

## TERMS AND CONDITIONS OF SALE

All goods and services supplied by Powerstax plc are sold subject to the following terms and conditions (the “Conditions”):

- 1 **DEFINITIONS AND INTERPRETATION:** In these Conditions, the “Company” means Powerstax plc, (Company Number 2688692) whose registered office is situated at Unit B5, Armstrong Mall, Southwood Business Park, Farnborough, Hampshire, GU14 0NR, and the “Purchaser” means any person who buys or has agreed to buy Goods and “Goods” mean any goods or services supplied by the Company. The singular shall be deemed to include the plural, and “person” shall include a firm or company and vice versa. The headings of these Conditions are for convenience only and shall not affect the interpretation of these Conditions.
  - 2 **APPLICABLE TERMS:** These Conditions: (a) form part of every contract for the sale of Goods (“contract”) by the Company to the Purchaser and apply to all dealings between the Company and the Purchaser; (b) are accepted by the Purchaser placing an order or accepting a quotation; and (c) supersede all previous statements, exclude any terms or conditions of the Purchaser and may only be supplemented or amended with the prior written consent of a director of the Company.
  - 3 **PRICES:** The prices for the Goods are stated in the Company’s quotation or, if no quotation is given, in the confirmation of order. The Company’s prices are fixed for a period of 30 days unless otherwise stated in the quotation/order acknowledgement. Thereafter the Company reserves the right to vary prices without notice. Prices exclude sales taxes, insurance and insurance duties, transport, storage or similar costs which (if any) shall be paid by the Purchaser.
  - 4 **QUOTATIONS AND INVOICES:** The right is reserved to amend any errors and/ or omissions in quotations, invoices or any other documents of the Company. The quantity, quality and description of the Goods shall be those set out in the Company’s quotation or order confirmation.
  - 5 **PACKING, CARRIAGE AND INSURANCE:** Unless otherwise agreed within the terms of a contract, packaging, carriage and insurance to designated premises, and on default or designation to any trading address, of the Purchaser shall be paid by the Purchaser and shall be charged at the Company’s rates at the time of dispatch.
  - 6.1 **INVOICING AND PAYMENT:** The Company shall invoice the Purchaser upon dispatch of the Goods and payment of the full invoice sum will, unless otherwise stated on the invoice, be due within 30 days of the date of the Company’s invoice and the time for payment shall be of the essence of the contract. The Company reserves the right, upon written notice, to require payment of the full price of the Goods prior to delivery to the Purchaser.
  - 6.2 Unless specified in the quotation, the price payable in respect of any delivery of the Goods by instalment shall be such proportion of the total price under the contract as the Company may reasonably decide.
  - 6.3 If the Purchaser fails to make any payment when due then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
    - (a) treat the contract as repudiated and terminated and/or suspend deliveries to the Purchaser until paid; and/or
    - (b) apply any “on account” payments to whatever part of the debt the Company deems appropriate; and/or
    - (c) charge the Purchaser compounded interest (both before and after any judgement) on any unpaid amount at a rate of 6% p.a. above base rate apportioned by the day from the due date until payment in full. The Company may take legal action to recover any sum outstanding under a contract even if property in the Goods has not been passed to the Purchaser.
  7. **DELIVERY:** Any delivery dates quoted are estimated dates. The Company will accept no liability for failure to supply and to deliver within the period quoted. The Company shall be entitled to make partial deliveries by instalments and these Conditions shall apply to each delivery. Risk in the Goods shall pass to the Purchaser upon delivery. The Goods shall if agreed by the Company, subject as provided in Condition 16 (Export), be delivered to the Purchaser’s agreed premises (the “delivery address”). Delivery shall, subject to these Conditions take place either (a) when the Purchaser collects the Goods, ex-works at the Company’s premises or (b) if the Goods are agreed to be transported by the Company, when the Goods are unloaded at the delivery address. The Purchaser is advised to insure accordingly.
  - 8.1 **TITLE AND TERMINATION:** Property in the Goods delivered under a contract shall pass to the Purchaser on receipt by the Company in full of: (a) the price of those Goods; and (b) all other sums due from the Purchaser under the contract.
  - 8.2 Until the property in the Goods passes to the Purchaser:
    - (a) it shall hold such goods (“Company’s Goods”) as a fiduciary for the Company (in which full title to such Goods shall remain) and shall store and mark them in such a way that they are readily identifiable as the Company’s property and shall not mix them with any other goods;
    - (b) it shall not pledge or allow any lien, charge or other interest to arise over the Company’s Goods or their documents of title; and
    - (c) subject to sub-clauses (a) and (b) above, the Purchaser may sell or use the Company’s Goods in the ordinary course of its business. However, if (a) the Company notifies the Purchaser that (i) the Purchaser is in default for more than 7 days in the payment of any sum due to the Company; or (ii) it has bona fide doubts as to the solvency of the Purchaser; or (b) any of the events referred to in Condition 8.3 occurs, then the Purchaser’s rights to deal with Company’s Goods in the ordinary course of business shall immediately terminate.
  - 8.3 If either:
    - (a) the Purchaser breaches any terms of, or purports to cancel, any contract with the Company;
    - (b) the Purchaser is unable to pay its debts within the meaning of s.123 or 268 Insolvency Act 1986 or any statutory modification or re-enactment thereof or equivalent provision in another jurisdiction; or
    - (c) any step, action, application or proceeding is taken by or in respect of the Purchaser:
      - (i) in relation to the whole or any part of its undertaking or assets for:
        - (aa) a voluntary arrangement or composition or reconstruction of its debts; or
        - (bb) winding-up, dissolution, administration, receivership (administrative or otherwise) or bankruptcy;
      - (ii) in any jurisdiction to which it is subject (including, without limitation, one in which the Purchaser is incorporated) which has an effect similar or equivalent to any of the events mentioned in Condition 8(3) (b) and 8(3) (c)(i) above,the Company (without prejudice to any other legal remedies it may have) shall at any time thereafter be entitled to terminate the contract and/or enter upon any premises owned or occupied by the Purchaser or any premises upon which it is reasonably believed that the Goods are being stored or kept (without notice to the Purchaser) and repossess the Goods.
- If the Company terminates the contract under this Condition, then without affecting any other rights and remedies it may have, all sums outstanding shall be immediately due and payable, the Company may dispose of any Goods as it wishes and the Purchaser shall reimburse it for any loss or expenses incurred by it in connection with the contract.
- 8.4 If in breach of Condition 8.2 above the Purchaser sells the Goods or any part of them prior to property in the Goods passing to the Purchaser, then any proceeds of sale in respect thereof and all rights arising under or in respect of the said sale shall be held (in the case of the proceeds of sale, in a separate account) by the Purchaser as a trustee for the Company. The Purchaser hereby agrees, immediately on the receipt of a request from the Company, to assign to the Company all rights and claims which the Purchaser may have against any third party arising from such sale or transfer and/or act in accordance with the reasonable directions of the Company in connection with such claims.

- 8.5 Termination of the contract, for whatever reason, shall not affect any of its provisions which are intended to continue to have effect after it has come to an end.
9. **RETURNS:** Goods supplied may not be returned for credit without the written consent of the Company and any Goods which are returned without such consent will be refused.
10. **CANCELLATION/VARIATION OF PURCHASE ORDER:** Quotations are invitations to the Purchaser to order from the Company. Orders are not binding until accepted in writing by the Company. Once accepted, any order placed by the Purchaser shall not be varied or cancelled without the prior written consent of the Company. The granting of consent shall be entirely at the discretion of the Company and shall always be subject to the payment by the Purchaser to the Company of a sum equivalent to the losses, including loss of profit, cost and expenses of the Company caused by the variation or cancellation (such sum being reasonably determined by the Company).
- 11.1 **DAMAGE IN TRANSIT AND NOTIFICATION OF SHORTAGE:** The Company shall not be liable for faulty and or damaged Goods unless such fault and damage can be shown by the Purchaser to have arisen prior to despatch (a "Pre-Dispatch Defect"). Any claim by the Purchaser which is based on a Pre-Dispatch Defect shall be notified to the Company in writing within 14 days from the date the delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after the discovery of the defect or failure. All claims must in any event be notified to the Company in writing within one year of the delivery date.
- 11.2 The Company shall accept no liability for shortage of goods on delivery unless written notification shall have been received by the Company from the Purchaser within 7 days of the date of despatch of the Goods to the Purchaser.
12. **CONFIDENTIALITY:** The Purchaser shall ensure that, without the Company's written consent any confidential information of the Company (including, without limitation, that which relates to the design of the Goods) of which it becomes aware (which information shall at all times remain the property of the Company) shall not be copied, used or disclosed and that all materials containing such information shall be returned to the Company at the end of the contract.
- 13.1 **PURCHASER LIABILITY AND RESPONSIBILITIES:** The Company shall not be liable for any loss or damage whatsoever caused directly or indirectly by the Purchaser's failure to perform any of the Purchaser's obligations under contract or order relating to any Goods or any other matter wholly or partly within the Purchaser's control.
- 13.2 The Purchaser warrants that it has authority to supply (and to authorise the Company to use as contemplated by the contract) any goods, designs, specifications, instructions or information furnished by it to the Company and that any work undertaken on the basis of them or the sale of goods produced on the basis of such work shall not infringe the rights of any third parties. The Purchaser shall indemnify the Company against any loss and all claims of any nature (including those relating to any infringement of any intellectual property right) arising out of a breach of this warranty.
- 13.3 The Purchaser is responsible for obtaining all necessary consents, licences or permits and for the accuracy of all information including drawings, designs and specifications, submitted to the Company by or on behalf of the Purchaser.
14. **ASSIGNMENT AND THIRD PARTY RIGHTS:** No contract with the Company shall be assignable by the Purchaser without the prior written consent of the Company. No person other than the contracting parties may enforce any provision of these Conditions by virtue of the Contracts (Rights of Third Parties) Act 1999.
15. **EXPENSES:** Without prejudice to any other remedy available the Company shall be entitled to recover from the Purchaser any cost or expenses (including solicitors' fees and disbursements) incurred in recovering monies in respect of the Goods or any other monies due under these Conditions.
16. **EXPORT:** Any special terms on export orders shall be subject to individual negotiation with the Purchaser.
- 17.1 **WARRANTY:** The Company warrants that on delivery the Goods are reasonably free from defects in materials and workmanship. The Company's liability under this warranty shall be limited to repair or replacement free of charge at one of the Company's factories, selected by the Company provided (a) written notification of such defect has been given within 12 months of the delivery date (and in accordance with any other applicable provision of these Conditions) providing all the particulars necessary to enable the Company to validate the claim; and (b) the Goods are promptly returned by the Purchaser to the Company at the Purchaser's cost.
- 17.2 Subject as provided below, no liability of the Company to the Purchaser whether under a contract or otherwise in connection with the supply of Goods shall arise unless the claim is notified in accordance with Condition 17.1 and no liability which does so arise shall: (a) exceed the value of the Goods in respect of which the claim is made; or (b) extend to any loss of profit or goodwill or any loss which is indirect, consequential or economic or which was not at the time the contact was made a reasonably foreseeable result of such breach.
- 17.3 Subject as provided below and save as expressly set out herein, all warranties or conditions of the Company, whether express or implied by statute or otherwise, are, to the fullest extent permitted by law, excluded and in no circumstances shall the Company be liable for any loss or damage arising out of or relating to the Goods in any way whatsoever whether direct or indirect and whether arising through negligence, misrepresentation, breach of statutory duty, or of any condition, warranty or other term (express or implied) of any contract or otherwise.
- 17.4 Nothing in these Conditions shall limit the Company's liability in respect of any claim (other than by the Purchaser for reimbursement of sums paid to a third party) for death or personal injury caused by the negligence of the Company or any other liability which may not be limited or excluded at law.
- 17.5 The parties agree that these restrictions are reasonable in the light of their relationship and the availability of insurance against such risks.
18. **SEVERABILITY AND CUMULATION OF REMEDIES:** If the whole or any part of any clause(s) of a contract (including a provision of these Conditions) is invalid, that invalidity shall not affect the validity of any other provision. Rights and remedies of the Company under any contract are independent, cumulative and without prejudice to its rights under the general law.
19. **WAIVER:** No waiver by the Company of any breach of the Purchaser's obligations shall constitute a waiver of any other prior or subsequent breach and the Company's rights shall not be affected by any delay, failure, or omission to enforce or express forbearance granted in respect of any obligation of the Purchaser.
20. **FORCE MAJEURE:** The Company accepts no liability for delay in delivery or failure to deliver Goods arising out of any cause whatsoever beyond its reasonable control or the control of its suppliers.
21. **GOVERNING LAW:** All contracts made between the Company and the Purchaser shall be governed by and construed in accordance with English Law and the Purchaser agrees to submit to the non-exclusive jurisdiction of the English courts. The Company shall, notwithstanding the preceding sentence, retain the right to bring proceedings against the Purchaser in any other court of competent jurisdiction.

**NOTHING IN THESE CONDITIONS SHALL AFFECT THE STATUTORY RIGHTS OF THE PURCHASER.**