

IPS PERFORATING INC. TERMS AND CONDITIONS

- 1. Definitions.** The customer and the customer's principal(s) and agent(s) are referred to herein collectively as "**Customer**," "**You**" or "**Your**." IPS Perforating Inc. is referred to herein as "**We**" or "**Us**" or "**IPS**" An email or letter sent by IPS to the Customer upon receipt of the Customer's proposed order and which recounts and accepts details of the Customer's requested service is referred to herein as "**Confirmation Email**." This agreement is referred to herein as "**Terms and Conditions**." The Terms and Conditions are included in and made a part of each applicable Confirmation Email.
- 2. Acceptance.** These Terms and Conditions provide the terms and conditions by which IPS agrees to provide service and Customer agrees to purchase and receive such service as specified in the Confirmation Email. **YOUR ORDER TERMS, CONDITIONS OR PROVISIONS INCONSISTENT WITH THOSE ON THIS TERMS AND CONDITIONS SHALL BE DEEMED INEFFECTIVE.** It is mutually agreed that all terms, conditions and provisions (whether printed, stamped, typed, or written you're your purchase order or other communications (except the description and specification of service) shall be ineffective, and in lieu thereof, the terms, conditions and provisions on this and the Confirmation Email shall govern all services to be provided and shall be applicable thereto with the same force and effect as if they physically appeared thereon. An acknowledgment of any such order or communication, or the making of deliveries pursuant thereto shall not be construed as an acceptance or approval of any terms, provisions or conditions printed, stamped, typed or written on such order or communication inconsistent with those contained in this Terms and Conditions.
- 3. Additions or Modifications.** No additional or different charges, terms, conditions or modifications to these Terms and Conditions and the Confirmation Email are permitted or effective unless in writing and signed by an authorized representative of IPS.
- 4. Payment Terms.** Customer shall pay all invoices within thirty (30) days after the date of the invoice or, if no invoice is sent, within thirty (30) days of completion of the services described in the Confirmation Email. Any amount remaining unpaid after thirty (30) days shall accrue interest at a rate equal to the lesser of: (a) one and one-half percent (1.5%) per month; or (b) the highest rate allowed by applicable law. Customer shall pay all personal property, sale, use, value-added and other taxes that are imposed by any federal, state, local, or foreign government authority as a result of the performance of the services by us described in the Confirmation Email.
- 5. Changes and Cancellations.** Orders placed with us and accepted by us are not subject to cancellation except with our consent. Additionally, you may, at any time in writing, request changes in, additions to or deletions from an order; however, such changes are subject to our consent. We will be entitled to an adjustment in compensation for any changes that are performed on a cost-reimbursable or time and materials basis.
- 6. Delivery Date.** The completion date set forth in the Terms and Conditions is an estimate only, subject to our production schedules. Deliveries shall be subject to availability of equipment or merchandise at the time specified for delivery. We shall have no liability for delays caused by unavailability of equipment or merchandise, or by strikes, fire or other event beyond our control. To the extent there is such delay or suspension resulting in increased cost or expense to us, we shall be entitled to receive an adjustment to compensation and any other terms and conditions applicable and as reasonably necessary, on an equitable basis to account for such increase. We shall not be responsible for loss or damage to merchandise while in transit on any carrier not owned by us. Any claim made for such loss or damage shall be made by you against the carrier.

7. **Warranty and Limitation of Liability.** All express and implied warranties are hereby disclaimed, including the warranty of merchantability, the warranty of fitness for a particular purpose, and the warranty of title. In no event shall our liability (including liability in tort for negligence or otherwise in contract or strict liability) extend beyond the repair of any product serviced by us which proves to have a defect caused by our negligence, and then only if the product is returned to us with all transportation charges prepaid and any defect is found by inspection to have been caused by our negligence. No merchandise shall be returned without our prior written authorization. Written notice of claimed defects must be given by you to us within a reasonable time after delivery to you, and in no event longer than two weeks. All performance obligations by IPS Perforating under or pursuant to these terms and conditions shall be limited to the total price amount as noted on the IPS invoice.
8. **Indemnity.** Except to the extent caused by our sole gross negligence, you will defend at your own cost and expense, and indemnify and hold harmless us, our officers, directors, agents, representatives and employees from any and all claims, liabilities, damages, losses and expenses (including attorney's fees) brought or charged by any person or entity (other than claims made under the limited warranty in accordance with the terms of the limited warranty) related to your use, sale or ownership of any products on which we provide a service. Further, you shall indemnify and save us harmless from any and all expenses, injury or loss arising out of claims of patent infringement because of the manufacture, use, or sale of such products. This indemnity shall apply without regard to whether the claim, damage, liability or expense is based on breach of contract, breach of warranty, negligence, strict liability, tort or otherwise. We may choose to be represented by and actively participate through our own counsel in any suit or proceeding related to this indemnity, and the costs of such representation shall be paid by you.
9. **Termination.** IPS may terminate or cancel any transaction upon Customer's breach of any provision of these Terms and Conditions.
10. **Waiver.** Failure of either party to take action with regard to any breach or noncompliance with any provision of these Terms and Conditions shall not be construed as a waiver or modification of that or any other provision, or a waiver of any remedy for breach or noncompliance. A party shall be deemed to have waived its rights hereunder only if such waiver is in writing and signed by the party waiving the right.
11. **Entire Agreement.** These Terms and Conditions and the associated Confirmation Email shall constitute the entire understanding of the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and communications.
12. **Miscellaneous.** Nothing in these Terms and Conditions and Confirmation Email will create or be deemed to create any third party beneficiary rights in any person or entity (including any employees). Section headings are for convenience only and will have no legal or interpretive effect. The Confirmation Email and these Terms and Conditions shall be governed by North Carolina law, without regard to its conflicts-of-law's provisions. The provisions of these Terms and Conditions are severable, such that if any provision is deemed unenforceable, it shall have no effect on the remaining provisions, which shall remain in full force and effect. These Terms and Conditions are binding upon and inures to the benefit of the party's successors and assigns. You acknowledge reading and understanding these Terms and Conditions and agree to be bound by them.