

## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made as of the 24<sup>th</sup> day of March, 2010 by and between **ENERGY PARTS SOLUTIONS LLC**, a Missouri limited liability company having its principal office at 2301 ProEnergy Blvd., Sedalia, Missouri 65301 ("EPS") and **WOOD GROUP PRATT & WHITNEY INDUSTRIAL TURBINE SERVICES, LLC**, a Connecticut limited liability company having its principal office at 1460 Blue Hills Avenue, Bloomfield, Connecticut 06002 ("WGPW").

### RECITALS

A. WGPW is the sole owner of two (2) FT4A-9 Liquid Fuel Pratt & Whitney Power Pac™ electric power generation units, plus ancillary equipment (collectively, the "Equipment", as more completely defined below), free and clear of any liens and/or encumbrances and has the full legal authority to sell the Equipment without any restrictions; and

B. Both EPS and WGPW (the "Parties", or individually, a "Party") now wish to enter into a contract for the sale and purchase of the Equipment in accordance with the terms and conditions as specifically described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and mutual promises and covenants hereinafter set forth,

### IT IS AGREED:

#### 1. Definitions

- a. "Buyer" shall mean EPS, its successors and assigns.
- b. "Buyer Entities" shall mean Buyer, its affiliates and any parties acquiring an interest in all or any part of the Equipment, directly or indirectly, from Buyer including, but not limited to, any purchasers, lessees or users of any such Equipment and Spare Parts.
- c. "Delivery" shall mean the date on which the Equipment is ready for delivery Ex Works (per INCOTERMS 2000) to Buyer at the specific locations designated in writing by Seller.
- d. "Effective Date" shall mean the date on which this Agreement shall become effective, as first above written.
- e. "Equipment" shall mean two (2) FT4A-9 liquid fuel Pratt & Whitney Power Pac™ electric power generation units, plus ancillary equipment, all as more fully described in Exhibit A, "Scope of Supply", attached hereto and by this reference made a

Handwritten signature and initials in the bottom right corner of the page.

part of this Agreement. Seller will also provide Buyer with copies of any non-proprietary operations, maintenance and engineering records, manuals, test reports, controls logic, diagrams and files that it may have in its possession relating to the Equipment.

f. "Party", or "Parties", shall mean Buyer and Seller, or either of them, as determined in context, acting pursuant to this Agreement.

g. "Seller" shall mean WGPW, its successors and assigns.

h. "Seller Entities" shall mean WGPW, its affiliates, successors and assigns, and their respective officers, directors, employees, agents, and representatives.

i. "Unit" shall mean one (1) FT4A-9 liquid fuel Pratt & Whitney Power Pac™ electric power generation unit, plus the ancillary equipment for that unit

## 2. Sale and Delivery of the Equipment

a. Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase and accept Delivery of each Unit from Seller for and in consideration of Buyer's payment of the contract price for that Unit, as set forth in Article 4, "Contract Price and Payment Terms", below. Seller shall notify Buyer in advance of the date and place for Delivery of each Unit. Seller shall deliver one Unit by the end of March 2010 and the other Unit by the end of April 2010.

b. Buyer shall have the right to inspect each Unit prior to its Delivery. Seller shall notify Buyer in writing of the date(s) and place(s) when each Unit is ready for inspection.

c. Seller agrees to provide technical assistance to Buyer upon Delivery of the Equipment at each of the specific Delivery location(s) designated in writing by Seller.

d. Seller shall also provide up to an additional four (4) man-weeks of technical advisory field services, on an "expenses only" basis, to assist with the installation, start up and commissioning of the Equipment and any additional time will be billed at a fixed rate to be mutually agreed by the parties.

e. Seller will provide to Buyer at its jobsite in Venezuela at no extra charge any parts or materials that were inadvertently omitted from Exhibit A, "Scope of Supply", as necessary to commission the Equipment.

f. Seller will provide to Buyer the construction related drawings and complete electrical drawings for each Unit within twenty-one (21) days following Delivery of that Unit.



g. Buyer will notify and give Seller an opportunity to perform any rework to the Equipment so that it can be commissioned or to support Seller's warranty obligations under Article 6, provided, however, in the event Seller fails to correct such work within a reasonable period of time then Seller will be responsible for any direct costs that Buyer reasonably incurs to have such corrective work performed by third parties.

3. Title and Risk of Loss

Title to and Risk of Loss for each Unit sold hereunder shall pass to Buyer upon Delivery of that Unit.

4. Contract Price and Payment Terms

The contract price for each Unit shall be Five Million Two Hundred Thousand U.S. Dollars (US\$ 5,200,000.<sup>00</sup>), with the total price for the Equipment being Ten Million Four Hundred Thousand U.S. Dollars (US\$10,400,000.<sup>00</sup>). Buyer agrees to pay the contract price to Seller in accordance with Exhibit B, "Payment Schedule", attached hereto and by this reference made a part of this Agreement.

5. Taxes

Buyer acknowledges that the contract price set forth above is exclusive of any and all taxes, duties, fees, imposts, levies, or other charges (excluding only Seller's federal, state and local income taxes) as may be imposed by any governmental or quasi-governmental authority arising from the purchase, sale, resale, import, export, delivery, location, and/or use of the Equipment on and after the date of Delivery (collectively, "Taxes"). Any and all such Taxes shall be the sole responsibility of Buyer and either paid directly by Buyer to the applicable taxing authority or reimbursed to Seller promptly upon Seller's presentation to Buyer of an invoice therefor.

6. Warranty

Subject to the conditions and limitations set forth herein, Seller warrants to Buyer that each Unit of the Equipment shall be free from defects in materials and workmanship for a period of (a) one (1) year from Buyer's initial operation of the applicable Unit, (b) eighteen (18) months from Delivery of the Unit in question or (c) four thousand (4,000) hours of operation of the applicable Unit following Delivery, whichever first occurs. Seller shall repair or replace, at its sole option, any defects or deficiencies in the Equipment occurring during the warranty period. Buyer shall provide Seller with access to any defective or deficient Equipment as a condition precedent to Seller's warranty obligations. Any repaired or replaced Equipment shall be similarly warranted for twelve (12) months from the date of correction or the remainder of the applicable warranty period (above), whichever is longer, but in no event shall any warranty period extend beyond thirty (30) months from the Effective Date.

Seller's warranties are expressly conditioned upon Buyer's (i) proper installation, erection, and start-up of the Equipment, (ii) operation of the Equipment in accordance with good industry practice and (iii) use of the proper fuels within the quality range and

A handwritten signature in black ink, appearing to be 'DM' followed by a stylized flourish or 'AQ'.

specific operating recommendations as may be specified in writing by Seller. The effects of corrosion, erosion, and normal wear are specifically excluded from Seller's warranty and Seller shall have no liability whatsoever for any damages resulting directly or indirectly therefrom.

Seller's repair or replacement of any defects or deficiencies in the Equipment in accordance with the specific terms of this warranty, as set forth above, shall constitute Seller's entire warranty obligation under this Agreement with respect to any defective or non-conforming Equipment, whether any such claim is based in contract, tort (including negligence), warranty, strict liability, or any other legal theory. **THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE 6 ARE EXCLUSIVE. SELLER MAKES NO OTHER WARRANTIES OR GUARANTEES OF ANY KIND WHATSOEVER, WHETHER STATUTORY, ORAL, WRITTEN, EXPRESS OR IMPLIED, INCLUDING (BUT NOT LIMITED TO) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

7. Notices

Any notice pursuant to the terms and conditions of this Agreement shall be in writing and either: (a) delivered personally; (b) sent by international express courier service with delivery receipt requested; or (d) sent by electronic mail or facsimile transfer and acknowledged by recipient. All notices shall be delivered as follows:

To Buyer:

ENERGY PARTS SOLUTIONS LLC  
2301 ProEnergy Blvd.  
Sedalia, Missouri 65301  
ATTN: Mr. Jeff Canon

To Seller:

WOOD GROUP PRATT & WHITNEY  
INDUSTRIAL TURBINE SERVICES, LLC  
1460 Blue Hills Avenue  
PO Box 45  
Bloomfield, CT 06002  
ATTN: Mr. Donald Marshall

All notices delivered hereunder shall be deemed effective upon the earlier of (a) the date of receipt or (b) three (3) days following the date of transmittal.

8. Limit of Liability

Notwithstanding anything to the contrary contained elsewhere in this Agreement, Seller's and Buyer's total aggregate liability to the other Party hereunder

shall not exceed the contract price and shall in no event include any special, indirect, incidental or consequential loss or damage of any kind including, but not limited to, loss of use or increased expense of use of equipment or plant, loss of power or production, cost of replacement power, loss of anticipated profits or revenue, loss of business opportunity, increased cost of doing business, claims of customers, or otherwise.

Buyer hereby expressly releases each and all of the Seller Entities from any and all such liability occurring after the expiration of the warranty period as set forth in Article 6, "Warranty", above. All claims made by Buyer must be presented in writing to Seller within one (1) year from the date the cause of action first arose; otherwise, Seller shall be deemed to have waived such claim.

9. Indemnities

Buyer shall indemnify, defend and hold harmless Seller and Seller Entities (the "Indemnified Parties") from and against any and all claims, demands, suits, costs of defense, reasonable attorneys' fees, reasonable witness fees of any type, losses, damages, expenses and liabilities for injury to or death of any person or persons, including but not limited to employees of Buyer and/or any of the Buyer Entities, or for damage to any property, including but not limited to property of Buyer or any of the Buyer Entities, to which the Indemnified Parties may be put or subjected by reason of: (i) any failure by Buyer to fulfill any of its obligations under this Agreement; or (ii) any act, omission, negligence, or default on the part of Buyer and/or any of the Buyer Entities. Buyer shall also indemnify, defend and hold harmless the Indemnified Parties from and against any and all fines, penalties, claims, demands, suits, costs of defense, reasonable attorney's fees, reasonable witness fees of any type, losses, damages, expenses, and liabilities for civil or criminal fines or penalties against the Indemnified Parties by reason of: (i) any failure by Buyer to fulfill any of its obligations under this Agreement; or (ii) any act, omission, negligence or default on the part of Buyer and/or any of the Buyer Entities.

10. Casualty Loss

If, subsequent to the date of this Agreement and prior to the date of Seller's receipt of the final payment of the contract price, any portion of the Equipment is destroyed by fire or other casualty, is taken in condemnation or under the right of eminent domain, or proceedings for such purposes are pending or threatened (collectively, "Casualty Loss"), Buyer shall have the option either to: (a) purchase the Equipment so affected notwithstanding any such Casualty Loss (to the extent permitted by law), and the contract price shall be equitably adjusted per the mutual agreement of the parties, or; (b) terminate this Agreement without further obligation of either Party except that the Buyer shall be entitled to the return of any monies it has paid to Seller with respect to the contract price. In the event of subpart (a), above, Seller shall (i) on the date of Seller's receipt of the final payment of the contract price, pay to Buyer all sums paid to Seller by third parties by reason of the Casualty Loss of such Equipment, (ii) assign, transfer and set over unto Buyer all of the right, title and interest of Seller in and to any unpaid awards or other payments from third parties arising therefrom, and (iii) not voluntarily compromise, settle or adjust any material amounts payable by reason of any Casualty Loss of any portion of the Equipment without first obtaining the

written consent of Buyer, which consent shall not be unreasonably or untimely withheld.

11. Default

In the event that Buyer defaults on any of its obligations under this Agreement and fails to remedy such default within ten (10) days following Seller's delivery of notice thereof to Buyer, in accordance with Article 7, "Notices", above, then Seller shall be entitled to terminate this Agreement without any liability to Buyer and to receive immediately any unpaid portion of the contract price. Furthermore, in such event, Buyer shall be fully responsible for any and all cost and fees that Seller may incur in enforcing its rights and remedies hereunder.

In the event that Seller defaults on any of its obligations under this Agreement and fails to remedy such default within ten (10) days following Buyer's delivery of notice thereof to Seller, in accordance with Article 8, "Notices", above, then as its sole remedy Buyer shall be entitled to terminate this Agreement without any liability to Seller. Furthermore, in such event, Seller shall be fully responsible for any and all cost and fees that Buyer may incur in enforcing its rights and remedies hereunder.

12. Dispute Resolution

Any disputes hereunder which cannot be resolved within thirty (30) days through good faith discussions between the Parties will be finally settled through arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA") for expedited resolution. The site for any such arbitration shall be New York, New York and the arbitration proceedings shall be conducted in accordance with the AAA rules as then in effect. The Parties mutually understand and agree that the decision of the arbitrators shall be final and enforceable in any court of competent jurisdiction.

13. Term and Termination

This Agreement shall commence as of the Effective Date and shall terminate thirty (30) days after the expiration of the warranty period, as set forth in Article 6, "Warranty", above; provided, however, that the obligations of the Parties as set forth in Article 8, "Limit of Liability", and Article 9, "Indemnities" shall survive the termination of this Agreement. Notwithstanding the foregoing, Seller may terminate this Agreement at any time in the event of Buyer's default, in accordance with Article 11, "Default", above.

14. Entire Agreement

This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes any and all prior and contemporaneous agreements, representations, proposals, negotiations, and understandings, whether written or oral, pertaining to all or any part of the subject matter of this Agreement. Any modifications, amendments or other changes to any of the terms and conditions of this Agreement shall only be valid and effective if in writing and signed by all Parties.

Handwritten signature and initials, possibly "DM" and "AQ", in the bottom right corner.

15. Partial Invalidity

If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision of this Agreement shall be affected as a result thereof, and, accordingly, the remaining provisions of this Agreement shall nonetheless remain in full force to the fullest extent then possible in order to complete the transaction as mutually contemplated between the Parties.

16. Governing Law

This Agreement shall in all respects be governed by and construed in accordance with the law of the State of Connecticut, without giving effect to any choice of law rules thereof which may direct the application of the laws of another jurisdiction.

17. No Waiver

No failure or delay by either Party in enforcing any right, power or privilege created hereunder shall operate as an implied waiver thereof, nor shall any single or partial enforcement thereof preclude any other or further enforcement thereof or the enforcement of any other right, power or privilege.

18. Joint Effort

The preparation of this Agreement has been a joint effort of the Parties and shall not be construed more severely against one Party than against the other Party.

19. Original Document

This Agreement shall be executed in two (2) counterparts, each of which shall be deemed an original.

20. Confidentiality

Each Party hereby agrees to treat this Agreement and the terms hereof as confidential and not to disclose the terms hereof to any other person without the prior written consent of the other Party, except for: (i) its counsel and accountants or other authorized agents or professional advisors in connection with or relating to the transactions contemplated by this Agreement; (ii) any court, governmental agency or instrumentality or other supervising body requesting such disclosure (including any regulation, request or order of a bank regulatory agency or authority); (iii) its directors, officers, employees, affiliates, successors and assigns, or any subsequent owner of the Equipment and Spare Parts; (iv) to any banks or other financial institutions in any debt financing by or for the benefit of Buyer; or (v) in connection with any enforcement of the terms of this Agreement. Each Party shall cause its respective officers, directors, agents, and employees to comply with this paragraph.

21. Further Assurances

Seller and Buyer agree that each of them will execute and deliver such further instruments of conveyance and transfer and take such other action as may reasonably be requested by the other Party to carry out the purposes and intents hereof.

Handwritten signature and initials, possibly "Du" and "AQ", in the bottom right corner.



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives, each intending to be legally bound hereby.

ENERGY PARTS SOLUTIONS LLC

By: Scott Dieball

Name: SCOTT DIEBALL

Title: VICE PRESIDENT

WOOD GROUP PRATT & WHITNEY  
INDUSTRIAL TURBINE SERVICES, LLC

By: Don Marshall

Name: DON Marshall

Title: Vice President

GM  
10



**EXHIBIT A**  
**SCOPE OF SUPPLY**

A. Power Pacs™

1) PowerPac 1 - (Liquid Fuel)

- Engine (serial # 662136)
- Free Turbine (serial # 600387)
- Generator (serial # 171182701)
  - KVA - 25,000
  - 60 Hertz
  - Power Factor - 0.85

2) PowerPac 2 - (Liquid Fuel)

- Engine (serial # 662064)
- Free Turbine (serial # 600207)
- Generator (serial # 168162511)
  - KVA - 23,144
  - 60 Hertz
  - Power Factor - 0.85

B. Ancillary Equipment

A handwritten signature in black ink, appearing to be 'Om' followed by a flourish.

**EXHIBIT B**

**PAYMENT SCHEDULE**

Buyer agrees to pay to Seller the following amounts immediately upon the occurrence of each of the designated milestone dates set forth below:

- I. A non-refundable deposit of One Million Forty Thousand U.S. Dollars (US\$ 1,040,000.<sup>00</sup>), payable on or before one (1) business day following the Effective Date;
- II. Four Million Six Hundred Eighty Thousand U.S. Dollars (US\$ 4,680,000.<sup>00</sup>) on or before the Delivery date for the first Unit; and
- III. Four Million Six Hundred Eighty Thousand U.S. Dollars (US\$ 4,680,000.<sup>00</sup>) on or before the Delivery date for the second Unit.

All payments hereunder shall be made by wire transfer, to Seller's bank account as follows:

Bank of America  
777 Main St.  
Hartford, CT 06103

Account # 9415847749 (ABA 026009593)

A handwritten signature in black ink, appearing to be "Om" followed by a stylized flourish or "SE".