

## SERVICES TERMS AND CONDITIONS

As of this \_\_\_ day of \_\_\_\_\_, 2025, Power Critical Services, LLC hereinafter referred to as "Seller" and \_\_\_\_\_, herein referred to as the "Purchaser," both of which may be collectively referred to as "Parties," agree that Seller shall supply certain goods and/or services ("Services") at Purchaser's request pursuant to the terms and conditions contained within Agreement (defined below).

Acceptance of a proposal by Purchaser, or acceptance by Seller of any purchase order submitted by Purchaser, is expressly made conditional on Purchaser's assent to these service terms and conditions and Seller's proposal. Seller agrees to furnish and install the Services only upon its proposal and these terms and conditions. The proposal and these standard terms and conditions are hereinafter referred to as the "Agreement."

The terms and conditions set forth herein are the only terms and conditions upon which Seller shall sell and install the Services. Additional or conflicting terms or conditions contained in any purchase order or other document furnished by Purchaser to Seller are hereby objected to by Seller, shall not be binding upon Seller, and shall not constitute a part of the Parties' Agreement.

### 1. Payment

Purchaser shall be invoiced periodically for Seller's Services. Purchaser agrees to pay Seller the sum invoiced a. Payment in full shall be due and payable to Seller by Purchaser within thirty (30) days of Seller's submittal of invoice.

Seller shall have the right, among other remedies, either to terminate this Agreement or to suspend further performance under this Agreement in the event Purchaser fails to make any payment when due. Purchaser shall pay all collection expenses, including but not limited to attorney's fees, incurred by Seller in the collection of amounts owed by Purchaser.

If any payment owed to Seller is not paid when due, Purchaser shall pay Seller interest on such delinquent payment at one and one-half percent (1.5%) per month, compounded monthly, but which shall not exceed the maximum rate permitted by law. Seller may preserve its interests in payment by enforcing applicable mechanic's, construction or similar lien rights.

### 2. Taxes.

The purchase price does not include sales, use, excise, or similar taxes. Consequently, in addition to the purchase price specified in this Proposal, the amount of any present or future sales, use, excise, or other tax applicable to the sale or use of the Services sold hereunder shall be paid by Purchaser, or in lieu thereof, Purchaser shall provide Seller with a tax-exemption certificate acceptable to the taxing authorities. Purchaser shall hold Seller harmless from all such taxes.

### 3. Limited Warranty.

Seller warrants to Purchaser that the Services will be performed by trained personnel using proper equipment and instrumentation. Seller warrants that any analysis of data, subsequent recommendations and other Services will be in accordance with applicable established industry standards and practices. Seller warrants the proper performance of the Services for a period of ninety (90) days from the completion of the Services.

This warranty does not cover and Seller shall not be liable for the following: (1) corrections required because of defective installation or Services performed by any person other than Seller; (2) corrections required because of misuse, abuse, negligence, alteration, accident, acts of God or tampering; or (3) charges by anyone for adjustments, repairs, or other work performed upon or in connection with the Services which is not expressly authorized in writing in advance by Seller.

This warranty is Seller's only warranty and is in lieu of all other warranties, express or implied. Seller makes no implied warranties of any kind, including any warranties of merchantability or fitness for any particular purpose. This warranty, if applicable, is limited to the correction of any defective installation of the equipment or defective provisions of the Services performed by Seller. This warranty and the remedies specified herein are the sole remedies of Purchaser, whether under theories of breach of contract, breach of warranty, negligence, strict liability or any other theory.

### 4. Limitation of Liability.

Seller's liability for any claim of any kind, including negligence and breach of warranty, for any loss or damage resulting from, arising out of, or connected with this Agreement, or from the performance or breach thereof, shall in no case exceed the purchase price allocable to the Services which give rise to the claim.

SELLER SHALL NOT BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS OR REVENUE, LOSS OF USE OF EQUIPMENT, COSTS OF REPLACEMENT POWER OR PRODUCT, OR ADDITIONAL EXPENSES INCURRED IN THE USE OF EQUIPMENT OR FACILITIES. THIS DISCLAIMER SHALL APPLY TO CONSEQUENTIAL DAMAGES BASED UPON ANY CAUSE OF ACTION OR ANY THEORY OF RECOVERY WHATSOEVER ASSERTED, INCLUDING THOSE ARISING OUT OF ANY BREACH OF WARRANTY OR GUARANTEE PRODUCTS LIABILITY, NEGLIGENCE, TORT, OR ANY OTHER CAUSE OF ACTION.

### 5. Indemnity.

Purchaser agrees to indemnify, defend, and hold harmless Seller, its successors, subsidiaries, officers, directors, agents, and employees, from and against all claims, damages, payments, taxes, losses or expenses, including all liens, garnishments, attachments, suits, judgments, and costs including attorney's costs that is attributable to personal or bodily injury, sickness, disease or death, or for loss or damage to property, including the loss of use resulting therefrom, and which is caused, in whole or in part, by any negligent, wrongful, unlawful or willful act or omission of the Purchaser, or their

agents or employees, regardless of whether such result, or alleged result, is caused in whole or in part, from the negligence, strict liability or other contractual or legal liability of Seller.

**IN THE EVENT THAT SELLER PERFORMS POWER SWITCHING OR SERVICES ON ENERGIZED ELECTRICAL EQUIPMENT, TO THE FULLEST EXTENT PERMITTED BY LAW, PURCHASER SHALL INDEMNIFY, DEFEND, AND HOLD SELLER HARMLESS FROM ANY AND ALL LIABILITY, ACTIONS, SUITS, CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES (“LOSSES”) ARISING OUT OF OR IN ANY WAY CONNECTED WITH OR RESULTING FROM SELLERS’ PERFORMMANCE OF POWER SWITCHING OR SERVICES ON ENERGIZED ELECRTICAL EQUIPMENT, REGARDLES OF WHETHER THE LOSSES RESULT FROM SELLER’S NEGLIGENCE (WHETHER ACTIVE OR PASSIVE, AND WHETHER SOLE, JOINT, OR CONCURRENT) AND EVEN THOUGH CAUSED IN WHOLE OR IN PART BY A PRE-EXISTING DEFECT, STRICT LIABILITY, OR OTHER LEGAL FAULT OF SELLER. THIS INDEMNITY SHALL APPLY TO ANY ACTS OR OMISSIONS OR NEGLIGENT CONDUTCT, WHETHER ACTIVE OR PASSIVE, ON THE PART OF EITHER THE SELLER OR THE BUYER.**

6. Insurance.

During the term hereof, the Contractor shall secure and maintain, the minimum amount of insurance coverages and limits as set forth in **Exhibit A** attached hereto and fully incorporated into this Agreement.

7. Non-Solicitation.

Purchaser shall not solicit, directly or indirectly, or employ any employee of Seller during the period any Services are being provided to Buyer and for a period of one (1) year after the last provision of Services. In the event that an employee of Seller is hired or leaves the employ of Seller in such circumstances, the Purchaser shall pay Seller, as compensation for the cost incurred by Seller in recruiting and training the employee, the sum equivalent to six (6) months pay for each employee hired from or leaving the employment of Seller.

8. Assignment.

Purchaser shall not assign, transfer, pledge, delegate or otherwise dispose its duties hereunder or any interest herein without the prior written consent of Seller. Any attempt to do so without Seller’s prior written consent shall be void and of no effect.

9. Billable Services.

Additional charges will be invoiced to Purchaser at Seller’s then prevailing labor rates for any of the following: a) any Services not specified in Seller’s proposal; b) any Services performed at times other than Seller’s normal services hours; c) if timely and reasonable site and/or equipment access is denied to the Seller Service representative; or d) Seller’s performance is made more burdensome or costly as a result of Purchasers failure to comply with its obligations herein.

10. Termination, Reduction of Products/Services, Rescheduling Delivery.

In the event Purchaser desires to terminate any part or all of this agreement, reduce the quantity of the Services ordered, or reschedule the delivery or performance, fair compensation shall be made to Seller which shall take into account, among other things, expenses incurred and commitments already made by Seller, reasonable costs and expense incurred by Seller in making settlement hereunder, and the increased costs incurred by Seller by reason of a revision in the delivery or performance schedule, and Seller's lost profit.

#### 11. Governing Law and venue.

The validity, construction, interpretation, ad effect of this Agreement shall be governed by the laws of the State of Texas, excluding any choice of law rules which would refer the mater to the laws of another jurisdiction.

Any actions under this Agreement shall be brought in the District Courts of Harris County, State of Texas.

Should the Seller employ an attorney to enforce any of the provisions hereof, or to protect its interest in any matter arising under this Agreement, or to collect damages for the breach of this Agreement, or to prosecute or defend any suit resulting from the Agreement, Purchaser agrees to pay to Seller all reasonable costs, charges, expenses and attorney's fees expended or incurred therein.

#### 12. Severability

In the event any provision of this Agreement is held or determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof shall remain in full force and effect.

#### 13. Remedies.

In the event of Purchaser's default of this Agreement, Seller shall have available all rights and remedies at law or in equity. Purchaser agrees to pay Seller all costs and expenses, including attorney's fees, incurred by Seller in exercising any of its rights and remedies. No failure on the part of Seller to exercise and no delay in exercising any right or remedy shall operate as a waiver thereof. No waiver by Seller of any default shall constitute a waiver by Seller of any additional or subsequent default.

#### 14. Force Majeure.

Seller shall not be liable for any delays in performance or for non-performance due to causes beyond its reasonable control, or due to acts of God, acts of Purchaser, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, delays in transportation, car shortages, and inability due to causes beyond its reasonable control to obtain necessary labor, materials, or processing facilities.

#### 15. Purchaser Responsibility

The Purchaser shall furnish to Seller, at no cost, suitable working space, storage space, adequate heat, telephone, light, ventilation, regulated electric power and outlets for testing purposes. Seller and its representatives shall have full and free access to the

equipment in order to provide the necessary Services. Purchaser shall provide the means to shut-off and secure electric power to the equipment and provide safe working conditions. Purchaser shall not require Seller or its employees, as a condition to site access or otherwise, to further agree or enter into any agreement, which waives, releases, indemnifies or otherwise limits or expands any rights or obligations whatsoever. Any such agreements shall be null and void.

16. Liens.

To the extent Seller has been paid for the Services furnished, Seller agrees to indemnify, defend and hold Purchaser harmless from and against all laborers', materialmen and mechanic's liens arising out of Seller's furnishing of the Services, and shall keep the property and premises of Purchaser free from all such claims, liens, and encumbrances. To the full extent permitted by law and to the extent Seller has been paid for the Services Furnished, Seller waives all rights of liens against the property and premises of Purchaser.

17. Entire Agreement.

All agreements and understanding of any character heretofore made between Seller and Purchaser are embodied in this Agreement, and no changes shall be made to this Agreement unless the same shall be in writing and duly signed by an authorized representative of both Seller and Purchaser. No terms or provision contained in any purchase order submitted by Purchaser shall apply.

[SIGNATURE PAGES TO FOLLOW REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

**PURCHASER:**

\_\_\_\_\_

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**SELLER:**

**POWER CRITICAL SERVICES, LLC.**

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_