

Power Products International Limited

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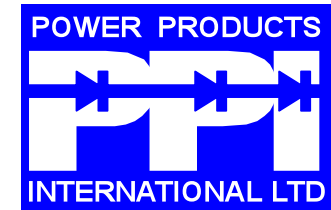
TN8 6ED



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TERMS AND CONDITIONS OF SALE

- ENTIRE CONTRACT-** The provisions hereon and on accompanying paper, if any, signed by the Seller constitute all the terms and conditions agreed upon by the parties and shall replace and supersede any provisions on the face and reverse side of the Purchase Order or any attachment thereto, or any prior general agreement inconsistent with the provisions hereof except that orders by a Distributor with whom the Seller has a franchise agreement shall be subject to the provisions of such franchise and these printed conditions shall not supersede the provisions of such franchise agreement. No modifications hereof shall be valid unless in writing and duly signed by an officer of the Seller.
- ORDERS-** the Seller reserves the right to accept or refuse orders. The Seller also reserves the right (without prejudice to any other remedy) to cancel any uncompleted order or to suspend delivery in the event of any of the Purchasers' commitment with the Seller not being met if an order is cancelled by the Seller in the aforementioned circumstances or is cancelled by the Purchaser then the Purchaser shall be liable to indemnify the Seller against all loss, costs (including the cost of all labour and materials used and overheads incurred), damages, charges and expenses arising out of the order and the cancellation thereof (the Seller will give credit for the value of any such materials sold or utilised for other purposes).
- ACCEPTANCE REQUIRED TO FORM CONTRACTS-** Unless and until a formal written acceptance upon a printed Order Acknowledgement form is transmitted by the Seller, no order shall become effective as a valid contract binding upon the Seller.
- VALIDITY-** unless previously withdrawn, the Seller's quotation is open for acceptance within thirty days (30) only from date thereof and is subject to confirmation at the time of such acceptance.
- PRICES-** All prices are subject to change without notice.
- QUANTITY DISCOUNT-** When discounts are quoted, they are computed separately for each type of product and are based on the quantity of any one type ordered at any one time for immediate delivery if an order is cancelled, discounts will be adjusted to the discount allowable for the uncanceled quantity, if any.
- EXTRA COST-** In the event of the suspension of the work by the Purchaser's instructions, or lack of instructions, the contract price shall be increased to cover any extra expense thereby incurred by the Seller.
- TERMS OF PAYMENT-** Unless otherwise stated, terms are thirty (30) days nett from date of invoice subject to approval by the Seller of amount and terms of credit. The Seller reserves the right to require payment in advance or C.O.D. and otherwise to modify credit terms. When partial shipments are made, payments therefor shall become due and, in accordance with the designated terms, upon submission of invoices therefor.
- ADDITIONAL TERMS OF PAYMENT-** Unpaid balances of past due accounts will be charged at 1,5% per month finance charge which corresponds to an annual percentage of 18%.

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10. **DESPATCH-** Despatch dates are approximate. If conditions arise which prevent compliance with despatch schedules the Seller shall not be liable for any damage or penalty for delay in despatch or for failure to give notice of delay, and such delay shall not constitute grounds for cancellation. Without limiting the generality of the foregoing, the Seller shall not be liable for delay by reason of inability, due to causes beyond its' reasonable control, to obtain the necessary labour, materials or manufacturing facilities, or for delay due to force majeure, the elements, acts of the Purchaser, acts of civil or military authorities, priorities, fires, floods, epidemics, quarantine restrictions, war, riots, industrial disputes, accidents to machinery, transport delay or any other cause beyond the control of the Seller, whether or not similar to the foregoing . In such event, despatch dates shall be deemed to have been extended for a period equal to such delay.
11. **SHIPMENT-** The property in all materials shipped shall pass to the Purchaser when such shipment, and any other material supplied by the Seller to the Purchaser which at the time of payment of the full price of the shipment under this agreement have been delivered but not fully paid for, have all been paid for in full. Purchaser shall until property passes hold all such material as bailee for the Seller, with the benefit of a licence from the Seller to use such material meanwhile in the usual course of manufacture. Where the Seller, specifically agrees to be responsible for carriage and insurance, the Purchaser must notify both the Carrier and the Seller within two days of receipt, of any damage to goods in transit. If the Purchaser does not receive the goods within six days of despatch the Purchaser must notify the Seller and the Carrier immediately. If at the request of the Purchaser shipments are postponed more than 30 days, invoices therefor shall become due 30 days after notice that products are ready for shipment.
12. **SHORTAGES-** any shortages must be reported to the Seller in writing within ten (10) days of receipt of material.
13. **INSPECTION AND TESTS-** All goods are carefully inspected and submitted to the Seller's standard tests before despatch. If special tests in the presence of the Purchaser's representative are requested, these, unless otherwise agreed, must be made at the Seller's works and will be charged for extra. In the event of any delay on the Purchaser's part in attending such tests after (7) days notice that the goods are ready, the tests will proceed in the Purchaser's absence and the Purchaser shall be deemed to have waived their requirement for the presence of their representative thereat and to have accepted the goods if the person conducting the tests shall certify that the goods have satisfied the tests.
14. **WARRANTIES-**
- (a) The parties hereby agree that the Seller has no knowledge of all the eventualities in which the future of the products to perform may have effects extending beyond the immediate circumstances of its use and to which such failure may only partly contribute. Accordingly the Seller's liability to the Purchaser for any damages, from any cause whatsoever and whether in contract or in tort and for negligence or otherwise, shall be limited as hereinafter provided.
 - (b) Standard products of the Seller supplied at such are warranted by the Seller for a period of one year (commencing on the date of the Seller's Sales invoice) to be free from defects in materials and workmanship and to conform to the specifications furnished or approved by the Seller. If such a defect is discovered and reported to the Seller within thirty (30) days after the Purchaser first learnt of each claimed breach, then the Seller will at its option either repair or replace the defective product. The Seller's obligation hereunder shall be limited to such repair or replacement.

- (c) Developmental Products of the Seller supplied as such which are normally identified by an 'X' designation, are warranted by the Seller for a period of thirty (30) days (commencing on the date of the Seller's Sales invoice) to be free from defects in materials and workmanship and to conform to applicable preliminary specifications furnished or approved by the Seller. If such a defect is discovered and reported to the Seller within such thirty (30) days period, the Seller will at its option either repair or replace the defective product. The Seller's obligation hereunder shall be limited to such repair or replacement.
- (d) In no case shall liability under these warranties exceed the purchase price of the product in question. No products will be accepted for repair or replacement without prior written authorisation of Seller to Purchaser. Upon such authorisation, and in accordance with instructions of Seller, parts, materials or products for which replacement is required must be returned within thirty (30) days to Seller for examination, with shipping charges prepaid by Purchaser. Returns are to be made by surface, cheapest way. Final determination as to whether one of these warranties has been breached rests with Seller and, provided its decision is not arbitrary, it is final and not subject to judicial review. Replacements made under this warranty will be shipped prepaid by the Seller.
- (e) These warranties do not exceed to, or apply to, any product which has been (1) subjected to misuse, neglect, accident, improper installation, or to use in contravention of instructions furnished by the Seller, or (2) repaired or altered outside the Seller's factory by persons not expressly approved in writing by the Seller.
- (f) THESE WARRANTIES (1) CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY BY THE PURCHASER AND BY ALL OTHER PERSONS WITH RESPECT TO THE SELLER'S PRODUCT AND THIS CONTRACT AND (2) ARE IN LIEU OF AND EXCLUDE ALL OTHER OBLIGATIONS, LIABILITIES, WARRANTIES OR REPRESENTATIONS ON THE SELLER'S PART WHETHER EXPRESS, IMPLIED, STATUTORY, AND/OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT INsofar AS THEY ARE BOUND TO APPLY BY LAW.
- (g) UNDER NO CIRCUMSTANCES SHALL THE SELLER BE LIABLE FOR ANY REMOTE, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING WITHOUT LIMITATION THOSE FOR PROPERTY DAMAGE, DELAYS IN PERFORMANCE OR ANY OBLIGATIONS UNDER THE CONTRACT (e.g. DELIVERY), LOSS OF PROFITS, USE OF OR INABILITY TO USE THE PRODUCTS EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT OR ANY OTHER CAUSE, OR FOR ANY OTHER LOSS, DAMAGE, OR EXPENSE OF ANY KIND DIRECTLY OR INDIRECTLY ARISING IN CONJUNCTION WITH THIS CONTRACT.
15. **PATENTS-** The Seller agrees to indemnify the Purchaser and hold the Purchaser harmless from all responsible legal expenses which may be incurred by, as well as all damages and costs which may finally be assessed against, the Purchaser in any action for infringement of any United Kingdom Letters Patent by the apparatus delivered to the Purchaser under this contract, provided that the Purchaser shall give prompt notice in writing of all actions or claims or threats of patent infringement action whether oral or written or of patent infringement actions instituted against it and an opportunity to elect to take over, settle or defend the same through legal advisers of its own choice and under its sole direction and its sole expense and will make available to the Seller in the event of such election all defences against such actions, claims, or proceedings known or available to the Purchaser, and further provided that the Seller shall have the right to substitute for said apparatus, or any parts thereof claimed to infringe the patent rights of others, non-infringing apparatus or parts which will give equally good service. In the case of said apparatus or any part thereof is enjoined, the Seller shall have the right at its own expense to elect (1) to procure for the Purchaser the right to continue using the said apparatus or (2) to replace the said

apparatus with non-infringing apparatus, or (3) to modify the said apparatus so that it becomes non-infringing, or (4) to remove the said apparatus and refund the purchase price and the carriage and installation costs thereof. Nothing stated herein shall be deemed to include within the indemnity hereby given any infringement occasioned by modification of the said apparatus without the Seller written consent, or infringement arising from the use of the said apparatus of any adjuncts or devices added by the Purchaser with the Seller 's written permission.

- 16. **SUBSTITUTIONS AND MODIFICATIONS-** The Seller reserves the right to modify the specification of product designed by the Seller providing that such modification shall not materially affect the performance. Due to the nature of the product, the Seller reserves the right to ship either 5% over or 5% under the specified order quantity.
- 17. **TOOLS ETC.-** unless otherwise expressly provided, the Seller shall retain title to and possession of any models, patterns, dies, moulds, jigs, fixtures and tools made for or obtained for the furnishing of this order.
- 18. **ARBITRATION-** If at any time any question, dispute or difference whatsoever shall arise between the Purchaser and the Seller upon, in relation to or in connection with the contract, either party may give to the other notice in writing of the existence of such question, dispute or difference and the same shall be referred to the arbitration in London of a person to be mutually agreed upon, or failing agreement within fourteen (14) days of receipt of such notice, of some person appointed by the President for the time being of the Institution of Electrical Engineers. The submission shall be deemed to a submission to Arbitration within the meaning of the Arbitration Acts 1950 and 1979 or any statutory modifications or re-enactment thereof.
- 19. **LEGAL CONSTRUCTION-** the contract shall in all respects be construed according to and governed by the laws of England.
- 20. **GOODS SUPPLIED ON SALE OR RETURN-** All goods supplied on sale or return are subject to a maximum period for retention of 90 days after which time the goods will be charged for in full at the price ruling on the date originally supplied. All goods returned shall be subject to the Seller's standard inspection before being accepted. Goods not accepted will be charged for as above

Signed..... Name..... Position..... Date

For Control Management Systems Ltd