1. Agreement. These Power Sales Terms and Conditions and the document incorporating them by reference, including all documents, exhibits, schedules, and addendums attached thereto or specifically incorporated by reference, constitute the sole and entire agreement (“Agreement”) between Hawthorne Machinery Co., Hawthorne Machinery Co. dba Hawthorne Power Systems, or Hawthorne Pacific Corp. as applicable (“Hawthorne”) and the purchasing customer (“Customer”) (together with Hawthorne, the “Parties,” and each a “Party”), with regard to (i) all Orders for the Goods & Services, (ii) all transactions, understanding, and conditions contained in any request for proposal, purchase order, statement of work, or other similar document, nor does it serve to modify or amend this Agreement. Any such document shall create a separate contract consisting of the terms of this Agreement and any additional terms proposed by such document to the extent they do not conflict with the terms of this Agreement. Should the terms of any proposal, purchase order, or statement of work issued by Customer or a third party to Hawthorne have terms that are in conflict with this Agreement, then such terms shall control. The Parties agree that the Goods & Services will be governed by the following documents in this order of precedence: the document incorporating these Power Sales Terms and Conditions by reference, Power Sales Terms and Conditions, other writings signed by the Parties, other documents issued by the Parties relating to the Goods & Services. Acceptance of any portion of the Goods and Services, providing payment in whole or in part, or acceptance of this Agreement in any form (whichever occurs first) constitutes acceptance of these terms and conditions and any terms set forth in the document(s) incorporating them by reference.

2. Timing. Hawthorne shall use reasonable efforts to meet any performance dates specified in the Agreement or subsequent order or purchase order. Customer agrees that any such dates shall be estimates only.

3. Change in Scope of Work. If either Party wishes to change the scope or performance of the Goods & Services, it shall submit details of the requested change to the other Party in writing. Promptly after receipt of any proposed change, the Parties shall negotiate and agree in writing signed by all parties on the terms of such change.

4. Property Rights. If the Goods or Services supplied by Hawthorne are an entity, it is duly organized and validly existing in good standing; (ii) it is duly authorized to execute, deliver, and perform its obligations under this Agreement; (iii) when duly executed and delivered by each Party, the Agreement will constitute Customer’s legal, valid, and binding obligation, enforceable against it in accordance with its terms; (iv) it is not insolvent and is paying all of its debts as they become due, (v) no payments made under the Agreement will be subject to a substantially contemporaneous exchange for new value given to it; (vi) each payment made of a debt incurred by it under this Agreement is or was in the ordinary course of its business or financial affairs, and (vii) all information supplied by Customer is complete and accurate.

5. Customer Obligations. Customer shall pay or reimburse all prices, fees, expenses, or charges related to the Goods & Services when they become due, cooperate with Hawthorne in all matters relating to the Goods & Services, and provide such access to Customer’s premises and facilities as may reasonably be requested by Hawthorne for the purposes of performing or delivering the Goods & Services. Customer shall provide all information, direction, approvals, authorizations, notes, contracts, security arrangements, financing statements, decisions or requested by Hawthorne to perform or deliver the Goods & Services. Failure to comply with any portion of this section will constitute a material breach (“Material Breach”) of the Agreement, effective Hawthorne of any responsibility to perform or deliver the Goods & Services, and enable Hawthorne to terminate the Agreement.

6. Compliance with Law. Each Party agrees to comply fully, at its sole cost, with all applicable laws, regulations, and requirements.

7. Customer’s Acts and Omissions. If Hawthorne’s performance under the Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants, or employees, Hawthorne shall not be deemed in breach of its obligations under the Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer to the extent arising directly or indirectly from such prevention or delay.

8. Cancellations / Partial Work. Hawthorne reserves the right to charge Customer for any cancellation by Customer. All orders are noncancellable after they have been released for production.

9. Fees and Expenses. Customer shall (i) reimburse Hawthorne for all reasonable costs and expenses incurred in connection with the Goods & Services or in collecting any late payments and (ii) pay on demand all fees and charges due to the Agreement and any damage to the Goods from Hawthorne unless specified otherwise in writing by Hawthorne. Hawthorne shall control. Failure to notify Hawthorne in writing of any dispute regarding an invoice within sixty (60) days of receipt of said invoice waives Customer’s right to dispute such invoice. Customer’s obligation to pay amounts invoiced shall be unaffected by any order to cure any defect, or (ii) credit or refund the price of any defective Goods & Services, less a deduction equal to a pro-rata share of the Goods & Services used. The Remedy set forth above shall be Customer’s sole and exclusive remedy for any breach of the Limited Warranty above.

10. Late Payments. All late payments shall bear interest at the lesser of the rate of 1.5% per month (18% per annum) or the highest rate permitted under applicable law, calculated daily and compounded monthly, from the date such payment was due until the date paid in full. In addition to all other remedies available to it (which Hawthorne does not waive by the exercise of any remedy herein), Hawthorne shall have the right to cancel any part of the Goods & Services if Customer fails to pay any amounts due. If Customer fails to pay any amounts due, all unpaid sums shall become immediately due and payable within ten (10) days.

11. Taxes. Customer shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder, excluding any taxes imposed on, or with respect to, Hawthorne’s income, revenues, gross receipts, personnel or property.

12. Hours of Operation. Unless specified otherwise in writing, the Goods & Services shall be performed or provided during Hawthorne’s publicized business hours. Goods & Services performed or provided outside of such hours will be billed at applicable overtime or double-time rates.

13. Limited Warranty. All warranties on products or equipment sold are limited to the warranty provided by the manufacturer of said products and equipment unless a separate warranty is provided in writing to Customer at the time of purchase or purchased by Customer. Subject to the foregoing Hawthorne does not provide a warranty in addition to that provided by the manufacturer of a product. Customer understands that warranties for equipment and parts are limited in time and scope and can vary according to the source from which the goods were purchased.

14. Exclusions from Limited Warranty. Any limited warranty offered by Hawthorne does not cover (i) defects, error, or damage to Customer’s equipment due to accident, abuse, misuse, negligent use, failure to follow proper maintenance procedures, and any use other than use in a normal and customary manner, (ii) defects, errors, or nonconformities due to modifications, alterations, additions or changes to Customer’s equipment not made or authorized by Hawthorne, (iii) normal wear and tear, or (iv) damage caused by force of nature or by an act of any third party. Hawthorne’s warranty shall be null and void and have no legal effect in the event Customer has failed to pay for the Goods & Services or failed to bring its account current. All remedies under Hawthorne’s warranty are expressly limited to replacing or repairing defective Goods & Services at Hawthorne’s expense. Claims for losses arising out of any failure of repaired equipment to operate for the warranty period or for loss due to, or in connection with, the failure of the repaired equipment, including any and all claims for indirect and consequential damages, are excluded from this limited warranty.

15. Dispute Resolution. Except for the Limited Warranty above, Hawthorne makes no warranty whatsoever with respect to the Goods & Services, including any (i) warranty of merchantability; (ii) warranty of fitness for a particular purpose; (iii) warranty of title; or (iv) warranty against infringement of intellectual property rights of a third party, whether express or implied by law, course of dealing, course of performance, usage of trade or otherwise. Hawthorne is neither a manufacturer of any parts used in the Goods & Services nor an agent thereof; although Hawthorne may administer warranties issued by a manufacturer, Hawthorne’s warranty is limited to the extent of the terms of such warranties and in no event will be greater than the responsibilities of such manufacturer. Claims for losses arising out of any failure of repaired equipment to operate for the warranty period or for loss due to, or in connection with, the failure of the repaired equipment, including any and all claims for indirect and consequential damages, are excluded from this limited warranty.

16. Mutual Indemnification. subject to the terms and conditions set forth in the Agreement, each Party agrees to indemnify, hold harmless, and defend the other Party, its affiliates and their respective owners, officers, directors, employees, agents, successors and permitted assigns

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or has commenced it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors, or otherwise breaches this Agreement.

24. Force Majeure. Hawthorne shall not be liable, nor be deemed to have defaulted or breached this Agreement, for any failure or delay caused by or resulting from acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities, civil or military disturbances, computer attacks, civil or military insurrection, terrorism, military or naval action, labor strikes or lockouts, riot or other civil commotion, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either Party’s workforce), restraints or delays affecting carriers, an inability or delay in obtaining supplies of adequate or suitable materials, telecommunication breakdown or power outage.

25. Confidentiality. All notices, requests, consents, claims, demands, waivers and other communications (each, a “Communication”) must be in writing and addressed to the other Party at the address the receiving Party has designated in accordance with this Section. Unless otherwise agreed to in writing, all Communications must be delivered by facsimile, e-mail, personal delivery, courier or certified or registered mail (return receipt requested, postage prepaid). A Communication is effective only on receipt by the receiving Party if the receiving Party’s name, address and business or other electronic facsimile number is stated on such Communication. Communications shall be deemed received (i) if given by facsimile or e-mail, on the date of transmission if sent prior to 3:00 p.m. (PST) on a business day and otherwise on the following business day, (ii) by courier or personal delivery, on the date of delivery, and (iii) by mail, on the second (2) days after the date of mailing.

26. Applicable Law/Venue. This Agreement (and all matters arising out of or relating to it) will be governed in all respects by the laws of the State of California without regard to any choice or conflict of laws provisions. Any legal action or proceeding relating to this Agreement or the subject matter hereof shall be brought in the courts of the State of California located in San Diego County, California and Customer hereby irrevocably submits to the exclusive jurisdiction of the courts situated in San Diego County in the State of California or Honolulu County in the State of Hawaii and waives all claims that such courts are not proper or convenient for the resolution of any such disputes.

27. Waiver of Jury Trial. EACH PARTY KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF (INCLUDING, WITHOUT LIMITATION, ALL CAUSES OF ACTION ARISING UNDER FEDERAL OR CACTION OR THE SUBJECT MATTER HEREOF (INCLUDING, WITHOUT LIMITATION, ALL CAUSES OF ACTION ARISING UNDER FEDERAL OR STATUTORY LAWS, AND WILL NOT BE SUBJECT TO ANY EXCEPTIONS. EACH PARTY (i) UNDERSTANDS THAT THIS IS A WAIVER OF IMPORTANT LEGAL RIGHTS AND (ii) ACKNOWLEDGES HAVING HAD A REASONABLE OPPORTUNITY TO DISCUSS THIS WAIVER AND ITS EFFECTS WITH LEGAL COUNSEL.

28. Dispute Resolution. Any dispute or controversy arising under or in connection with this Agreement shall first be resolved by informal discussion between senior management of the Parties. If informal discussion fails to produce a resolution, the Parties must then attend non-binding mediation in the San Diego County, California or Honolulu, Hawaii with a mutually agreeable mediator. If mediation fails to produce a resolution, or if the Parties cannot agree on a mediator, any dispute or controversy arising out of or relating to this Agreement shall be settled by binding arbitration. Either Party may initiate arbitration, which shall be conducted in San Diego, California or Honolulu, Hawaii in accordance with the commercial arbitration rules of the American Arbitration Association. The party prevailing in the arbitration shall have all of its reasonable costs, fees and expenses, including, without limitation, attorneys’ fees as invoiced and house counsel fees at $500 per hour incurred in connection with the arbitration, as well as all costs, fees, and expenses of the arbitrators, reimbursed by the non-prevailing party. A prevailing party is a party that recovers at least 75% of its total claims or that is required to pay out no more than 25% of the claims made against it. The arbitrator will designate in the arbitrator’s decision which party is the prevailing party.

29. Enforcement. Hawthorne shall not be liable, nor be deemed to have violated, terminated or amended this Agreement immediately upon the occurrence of a Material Breach as defined in these Terms and Conditions, or if Customer becomes insolvent, files a petition for bankruptcy, commences

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implied, confers on any other person any legal or equitable right, benefit or remedy of any nature whatever under or by reason of this Agreement.

35. Headings. Headings are for reference and do not affect the interpretation of the Agreement.

36. Time to Bring Claim. No claim which concerns a dispute arising under this Agreement may be commenced by Customer more than one year after the Goods & Services are performed or delivered.

37. Equipment Management Electronic Data Sharing Product Link™, Vision Link®, User Agreement/Privacy Notice, and Data Governance. For machines equipped with Product Link™ and VisionLink®, Customer understands that data concerning the machine, its condition, and operation, will be transmitted to Caterpillar Inc. and/or its dealers to better serve Customer and improve upon Caterpillar Inc. products and services. The information transmitted may include but is not limited to machine serial number, machine location, operational data, fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers, and installed attachments. Caterpillar Inc. recognizes and respects customer privacy. Caterpillar Inc. and/or its dealers will not sell or rent collected information to any third party and will exercise all reasonable efforts to keep the information secure. Customer, by executing the Agreement, understands the disclosures in this Section and grants permission to allow the referenced data to be accessed by Caterpillar Inc. and/or its dealers. Customer, by executing the Agreement, also agrees to and executes the Caterpillar Data Governance Consent Form and any and all exhibits, appendices, and attachments referenced therein, which includes but is not limited to the Caterpillar Data Governance Statement, both of which can be found at www.hawthornecat.com/terms.

38. Title to Goods. Hawthorne retains title to goods until Customer performs all of its obligations under the Agreement. In order to secure payment and performance of the obligations, Customer hereby grants to Hawthorne a security interest in the purchased goods and all proceeds thereof described in this agreement to secure the performance of all of Customer’s obligations under this Agreement.

39. Equipment. Should the Agreement include the purchase of machines or equipment from Hawthorne, the machines necessary for the Agreement have been identified and appropriated, Customer agrees on demand to execute and deliver to Hawthorne all notes, contracts, agreements, and financing statements required by Hawthorne to evidence the transaction. In the event Customer fails to execute and deliver said notes, contracts, security agreements, and financing statements to Hawthorne, the entire balance of the purchase price of the equipment shall, at Hawthorne’s option, become immediately due and payable.

40. Transportation. Customer understands and consents to Hawthorne’s use of third party vendors to provide transportation services (“Transportation Company”). Customer also agrees that Hawthorne’s responsibility for shipment of any goods ceases upon delivery of said goods to a Transportation Company, and any claims for shortages, delays or damages occurring thereafter shall be made timely by Customer directly to the Transportation Company. Any claims against Seller for shortages in shipment shall be made within 15 days after receipt of shipment.

41. Nonconforming Goods. Should the Agreement include Customer purchasing machines or equipment from Hawthorne, Customer shall have the right to reject nonconforming goods, or a nonconforming tender only if such nonconformity violates the performance of the goods by more than ten (10%) percent of the contract price. Customer’s failure to give notice of any claim within ten (10) days from the date of delivery shall constitute an unqualified acceptance of the goods and a waiver by Customer of all claims with respect to the goods. Hawthorne shall have the right to cure nonconformities in the goods or in their tender, provided that Customer notifies Hawthorne within ten (10) days of notification of the nonconformity of its intent to cure. Any such cure must occur within fourteen (14) days of the notification of the nonconformity.

42. Used Goods. Should the Agreement include the purchase of used machinery, parts, or equipment, said used machinery, parts, and equipment are sold “AS IS” AND “WITH ALL FAULTS”. HAWTHORNE MAKES NO WARRANTY RELATED TO THE TITLE OF THE GOODS FOR SALE UNDER THIS AGREEMENT, NOR TO THE RIGHTFUL TRANSFER OF THE GOODS, NOR TO THE EXISTENCE OF SECURITY INTEREST, LIENS, OR OTHER ENCUMBRANCES AGAINST THE GOODS. HOWEVER, HAWTHORNE WARRANTS THAT, AT THE TIME OF SALE, HAWTHORNE DID NOT KNOW OF ANY HOSTILE CLAIM OF TITLE OR ANY ENCUMBRANCES AGAINST THE GOODS FOR SALE UNDER THIS AGREEMENT.

43. Assumption of Risk. Customer hereby acknowledges and understands that there are risks associated with the use and operation of equipment sold by Hawthorne, which include but are not limited to injury to persons and property as well as death. Customer acknowledges and understands these risks, agrees to assume them, and waives any and all rights to seek compensation, restitution, or indemnification for any injuries, claims, or damages that might arise from said risks.

44. Storage. Should Hawthorne be in possession of Goods or equipment, parts, or merchandise related to the Goods & Services beyond any delivery date contemplated by the Agreement, Customer agrees to pay Hawthorne a monthly storage fee in an amount to be determined by Hawthorne taking into account the size and nature of the equipment or merchandise stored on Customer’s behalf. Customer is entitled to possession of said equipment at any time upon first giving Hawthorne reasonable notice of not less than five (5) business days. Customer agrees that Customer bears all risk of loss or damage to its equipment while stored by Hawthorne. Customer agrees to cover its equipment under its own property damage insurance policy and to name Hawthorne as an additional insured. If Customer fails to pay in full for the Goods and Services or take possession of its property following thirty (30) days’ written notice, Hawthorne may sell or otherwise dispose of Customer’s property as it sees fit and apply any proceeds to amounts due and owing.

45. Survival. Provisions of this Agreement that by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, Section 16 (Disclaimer of Warranties), Section 17 (Limitation of Liability),