

Terms & Conditions

Definitions

1. The following definitions are used but not otherwise defined in this Agreement:
 - a) 'Casualty Value' means the market value of the Equipment at the end of the Term or when in relation to a Total Loss, the market value the Equipment would have had at the end of the Term but for the Total Loss. The Casualty Value may be less than but will not be more than the original purchase price of the Equipment;
 - b) 'Equipment' means the equipment as described within the rental agreement;
 - c) 'Total Loss' means any loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment;
 - d) 'Lessor' means Fundamental Power Solutions or ('FPS') of 1424 Reagan Ave, Coquitlam, British Columbia, V3J 3B5;
 - e) 'Lessee' means the Customer as described in the customer portion of the rental agreement;
 - f) 'Parties' are collectively the Lessor and Lessee;
 - g) 'Contract' means the agreement formed between Buyer and FPS pursuant to a written contract (of which these Terms form a part), or pursuant to a Purchase Order which has been accepted by FPS in writing (of which these Terms shall be deemed to form a part), in either case with respect to the Work;
 - h) 'Parties' means Buyer and Lessee;
 - i) 'Purchase Order' means a written purchase order of Buyer in form and content satisfactory to FPS in its sole discretion which has been accepted by FPS in writing;
 - j) 'Services' means the services to be provided by FPS to Lessee pursuant to and as specified in the Contract;
 - k) 'Work' means the Equipment and the Services.

Lease

2. The Lessor agrees to lease the Equipment to the Lessee, and the Lessee agrees to lease the Equipment from the Lessor in accordance with the terms set out in this Agreement.

Term

3. The Lease term commences on the Start Date defined in the Rental Agreement and will continue on a week-to-week basis for the minimum rental duration defined in the Rental Agreement, then until the Lessor or the Lessee terminates the Lease (the 'Term'). The Lease may be terminated by either the Lessor or the Lessee providing 1 week written notice to the other, after any minimum period.

Rent

4. The rent is the amounts as defined in the rental agreement and be paid on a 28 day billing cycle until the end of the Term (the 'Rent').

Delivery of Equipment

5. The Lessor will, at the Lessee's expense and risk, deliver the Equipment to delivery location defined on the Rental Agreement. The Lessee will pay the cost of delivery in the manner specified by the Lessor in the Rental Agreement.

Use of Equipment

6. The Lessee will use the Equipment in a good and careful manner and will comply with all of the manufacturer's requirements and recommendations respecting the Equipment and with any applicable law, whether municipal, provincial/territorial or federal respecting the use of the Equipment, including, but not limited to, environmental and copyright law.
7. The Lessee will use the Equipment for the purpose for which it was designed and not for any other purpose.
8. Unless the Lessee obtains the prior written consent of the Lessor, the Lessee will not alter, modify or attach anything to the Equipment unless the alteration, modification or attachment is easily removable without damaging the functional capabilities or economic value of the Equipment.
9. The Lessee, at the Lessee's own expense, will perform all recommended maintenance services on the equipment and keep accurate records of such services and produce such records upon request by the Lessor
10. If the Equipment is not in good repair, appearance and condition when it is returned to the Lessor, the Lessor may make such repairs or may cause such repairs to be made as are necessary to put the Equipment in a state of good repair, appearance and condition, normal and reasonable wear and tear excepted. The Lessor will make the said repairs within a reasonable time of taking possession of the Equipment and will give the Lessee written notice of and invoices for the said repairs. Then the Lessee will reimburse the Lessor for the actual expense of said repairs.
11. Inspection. Upon return to the Lessor the equipment will be deemed in good working condition upon passing testing of units.
12. The Lessee may, but is not obligated to, enforce any warranty that the Lessor has against the supplier or manufacturer of the Equipment. The Lessee will enforce such warranty or indemnity in its own name and at its own expense.
13. FPS does not authorize its employees to connect electrical equipment and assumes no responsibility for any loss, damage or delay suffered by Customer as a result of the connection of any electrical equipment supplied by FPS whether the connection is made by FPS Employees or by others.

Warranties

14. The Equipment will be in working order and good condition upon delivery. The Equipment is of merchantable quality and is fit for the following purpose: Testing

Loss and Damage

15. The Lessee will be responsible for risk of loss, theft, damage or destruction to the Equipment from any and every cause.
16. If the Equipment is lost or damaged, the Lessee will continue paying Rent, will provide the Lessor with prompt written notice of such loss or damage and will, if the Equipment is repairable, put or cause the Equipment to be put in a state of good repair, appearance and condition.
17. In the event of Total Loss of the Equipment, the Lessee will provide the Lessor with prompt written notice of such loss and will pay to the Lessor all unpaid Rent for the Term plus the Casualty Value of the Equipment, at which point ownership of the Equipment passes to the Lessee.

Ownership, Right to Lease and Quiet Enjoyment

18. The Equipment is the property of the Lessor and will remain the property of the Lessor.
19. The Lessee will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.
20. The Lessor warrants that the Lessor has the right to lease the Equipment according to the terms in this Agreement.
21. The Lessor warrants that as long as no Event of Default has occurred, the Lessor will not disturb the Lessee's quiet and peaceful possession of the Equipment or the Lessee's unrestricted use of the Equipment for the purpose for which the Equipment was designed.

Surrender

22. At the end of the Term or upon earlier termination of this Agreement, the Lessee will return the Equipment at the Lessee's cost, expense and risk to the Lessor by delivering the Equipment back to the location it was picked up at or was shipped from. If the Lessee fails to return the Equipment to the Lessor at the end of the Term or any earlier termination of this Agreement, the Lessee will pay to the Lessor any unpaid Rent for the Term plus the Casualty Value of the Equipment plus 10% of the Casualty Value, at which point ownership of the Equipment will pass to the Lessee. Renewal

22. The Lessee may renew this Agreement for an additional Term if the Lessee has given the Lessor 7 day's written notice of the Lessee's intention to renew and if the Lessee is not in default of any of the terms under this Agreement. Other than as agreed upon in writing between the Parties, the renewal will be on the same terms as this Agreement, except for this renewal clause.

29. On the occurrence of an Event of Default, the Lessor will be entitled to pursue any one or more of the following remedies (the 'Remedies'): a) Declare the entire amount of the Rent for the Term immediately due and payable without notice or demand to the Lessee. b) Commence legal proceedings to recover the Rent and other obligations accrued before and after the Event of Default. c) Commence legal proceedings for the return of the Equipment. d) Terminate this Agreement immediately upon written notice to the Lessee. e) Pursue any other remedy available in law or equity.

Assignment

30. THE LESSEE WILL NOT ASSIGN THIS AGREEMENT, THE LESSEE'S INTEREST IN THIS AGREEMENT OR THE LESSEE'S INTEREST IN THE EQUIPMENT WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR.

31. If the Lessee assigns this Agreement, the Lessee's interest in this Agreement or the Lessee's interest in the Equipment without the prior written consent of the Lessor, the Lessor will have recourse to the Remedies and will be entitled to all damages caused by the assignment.

Address for Notice

32. Service of all notices under this Agreement will be delivered personally or sent by registered mail or courier to the following addresses: a) Fundamental Power Solutions address of 1424 Reagan Ave, Coquitlam, British Columbia, V3J 3B5; b) Lessee at the address noted in the Rental Agreement;

Interest

33. Interest payable on any overdue amounts under this Agreement will be at a rate of 18 percent per annum or at the maximum rate allowed under applicable legislation, whichever is lower.

Taxes and fees

34. Lessee is responsible for any applicable government taxes or fees.

Governing Law

35. It is the intention of the Parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and proceedings under this Agreement, be construed in accordance with and governed by, to the exclusion of the law of any other forum, the laws of the Canadian Province of British Columbia without regard to the jurisdiction in which any action or proceeding may be instituted.

Liability

36. Notwithstanding any other provision of the Contract, FPS shall in no event be liable to Buyer or any other person, by way of indemnity or by reason of any breach of contract, warranty or statutory duty or in tort or otherwise, for any indirect, special, incidental, punitive, exemplary or consequential loss or damage, or any liquidated damage for any obligation, including delivery of equipment or documents or performance of FPS or the Equipment, or by the Lessors use or application of the equipment, or as a result of any cancellation, which may be suffered by Buyer or any other person, including loss of revenues or profits or opportunities, and whether or not the possibility of such losses or damages were known or should have been known by FPS.
37. Notwithstanding any other provision of the Contract, the total aggregate liability of FPS to Buyer or any other person under or in relation to the Contract or the Work, whether by way of indemnity or by reason of any breach of contract, warranty or statutory duty or in tort or otherwise, shall not exceed the Contract Value, net of any insurance proceeds that may be payable as a result of the Contract. Buyer shall provide written evidence to FPS that Buyer's insurer has waived its right of subrogation against FPS.

Governing Terms

38. In the event of any conflict or inconsistency between the Terms herein and the terms and conditions contained in any acknowledgement or in any other form issued by Buyer, whether or not any such form has been acknowledged or accepted by FPS, the Terms herein shall prevail unless specifically set out in the Contract with reference to these Terms. Any conflicting or additional terms not expressly set out in the Contract shall be of no force or effect. No waiver, alteration, revision or modification of the Terms shall be binding on either Party unless made in writing and signed by a duly authorized representative of FPS and confirmed by an official change order to the Contract. In the event of part of the Contract being ineffective, the validity of the remaining portion shall not be affected, provided such ineffectiveness is without prejudice to the essence of the Contract. Notice To The Lessee:

39. This is a lease. You are not buying the Equipment. Do not sign this Lease before you read it. You are entitled to a completed copy of this Agreement when you sign it.