

# Terms and Conditions

## **1. Definitions**

'Seller' means PowerPrize Limited.

'Buyer' means the person or organization placing an order with the Seller.

'Products' means the goods (including part shipments) or services, which are to be supplied by the Seller in accordance with these Terms and Conditions.

'Writing' includes facsimile, email and similar communications.

'Catalogue' means leaflets, brochure, website, datasheets and other storable or printable information supplied by the Seller.

'Contract' means any contract entered into between the Seller and the Buyer by which the Seller sells or supplies goods to the Buyer.

## **2. General**

These Terms and Conditions constitute the entire agreement between the Seller and the Buyer and shall (subject to any rule of law incapable of being overridden) operate to displace any provisions in any applicable rule of law or terms and conditions imposed or sought to be imposed by the Buyer which might otherwise apply. No modification or variation of them shall be binding unless executed in writing by the Seller and the Buyer.

The failure by the Seller or the Buyer at any time to require performance of any provision of the Contract shall not affect the right of the Seller or the Buyer to enforce such provision at a later time.

No waiver by the Seller or the Buyer of any Condition nor the breach of any term covenant representation or warranty contained in the Contract (whether express or given by conduct or otherwise) in any one or more instances shall be deemed to be or construed as a further or continuing waiver of any Condition or breach or a waiver of any other Condition or deemed to be or construed as the breach of any other term Condition representation or warranty in the Contract.

## **3. Contract**

A contract for the sale of Products comes into being each time the Buyer places an order verbal or written, which is accepted and confirmed by the Seller. That contract incorporates these Terms and Conditions. The Buyer is deemed to accept these Terms and Conditions without reservations even if their Order Form contains pre-printed conditions. Variation of these Terms and Conditions must be agreed in Writing by the Seller. The Seller shall be entitled without prejudice to any other rights and remedies, on its sole discretion either to terminate immediately wholly or in part any Contract with the Buyer or to suspend any further delivery of goods under any Contract and make a refund to the Buyer of any payments due for the undelivered products or services under the Contract.

## **4. Prices and Payment**

Any quotation given by the Seller to the Buyer in whatever form will be subject to these Terms and Conditions. Payment is against a proforma invoice prior to the dispatch of the products except where the Buyer has been granted a credit account by the Seller. Terms of the credit account are net monthly (payment due by the end of the month following the month of invoice). Ownership of Products resides with the Seller until full payment is received for them. Late payment or non-payment may result in suspension of deliveries or cancellation of existing orders in addition to the usual remedies for breach of contract.

## **5. Catalogue**

Both the Catalogue and the products therein are subject to continuous improvement. Whilst every effort is made to ensure that information in the Catalogue is correct, no responsibility can be taken for omissions or errors.

## **6. Warranty**

Unless otherwise stated the Seller warrants its Products to be free from defects in materials and workmanship under normal use for a period of 1 (one) year from the delivery date. This warranty is given in place of all implied warranties and such implied warranties are excluded to the fullest permitted extent. The Seller may revise its warranty from time to time but any such change will not affect Products ordered by the Buyer prior to the date of such change. This warranty does not apply to damage caused by incorrect fitting, use, misuse, abuse, neglect, modification, external force, vandalism, crime, fraud, fitness for any particular purpose, 3<sup>rd</sup> party products, normal wear or accident. This warranty does not cover any third party materials or components, if exist, nor does it cover any Products, which has been altered or changed by anyone other than the Seller. No action for breach of warranty may be commenced more than 1 (one) year following the expiration date of the above warranty. This warranty will terminate automatically if the Buyer fails to comply with these Terms and Conditions.

## **7. Liability and Defective Products**

Applications information whether verbal or in the Catalogue is provided without obligation. This is because it is impossible for the Seller to know the purposes for which the Buyer acquired the Products or the uses to which the Buyer will put the Products, and the Buyer assumes full responsibility for the selection of the Products, for their installation and use and the results of that use. While every reasonable effort has been made to ensure that the Buyer will receive the Products that the Buyer can use and enjoy, the Seller does not warrant that the functions of the Products will meet the Buyer's requirements or that the operation of the Products will be fault-free. In the event of notification and proof, within the warranty period, of defects in materials or workmanship, the Seller will at their option replace them at no cost to the Buyer or refund the purchase price. This is the Buyer's sole and exclusive remedy and the Seller's sole and exclusive obligation. Apart from the foregoing, there are no warranties of any kind, either express or limited, including, but not limited to the implied warranties or merchantability or fitness for a particular purpose and no liability for damage or loss, however caused, for breach of warranty, consequential or otherwise, arising from the use of the Products can be accepted (so far as is permissible by law). The Products accepted by the Seller for return must be returned to the Seller with the original proforma invoice or cash register receipt. The risk of loss or damage to the Products shall pass to the Buyer on their receipt by the Buyer or their representative. The Seller can accept no liability for Products lost or damaged in transit unless the carrier's consignment note is so marked.

## **8. Support**

The Seller may from time to time revise or update its Products, alter specifications and prices without prior notice. Products updates and revisions may be supplied separately for a fee according to the Seller's then prevailing update prices, policies, terms and conditions. The Seller is not obligated to make any Products revisions or to supply them. Any additions or changes to the Products shall be governed by this Terms and Conditions, and may be governed by additional terms and conditions supplied with such addition or change.

## **9. Return of Products**

The Buyer shall determine that Products, when ordered, are fit for the purpose intended. The Seller guarantees 7-days money back to the Buyer from the delivery date, which is deemed 4 days from the dispatch date, if the Products were not unpacked, not used and returned to the Seller with the original invoice or cash register receipt in their original condition and packaging. The Buyer shall be liable for return postal costs unless the items prove to be defective in which case the Seller will repay any reasonable postage costs. Products returned as incorrectly ordered will be subject to a 15% handling charge, should the Seller choose to accept their return. No refunds will be given for Products, which have already been used except in the event of notification, within the warranty period, of defects in materials or workmanship.

## **10. Delivery**

Delivery in the mainland UK for the flat rate charge as specified in the current proforma invoice. Time for delivery shall not be of the essence unless agreed by the Seller in Writing. Usually, if stock is available it will take up to one week for delivery (depending on where the Buyer is located) after the Buyer's payment clearance. If stock is not available or for special orders it may take longer. The Seller shall not be liable for any delay in delivery.

## **11. Copyrights and Patents**

The Seller maintains full Intellectual Property rights on the Products, the Catalogue and all associated patents, trademarks, trade names brands, product names, designs, drawings, images, text, instructions, manuals, layouts and all other provided materials. Any use of the items covered by the patent, design or copyright, including reproduction, re-publication, distribution or modification without our prior written permission is strictly prohibited. The Seller gives no guarantee that use of the Products in the Buyers application does not infringe a third parties intellectual property rights.

## **12. Proprietary Rights of PowerPrize Limited**

The PowerPrize Limited company logo and Trade Marks, Products, Product names and logos, Product Fitting Instructions and User Manuals, documentation and other support materials are either patented, copyrighted, trademarked, licensed or owned by PowerPrize Limited as trade secrets and/or proprietary information. All technical and engineering solutions contained in PowerPrize Limited Product or any modification or extraction thereof constitute trade secrets and/or proprietary information and will be protected by this Terms and Conditions.

## **13. Law**

These Terms and Conditions shall in all respects be governed by and construed in accordance with English Law and the Courts of England and Wales shall have exclusive jurisdiction.