

TERMS & CONDITIONS

General Conditions of Sale

GENERAL CONDITIONS OF SALE The following conditions of sale shall apply to all sales of product and services ("Products) by Powerbx, LLC (the "Seller") to the exclusion of any Buyer's or other conditions of purchase or which would otherwise be implied by trade, custom, practice or course of dealing. Except where inconsistent with these conditions, industry customs shall apply and are hereby incorporated into these conditions. All quotations and offers are issued subject to these conditions and all orders accepted imply acceptance of these conditions. Alterations or amendments of these terms and conditions must be accepted by the Seller in writing otherwise they should be null and void. In the case of incompatibility or difference between these conditions and the specific conditions appearing on any other Seller's document addressed to the Buyer, the latter shall expressly prevail.

BUYER ACKNOWLEDGMENT The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in the order as accepted by the Buyer subject to these conditions. Any samples, drawings, descriptive matter, or advertising issued by the Seller and any descriptions or illustrations contained in the Seller's catalogues or brochures or website are issued or published for the sole purpose of giving an approximate idea of the goods described in them. They shall not form part of any contract between the Seller and the Buyer for the sale of Products.

PLACING AND CONFIRMATION OF ORDERS No order shall be binding unless accepted by the Seller in writing by letter or email ("Confirmation of Order"), emails being accepted by mutual agreement as proof of entry into the contract between the Seller and the Buyer for the sale and purchase of Products set out in the order (the "Contract"). Orders placed by telephone shall become binding on the Buyer upon receipt of the telephone call. However, orders placed by telephone shall cease to have effect unless the Seller dispatches a Confirmation of Order within three working days from the order placed by telephone. In such a case, receipt of the goods shall be deemed acceptance equivalent to Confirmation of Order. Unless otherwise stated a quotation for the goods given by the Seller is binding for shipment within 14 days from the date it was made to the Buyer.

PACKAGING Unless otherwise specified in the order as accepted by the Seller, packing of goods shall be in conformity with Seller's practice for the transport involved. Costs for special packing at the request of the Buyer are not included in the price of goods and shall be paid by the Buyer.

TITLE Title to the Products sold hereunder and all risk of loss, delay or damage, pass to Buyer on Seller's delivery to the common carrier at Seller's plant or warehouse. The quantity of all shipments will be determined in accordance with Seller's usual weighing practices, and Seller's quantity determination will govern. Buyer will promptly unload each shipment at its own risk and expense, including any demurrage or detention charges.

PRICE AND PAYMENT TERMS For each Product, the price is as specified for that Product in the Contract or otherwise quoted by Seller and such price is subject to change at any time by Seller giving notice to Buyer. Any tax (other than income), duty or other governmental charge now or hereafter imposed on the Product or on any raw material used in manufacturing the Product (or on Seller, or required to be paid or collected by Seller by reason of the manufacture, transportation, sale or use of such Product or raw material) will be paid by the Buyer in addition to the price. Funds are due in Seller's bank or financial institution in accordance with the terms of Seller's invoice. Seller may terminate any Contract with thirty (30) days' notice.



Net terms may be offered to Buyers who have submitted a satisfactory credit application with references and who met Seller's requirements for terms. If approved for terms, all subsequent orders are available for the term noted on Contract. Payment for Contract will be due 30 days from the date of invoice and all overdue amounts will immediately accrue interest as defined in 'Buyers Default and Credit.'

BUYERS DEFAULT AND CREDIT If, in Seller's judgment, Buyer's credit becomes impaired at any time, or Buyer's credit is in default under any term or condition of any Contract with Seller, Seller will have the right in addition to any and all other remedies, to decline to make deliveries hereunder except for cash until such time as such credit has been established or such default has been cured to Seller's satisfaction. In Seller views Buyer as a credit risk all outstanding balances in favor of the Seller shall be deemed immediately due and payable.

In case of non-payment by the Buyer, even partial, of any invoice by the due date, all outstanding debt shall become payable in full. In addition, without limitation the Seller's other rights and remedies, the Buyer shall pay interest on the overdue amount at the rate of 18% per annum with interest to accrue on a daily basis from the due date until the date of actual payment of the overdue amount. The Buyer shall pay the interest together with the overdue amount and recognizes Seller's entitled claim to reimbursement of costs for related legal proceedings on a full indemnity basis.

RETURN AND EXCHANGE OF PRODUCT It is the responsibility of the Buyer to verify upon receipt the quality, quantity, condition, weight of Product and their conformity to the invoice and shipping documents, to establish short delivery or any damage during shipment and to notify any claims to the carrier or the Seller within seven (7) days, depending on delivery terms, and take appropriate action against the latter within the legal period if necessary. If the Buyer has placed an order giving rise to successive deliveries according to an agreed timeline, the Buyer shall not be entitled to request any suspension of deliveries or a different distribution of them.

Buyer requests to return and exchange Product will be accepted by Seller in original packaging no more than 30 days from the time Product was received according to carrier shipping documents and notifications. All Buyer requests for return or exchange of Product will be subject to approval by Seller and approved requests will be subject to a 25% restocking fee charged to Buyer upon Seller's receipt of Product.

FORCE MAJEURE Neither party shall be liable in any respect for failure to perform hereunder (except for failure to pay amounts owing hereunder) if hindered or prevented, directly or indirectly for a reason outside its reasonable control including, without limitation, war, national emergency, terrorism, riot, inadequate transportation facilities, inability to secure materials, supplies, fuel or power, shortage or non-availability of raw materials, plant breakdown, fire, flood, windstorm, explosion, accident or other act of God, strike, lockout or other labor dispute, order or act of any government, whether foreign, national or local, whether valid or invalid, or any other cause of like or different kind (a "Force Majeure Event"). If either party is unable to perform its obligations hereunder due to a Force Majeure Event, or if either party considers it likely that it may become so unable, then that party shall as soon as reasonably practicably, notify the other of the estimated extent and duration of such inability. Any quantity of Product so affected will be deducted from the total quantity obligation of Buyer. Seller, during any period of shortage due to a Force Majeure Event, may allocate its available supply of Product among its internal requirements and its customers on whatever basis Seller may deem fair and practical. Seller shall not be required to procure Product from third parties to satisfy its obligations to Buyer hereunder during any period of shortage due to a Force Majeure Event.

WARRANTY For a period of one (1) year after the Delivery Date (the "Warranty Period"), Seller warrants that the Products, when used in accordance with the instructions in the applicable Documentation, will operate as described in the Documentation in all material respects. Seller does not warrant that Buyer's use of the Products will be error-free or uninterrupted. Seller will, at its own expense and sole obligation correct any reproducible Error in the Products or



replace any defective Product provided that such Error is reported to Seller by Buyer in writing during the Warranty Period and that Buyer provides all information that may be necessary to assist Seller in resolving the Error, or sufficient information to enable Seller to recreate the Error. If Seller determines that it is unable to correct the Error or replace the Product, Buyer may terminate this Agreement and Seller shall refund to Buyer all Product fees actually paid for the defective Product, in which case Buyer's right to use the Product shall terminate.

Seller shall extend the Project warranty period for individual component(s), or for the System as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the System requires servicing or replacement (down time) or is in the possession of the Seller, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty"). Where Seller, the Independent Software Vendor "ISV," or other third party manufacturer markets any Project Deliverable delivered by or through Seller with a standard commercial warranty, such standard warranty shall be in place of Seller's warranty obligations during the project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or extended warranty period(s), Seller shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third party manufacturer's Product. Where Seller, ISV or other third party manufacturer markets any Project Deliverable with a standard commercial warranty which goes beyond the Project warranty or extended warranty period(s), Seller reserves the right to change the specifications or properties of any Product at any time on at least thirty (30) days' notice.

BUYER AGREES IT IS SOLELY RESPONSIBLE FOR DETERMINING THE SUITABILITY OF ANY MATERIALS OR SELLER PRODUCTS IT SELECTS FOR ANY INTENDED PURPOSE AND ACKNOWLEDGES THAT BUYER'S FAILURE TO GIVE NOTICE OF ANY CLAIM FROM THE DATE OF DELIVERY THROUGH THE WARRANTY AND EXTENDED WARRANTY PERIOD(S) WILL BE A WAIVER OF PRODUCT ACCEPTANCE AND IMMEDIATELY VOID ALL WARRANTIES.

INDEMNITY Buyer shall indemnify, defend and forever hold Seller and its directors, officers, employees, agents, suppliers, parents, affiliates, subsidiaries, successors and assigns harmless from any and all fines, penalties, suits, actions, claims, liabilities, judgments, costs, and expenses (including attorneys' fees and expenses) resulting or arising from: (a) Buyer's negligent actions or omissions hereunder, or breach of any of the terms of this Contract; (b) Buyer's use, sale, handling, storage, or disposal of the Products or any product or waste derived therefrom; (c) Buyer's discharge or release of the Products or any product or waste derived therefrom into water, onto land or into the air; (d) Buyer's exposing any person (including Buyer's employees) to the Products or any product or waste derived therefrom, including failure to warn of such exposure; or (e) the transportation of the Products to Buyer after tender of the Products by Seller to the carrier at Seller's shipping point. The foregoing indemnification shall apply, but shall not be limited to, injury to person (including death) or damage or harm to property or the environment. Buyer shall not be obligated to indemnify Seller for any fine, penalty, suit, action, claim, liability, judgment, cost, or expense to the extent solely attributable to the failure of the Product to meet specifications.

REMEDIES If Buyer fails to pay any indebtedness to Seller (whether or not under the Contract), Seller may, in addition to any other remedies, suspend shipments, change the terms of payment or terminate the Contract by notice to Buyer. Seller will further have the right to charge interest at the then-maximum interest rate allowable by law, or off-set any amounts due from Seller to Buyer (whether or not under this Contract) in the event that Buyer fails to pay any amount due hereunder in accordance with the payment terms specified herein. Buyer's obligation to perform will not be limited by any previous waiver by Seller. In the event that Buyer breaches any term or condition of this Contract, Buyer shall reimburse Seller for all costs and expenses related to Seller's pursuit of payment for any claim in any way arising from such breach, including but not limited to reasonable attorneys' fees.

NOTICES Notice by either Seller or Buyer will be made only by email to the address set forth in the Contract with



confirmation, or by letter addressed to the other party at its address in the Contract, and will be considered given as of (i) the time it is sent by email, or (ii) the business day immediately following the day on which it is deposited with a recognized overnight courier (postage or charges prepaid), or (iii) three (3) business days after being deposited with the U.S. Postal Service (postage or charges prepaid). If no contact information is provided in the Contract, notices to Seller should be made by e-mail to info@powerbx.com.

GOVERNING LAW This Contract is governed by, and is to be construed in accordance with, the laws of the State of Utah,

without regard to the conflicts of laws provisions thereof. THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS CONTRACT ARE NOT TO BE GOVERNED BY OR CONSTRUED IN ACCORDANCE WITH THE PROVISIONS OF THE CONVENTION FOR THE INTERNATIONAL SALE OF GOODS. **ASSIGNABILITY** This Contract will be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, but it will not be transferred or assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, that Seller has the right to assign this Contract without Buyer's consent to an affiliate of Seller, or to a purchaser or other successor to Seller's assets or undertaking involved in the manufacture of products.

ACCEPTANCE, ENTIRETY AND RELEASE Seller's acceptance of Buyer's order or proposal is expressly conditional on Buyer's assent to the terms of the Contract and Seller rejects any terms of Buyer's order or proposal which differ from or are in addition to them. Buyer's assent to the terms of the Contract will be conclusively presumed by Buyer's acceptance of Product delivery. These Conditions of Sale and any related Contract contain the complete and exclusive agreement of Seller and Buyer concerning the Product, merges and supersedes all prior understandings and representations (oral or written) between the Parties concerning the Product and, except for any indebtedness or indemnity obligation of Buyer to Seller, each releases the other from all claims arising in connection with any such prior contract. Seller reserves the right to change these Conditions of Sale at any time and from time to time in Seller's discretion.

SEVERABILITY In case any one or more of the provisions contained in these Conditions of Sale should be found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect against any party hereto, such invalidity, illegality, or unenforceability will only apply to such party in the specific jurisdiction where such judgment is made, and the validity, legality, and enforceability of the remaining provisions contained herein will not in any way be affected or impaired thereby, except that these Conditions of Sale will not be reformed in any way that will deny to any party the essential benefits of these Conditions of Sale, unless such party waives in writing its rights to such benefits.

SAMPLE PRODUCT Approved samples for Product will be based on forecasted order volume and dispatched at the discretion of Seller. All Product must be returned, unused and undamaged, within 30 days. If, within 30days, you place an order for the Product then you do not need to return the sample. Sample Product will be shipped at the expense of Buyer.

Samples not returned within 30days will be invoiced in line with Seller's Terms & Conditions stated herein.

Custom samples vary in their cost and availability. All custom work will be clearly defined and scoped by Seller. If Buyer accepts a Contract for custom Product a deposit for samples will be required and payment in full expected. This includes prototype and pre-production Product samples.

