

**Power Mechanical Incorporated
Field Service Terms and Conditions
Effective July 27, 2016**

1. Definitions

- a.) FIELD SERVICE: installation, inspection, servicing, reconditioning, start-up, alteration, repair, replacement, connection of, or assistance with Equipment, as specified in the Contract, Purchase Order, Work Order or similar document.
- b.) SERVICE TECHNICIAN: the person(s) authorized by PMI to furnish Field Service under this Contract.
- c.) EQUIPMENT: the unit and/or associated equipment that is described in the attached Proposal
- d.) PMI: Power Mechanical, Inc., and any subsidiaries and affiliated companies
- e.) BUYER: person, partnership, company, or corporation purchasing Field Service.
- f.) CONTRACT: these Terms and Conditions, along with the Proposal and its terms, and the General Terms and Conditions, which can be found at www.pmiterms.com.
- g.) PROPOSAL: the proposal document(s) submitted by PMI. This definition explicitly excludes any proposals submitted by Buyer.

2. Scope

The Field Service is rendered pursuant to the Contract. The Contract shall constitute the entire agreement of the parties and shall not be modified except by written change order issued and signed by PMI. No prior representations, inducements, promises, or agreements between the parties, oral or written, not embodied herein shall be of any force or effect and any said prior representations, inducements, promises, or agreements are hereby revoked and superseded. No terms stated by Buyer in accepting or acknowledging this offer or otherwise shall be binding except as expressly incorporated herein by PMI and Buyer is hereby notified of PMI's objection to and rejection of additional or different terms in Buyer's purchase order, acknowledgment or other forms. THIS OFFER IS EXPRESSLY LIMITED TO ACCEPTANCE UPON THE TERMS AND CONDITIONS CONTAINED HEREIN.

PMI offers to sell/perform the Field Service specified in the Contract. This offer is subject to and conditioned upon acceptance by Buyer within thirty (30) days from the date of this offer unless sooner revoked prior to acceptance. Buyer shall indicate its acceptance of this offer by executing and returning the Proposal or any other written acceptance or confirmation, by directing PMI to commence Field Service in any manner, by accepting Field Service, or by making payment for all or any part thereof.

All work directed by the Buyer or the Buyer's Agent shall be consider extra work and is above and beyond the scope and price set in this contract. Any such extra work shall be requested in writing by the Buyer and a price shall be agreed upon in writing before the extra work is executed.

Material removed by PMI shall become the property of PMI unless otherwise stated. Notwithstanding, PMI shall not be liable for removal or abatement of any hazardous or contaminated materials/waste or debris.

PMI shall not be responsible for underground piping or other hidden conditions. PMI shall not be responsible for the securing of premises at the end of the work day.

The Buyer shall assume responsibility for all existing mechanical and electrical equipment utilized in the installation. These items include but are not limited to: boilers, hot water heaters/generators, storage tanks, pumps, valves, chimney, fans, controls, outdoor associated controls, radiators/convectors, steam and water lines, vents, chillers, cooling towers, condensers, ductwork, coils, etc. PMI does not claim responsibility for any noises associated with equipment installed under this contract or any associated equipment.

The Buyer shall carry all required insurances for their property. Any loss or damage to equipment and materials due to fire, theft, or delivery of materials to the jobsite shall be the responsibility of the Buyer.

3. Warranty

- a.) Services – PMI warrants for a period of one year from the date of completion of the Field Service that the Field Service shall conform to standards customary in the industry for services of a similar nature.
- b.) Parts and Materials – PMI warrants for a period of ninety (90) days from the date of completion of the Field Service that all parts and materials supplied pursuant to the Field Service shall be free from defects in material and workmanship. All Service parts and material supplied by PMI but not installed by PMI personnel shall be warranted for ninety (90) days from the date of shipment, provided the parts are properly installed and maintained, used for the purpose intended, and used and tested in accordance with the manufacturer instructions during that period.
- c.) The Buyer is required to maintain the newly installed equipment. Warranties shall be considered null and void if proper maintenance is not performed as instructed upon completion of the Field Service.
- d.) Remedy - Should any nonconformity with this warranty appear in such parts and material during the term of this warranty, PMI shall, at its option, repair or replace the nonconforming part or material, FOB factory. Upon timely notification by Buyer, Buyer's return of the allegedly nonconforming parts and materials to PMI's facility, freight prepaid, and PMI's opportunity to inspect the parts and material and verify the nonconformity.
- e.) LIMITATION: PMI limits liability under this Section 3 to the repair or replacement of any defective material or equipment. The Warranties and Remedies specified in this Section 3 are exclusive and conditioned upon timely notification of Buyer. They are given by PMI and accepted by Buyer in lieu of any and all other remedies, warranties, and guarantees, express or implied, and IN LIEU OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

4. Liability

- a.) LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES, WHETHER ARISING IN THE CONTRACT, EQUITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL PMI, ITS AGENTS, AND ITS EMPLOYEES BE RESPONSIBLE OR LIABLE FOR LOSS OF PROFIT, LOSS OF OPERATING TIME OR LOSS OR, OR REDUCTION IN USE OF, ANY FACILITIES (INCLUDING EXISTING FACILITIES) OR ANY PORTION THEREOF, INCREASED EXPENSE OF OPERATION OR MAINTENANCE, EXPENSE OR REPLACEMENT PRODUCTS, OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.

- b.) Any claims for damages, other than warranty claims under Section III above, shall be made in writing within (10) ten days of completion of installation. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL PMI BE RESPONSIBLE OR LIABLE FOR ANY LOSS, COST, OR DAMAGE ARISING FROM ANY SOURCE WHATSOEVER, INCLUDING NEGLIGENCE, IN EXCESS OF THE PRICE PAID BY BUYER FOR THE FIELD SERVICE, PARTS AND MATERIALS WHICH GIVES RISE TO THE LOSS, COST, OR DAMAGE.

5. Compensation, invoicing, and payment

- a.) In consideration for the Field Service rendered, Buyer shall pay PMI the amount specified in the Contract. In addition, the Buyer shall pay the retail cost of all parts and materials used by the Field Service Representative in rendering Field Service or sold to Buyer.
- b.) Payment terms will be as specified in the Proposal or Contract.
- c.) Final payment based upon commissioning of system shall not be contingent upon progress or state of completion of work by other trades.
- d.) Title to all equipment and material furnished under this contract whatever the method of attachment to the real property shall remain with PMI until full payment has been made. In the event of delay of payment PMI shall have the right to remove or prevent further use of the installed equipment until payment is made according to the terms of the contract.

6. Delay

PMI shall not incur or be responsible or liable for any liability of any nature whatsoever for any delay in performing Field Service or any loss, cost, or damage arising from such delay if such loss, cost damage, delay, or failure is attributable in whole or in part to any cause or any causes beyond the reasonable control of PMI These causes include, but are not limited to, any act of God or the public enemy; compliance with any order, decree, or request of any governmental authority; act of declared or undeclared war; public disorder; rebellion, sabotage; fire; flood; explosion; accident; riot; delays in transportation, strike; labor difficulty or other concerted act of workmen, whether direct or indirect; inability to obtain necessary fuel, material, or equipment from normal sources of supply; production set-aside; declaration of national emergency; mobilization of industry whereby material and labor required for completion of the Field Service hereunder are allocated or controlled, or any other cause not within the control of PMI or which PMI is unable to avoid by exercise of reasonable care. Upon the occurrence of any such delay, the estimated time for completion and shipment of the Equipment shall be extended for a time equal to the delay time reasonably attributable to the cause.

7. Assignment

Buyer may neither assign, in whole or in part, Buyer's interest herein without the prior written consent of PMI.

8. Waiver

PMI's waiver of any breach by Buyer of any of the provisions contained herein shall not constitute a waiver of any other breach of the same or any other provision. PMI's rights and remedies under any provision contained herein shall be in addition to and not in substitution or limitation of any other rights and remedies available to PMI under applicable law.

9. Headings and Severability

Any headings preceding the text of the several articles hereof are inserted solely for convenience of reference, shall not constitute a part hereof, and shall not otherwise affect the meanings, content, effect, or construction hereof. In the event that any provisions contained herein or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remaining provisions hereof and the application of such provision which it is held invalid or unenforceable shall not be affected thereby, and each provision hereof, notwithstanding said invalidity or unenforceability, shall remain valid and enforceable to the fullest extent permitted by law.

10. Choice of Law

The terms of this Contract will be enforced and construed in accordance with laws of the Commonwealth of Virginia, and any legal proceedings will be in the Newport News General District Court or Circuit Court in Newport News, Virginia. Parties agree that all disputes, claims, and counterclaims relating to or arising from this Contract shall be litigated or otherwise resolved without a jury. The Parties expressly, voluntarily, and unequivocally waive any right they may have to a jury trial in connection with all disputes, claims, and counterclaims relating to or arising from this Contract. PMI EXPRESSLY REJECTS AND OBJECTS TO ANY REQUIREMENT TO SUBMIT TO ARBITRATION OR MEDIATION.