



Patented Systems, Inc.

25923 Tina Lane

Katy, Texas 77494

GENERAL CONDITIONS OF SALE

1. GENERAL

The acceptance by the Purchaser of Patented Systems Inc.'s offer or the acceptance by Patented Systems Inc. of the Purchaser's order includes the acceptance of the following terms and conditions and should there be any conflict between these and any other conditions these conditions shall prevail.

2. DEFINITIONS

- (a) "PSI" shall mean Patented Systems Incorporated, a Texas Corporation, its successors and permitted assigns.
- (b) "Purchaser" shall mean the party designated as such on the obverse hereof, its successors and permitted assigns.
- (c) "PSI's yard" shall mean Patented Systems Inc.'s Manufacturing Plant in Katy, Texas.
- (d) "Products" shall mean the machinery or parts, as the context requires, manufactured by PSI, exclusive of driven equipment.
- (e) "Driven Equipment" shall mean the generator(s), pump(s), compressor(s) or other equipment, if any, not manufactured by PSI but contained in the Order.
- (f) "Goods" shall mean the products, driven equipment and services to be furnished or provided by PSI under this order.

3. ACCEPTANCE

- (a) Unless previously withdrawn, PSI's offer is open for acceptance within the period stated therein or, when no period is so stated, within thirty (30) days only after its date.
- (b) The issuance of a purchase order or other form of contract document by the Purchaser against this offering shall constitute an acceptance of the offer and not a counteroffer and shall create a contract of sale ("Order"), subject only to final credit approval and acknowledgement by PSI. Provisions contained in purchase orders or other contract documents issued against this offer that materially add to or subtract from the provisions of this offer are rejected and shall not be part of the contract of sale unless specifically agreed in a typewritten letter or other instrument conspicuously denominated as an amendment to these terms and conditions and signed by an executive officer of PSI. Written acknowledgement of the purchase order by PSI shall not constitute an agreement in writing to any additional or different terms unless expressly so stated in the acknowledgement and then only to the extent stated.

4. PACKING

Method of packing shall be at PSI's discretion unless PSI has contracted otherwise. Packing materials are not returnable.

5. INTERNATIONAL SHIPMENTS

These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations.

6. DRAWINGS

All specifications, drawings, and particulars of weights and dimensions submitted by PSI, unless certified by PSI for the Order, are approximate only, and the descriptions and illustrations contained in our catalogues, price lists and other advertisement matter are intended merely to present a general idea of the Products described, and none of these shall form a part of the contract. A set of certified installation drawings will be supplied in the number specified in the offer.

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7. INSPECTION AND TESTS

PSI's Products are carefully inspected and, where practicable, submitted to PSI's standard tests at PSI's yard before shipment. If tests other than those specified in the contract or tests in the presence of the Purchaser or the Purchaser's representative are required these will be charged for. In the event of any delay on the Purchaser's part in attending such tests or in carrying out any inspection required by the Purchaser after seven (7) days notice that PSI is ready, the tests will proceed in the Purchaser's absence and shall be deemed to have been made in the Purchaser's presence.

8. PERFORMANCE OF PRODUCTS

- (a) PSI will accept no liability for failure to attain any performance figures for Products quoted by PSI unless PSI has, having completely specified the conditions under which such performance figures can be obtained, specifically guaranteed them, subject to any tolerances specified or agreed to by PSI.
- (b) If the Products performance figures obtained on the tests provided for in the Order are outside the acceptance limits specified therein, the Purchaser will be entitled to reject the Products subject to the provisions of Paragraph below.
- (c) Before the Purchaser becomes entitled to reject the Products, PSI is to be given reasonable time and opportunity to rectify their performance. If the Purchaser becomes entitled to reject the Products, PSI will repay the Purchaser any sum paid by the Purchaser to PSI on account of the contract price thereof.
- (d) The Purchaser assumes responsibility that Products stipulated by the Purchaser are sufficient and suitable for the Purchaser's purpose save in so far as the Purchaser's stipulations are in accordance with PSI's advice.
- (e) PSI does not warrant performance figures for Driven Equipment but will assign to the Purchaser whatever warranty PSI receives from the manufacturer thereof.

9. LIABILITY FOR DELAY

- (a) Any times quoted for completion, shipment or delivery of Goods or for completion of services are to be calculated from the date, on or after the date the contract is formed, by which PSI has received all the information and drawings necessary to enable PSI to begin production of the Order and the down payment, if any, specified by the Order. Unless otherwise expressly agreed to in writing by PSI, time shall not be of the essence of this Order and all such times are agreed to be estimates only, and PSI shall not be liable for failure to ship, deliver or complete within such times.
- (b) If PSI shall have expressly agreed that time shall be of the essence, then nevertheless, PSI shall not be liable for delays in completion, shipment or delivery of Goods or non-performance in whole or in part or for delays in completion of services, if occasioned in whole or in part by labor difficulties, delays of vendors or carriers, fires, floods, governmental actions, material shortages or causes beyond PSI's reasonable control. Upon notice by PSI of such delays or non-performance, the Order shall be modified to extend PSI performance dates. In no event shall the Purchaser be entitled to direct, incidental or consequential damages for late performance or a failure to perform.

10. CHANGES AND EXTRA COST

- (a) If PSI and the Purchaser agree on the adjustments to be made, if any, to the contract price and the contract time, the Purchaser may order changes within the general scope of the Order. All such changes shall be by written Change Order signed by the Purchaser and shall specify, in addition to the change in the work, the adjustment, if any, to the contract price and the contract time.
- (b) In the event that PSI, whether acting under the original Order or a Change Order, incurs costs beyond those contemplated in the Order or any Change Order as a result of variation or suspension of work by the Purchaser's instructions or lack of instructions, interruptions, delays, overtime, unusual hours, mistakes, or work for which PSI is not responsible, a reasonable sum in respect of such extra cost shall be added to the contract price and paid for accordingly.



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11. DELIVERY AND RISK OF LOSS

Delivery shall be F.O.B. PSI's yard and Purchaser shall undertake and be responsible for shipment unless otherwise agreed in writing. Except as otherwise expressly agreed in writing by PSI, without regard to the F.O.B. point, title, dominion and all risk of loss shall pass to the Purchaser when the Goods are tendered for delivery or, if provided in the Order, loaded for shipment at PSI's yard in Katy, Texas.

12. SHORTAGES

Claims for shortages in transit must be filed with PSI within thirty (30) days after receipt of shipment, and must be accompanied by PSI's packing slip and full particulars to any such claim.

13. TERMS OF PAYMENTS, DEFAULT, REMEDIES

- (a) The contract price shall be due and payable as specified in PSI's offer. The place of payment shall be Katy, Fort Bend County, Texas, and unless otherwise specified in PSI's offer, payment shall be made in \$ US dollars as the lawful money of the United States of America.
- (b) The Order may not be terminated in whole or in part by Purchaser without the prior written consent of PSI and the payment of reasonable adjustment charges. In the event any sum becoming due hereunder is not paid promptly when due or in case of failure or repudiation by Purchaser in the performance of any of its obligations under the Order; or receivership, or bankruptcy of Purchaser; or if Purchaser shall make an assignment for the benefit of creditors; or shall go out of business; or if PSI shall, in good faith, deem payment of Purchaser's obligations hereunder to be insecure, then in any such event, (herein called "Event of Default"), at its option, PSI may demand adequate assurance of due performance of the Purchaser's obligation hereunder and until PSI receives such assurance may, if commercially reasonable, suspend or stop performance of its obligations hereunder or delivery of Goods for which it has not been paid. If the assurance is not received by PSI within thirty (30) days from the date of its demand, PSI may at its option cancel the order. Cancellation by PSI shall be without prejudice to any of PSI's other rights or remedies hereunder or to any of PSI's claims for damage.
- (c) Without prejudice to or waiver of any other rights which PSI may have under the Order, at law or in equity, it is further agreed that in any such event, PSI may estimate its reasonable damages and may apply any down payment or balance thereof then on hand, to such estimate or demand assurance of Purchaser's performance hereunder adequate to PSI in its sole discretion. PSI's remedies are cumulative and the exercise of any one or more shall not be construed as an election of remedies or waiver of any other remedies available to PSI. Purchaser agrees that it shall be reasonable for PSI to demand as assurance either payment of the full unpaid balance of the Order or guarantees of such payment on such terms and conditions, and issued by such banks as may be agreeable to PSI in its discretion, reasonably exercised. Purchaser further agrees that it shall be commercially reasonable for PSI to stop or suspend performance or stop shipment of the Goods immediately upon the happening of an Event of Default, or at any time thereafter without prior notice, demand, notice of default, or notice of any other kind, all of which are hereby expressly waived.

14. DELAYED DELIVERY

If PSI is unable, by reason of the Purchaser's instructions, lack of instructions, industrial disputes, act of God, or causes beyond PSI's reasonable control, including but not limited to delays of carriers, fires, and governmental actions, to deliver Goods when ready, the Purchaser shall arrange and pay the cost of suitable storage, protection and insurance. If the Purchaser is unable to take delivery and arrange storage, PSI shall be entitled to arrange storage at PSI's yard or elsewhere and all charges therefore, including, without limiting the generality thereof, insurance and demurrage, shall be payable by the Purchaser. Storage shall be at the Purchaser's risk. In any of these events, PSI shall be entitled to be paid as though tender, shipment or delivery had been made in accordance with the contract and title and risk of loss shall pass to the Purchaser.



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15. WARRANTY

- (a) PSI warrants for a period of one (1) year from readiness for shipment of its Products, that its Products will be of good quality, free from defects in design (other than a design made, furnished or specified by the Purchaser), materials and workmanship and will meet those specifications expressly provided for in the agreement or the Order provided; however, PSI assumes no responsibility for damages due to deterioration during periods of storage prior to installation and operation or for any damages following installation and operation unless the Products or spare parts have been installed and operated in accordance with PSI's recommendations; the defect has arisen under proper use and only those power supplies, fuels, lubricants and coolants with their associated systems approved by PSI have been employed, and no repairs or alterations have been effected without PSI's knowledge and approval. PSI does not warrant Driven Equipment but will assign to the Purchaser whatever warranty PSI received from the manufacturer thereof. This warranty shall not apply to fuses or disposable components.
- (b) Any claims made under this warranty must be made in writing immediately upon discovery, but in no event shall PSI be liable for any claim made after one (1) year from readiness for shipment of the Products. Purchaser's failure to submit a claim as provided above shall specifically waive all claims for damages or other relief.
- (c) Upon receipt of Purchaser's warranty claim, PSI will at PSI's option, repair or replace Products that are defective under proper use or are non-conforming. If so required by PSI, defective Products will be returned postage paid by Purchaser to PSI and, if replaced, become the property of PSI. The foregoing is PSI's only obligation and Purchaser's exclusive remedy for breach of warranty and except for Paragraph 15 hereof. The foregoing is the Purchaser's exclusive remedy for all other claims arising hereunder whether such claims are based on contract, tort (including negligence), strict liability, liability without fault or other theories.
- (d) THIS WARRANTY IS IN LIEU OF AND PSI HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE. Except as provided herein PSI shall be under no liability whether in contract, tort (including negligence), strict liability, liability without fault or otherwise in respect to direct, indirect, incidental, consequential, special or punitive damages arising from defects in Products delivered or work performed.
- (e) In absolutely no event (including, without limitation, defects (latent or otherwise), in design, materials or workmanship, breach of contract or warranty or negligence) and under no theory (including, without limitation, statutory, contract, warranty, tort (including negligence), strict liability and liability without fault shall PSI have any liability whatsoever for any claims arising out of, emanating from or in anyway related to the Goods after the expiration of the one (1) year warranty period described above, except for claims made in writing as above provided, prior to the expiration of the warranty period.
- (f) Installation and service labor and supervision (at PSI's then prevailing charges for such services) and all costs and expenses associated with effecting warranty repairs (excluding therefrom solely the value of the repaired or new products or parts) shall be billed by PSI to and paid for by Purchaser.

16. RETURNS

Any product returned for credit, not involving a warranty claim, will be required to be inspected for damage and if applicable the issuing serial number matched in order to be accepted. Returns will incur a restocking fee of 35% prior to a refund being issued. The customer is responsible for all return shipping costs on items being returned for credit. Special order items are non-returnable.

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17. PATENTS

- (a) PSI warrants that the Products shall be delivered free of the rightful claim of any third person by way of infringement or the like of any United States patent or trademark; provided, however, that such claim is made within the continental limits of the United States and prompt notice and opportunity to defend is given by Purchaser to PSI. The above warranty constitutes PSI's sole responsibility for infringement claims. Purchaser agrees to defend and hold PSI harmless from any claims of infringement for Products manufactured to Purchaser's specifications or arising out of the use of the machinery manufactured to Purchaser's specifications if no infringement or claim thereof would arise except for such manufacture or use and notice of any such claim made on PSI and opportunity to defend is given by PSI to Purchaser.
- (b) Purchaser warrants that any design or instruction furnished or given by Purchaser to PSI shall not be such as will cause PSI to infringe any United States patent or trademark.
- (c) Patent and trademark rights relating to PSI Products shall remain PSI's absolute property and PSI's designs and drawings shall not be reproduced or disclosed without PSI's written consent. The Purchaser will not, without PSI's previous written consent, copy or allow others to copy PSI Products.

18. LIMITS OF LIABILITY

The total liability of PSI for any loss, damage or claim whether in contract, tort, strict liability, liability without fault or otherwise arising out of any Order resulting from this agreement or the performance or breach of any provision thereof or from the design, manufacture, sale, delivery, resale, inspection, assembly, testing, repair, replacement, operation, maintenance or use of any Products or from the performance of any service shall not in any event exceed the price allowable to the Products services, if any, which gives rise to the claim, loss or damage. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT OR WARRANTY OR ALLEGED NEGLIGENCE OR LIABILITY WITHOUT FAULT, SHALL PSI BE LIABLE TO THE PURCHASER OR ANY SUCCESSORS IN INTEREST FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES, WHICH SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF GOODWILL, LOSS OF PROFITS, OR REVENUE, LOSS OF USE OF THE PRODUCTS OR ANY DRIVEN EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTED EQUIPMENT OR PARTS, FACILITIES OR SERVICES, DOWNTIME COSTS, LABOR COST OR CLAIMS OF PURCHASER OR PURCHASER'S CUSTOMERS. If the goods are being purchased for resale to others, the Purchaser shall obtain and furnish to PSI the agreement of the end user thereof to be bound by the limitations of liability set forth in this Paragraph 16. In the event and to the extent that the Purchaser fails to obtain such an agreement for PSI's benefit and protection, or in the event that such agreement is obtained but is altered, relinquished or waived or is held ineffective for any reason, the Purchaser agrees to defend, indemnify and save harmless PSI from and against any and all liability to and claims and demands by such end user.

19. STATUTORY AND OTHER REGULATIONS

If the cost to PSI of performing PSI's obligations under the contract shall be increased or reduced by reason of the making or amendment after the date of tender of any law or of any order, or regulation, having the force of law that shall affect the performance of PSI's obligations under the contract, the amount of such increase or reduction shall be added to or deducted from the contract price as the case may be.



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20. PRICES

- (a) All prices stated herein are subject to change in the event of any Purchaser required alterations in specifications, quantities, points and/or methods of delivery, time of delivery or terms of payment.
- (b) Prices quoted do not include Federal, State, or local sales, use or excise taxes and/or other similar charges. Consequently, any and all such charges, if assessed, shall be paid by Purchaser, or in lieu thereof, Purchaser shall provide PSI with proper exemption certificates acceptable to the charging authorities.
- (c) All prices, unless otherwise specifically quoted, are F.O.B. PSI's yard in Katy, Texas and include charges such as sea pack, insurance, brokerage fees and the like will be furnished only when and as specifically enumerated in the offering.
- (d) PSI hereby reserves the right to receive refunds of any drawback duties or other U.S. Customs duties which may accrue on exportation of the Goods herein described. Purchaser hereby agrees to execute such documents and follow such procedures as may be necessary for Seller to obtain such a refund.

21. BANK CHARGES AND EXCHANGE LOSSES

All bank charges and currency exchange losses paid or incurred by PSI associated with payment are to be for the Purchaser's account, and shall be repaid to PSI by Purchaser upon demand.

22. APPLICABLE LAW AND JURISDICTION

This contract shall be deemed to have been executed, delivered and accepted in the State of Texas, U.S.A. and shall be governed, construed, and enforced pursuant to the laws of the State of Texas.

JURISDICTION: customer waives any rights to commence any action against PSI in any jurisdiction except in the County of Fort Bend, State of Texas, U.S.A.

23. HEADINGS

The headings to the clauses of these General Conditions shall not affect the interpretation thereof.

Terms 2019 DF