

# Terms & Conditions of Sale

## 1. INTERPRETATION

1.1 In these Conditions the following words shall have the following meanings:  
the Company: Power Supplies Group Limited;  
the Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods;  
Delivery Point: the place where delivery of the Goods is to take place under condition 4;  
Goods: any goods agreed in the Contract to be purchased by the Buyer from the Company (including any part or parts of them);  
Buyer: the person, firm or company who purchases the Goods from the Company.

1.2 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In these Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these Conditions the headings will not affect the construction of these Conditions.

## 2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.7, these Conditions are the only conditions upon which the Company is prepared to deal with the Buyer and they shall govern the Contract to the entire exclusion of all other terms or conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 Each order for Goods from the Buyer shall be deemed to be an offer by the Buyer to purchase the Goods subject to these conditions.

2.3 No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the Contract.

2.4 No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.

2.5 The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.

2.6 Any quotation is given on the basis that no contract will come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of [30] days only from its date, provided that the Company has not previously withdrawn it.

2.7 These Conditions apply to all the Company's sales and purchases and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a Director of the Company.

## 3. DESCRIPTION

3.1 The description of the Goods shall be as set out in the Company's quotation.

3.2 All drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions, sizing chart or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them and should not be taken as an exact representation of the Goods. They will not form part of this Contract.

3.3 The Company will use its reasonable endeavours to provide details and drawings of Goods which are to be made to the specific order of the Buyer ("Special Goods"), before the Buyer places an order for such Special Goods.

## 4. DELIVERY

4.1 Unless otherwise agreed in writing by the Company, delivery of the Goods shall take place at the Company's place of business.

4.2 The Buyer will take delivery of the Goods within 3 days of the Company giving it notice that the Goods are ready for delivery.

4.3 Any dates or times specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery will be within a reasonable time. If the Goods are not delivered at the time or date originally specified by the Company, the

Company shall endeavour to deliver the Goods as soon as it is reasonably able following that time or date.

4.4 Subject to the other provisions of these Conditions the Company will not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profits, loss of business, depletion of goodwill and like loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

4.5 If for any reason the Buyer will not accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations: 4.5.1 risk in the Goods will pass to the Buyer (including for loss or damage caused by the Company's negligence); 4.5.2 the Goods will be deemed to have been delivered; and 4.5.3 the Company may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance).

4.6 The Buyer will provide at its expense at the Delivery Point adequate and appropriate equipment and manual labour for loading the Goods. Where the price of Goods stated in the Order is less than £150 net or requires delivery on a pallet, the Company reserves the right to charge a reasonable fee for carriage and delivery.

4.7 If the Company delivers to the Buyer a quantity of Goods of up to 15% more or less than the quantity accepted by the Company the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.

4.8 The Buyer shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 14 days of the date when the Goods would in the ordinary course of events have been received.

4.9 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

4.10 Where Goods are delivered to the Buyer directly from the manufacturer of such Goods, the Company shall on no account be liable for any non-delivery or late delivery of such Goods.

4.11 The Goods are at the risk of the Buyer from the time of delivery.

4.12 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of: 6.2.1 the Goods; and 6.2.2 all other sums which are or which become due to the Company from the Buyer on any account.

4.13 Until ownership of the Goods has passed to the Buyer, the Buyer must: 6.3.1 hold the Goods on a fiduciary basis as the Company's bailee;

6.3.2 store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property; 6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company; and 6.3.5 hold the proceeds of the insurance referred to in condition 6.3.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

4.14 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions: 6.4.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value; and 6.4.2 any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

4.15 The Buyer's right to possession of the Goods shall terminate immediately if:

6.5.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or 6.5.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or 6.5.3 the Buyer encumbers or in any way charges any of the Goods.

6.6 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.

6.7 The Buyer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or where the Buyer's right to possession has terminated, to recover them.

6.8 The price of the Goods shall be as stated in the Company's current price list and unless otherwise agreed in writing by the Company shall be exclusive of value added tax but shall include all costs or charges in relation to loading, unloading, carriage and insurance all of which amounts the Buyer will pay in addition when it is due to pay for the Goods.

6.9 No variation in the price nor extra charges will be accepted by the Company.

6.10 Where a manifest error appears on the Order in respect of the price, then the Company may, no later than 7 days after delivery of the Goods, submit a further correcting Order in line with the Company's current price list to the Buyer for payment.

6.11 Payment of the price for the Goods is due (on the last working day of the month following the month in which the Goods are delivered or deemed to be delivered).

6.12 Time for payment shall be of the essence.

6.13 No payment shall be deemed to have been received until the Company has received cleared funds.

6.14 All payments payable to the Company under the Contract shall become due immediately upon termination of this Contract despite any other provision.

6.15 The Buyer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

6.16 If the Buyer fails to pay the Company any sum due pursuant to the Contract the Buyer will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the base lending rate from time to time of Lloyds TSB Bank, accruing on a daily basis until payment is made, whether before or after any judgement. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

6.17 The Company will on no account accept returned Goods unless it gives its express written permission to do so.

6.18 The Company will never accept returned Goods which: 9.2.1 would cause the Company to be over stocked with such Goods; 9.2.2 the manufacturer will not accept on return; or 9.2.3 consist of Special Goods.

6.19 If the Company agrees to accept returned Goods, as set out in clause 9.1 above, then the Company shall inspect the Goods for damage on return and may issue a credit note to the Buyer. A handling charge of 10% to 25% of the price of the Goods will be

charged to the Buyer at the discretion of the Company.

## 10. QUALITY

10.1 Where the Company is not the manufacturer of the Goods, the Company will endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.

10.2 The Company warrants that (subject to the other provisions of these Conditions) upon delivery the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1979.

10.3 The Company shall not be liable for a breach of the warranty in condition 10.2 unless:

10.3.1 the Buyer gives written notice of the defect to the Company, and (if the defect is as a result of damage in transit) to the carrier, within [7] days of the time when the Buyer discovers or ought to have discovered the defect; and 10.3.2 the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Buyer's cost for the examination to take place there.

10.4 The Company shall not be liable for a breach of the warranty in condition 10.2 if:

10.4.1 the Buyer makes any further use of such Goods after giving such notice; or 10.4.2 the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or 10.4.3 the Buyer alters or repairs such Goods without the written consent of the Company.

10.5 Subject to conditions 10.3 and 10.4, if any of the Goods do not conform with the warranty in condition

10.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.

10.6 If the Company complies with condition 10.5 it shall have no further liability, including but not limited to consequential loss, for a breach of the warranty in condition 10.2 in respect of such Goods.

## 11. LIMITATION OF LIABILITY

11.1 Subject to condition 8, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

11.1.1 any breach of these Conditions; and 11.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

11.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

11.4 Subject to conditions 11.2 and 11.3:

11.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to [contract price]; and 11.4.2 the Company shall not be liable to the Buyer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## 12. CONFIDENTIALITY

The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Company or its agents and any other confidential information concerning the Company's business or its products which the Buyer may obtain and the Buyer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Buyer's obligations to the Company and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Buyer.

## 13. TERMINATION

13.1 The Company shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Buyer 3 months written notice whereupon all work in respect of the Contract shall be discontinued and the Buyer shall pay the Company the price as set out in clause 9.2 for Goods already delivered to the Buyer under the Contract.

13.2 The Company shall have the right at any time by giving notice in writing to the Buyer to terminate the Contract forthwith if:

13.2.1 the Buyer commits a breach of any of the terms and conditions of the Contract;

13.2.2 any distress, execution or other process is levied upon any of the assets of the Buyer;

13.2.3 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer;

13.2.4 the Buyer ceases or threatens to cease to carry on its business; or 13.2.5 the financial position of the Buyer deteriorates to such an extent that in the opinion of the Company the capability of the Buyer adequately to fulfil its obligations under the Contract has been placed in jeopardy.

13.3 The termination of the Contract, however arising, will be without prejudice to the rights and duties of the Company accrued prior to termination. The Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

14. ASSIGNMENT

14.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

14.2 The Company may assign the Contract or any part of it to any person, firm or company.

15. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the value of the Goods ordered by the Buyer if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), restraints or delays affecting carriers inability or delay in obtaining supplies or adequate or suitable materials.

## 16. GENERAL

16.1 Each right or remedy of the Company under the Contract is with prejudice to any other right or remedy of the Company, whether under the Contract or not.

16.2 If any provision of the Contract found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable, unreasonable it shall, to the extent or such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder or such provision shall continue in full force and effect.

16.3 Failure or delay by the Company enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

16.4 Any waiver by the Company of breach of, or any default under, any provision of the Contract by the Seller will not be deemed a waiver of any subsequent breach or default and which in no way affect the other terms of the Contract.

16.5 The parties to this Contract do intend that any term of this Contract be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

16.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.