



## GENERAL TERMS AND CONDITIONS OF SALE

### **“Terms”**

These general conditions shall be incorporated in, and form part of every contract for the sale by The Power Group Limited (hereinafter called the 'Seller') of any goods or services specified in the Seller's invoice (hereinafter called the 'Goods and Services') which shall be the subject of the contract between the Seller and the persons, company or other organisation (hereinafter called the 'Buyer') purchasing the Goods and Services ("the Contract").

In addition, the Seller's specific standard terms and conditions in relation to the particular Goods and Services to be supplied to the Buyer under the Contract shall also apply to the contract and are incorporated herein as part of the Terms.

### **GENERAL**

All quotations are made and all orders are accepted subject to these Terms, which supersede any earlier set of conditions of the Seller wherever appearing and which also override any Terms stipulated, incorporated or referred to by the Buyer. These Terms apply to all contracts for the sale of Goods and Services to, or provision of work for, the Buyer to the exclusion of any terms and conditions specified by the Buyer.

### **ACCEPTANCE AND CANCELLATION**

A quotation by the Seller shall be open for acceptance within the period stated therein or, if no period is stated, within 30 days of the date of the quotation unless previously withdrawn. A quotation is limited to such Goods and Services as are specified therein. If the Buyer wishes to make an order on the basis of the quotation, such order must be accompanied by sufficient information to enable the Seller to proceed with the order forthwith. The Supplier may revise the quotation price where there is any delay in supplying such information. The contract is created when the Seller confirms acceptance of the order in writing (hereinafter called the 'Contract'). All prices quoted are subject to confirmation at time of order and are exclusive of VAT, which will be chargeable in accordance with legislation current at the date of supply. Credit limits may be given at the sole discretion of the Seller, but the Seller may require both bank and trade references. At its sole discretion, the Seller may cancel or amend any credit limit previously granted.

### **VARIATIONS**

In the event that a variation to the Contract is requested or suspension of work occurs as a result of instructions or lack of instructions received from the Buyer (a Variation), the Seller shall be entitled to charge the Buyer for all costs incurred by the Seller as a result of said Variation. Such charge shall be reflected in the Seller's invoice to the Buyer for the relevant Contract. .

### **PRICES**

The Seller reserves the right by giving notice to the Buyer at any time during the Contract to increase the price of Goods and Services to reflect any increase in cost to the Seller which is due to any factor beyond the reasonable control of the Seller.

### **TERMS OF PAYMENT**

Unless otherwise agreed in writing with the Seller payments shall be made without any deduction within 30 days from the date of the invoice. The Seller reserves the right to charge interest on any amounts unpaid at the end of this period of 30 days at 3% above the Base Rate for the time being in force of HSBC Bank PLC, and the Buyer shall be liable for any costs incurred by the Seller in recovering such amounts. Invoice queries must be notified to the Seller within 10 working days of the date of the invoice, at the end of which period any liability of the Seller will cease. The Seller reserves the right to charge an administration fee for any account temporarily suspended due to a breach of these conditions.

## **RETENTION OF TITLE**

(a) All Goods shall be at the Buyer's risk from the time of delivery but will remain the property of the Seller until all payment due from Buyer to Seller has been made in full.

(b) The Seller, or any of its agents, may at any time without notice before payment is made in full enter any premises to retake possession of all the Seller's Goods whether held in the custody of the Buyer or at any other premises.

(c) The Seller shall be entitled to seek a court injunction to prevent the Buyer from selling, transferring or otherwise disposing of the Goods if at any time payment for the Goods is outstanding.

(d) At all times before payment is made by the Buyer in full, the Buyer shall store or otherwise denote the Goods in respect of which property remains with the Seller in such a way that the same can be recognised as the property of the Seller.

(e) The Buyer's right to hold or deal in any way with the Seller's Goods shall terminate automatically and the Seller shall be entitled to immediately recover the Goods if 1) The Buyer, being an individual, becomes Bankrupt or is the subject of a Bankruptcy Petition or enters into any arrangement with creditors; or 2) The Buyer, being a limited company is subject to the appointment of an Administrative Receiver or goes or is forced into any form of insolvency; 3) The Buyer authorises the Seller, its employees or agents to enter the Buyer's premises for the purpose of enforcing these provisions; 4) The Buyer commits a material breach of these Terms.

## **LIABILITY FOR DELAY**

Unless the Seller has accepted in writing a firm completion date where time is expressed to be of the essence of the Contract, any cited delivery dates are approximate. Any dates quoted are calculated from the receipt by the Seller of the written order. The Seller shall incur no liability whatsoever for failure to complete / deliver on dates quoted and any delay in completion shall not give the Buyer the right to cancel an order. The Seller shall have no liability whatsoever for non-fulfilment of the Contract or for any failure to complete by any agreed dates.

## **SPECIFICATIONS AND ADVERTISING MATTER**

All specifications submitted by the Seller are approximate only and the description and illustrations contained in quotations and other advertising matter of the Seller are intended merely to represent a general idea of the Goods and Services portrayed therein and none of these shall form part of the Contract. At all times, these specifications remain the properties of the Seller.

## **PERFORMANCE**

The Seller will accept no liability for failure of Goods and Services to attain any quoted performance figures unless specifically guaranteed as being "Guaranteed Quoted Performance Figures" by the Seller in writing. If performance figures are outside any acceptable limits specified in such a Guaranteed Quoted Performance Figures, the Seller shall attempt to rectify the problem at no additional charge, within reasonable limits, to the Buyer.

## **EXCLUSION OF LIABILITY**

Except as expressly provided in these conditions, the Seller shall be under no liability whatsoever kind howsoever caused whether or not due to the negligence or wilful default of the Seller or its servants or agents arising out of or in connection with supply of the Goods and Services; all conditions, warranties or other terms, whether express, implied, statutory or otherwise, are hereby expressly excluded provided that nothing in this condition shall exclude or restrict any liability of the Seller for death or personal injury resulting from the negligence of the Seller and its servants or agents, for breach of its implied undertakings as to title, or where the Buyer deals as a consumer within the meaning of the Unfair Contract Terms Act 1977 for breach of any implied conditions of the Sale of Goods Act 1979.

## **INDEMNITY**

The Buyer agrees to indemnify the Seller against any damages, losses, costs, claims or expenses incurred by the Seller in respect of any claim brought against the Seller by any third party for any loss, injury or damage wholly or partly caused by the Goods and Services or their use and for any loss, injury or damage in any way connected with the performance of this Contract.

## **LIMIT OF SELLER'S LIABILITY**

Except in respect of damage for which the Seller is not legally entitled to exclude liability, the Seller's liability for any claim or series of claims in respect of any Contract shall not exceed the amount actually received by the Seller under the Contract under which the claim has been made.

The Seller shall have no Liability for loss of revenue, loss of actual or anticipated profits, loss of contracts, loss of, damage to or corruption of data, or any indirect or consequential loss, and such Liability is excluded whether it is foreseeable, known, foreseen or otherwise. For the avoidance of doubt, the exclusions in this paragraph apply whether such losses are direct, indirect, consequential or otherwise. Each exclusion in this paragraph (separated from the others by a comma) shall be treated separately from the others.

## **TERMINATION**

Either party can terminate the Contract in writing within the Contract period once the minimum Contract period has been completed. The minimum contract period expires when payment has been received by the Seller in respect of that Contract unless otherwise agreed in writing with the Seller. The Buyer will be in default and the Seller shall have the right without notice to suspend performance of any or all Contracts without indemnity to the Buyer in the event that: 1) the Buyer fails to carry out its obligations under any contract of which these Terms form part, or 2) the Buyer ceases or threatens to cease to carry on its business or any substantial part thereof, or 3) distress, execution, judgement or any order of the Court is levied or enforced or executed upon or against any property of the Buyer, or 4) a Receiver is appointed of the undertaking or assets of the Buyer; or 5) a Resolution is passed or proceedings are commenced for the winding up of the Buyer, or 6) the Buyer enters into any arrangement or composition with its creditors, or 7) the Buyer commits any material breach of these terms not referred to above. No order which has been accepted by the Seller may be altered or withdrawn by the Buyer except with the agreement in writing of the Seller on terms that the Buyer shall indemnify the Seller in full against all losses (including loss of profit), costs (including the costs of all labour and material used), damages, charges and expenses incurred by the Seller as a result of such alteration or withdrawal. The Buyer shall indemnify the Seller against all additional costs incurred by the Seller resulting from any alteration or withdrawal of an order by the Buyer made without the written consent of the Seller. Such additional costs shall be paid forthwith upon the Seller's demand.

## **FORCE MAJEURE**

The Seller shall not be liable for any failure to fulfil any obligation under this Contract if prevented from so doing by any cause beyond its reasonable control.

## **MISCELLANEOUS**

If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and the remainder of the provision in question shall not be thereby affected.

The parties to this agreement expressly agree that a person who is not a party to this agreement shall not have the right to enforce any term or terms of this agreement pursuant to the Contract (Rights of Third Parties) Act 1999.

Neither party shall assign, transfer, charge or deal in any other manner with any term or terms of these Terms without the prior written consent of the other.

These Terms and all documents referred to herein constitutes the entire understanding between the parties with respect to the subject matter of these Terms and supersedes all prior agreements, negotiations and discussions between the parties relating to it.

The failure of a party to exercise or enforce any right under these Terms shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

All clauses that are either expressed to or can be implied to be intended to will survive termination of these Terms.

Unless otherwise agreed in writing, this Contract shall be read and construed to take effect in all respects in accordance with the laws of England and the parties hereby submit to the jurisdiction of the English courts.