incoterms shall be FCA.
   (g) Aegis Power Systems, Inc. dock SHALL be First Carrier.

5. **Changes to Purchase Order.** Change orders must be in writing and approved by both parties prior to delivery date. Change orders may also be subject to a service charge.

6. **Minimum Order.** The minimum value for domestic (US) purchases is $500.00 and for international purchases is $10,000.00. Invoices will be in US dollars. Maximum limit for credit card purchases is $10,000.00. In addition, credit card purchases will be subject to a 4% transaction fee.

7. **Termination and Cancellation.** All cancellations and reschedules require a minimum of eight (8) weeks prior written notice. Cancellations subject to charges for work in process and materials on order that cannot be cancelled. Any order, or portion of an order that is cancelled, may be subjected to a cancellation charge, to be determined solely at the discretion of Aegis Power Systems, Inc.

8. **Warranty.** Aegis Power Systems, Inc., products are warranted for twelve months from date of shipment against defects in material or workmanship, when in normal use and service. This warranty does not extend to products subjected to misuse, accident or improper application or maintenance. Aegis Power Systems, Inc. shall not be liable for collateral or consequential damage. This warranty is extended to the original purchaser only. **EXCEPT FOR THE FORGOING EXPRESS WARRANTY, AEGIS POWER SYSTEMS, INC., MAKES NO WARRANTY, EXPRESSED OR**

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IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Aegis Power Systems, Inc. will repair or replace the defective product in accordance with its own best judgment. For service under this warranty, the Buyer must contact Aegis Power Systems, Inc., to obtain a Return Material Authorization (RMA) Number and shipping Instructions prior to returning product. Products returned without prior authorization will be returned to the Buyer. The Buyer will pay all charges incurred in returning the product to the factory. Aegis Power Systems, Inc. will pay all re-shipment charges, excluding any duties, taxes or fees on exported items, if the product was defective, within the terms of this warranty.

9. **Compliance with Laws.** A person/firm/company may not sell, transfer, export, re-export, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, any item subject to the Export Administration Act exported or to be exported with knowledge that a violation of the EAR, or any order, license, license exception, or other authorization has occurred, is about to occur, or is intended to occur in connection with this item.

   Each Party agrees that it will not knowingly: (a) export or re-export, directly or indirectly, any technical data or products (as defined by the U.S. Export Administration Regulations) provided by the other Party or (b) disclose such technical data for use in, or export or re-export directly or indirectly, any direct product of such technical data, including Software, to any destination to which such export or re-export is restricted or prohibited by United States or non-United States law, without obtaining prior authorization from the U.S. Department of Commerce and other competent Government Entities to the extent required by Applicable Laws.

   Buyer represents and warrants that it is not subject to any trade sanctions imposed by the United States and that it is in compliance and shall comply with all applicable laws and regulations relating to trade restrictions and/or export controls (including trade sanctions imposed by the U.S.) with respect to Products sold hereunder, and shall provide evidence of compliance with the foregoing as Seller may reasonably request from time to time.

   It is the buyer's responsibility to ensure that the product can be lawfully imported to the destination country. The recipient must bear any additional charges for customs clearance; the seller has no control over such charges and cannot predict what they may be.

   Orders that are shipped to countries outside the United States may be subject to import taxes, custom's tariffs, and fees levied by the destination country or the shipping company. These charges are the customers responsibility and will be billed by the delivery company. Seller has no control over these charges and may be unable to estimate them. Tariffs and taxes are neither collected, nor included in your price quote at the time of your order; for an estimate of these fees, which vary by country, contact the customs office in your area.

   The buyer is responsible for all tariffs, taxes and customs fees at time of delivery. If buyer refuses delivery of an item after it reaches its final destination, if buyer refuses to pay tariffs and taxes, or if buyer is unavailable for delivery after a certain number of attempts, buyer will be responsible for any import tariffs, taxes and shipping and handling fees incurred to send the item back to the seller in the United States, as well as any restocking fees that may apply.

   Buyer represents and warrants that it is in compliance and shall comply with all applicable anti-bribery and anti-corruption laws, including U.S. Foreign Corrupt Practices Act, and has not, directly or indirectly, offered, paid, promised, or authorized the giving of money or anything of value to any government official for the purpose of influencing any act or decision of such government official.

10. **Governing Law.** All matters arising out of or relating to this Contract are governed by and construed in accordance with the internal laws of the state of North Carolina, Except for aspects preempted by federal law.

11. **Enforcement.** Seller and Buyer mutually consent to personal jurisdiction and venue before the state courts of the jurisdiction of North Carolina, and hereby waive any objections based on lack of personal jurisdiction or improper venue. More specifically, any civil action brought to enforce these Terms and Conditions, and any agreement entered therefrom shall be brought, exclusively, in the District or Superior Court of Cherokee County, North Carolina, or the U.S. District Court for the Western District of North Carolina.

12. **Limitation of Liability.**
    (a) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTAIL, INDIREST, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE

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POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTAIL PURPOSE.
(b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS CONTRACT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE PRODUCTS SOLD HEREUNDER OR, AS TO SERVICES, FOR THE AMOUNTS PAID TO SELLER FOR SERVICES PERFORMED HEREUNDER.

13. **Indemnification.** Subject to Section 11 hereof, each of Buyer and Seller (as an "Indemnifying Party") shall indemnify the other party (as an "Indemnified Party") from and against claims brought by a third party, on account of personal injury or damage to the third party's tangible property, to the extent caused by the negligence of the Indemnifying Party in connection with this Contract. In the event the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense shall be borne by each party in proportion to its degree of negligence. For purposes of Seller's indemnity obligation, no part of the Products is considered third party property.

14. **Waiver.** No waiver by Seller of any of the provisions of this Contract is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Contract operates, or may be construed, as a waiver thereof.

    No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise of any other right, remedy, power or privilege.

15. **Assignment.** Buyer shall not assign any of its rights or delegate any of its obligations under this Contract without the prior written consent of Seller. Any assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Contract.

16. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this contract shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

17. **Force Majeure.** In the event that either party is prevented from performing or is unable to perform any of its obligations under this Agreement (other than a payment obligation) due to any act of God, acts or decrees of governmental or military bodies, fire, casualty, flood, earthquake, war, strike, lockout, epidemic or mandated quarantine, destruction of production facilities, freight embargoes, riot, insurrection, materials unavailability, or any other similar cause beyond the reasonable control of the party or its' subcontractors control, thus invoking this section (collectively, a "Force Majeure"), and if such party shall have used its commercially reasonable efforts to mitigate its effects, such party shall give prompt written notice to the other party within ten (10) days of such cause, its performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences. Regardless of the excuse of Force Majeure, if such party is not able to perform within ninety (90) days after such event, the other party may terminate the Agreement.