



LITEON GROUP

Power Innovations International, Inc./LITEON Group

UPS & PDU Terms and Conditions of Sale

1. SCOPE OF APPLICABILITY

These Terms and Conditions of Sale ("T&C") apply to all UPS and PDU sales of goods by Power Innovations International, Inc. (hereinafter referred to as "Seller"). Buyer's acceptance of goods and/or services shall constitute acceptance of T&C. Any terms or provisions of Buyer's order that are inconsistent with or in addition to T&C shall not be binding unless and until Seller expressly accept in writing. Seller's failure to object to any provision contained in a communication from Buyer shall not be a waiver of T&C.

2. DELIVERY AND RISK OF LOSS

a) Unless otherwise agreed to in writing by Seller, all prices quoted and goods shipped are F.O.B. Shipping point, freight prepaid and charged back. Title and risk of loss of all goods shall pass to Buyer upon Seller's delivery to carrier for shipment. Buyer shall pay all freight, handling, delivery and insurance charges for shipment of goods.

b) Claims of late delivery are void unless made prior to receipt of goods, and receipt of goods shall constitute a waiver of any claim of late delivery. Seller shall not be liable for delays in delivery of or failure to perform due to causes beyond the reasonable control of Seller, such causes shall include, without limitation, acts of God, acts or omissions of Buyer or civil or military authorities, fires, strikes, epidemics, quarantine restrictions, man-made or natural disasters, market constraints, and/or transportation delays.

No order is assignable without Power Innovations International prior written approval.

3. CANCELLATION

Orders accepted by Seller may not be canceled or rescheduled without Seller's written consent and are subject to cancellation or reschedule charges determined by Seller.

4. EXCUSABLE DELAYS

The Buyer acknowledges and accepts that the delivery date provided by the Seller is an estimate only and shall not be considered as a binding commitment by the Seller. Seller shall not be liable for non-delivery or delay in performance when such delay is directly or indirectly caused by, or in any manner arises from, delay or failure to deliver by Seller's suppliers, weather, fires, floods, accidents, riots, war, governmental interference or embargoes, strikes or shortage of labor, or other causes (whether or not similar to those specified) beyond its control. Delivery shall be deemed suspended so long as such causes delay performance. Seller agrees to make, and Buyer will accept, deliveries at a reasonable time after such causes are removed or resolved.

5. PAYMENT

The prices of goods exclude any taxes or duties that are currently or may be imposed on the production, storage, sale, transportation, or use of the goods. Unless otherwise specified by Seller in writing, Buyers with approved credit shall pay 50% of the invoiced amount in U.S. Dollars upon acceptance of the order, and the payment in net amount owing, without offset or deduction, is due 30 days from date of delivery (or installation of the system, if applicable). For first time purchases or for Buyers without approved credit, 100% of the invoiced amount is due and shall be paid in full in U.S. Dollars upon acceptance of purchase order. Failure to make payment by the due date will result in a late payment fee of 1.5% per month of the unpaid balance and shall be paid by Buyer.



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6. COLLECTION COSTS

Buyer acknowledges that all payments are accepted subject to collection by Seller. In the event that Buyer fails to make timely payment, Buyer agrees to pay all of Seller's costs of collection, including but not limited to reasonable attorney fees, costs, and third-party collection fees. Such amounts shall be in addition to any other remedies that may be available to Seller at law or in equity.

7. INSPECTION AND ACCEPTANCE OF GOODS.

Buyer is deemed to have accepted goods unless written notice of rejection is given to Seller within five (5) days after receipt ("Inspection Period"). In the event Buyer rejecting any goods during the Inspection Period, such goods must be returned in accordance with Seller's return material authorization ("RMA") process as set forth in Section 11 b) and be in its original packaging.

8. EXPORT REGULATIONS

The sale of Seller goods and technology is subject to and contingent upon compliance with U.S. Export Administration Regulations. All international orders are contingent upon approval of export licenses required by the Government. The use, sale, re-export, delivery or retransfer, directly or indirectly, of the items described herein, in or to any activities related to the design, production, use, or stockpiling of chemical, biological or nuclear weapons or missiles is strictly prohibited.

9. DESIGN CHANGES

Seller and its suppliers reserve the right to change goods design or specifications at any time without notice.

10. SOFTWARE

Seller grants a non-exclusive and non-transferable license to Buyer to use the embedded software on a single unit of goods, without limitation as to time or place. Title to software shall remain with Seller or its suppliers. Buyer shall not use the software separately or without embedding it on Seller's goods through any means. Any violation of this obligation may lead to the termination of the license. Back-up copies of the software may be made solely for archival and disaster recovery purposes.

11. WARRANTY AND LIMITATIONS OF REMEDIES.

a) Seller warrants that goods purchased hereunder are free and clear of all liens and encumbrances and provides a warranty period of one (1) year from the date of purchase for UPS Systems and ninety (90) days from the date of purchase for Spare parts. If any defect is found under normal usage conditions during the above warranty period, Seller will be responsible for repair or replacement at its sole discretion. Replacement parts or units may be new or refurbished and will meet specifications of the original parts or unit. All repair covered by this warranty must be done at Seller factory, or other repair facilities as designated by Seller unless specifically directed by Seller to be performed at another location or service provider.

b) Prior to returning any Goods to Seller for any reason, Buyer must comply with Seller's RMA process as follows: (i) Buyer shall request in writing a detailed description of the claimed defects and obtain an RMA ticket from Seller; (ii) within 2 weeks after receipt of such RMA ticket, Buyer shall, at its own expense, deliver the alleged defective Goods to the designated repair facilities subject to the RMA ticket issued by Seller. Any Goods returned without a valid RMA ticket or number may be rejected and returned to Buyer at Buyer's expense. Seller will be responsible for shipping the repaired or refurbished unit back to Buyer after confirming and analyzing the alleged defects.

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c) The warranties set forth herein will not apply to any goods that: (i) is subjected to misuse, abuse, accident, improper use, handling, storage, or improper installation; (ii) is modified or repaired by anyone other than Seller or person authorized by Seller; (iii) uses of the goods is in

combination with non-Seller provided hardware or software; (iv) is in relation to the appearance damage.

d) This Warranty Term states the exclusive liability of Seller and the exclusive remedy of buyer/customer with respect to any claim or defects of the goods. In no event shall Seller be liable for indirect, special, incidental or consequential damages of any nature, including, but not limited to, loss of profit, promotional or manufacturing expenses, overhead, injury to reputation or loss of customers, personal injury or property damage. Buyer's recovery from Seller for any claim shall not exceed the purchase price paid by Buyer for the goods, irrespective of the nature of the claim, whether in warranty, contract or otherwise. SELLER'S MAXIMUM AGGREGATE LIABILITY IN CONNECTION WITH ANY GOODS OR SERVICES PROVIDED BY SELLER SHALL BE LIMITED TO THE TOTAL AMOUNTS PAID BY BUYER TO SELLER REGARDING THE CLAIMED GOODS OR SERVICES.

12. INDEMNIFICATION.

Buyer shall protect, defend, hold harmless and indemnify Seller, its respective directors, officers, employees, agents, successors and assigns to the full extent of any liability, loss, cost, claim, damage or expense actually incurred by the injured party, including, but not limited to, reasonable attorneys' fees for the defense of all liabilities, costs, claims, damages and expenses by reason of any actual property damage or personal injury that is caused by any misconduct or any negligent act or omission of the Buyer, its employees and agents, or arising out of or relating to any use, modification, adaptation or enhancement of the goods purchased from Seller. Seller shall provide Buyer with prompt notice of any claim within the foregoing provision and shall give Buyer the full right to defend any such claim and shall cooperate fully in such defense.

13. GENERAL

This agreement and performance by the parties hereunder shall be governed by the laws of the state of Utah, U.S.A. Any action or proceeding arising from or in connection with this agreement or the goods and services provided by Seller shall be brought exclusively in the state or federal courts located in Salt Lake City, Utah, and each party hereby consents to the exclusive jurisdiction and venue of such courts for such disputes and agrees not to argue that such courts are not an inconvenient forum for such dispute. If any part of T&C is declared by an arbitrator, or court or other body having jurisdiction, to be invalid or unenforceable, the remaining terms and provisions shall remain in full force and effect. The captions used herein are for the convenience of the parties only and shall not affect the instruction or interpretation hereof. Buyer warrants and represents that all goods purchased from Seller shall be used exclusively for business or commercial purposes and not for consumer, i.e., Buyer's personal, family or household, purposes.