

Rental General Terms and Conditions

1.0 Summary. These General Terms & Conditions are between Kinsley Group, Inc. d/b/a Kinsley Power Systems (“Kinsley”) having a mailing address of 14 Connecticut South Drive, East Granby, CT 06026 (fax number 860-844-6136) and the person, company, firm or business entity purchasing equipment, renting equipment and/or obtaining products or services from Kinsley (“Customer”, “You” or “Your”). The purpose of these General Terms & Conditions is to set forth the general terms and conditions that will apply to all services performed by Kinsley for the Customer and all products sold by Kinsley to the Customer. Specific terms and conditions on which such services and products will be provided may be set forth in separate agreements (written proposals, quotations, etc.) signed and agreed to by Kinsley (each hereinafter referred to as a “Related Agreement”). The provisions of these General Terms & Conditions shall be incorporated into each of these Related Agreements and govern all the understandings and agreements between the parties unless otherwise expressly set forth in a Related Agreement. In the event of a specific conflict between the provisions of these General Terms & Conditions and the express provisions of any Related Agreement, the Related Agreement shall control, except for Section 3.0 below, “Limited Warranty Statement”, which shall control over any Related Agreement, unless such Section 3.0 is specifically referenced and amended in writing and signed by authorized personnel of Kinsley. These General Terms and Conditions shall apply to each individual project, sale or transaction, provided that a default by Customer under the General Terms and Conditions or a Related Agreement with respect to one project, sale or transaction shall constitute a Customer default under all projects, sales and transactions with such Customer and its affiliates.

2.0 Finance Charges, Collection Costs, Expenses, and Other Remedies. All bills not paid within agreed-upon terms shall be assessed a late charge of one and one-half percent (1.5%) per month (eighteen percent (18%) per annum) on the unpaid balance until paid in full. In the event that Kinsley incurs collection expenses or brings any lawsuit, arbitration or other proceeding to collect amounts owed, Kinsley shall be entitled to recover the costs and expenses (including but not limited to its filing fees, witness fees and reasonable legal fees) incurred in collecting such amounts. Kinsley reserves the right, where permitted by law, to charge up to a four percent (4%) surcharge, processing fee, or convenience fee for all payments made by credit card.

2.1 Credit Approval, Sales. Shipments, deliveries and performance of work shall at all times be subject to the approval of Kinsley. Kinsley may at any time reject any purchase order, or decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to Kinsley in its sole discretion.

2.2 Force Majeure. Kinsley shall not be liable in any way for any default or delay due to conditions or contingencies beyond its control, which prevents or interferes with Kinsley or its suppliers or subcontractors making delivery or performing services on the date specified, including but not limited to war, or restraints affecting shipping, delivery of materials or credit as a result of war or war restrictions, non-arrival delay or failure to produce materials as a result of war or war restrictions, rationing of fuel, strikes, lockouts, fires, bombings, acts of terrorism, accidents, weather conditions, floods, droughts and any other condition or contingency affecting Kinsley, its suppliers, or subcontractors; and Kinsley shall have the right to cancel a contract for services or cancel a contract of sale or to extend the shipping date in the event of one or more of such conditions or contingencies.

2.3 Third Party Vendors. Kinsley may from time to time refer the Customer to third party vendors for specific products or services. These vendors are not Kinsley’s subcontractors, so it is the Customer’s responsibility to select and negotiate the terms and conditions of the Customer’s business with them. Kinsley will not be responsible for their products or services.

2.4 General:

- Any claims for shortages or deductions for erroneous charges must be made in writing within thirty (30) days after receipt of goods or services or shall be deemed waived.
- All manufacturer’s names, numbers, symbols and descriptions are used for reference purposes only, and it is not implied that any part listed is the product of these manufacturers.
- All clerical errors on the part of Kinsley are subject to corrections.
- Prices are subject to change without notice.
- Unless otherwise stated, prices are FOB point of manufacture.
- Delivery dates may be quoted by Kinsley. Such dates are estimates only and in no event shall such dates be construed as falling within the meaning of “time is of the essence”.
- When providing pricing for site services, Kinsley will adhere to prevailing wage requirements. Kinsley will make reasonable efforts to determine if prevailing wage rates are required, but the Customer has the burden and responsibility to communicate any prevailing wage requirements to Kinsley (or intermediate contractor). If Kinsley’s failure to pay prevailing wages is reasonably attributable to Customer’s failure to provide prevailing wage information to Kinsley, including but not limited to wage schedules or rate sheets associated with the work described in this Agreement, Kinsley may seek appropriate damages and restitution from Customer, and may amend the contract price to reflect increases in wages and fringe benefits paid to Kinsley employees to the extent that these increases are necessary to comply with federal, state or local prevailing wage laws.

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2.5 No Hire Clause. During the term of any Related Agreement under which Kinsley is providing products or services, and for a period of one (1) year thereafter, neither the Customer nor its affiliates shall: (a) employ or hire, or engage as a consultant or subcontractor, any employee or subcontractor of Kinsley or any of its affiliates, (b) solicit any employee or subcontractor of Kinsley or any of its affiliates to become an employee of, or consultant or subcontractor to Customer or any of its affiliates, or (c) recommend or suggest to any other person or entity that it so solicit, employ, hire, or engage any such employee or subcontractor. In the event of any breach of the foregoing provisions, Kinsley shall be entitled to be paid, on demand, as liquidated damages and not as penalty, an amount equal to the annualized base salary and other regular compensation being paid to such employee or subcontractor as of the date of the termination of his or her employment or contract with Kinsley or its affiliate. It is agreed that the amount of damages, which would be suffered because of a breach of the foregoing provisions of this Section, would be difficult to measure and that such payment amount constitutes reasonable liquidated damages for such a breach.

2.6 Invalid Provisions. These General Terms and Conditions and any Related Agreement shall be valid and enforceable to the fullest extent permitted by law. If any term, condition, or provision of these General Terms and Conditions or any Related Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, then such term, condition, or provision shall be curtailed and limited to the extent necessary to bring it within the legal requirements, and the remainder of these General Terms and Conditions, or Related Agreement, and the application of such term, condition, or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

2.7 Notices. Any written notice or other written communication to a party under these General Terms & Conditions or any Related Agreement shall be delivered personally, sent by fax, or sent by express carrier for next business day delivery evidenced by a receipt, or by United States registered or certified mail, freight or postage prepaid. Notices shall be sent to a party's address or fax number set forth at the beginning of the agreement or purchase order in which these General Terms and Conditions are incorporated or such other address or fax number as such party may specify in writing in accordance with these notice provisions.

2.8 Waiver of Failure to Act. No failure or delay by Kinsley in exercising any right or remedy under these General Terms and Conditions or a Related Agreement shall be deemed to be a waiver. The waiver by Kinsley in any respect of any right provided for in these General Terms and Conditions or any Related Agreement shall not be deemed a waiver of any further right hereunder.

2.9 Third Party Beneficiaries. These General Terms and Conditions and any Related Agreement shall not be deemed to create any rights in any third parties (excepting only Kinsley's affiliates), including suppliers and customers of a party, or to create any obligations of a party to any such third parties.

2.10 Affiliate. As used in these General Terms and Conditions or in any Related Agreement, an "affiliate" of a party means a third party that directly or indirectly (by the ownership of voting securities, contract or otherwise) controls, is controlled by, or is under the common control with, such party.

3.0 LIMITED WARRANTY STATEMENT IN NO EVENT SHALL KINSLEY BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, BUSINESS INTERRUPTION, LOSS OF REVENUE OR PROFITS, FEES OR FINES), EVEN IF KINSLEY HAS BEEN ADVISED OR MADE AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES OR DAMAGES AND REGARDLESS OF WHETHER THE CLAIM IS BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHER THEORY OF LIABILITY.

Kinsley's cumulative liability for all losses and damages under these General Terms and Conditions or under any of the Related Agreements (including, without limitation, those arising out of contract, tort (including negligence), strict liability, warranty, or other theory of liability) shall not exceed (a) in the case of any services provided or to be provided by Kinsley, the amount of the fees paid by Customer for such services under the applicable Related Agreement, and (b) in the case of any products or devices provided or to be provided by Kinsley, the amount of Kinsley's labor services paid by Customer and associated with the product sale.

Kinsley makes no warranties beyond those stated in this warranty statement. Furthermore, no personnel of Kinsley are authorized to make warranties of any nature, orally or otherwise.

4.0 Indemnification. Customer shall save harmless, indemnify, and at Kinsley's option, defend Kinsley, and Kinsley's owners, directors, officers, agents, representatives, affiliates and successors and assigns, from and against any and all liability, liens, claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions and causes of action of every kind and nature arising or growing out of or in any way connected with Kinsley's selling, repairing, evaluating, starting up, testing or maintaining equipment or other items or providing other services or products to or for the benefit of Customer or its affiliates, unless it is determined by a court of competent jurisdiction, after expiration of applicable appeal rights, that such matters were directly caused by Kinsley's gross negligence or willful misconduct.

5.0 Waiver of Subrogation. Customer and all parties claiming to be related to customer hereby agree to release and discharge Kinsley from all claims and/or liabilities arising from or caused by any casualty or hazard which may arise out of or in connection

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with activities associated with Kinsley's work on equipment or premises at the request or direction of Customer except as specifically stated herein, and Customer agrees to waive any right of subrogation which might otherwise exist in or accrue to any person on account thereof and further agree to evidence such waiver as may be required by Customers' insurance policies.