

LIMITED WARRANTY - Standard Terms and Conditions

1) AGREEMENT AND LIMITATIONS. These terms and conditions are made part of the "Agreement" between Big Woods Electric Motor and Customer with respect to the servicing of Customer's servo motor(s) delivered to Big Woods Electric Motor for service or repair as described on the first page of this Agreement ("Customer Property"). Big Woods Electric Motor shall not be bound by any additional or different terms, whether printed or otherwise, whether in Customer's purchase order or in any other communication from Customer to Big Woods Electric Motor, unless specifically agreed to by Big Woods Electric Motor in writing. The Agreement shall be for the benefit of Big Woods Electric Motor and Customer and not for the benefit of or enforceable by any third party or other person. Prior courses of dealing, trade usage and verbal agreements not reduced to writing and signed by Big Woods Electric Motor, to the extent they modify the Agreement, shall not be binding on Big Woods Electric Motor. Only the signature of an officer of Big Woods Electric Motor will bind Big Woods Electric Motor to any consent under the Agreement or to any modification of the terms and conditions of this Agreement.

(2) TERMINATION. The Agreement may be terminated by Customer only upon Big Woods Electric Motor's written consent. Big Woods Electric Motor may terminate this Agreement by written notice to Customer, provided Big Woods Electric Motor shall then promptly place Customer Property with an appropriate carrier for return to Customer at no expense to Customer.

(3) PRICE AND PAYMENT. Customer shall be responsible for all costs of shipment, except as expressly assumed by Big Woods Electric Motor in this Agreement. Price payable by Customer to Big Woods Electric Motor is F.O.B. point of shipment. Terms of payment shall be net 30 days from date of invoice. Big Woods Electric Motor may require full or partial prepayment or a third party payment guarantee in advance of rendering services or shipment whenever, in Big Woods Electric Motor's sole discretion it is prudent for Big Woods Electric Motor to do so. Unless Customer presents to Big Woods Electric Motor before services are rendered a current and valid exemption certificate, Customer shall also pay to Big Woods Electric Motor all applicable sales taxes or other governmental charges which Big Woods Electric Motor is obligated by law to remit to any governmental entity by reason of Big Woods Electric Motor's rendering of services to Customer. If Customer pays Big Woods Electric Motor by check and such check is returned unpaid, or if Customer pays by credit card and later instructs the credit card issuer to withhold payment, Customer shall be liable to pay Big Woods Electric Motor for all returned check charges and, if Customer's account is placed with an attorney for collection, shall be liable to pay all of Big Woods Electric Motor's attorney's fees and expert's fees, whether or not a lawsuit is commenced. If credit has been extended to Customer, and Customer's account is thereafter placed with an attorney for collection, Customer agrees to pay all of Big Woods Electric Motor's attorney's fees, expert's fees and costs of the action, as further described in Customer's "Credit Application", if applicable.

(4) DELIVERY. Delivery dates cannot be guaranteed but are estimated in good faith and on the assumption that all Customer-furnished information is complete as received, without delay arising from or contributed to by circumstances beyond Big Woods Electric Motor's reasonable control. Big Woods Electric Motor's obligations shall at all times be subject to impossibility of performance or unavoidable delay arising in whole or in part, directly or indirectly from an act of God, inability to obtain parts or components, labor dispute, war, insurrection, national or local emergency, executive orders, transportation interruption, Customer's acts or omissions or similar circumstances beyond Big Woods Electric Motor's reasonable control.

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(5) RISK OF LOSS/UNCLAIMED CUSTOMER PROPERTY. Customer assumes all risks of loss of Customer Property during times when Customer Property is in the hand or under the control of a carrier, and represents to Big Woods Electric Motor that Customer Property shall at all times be insured under policies issued to Customer with coverage limitations determined by Customer to be adequate, in Customer's sole discretion. If Customer Property delivered to Big Woods Electric Motor is not repaired due to Customer's failure to authorize repairs, and remains at Big Woods Electric Motor's service facility for a period of sixty (60) days or more after Big Woods Electric Motor's request for authorization to repair, Customer shall be deemed to have abandoned the Customer Property and Big Woods Electric Motor may dispose of it in its sole discretion, without incurring any liability whatsoever to Customer.

(6) LIMITED WARRANTY. In lieu of all other warranties, express or implied, including without limitation warranties of merchantability and/or fitness for a particular purpose, Big Woods Electric Motor, Inc. issues only to Customer (and not to any subsequent owner of the repaired item or other person or entity) this limited warranty for servo motors repaired by Big Woods Electric Motor pursuant to a purchase order accepted by Big Woods Electric Motor:

Big Woods Electric Motor warrants that each servo motor repaired, when it leaves Big Woods Electric Motor's repair facility, will conform to the original manufacturer's specifications; and warrants that each servo motor repaired will, for a period of one year from the date of such repair, be free of defects in workmanship and material or parts used or installed by Big Woods Electric Motor in completing such repair, subject in each case to the following conditions and restrictions:

Customer must follow the warranty claim procedure described below.

Big Woods Electric Motor's liability under this limited warranty shall be either to repair the non-conforming or defective servo motor or to reimburse to Customer the cost of the Big Woods Electric Motor repairs, at Big Woods Electric Motor's sole and absolute discretion.

BIG WOODS ELECTRIC MOTOR SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR INCONVENIENCE OR LOSS OF USE OF THE SERVO MOTOR OR ANY MACHINERY, EQUIPMENT, APPLICATION OR PROCESS OF WHICH THE SERVO MOTOR IS A COMPONENT OR PART, AND SHALL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, COSTS AND/OR EXPENSES ARISING OUT OF THE USE OF THE SERVO MOTOR OR THE FAILURE OF THE REPAIRED SERVO MOTOR TO CONFORM TO THIS LIMITED WARRANTY, REGARDLES OF THE THEORY OF LIABILITY UNDER WHICH ANY SUCH CLAIM MAY BE PURSUED. BIG WOODS ELECTRIC MOTOR'S LIABILITY SHALL NOT, IN ANY EVENT, EXCEED THE AMOUNT CHARGED BY BIG WOODS ELECTRIC MOTOR TO CUSTOMER FOR THE REPAIR SERVICES.

Big Woods Electric Motor shall not be liable to Customer or any other person, and this limited warranty shall be void, if Customer or any other person: (a) modifies, tampers with or attempts to repair the servo motor after Big Woods Electric Motor's repair, or (b) uses the servo motor in a manner other than as recommended by the manufacturer, or (c) uses the servo motor in any machinery, equipment, application or process for which the servo motor is not rated by the manufacturer, or (d) if the claimed failure of a repaired servo motor is the result of misuse, neglect, abuse, accident or the failure of any other machinery or equipment, or component thereof. If Customer's servo motor remains subject to any manufacturer's warranty as of the date Customer's warranty claim arose, Customer agrees to make such claim under the manufacturer's warranty, and agrees that the manufacturer's warranty shall

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supersede Big Woods Electric Motor's limited warranty, which shall not be applicable; however, Big Woods Electric Motor may in its sole discretion, but only if authorized in writing by the manufacturer, perform repair services to Customer's servo motor.

WARRANTY PROCEDURE:

If an item repaired by Big Woods Electric Motor is claimed not to conform to the original manufacturer's specifications when it is received by Customer, or is claimed to be defective within the one year limited warranty period, Customer shall give prompt written notice to Big Woods Electric Motor, and in no event later than the expiration of the limited warranty period. Customer shall be responsible for any shipping and handling or similar costs for return to Big Woods Electric Motor of the repaired motor. Upon receipt of the motor, Big Woods Electric Motor's technicians will inspect the item and determine whether the claimed non-conformity or defect, as the case may be, is related to the Big Woods Electric Motor repair.

If Big Woods Electric Motor determines that the non-conformity or defect is not related to the Big Woods Electric Motor repair, or that one or more of the conditions described in paragraph 3(a) – (d), above, is a cause of the Customer's claim, Big Woods Electric Motor will give notice to the Customer promptly thereafter, and will request from Customer an authorization to perform additional repair services at Big Woods Electric Motor's applicable repair rates for such services. Big Woods Electric Motor will not engage in any additional repair services without Customer's prior written authorization. If within ten (10) days of Big Woods Electric Motor's request for authorization to repair, the Customer requests the return of the unrepaired motor, Big Woods Electric Motor will return the motor at Customer's expense. If the Customer neither authorizes the additional repairs nor requests the return of the motor within the ten (10) day period, Customer will be liable to Big Woods Electric Motor for storage of the motor at a per day rate that Big Woods Electric Motor establishes from time to time, which rates will be made available by Big Woods Electric Motor upon Customer's request. If the motor remains in storage with Big Woods Electric Motor for a period of sixty (60) days or more after Big Woods Electric Motor's request for authorization to repair, Customer shall be deemed to have abandoned the motor and Big Woods Electric Motor may dispose of it in its sole discretion, without incurring any liability whatsoever to Customer.

If Big Woods Electric Motor determines that the non-conformity or defect comes within the terms and conditions of the limited warranty and if Big Woods Electric Motor elects under the limited warranty to repair the motor, Big Woods Electric Motor will perform repair services without charge to Customer and will return the motor to Customer via ground UPS (or similar) at Big Woods Electric Motor's expense.

THE FOREGOING LIMITED WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(7) CUSTOMER REPRESENTATIONS; LIMITATION OF BIG WOODS ELECTRIC MOTOR'S RESPONSIBILITY; INDEMNIFICATION. Customer represents to Big Woods Electric Motor that Customer is the owner of or is entitled to possession and control of Customer Property. If any part of Customer Property consists of an item that is or has been modified from its original manufacturer's specifications, configuration or performance standards, Big Woods Electric Motor disclaims responsibility and will not be liable to Customer or any third party for results or consequences, whether direct or indirect, of any services performed by Big Woods Electric Motor on such item of Customer Property. Customer

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indemnifies and holds harmless Big Woods Electric Motor, its directors, officers, agents, representatives and employees from and against any and all claims, liabilities, damages, actions, judgments, fines, penalties, assessments, losses, costs and expenses, including attorneys fees in defense of the foregoing or in pursuit of indemnification rights, arising out of or based upon injury or death to any person or injury to property, including without limitation Customer Property, in any way resulting from or caused by (a) any act or omission of Customer, (b) any misrepresentation by Customer, or (c) the furnishing of Customer Services by Big Woods Electric Motor on any equipment that is or has been modified from the original manufacturer's specifications, configuration or performance standards. The terms of this section shall survive the termination or performance of this Agreement.

(8) **GOVERNING LAW.** The place of formation and performance of the Agreement is deemed to be North Dakota and it will be governed by the laws of the State of North Dakota, including without limitation the Uniform Commercial Code as adopted in the State of North Dakota, but excluding North Dakota's statutes and rules regarding choice of laws. Any action claiming breach of this Agreement or breach of any covenant or warranty of Big Woods Electric Motor must be brought in the North Dakota Superior Court for the Judicial District of North Dakota. Whenever a term defined in the Uniform Commercial Code as adopted in North Dakota is used in the Agreement the definition contained in the Uniform Commercial Code will apply, unless the term is otherwise defined in the Agreement or unless the context of its use indicates otherwise.

(9) **MISCELLANEOUS.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable to any extent, such term or provision shall be enforceable to the extent allowed, and the remaining terms and conditions shall be enforceable as written. This Agreement and any attachments, together with the Customer's Credit Application (if applicable), constitute the entire agreement of Customer and Big Woods Electric Motor, and any prior or contemporaneous discussions or oral understandings are merged into this Agreement. Facsimile signatures shall be as binding as original signatures.