

STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS

These STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS (the “**Terms**”) are applicable to all quotes, bids, and sales of products and goods (the “**Goods**”) by Pacific Power Source, Inc. (“**PPS**”), however, the price, quantity, and Delivery Location (as defined below) for the Goods may be separately agreed and/or set forth in a quote delivered by PPS, an order issued by the applicable customer (“**Buyer**”) and accepted by PPS, or some other communication between PPS and the Buyer (such as agreed price, Delivery Location, and quantity, together with these Terms, the “**Agreement**”).

1. Terms of Agreement Prevail Over Buyer’s Order. The parties intend solely for the express terms and conditions contained in this Agreement to apply between PPS and Buyer with respect to the sale of Goods. In the event of a conflict between these Terms and any term or condition in any other document, website, order, or communication, these Terms shall control. Any terms and conditions which seek to add to this Agreement, including any terms or conditions stated on an order or website, shall have and be given no effect. These Terms supersede all prior oral or written agreements, proposals, discussions, correspondence, representations, warranties, and covenants. No course of prior dealings, acceptance, or acquiescence in a course of performance and no usage of the trade shall be relevant to supplement, explain, or modify this Agreement. All representations, promises, warranties, or statements by an agent or employee of PPS that differ in any way from this Agreement hereof shall be given no effect or force. No waiver or alteration of Terms shall be binding unless in writing, signed by an authorized employee of PPS. Notwithstanding the foregoing, if PPS and Buyer have separately negotiated and entered into a separate agreement signed by both parties (“**Separate Agreement**”), such Separate Agreement shall control over any conflicting term or condition of this Agreement, but only to the extent such Separate Agreement explicitly states the intended variance from these Terms.

2. Ordering Procedure.

2.1 Orders. By issuing an order for Goods to PPS, Buyer makes an offer to purchase such Goods pursuant to this Agreement.

2.2 Acceptance, Rejection, and Cancellation of Orders. PPS has no obligation to accept any order; however, PPS may accept an order (whether submitted by Buyer or via acceptance of a bid or quote) by confirming the order in writing or by delivering the applicable Goods to Buyer, whichever occurs first (each accepted order, an “**Order**”). PPS may reject or cancel an Order, which it may do without liability or penalty, and without constituting a waiver of any of PPS’s rights or remedies under this Agreement.

2.3 Cancellation, Modification, and Returns. Upon acceptance of an Order, Buyer shall be obligated to purchase from PPS quantities of Goods specified in such Order. Cancellation or modification of all or part of any Order is subject to PPS’s prior written consent in each instance. If cancellation or modification is allowed, Buyer agrees to pay to PPS all expenses incurred and damage sustained by PPS as a result of the cancellation or modification, and Buyer is solely responsible for the costs to transport the Goods back to PPS’s designated location. Goods returned to PPS under this Section 2.3 must be accompanied by a Return Material Authorization (as defined below). In some instances, PPS may accept, in its sole discretion, the restocking of Goods from Buyer. In such instances, at PPS’s sole discretion, a restocking fee of twenty-five percent (25%) of the sale price for the applicable Goods will be incurred by Buyer.

2.4 Minimum Orders for Spare Parts. Orders for Goods that constitute spare parts must be for a minimum of two hundred and fifty dollars (\$250.00), unless such minimum requirement is waived by PPS in PPS’s sole discretion.

3. Shipment, Delivery, Acceptance, and Inspection.

3.1 Shipment. Unless the Delivery Location is at a PPS facility, PPS shall select the method of shipment for, and the carrier of, the Goods. PPS, in its sole discretion, without liability or penalty, may make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale and Buyer shall pay for the Goods shipped, in accordance with the payment terms specified in this Agreement, whether such shipment is in whole or partial fulfillment of an Order.

3.2 Delivery. Unless otherwise agreed to in writing by the parties, PPS will, at Buyer’s cost and expense, deliver the Goods, to the location specified in the Order (the “**Delivery Location**”), using PPS’s standard methods for packaging and shipping.

3.3 Late Delivery. Any time quoted for delivery is an estimate only; *provided, however*, that PPS shall use commercially reasonable efforts to deliver all Goods within a reasonable time consistent with the Order.

3.4 Transfer of Title and Risk of Loss.

- (a) Title to Goods shipped under any Order passes to Buyer upon Buyer's payment in full for the Goods.
- (b) Risk of loss and damage passes to Buyer upon delivery to the carrier.

3.5 Inspection. Buyer shall inspect Goods received under this Agreement within five (5) days following receipt of such Goods ("**Inspection Period**") and either accept or, only if any such Goods are Nonconforming Goods (as defined below), reject such Goods. If Buyer discovers any Nonconforming Goods, Buyer must request an authorization from PPS to return the Nonconforming Goods (the "**Return Material Authorization**"). In order for Buyer to receive a Return Material Authorization, Buyer shall provide PPS with the following information prior to expiration of the Inspection Period: (a) the part number or description, and serial number of the Good(s), (b) the job or Order number, (c) the quantity of each Good to be returned, and (d) a detailed description of all defects and nonconformities. All defects and nonconformities that are not so specified will be deemed waived by Buyer, and such Goods shall be deemed to have been accepted by Buyer. Upon Buyer's receipt of the Return Material Authorization from PPS, Buyer shall return the Goods to PPS within five (5) days and in accordance with the Return Material Authorization. If Buyer timely requests a Return Material Authorization, and returns the Nonconforming Goods to PPS in accordance with the Return Material Authorization, PPS shall determine, in its reasonable discretion, whether the Goods are Nonconforming Goods. If, following receipt of the Goods in accordance with a Return Material Authorization, PPS determines that such Goods are Nonconforming Goods, PPS, in its sole discretion, shall either: (i) replace such Nonconforming Goods with conforming Goods; or (ii) refund to Buyer such amount paid by Buyer to PPS for such Nonconforming Goods returned by Buyer to PPS. Buyer shall ship, at PPS's request and expense, all Nonconforming Goods to PPS's designated location. If PPS exercises its option to replace Nonconforming Goods, PPS shall ship to the Delivery Location, at PPS's expense and risk of loss, the replacement Goods. THE REMEDIES SET FORTH IN THIS SECTION 3.5 ARE BUYER'S EXCLUSIVE REMEDIES FOR THE DELIVERY OF NONCONFORMING GOODS, SUBJECT TO BUYER'S RIGHTS UNDER SECTION 6.1 WITH RESPECT TO ANY SUCH GOODS FOR WHICH BUYER HAS ACCEPTED DELIVERY UNDER THIS SECTION 3.5. "**Nonconforming Goods**" means any goods received by Buyer from PPS pursuant to an Order that: (A) do not conform to the Goods listed in the applicable Order; (B) do not conform to the specifications on the Order; or (C) exceed (and then only to the extent the Goods exceed) the quantity of Goods ordered by Buyer pursuant to an Order. Where the context requires, Nonconforming Goods are deemed to be Goods for purposes of this Agreement.

4. Price and Payment.

4.1 Price. Buyer shall purchase the Goods from PPS at the prices set forth in the Order, or if no prices are set forth in the Order, at PPS's then-current list price for such Goods (the "**Prices**").

4.2 Shipping Charges, Insurance, and Taxes. All Prices are exclusive of, and Buyer is solely responsible for, and shall pay all taxes, levies, imposts, duties, deductions, charges, fees, or withholdings imposed, levied, withheld, or assessed by any governmental authority with respect to, or measured by, the manufacture, sale, shipment, use, or Price of the Goods (including interest and penalties thereon); *provided, however*, that Buyer shall not be responsible for any taxes imposed on, or with respect to, PPS's income, revenues, gross receipts, personnel, or real or personal property.

4.3 Payment Terms. Buyer shall pay to PPS all invoiced amounts in accordance with the applicable Order. Except as otherwise provided in the applicable Order, Buyer shall make all payments in US dollars by check or wire transfer. In some cases, if provided in the applicable Order, PPS may also accept payment via credit card or other payment card, and in such instances, Buyer hereby agrees to pay an additional three percent (3%) of the amount of such payment.

4.4 Late Payments. Buyer shall pay interest on all late payments calculated daily and compounded monthly, at the lesser of the rate of one and a half percent (1.5%) per month or the highest rate permissible under applicable law. Buyer also shall reimburse PPS for all reasonable costs incurred by PPS in collecting any late payments, including attorneys' fees and court costs. In addition to all other remedies available under this Agreement or at law (which PPS does not waive by the exercise of any rights under this Agreement), if Buyer fails to pay any undisputed amounts when due under this Agreement, PPS may suspend the delivery of any Goods.

4.5 No Set-off Right. Buyer shall not have, and acknowledges that it does not have, any right, under this Agreement, any Order, or any other agreement, or under law, to withhold, offset, recoup, or debit any amounts owed (or to become due and owing) to PPS.

5. Term; Termination.

5.1 Termination. In addition to any remedies that may be provided under this Agreement, PPS may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of this Agreement, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

5.2 Effect of Expiration or Termination. Any termination under this Agreement automatically operates as a cancellation of any deliveries of Goods to Buyer that are scheduled to be made subsequent to the effective date of termination, whether or not any orders for such Goods had been accepted by PPS. With respect to any Goods that are still in transit upon the termination of this Agreement, PPS, in its sole discretion, may require that all sales and deliveries of such Goods be made on either a cash-only or certified-check basis.

6. Warranties.

6.1 Limited Warranty.

(a) Except as otherwise expressly agreed upon in writing by the parties, PPS warrants to Buyer that for a period of two (2) years from the date of shipment of the Goods (“**Warranty Period**”), such Goods will materially conform to PPS’s published specifications in effect as of the date of this Agreement (“**Limited Warranty**”).

(b) PPS shall not be liable for a breach of the Limited Warranty unless: (i) Buyer gives written notice of the defect, reasonably described, to PPS within ten (10) days of the time when Buyer discovers the defect or after the end of the Warranty Period; (ii) PPS is given a reasonable opportunity after receiving the notice to examine such Goods and Buyer (if requested to do so by PPS) returns such Goods to PPS’s place of business for the examination to take place there; and (iii) PPS reasonably verifies Buyer’s claim that the Goods are defective.

(c) PPS shall not be liable for a breach of the Limited Warranty if: (i) Buyer makes any further use of such Goods after giving such notice; (ii) the defect arises because Buyer failed to follow PPS’s oral or written instructions as to the storage, installation, commissioning, use, or maintenance of the Goods; or (iii) Buyer alters or repairs such Goods without the prior written consent of PPS.

(d) Subject to the foregoing, with respect to any such Goods during the Warranty Period, PPS shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part), or (ii) credit or refund the price of such Goods at the pro-rata contract rate. PPS shall only be responsible for shipping charges related to the repair or replacement of the Goods if Buyer provides notices of the defect within thirty (30) days of the date of shipment of the Goods. If PPS receives notice of the defect more than thirty (30) days after the shipment date, Buyer shall be responsible for all such shipping charges related to the repair or replacement of the Goods.

(e) THE REMEDIES SET FORTH IN THIS SECTION 6.1 SHALL BE THE BUYER’S SOLE AND EXCLUSIVE REMEDY AND PPS’S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH HEREIN. The Limited Warranty set forth in this Section 6.1 does not apply to (i) batteries, (ii) damage arising from the misuse, lack of maintenance, or attempted field modifications or repairs to the Goods; (iii) damage to other equipment connected to the Goods; or (iv) Repaired Goods (as defined below).

6.2 Repair Warranty.

(a) Except as otherwise expressly agreed upon in writing by the parties, PPS warrants to Buyer that for a period of ninety (90) days from the applicable invoice date (“**Repair Warranty Period**”), any Goods repaired by PPS (“**Repaired Goods**”) will materially conform to PPS’s published specifications in effect as of the date of the Agreement (“**Repair Warranty**”).

(b) PPS shall not be liable for a breach of the Repair Warranty unless: (i) Buyer gives written notice of the defect, reasonably described, to PPS within five (5) days of the time when Buyer discovers the defect or after the end of the Repair Warranty Period; (ii) PPS is given a reasonable opportunity after receiving the notice to examine such Repaired Goods and Buyer (if requested to do so by PPS) returns such Repaired Goods to PPS’s place of business for the examination to take place there; and (iii) PPS reasonably verifies Buyer’s claim that the Repaired Goods are defective.

(c) PPS shall not be liable for a breach of the Repair Warranty if: (i) Buyer makes any further use of such Repaired Goods after giving such notice; (ii) the defect arises because Buyer failed to follow PPS's oral or written instructions as to the storage, installation, commissioning, use, or maintenance of the Repaired Goods; or (iii) Buyer alters or repairs such Repaired Goods without the prior written consent of PPS.

(d) Subject to the foregoing, with respect to any such Repaired Goods during the Repair Warranty Period, PPS shall, in its sole discretion, either: (i) repair or replace such Repaired Goods (or the defective part), or (ii) credit or refund the price of such Repaired Goods at the pro-rata contract rate. All shipping charges related to the repair or replacement of the Repaired Goods are the responsibility of the Buyer.

(e) THE REMEDIES SET FORTH IN THIS SECTION 6.2 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND PPS'S ENTIRE LIABILITY FOR ANY BREACH OF THE REPAIR WARRANTY SET FORTH HEREIN. The Repair Warranty set forth in this Section 6.2 solely applies to Repaired Goods (i.e., replacement parts or subassemblies), and shall not apply to batteries. Where the context requires, Repaired Goods are deemed to be Goods for purposes of this Agreement.

6.3 DISCLAIMER. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 6.1 AND SECTION 6.2, PPS MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

6.4 Maintenance and Support. These Terms solely cover the sale of the Goods and not any maintenance or support of equipment or other Goods, and these Terms do not create any obligation to provide support or maintenance of the Goods. PPS offers support and maintenance for certain Goods; any obligation for the support and maintenance of any Goods is subject to PPS and Buyer entering into an applicable agreement governing such services.

7. Limitation of Liability.

7.1 NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES. IN NO EVENT SHALL PPS OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (a) WHETHER SUCH DAMAGES WERE FORESEEABLE, (b) WHETHER OR NOT PPS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (c) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

7.2 MAXIMUM LIABILITY FOR DAMAGES. IN NO EVENT SHALL PPS'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO PPS PURSUANT TO THE APPLICABLE ORDER GIVING RISE TO THE CLAIM.

7.3 ASSUMPTION OF RISK. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY GOODS IN THE PRACTICE OF ANY PROCESS, WHETHER IN TERMS OF OPERATING COSTS, GENERAL EFFECTIVENESS, SUCCESS, OR FAILURE RELATED TO THE USE OF SUCH GOODS.

8. Intellectual Property Rights.

8.1 Manufacturing and PPS Tooling. Buyer acknowledges and agrees that all intellectual property rights relating to the manufacturing of the Goods are the sole and exclusive property of PPS or its third-party licensors, and Buyer shall not acquire any ownership interest in any of PPS's intellectual property rights under this Agreement. Any goodwill derived from the use by Buyer of PPS's intellectual property rights inures to the benefit of PPS or its third-party licensors. Without limiting the foregoing, all dies, test and assembly fixtures, gauges, jigs, patterns, casting patterns, cavities, molds, and documentation (including engineering specifications and test reports) used by PPS in connection with its manufacture and sale of the Goods, together with any accessions, attachments, parts, accessories, substitutions, replacements, and appurtenances thereto are owned by PPS ("**PPS Tooling**"), and Buyer has no right, title, or interest in or to any of the PPS Tooling.

8.2 PPS Marks. PPS shall retain all right, title, and interest in and to any and all trademarks that PPS may own (including those trademarks owned by PPS's subsidiaries or affiliates), including but not limited to those trademarks with the following Registration Numbers: 3189365, 3189376, 3271887, 4149343, 5662307, 5662308, and 5835676 (collectively, and together with all other PPS trademarks, the "**PPS Marks**"). Buyer recognizes the value of the goodwill associated with the PPS Marks and all use of the PPS Marks, and that any goodwill associated with the PPS Marks will inure to the benefit of PPS.

8.3 Buyer Artwork. Buyer hereby grants to PPS all right, title, and interest in and to all artwork provided by Buyer intended to be included on the Goods (excluding the PPS Marks, the "**Buyer Artwork**").

8.4 Restrictions on Software. Certain Goods may be delivered with software used to facilitate the functionality of the Goods. Buyer shall not modify, alter, reverse engineer, decompile, translate, disassemble, or distribute any software applications provided by Buyer, nor make any attempt to discover the source code of such software, nor create derivative works from such software.

9. Confidentiality. All non-public, confidential, or proprietary information of PPS, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates that PPS discloses to Buyer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and regardless of whether marked, designated, or otherwise identified as "confidential" in connection with the Agreement, is confidential, solely for the use of performing the Agreement, and may not be disclosed or copied unless authorized in advance by PPS in writing. Upon PPS's request, Buyer will promptly return all documents and other materials received from PPS. PPS will be entitled to injunctive relief for any violation of this Section 9, without having to post bond or establish the insufficiency of a remedy at law. This Section 9 does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

10. Miscellaneous.

10.1 Non-solicit. Throughout the term of this Agreement and for a period of one (1) year thereafter, Buyer agrees that it will not, directly or indirectly, solicit any PPS employee nor any employee of an affiliate of PPS for employment, without written consent from PPS.

10.2 Notices. All notices, consents, approvals, and other communications that are required or permitted to be given to the parties under the Agreement shall be (a) given in writing and delivered in person or by electronic mail, overnight courier, or certified mail, postage prepaid, return receipt requested, to the receiving party at the address or email address shown in the applicable Order, or to such other address or email address as such party may have given to the other by notice pursuant to this Section 10.2; and (b) deemed delivered, given, and received (i) on the date of delivery, in the case of delivery via personal delivery or electronic mail, (ii) on the delivery or refusal date, as specified on the return receipt in the case of certified mail, or (iii) on the tracking report, in the case of overnight courier.

10.3 Relationship of the Parties. The relationship between PPS and Buyer is solely that of vendor and vendee, and PPS and Buyer are independent contracting parties.

10.4 Indemnification. Buyer shall defend, indemnify, and hold harmless PPS and its subsidiaries and affiliates, and their respective officers, directors, and employees from all damages, losses, liabilities, and expenses (including reasonable attorneys' fees), arising out of or as a result of claims by third parties ("Claims") relating to (a) the fraud, negligence, or willful misconduct of Buyer under this Agreement; (b) PPS's use of the Buyer Artwork on any Goods delivered under this Agreement; (c) PPS's compliance with designs, specifications, or instructions supplied to PPS by Buyer under this Agreement; (d) Buyer's use of a Good (i) in an application or environment or in a manner for which the Good was not designed, or (ii) that does not comply with specifications or instructions provided to Buyer by PPS; or (e) modifications to a Good made by a third-party without PPS's prior written approval.

10.5 Survival; Statute of Limitations. Any provision that, in order to give proper effect to its intent, should survive such expiration or termination, including, without limitation, Section 3.5, Section 4, Section 6, Section 7, and Section 10 will survive the expiration or earlier termination of this Agreement.

10.6 Severability. If any term or provision of this Agreement is held invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement to effect the original intent of the parties as closely as possible, so that the transactions contemplated hereby may be consummated as originally contemplated to the greatest extent possible.

10.7 Right to Manufacture and Sell Competitive Goods. This Agreement does not limit PPS's right to manufacture or sell, or preclude PPS from manufacturing or selling, to any person or entity, or entering into any agreement with any other person or entity related to the manufacture or sale of, the Goods and other goods or products that are similar to or competitive with the Goods.

10.8 Waiver. No waiver under this Agreement is effective unless it is in writing and signed by an authorized representative of PPS. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this Agreement: (a) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement; or (b) any act, omission, or course of dealing between the parties.

10.9 Assignment. Buyer may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of PPS. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Agreement. This Agreement is binding on and inures to the benefit of the parties and their respective permitted successors and permitted assigns.

10.10 Force Majeure. PPS will not be liable for any failures or delays caused by strikes, differences with workers, or any causes beyond the reasonable control of PPS, including but not limited to fires, floods, accidents, action of any governmental authority, war, insurrection or riots, or shortages of labor, energy, raw materials, production facilities, or transportation. Where delays or failures are caused by labor difficulties, PPS will not be obligated to seek or obtain any settlement that, in PPS's sole judgment, is not in PPS's best interest.

10.11 Governing Law. This Agreement is made under and will be construed in accordance with the laws of the State of California, other than such laws, rules, regulations, and case law that would result in the application of the laws of a jurisdiction other than the State of California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any suit to enforce any provision of this Agreement, or arising out of or based upon this Agreement, shall be brought exclusively in the state or federal courts located in Irvine, California. Buyer hereby agrees and submits to the personal jurisdiction and venue of such courts.

10.12 Interpretation. For purposes of this Agreement, (a) the words "including," "included," and "includes" mean inclusion without limitation; (b) headings are for convenience only and shall not have any effect on interpretation; (c) words in the singular will be construed to include the plural, and vice versa, unless the context requires otherwise; (d) the word "or" is not exclusive and shall have the meaning commonly ascribed to the term "and/or"; and (e) each party acknowledges it has been represented by legal counsel, or has had full opportunity to seek the advice of legal counsel, and therefore, in the event of an ambiguity or question of intent or interpretation arises, the Agreement shall be construed as if jointly drafted by the parties and no presumption, inference, or burden of proof shall arise favoring or disfavoring a party by virtue of authorship of any or all of the Agreement provisions.

10.13 Counterparts. If signatures are required on an Order, (a) the Order may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one document, and (b) a signature in "PDF" format or an electronic signature on the Order shall be deemed an original and be binding upon the party against whom enforcement is sought.

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