

Terms and Conditions of Sale

Powerex-Iwata Air Technology, Inc.

1. ENTIRETY. These Terms and Conditions of Sale and all documents referenced herein (collectively, the "Terms") are the only terms and conditions which govern the sale of goods ("Goods") and/or services ("Services" and together with Goods, the "Deliverables") by Powerex-Iwata Air Technology Inc. ("Seller") to the buyer ("Buyer") and supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. These Terms represent the final and complete understanding of the parties and may only be amended or cancelled only by mutual written agreement signed by the parties. Acceptance is expressly limited to these Terms. Any proposal for additional or different terms or any attempt by Buyer to vary these Terms is hereby deemed material and is objected to and rejected. No terms of any document or form submitted by Buyer shall be effective to alter or add to these Terms. The earlier of Seller's commencement of performance or Buyer's receipt of any of the Deliverables shall constitute acceptance of these Terms.

2. PRICES. Prices quoted are in U.S. Dollars and based on the price at the time of quotation and are subject to change by Seller without notice. Clerical errors are subject to correction without liability.

3. TAXES. Prices do not include any sales, use, VAT, excise, privilege, ad valorem, or other taxes, duties, tariffs or assessments now or hereafter imposed or levied ("Taxes") by or under the authority of any foreign, federal, state, provincial, or local law, rule, or regulation (collectively, "Law") concerning the Deliverables or the manufacture or sale thereof. If Seller pays any such Taxes, Buyer shall, upon demand, immediately reimburse Seller for such amounts.

4. TERMS OF PAYMENT. All payments are due within thirty (30) days from date of invoice. Orders are subject to acceptance in writing by Seller. All payments shall be made without abatement, deduction, discount or setoff. Late payments are subject to a service charge of the lesser of 1.5% per month or the highest rate permitted under applicable Law. Buyer shall be liable for all costs and expenses related to collection of past due amounts, including, without limitation, attorneys' fees and costs. As collateral security for the payment of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all right, title and interest of Buyer in the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds). This security interest constitutes a purchase money security interest under the UCC. Upon demand, Buyer shall pay all costs and expenses with respect to the administration and enforcement of the foregoing security interest. If, in Seller's judgment, the financial condition of Buyer does not justify continuance on the terms of payment above, Seller may require full or partial payment in advance or otherwise adjust the terms including ceasing to supply Buyer.

5. DELIVERY. Delivery shall be made FCA (Incoterms 2020) Seller's warehouse/facility, and title and risk of loss passes to Buyer at such time. Delivery/performance dates are estimates only. Seller shall not be liable for any claim, loss, expense, or damage of any kind whatsoever for delays, or loss or damage in transit. Claims for loss or damage shall be made solely against the carrier. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

6. INSPECTION. Buyer shall inspect the Goods upon receipt and Services upon performance, and Buyer shall immediately notify Seller in writing of any claims that the Deliverables are different than identified in Buyer's purchase order whereupon Seller shall determine the remedy pursuant to Section 12. Failure to give such written notice upon receipt will constitute irrevocable acceptance by Buyer of all Deliverables.

7. CHANGES OR CANCELLATION. Changes in specifications or designs to any Deliverables, changes in delivery or performance schedules, or reschedules of orders are not permitted unless and until Seller has: (i) given prior written approval, (ii) determined any additional costs/fees to be paid, and the same has been paid by the Buyer, and (iii) any additional lead and/or delivery times required. Once ordered, Deliverables that are made to order, discontinued or custom products may not be cancelled by Buyer. Buyer may cancel all or part of any purchase order submitted to Seller by providing written notice to Seller thereof. In the event Buyer cancels all or any part of any purchase order, Buyer shall be subject to a cancellation charge of 5% of the order value if the order is entered but the engineering process has not commenced; 10-30% of the order value prorated based upon the degree of completion of engineering and drawings; 35% of the order value if the order is released for manufacture, plus an additional charge based on cancellation charges incurred by Seller, and an additional charge prorated based upon the degree of completion of the order (i.e., 100% of the order value if the Deliverable is completely manufactured). Seller reserves the right to cancel any purchase orders or releases thereunder or terminate any agreement relating to purchase of Seller's Deliverables, upon 10 days' notice to Buyer.

8. RETURNS. Goods may not be returned without prior written authorization of Seller and compliance with Seller's return policies and procedures then in effect.

9. STORAGE. In the absence of agreed shipping dates, Seller may invoice Buyer and ship the Deliverables once they are ready for shipment. If, because of Buyer's inability to take delivery on the designated delivery date, the Deliverables are not shipped, stopped in transit or returned, Seller may store them for Buyer at Buyer's expense and risk, and risk of loss shall pass to Buyer when the Deliverables are placed in storage, and such date shall constitute the date of shipment for purposes of beginning the warranty and payment periods.

10. SERVICE TERMS. (a) Services will be provided at Seller's then current service rates; (b) If the site is not prepared for the Services upon Seller's arrival, Seller may charge a service fee for any delay and/or travel time; (c) Buyer shall provide Seller with advance notice of any on-site rules in which Seller is expected to comply; (d) Seller may refuse, without any liability, to provide Services and to allow Seller service personnel to suspend Services or vacate any site where, in Seller's opinion, provision of Services would pose a risk to the safety of any Seller personnel. In such event, Buyer is responsible for payment of any delay and/or travel time at Seller's regular service rates; (e) Buyer is solely liable for all damages or injuries caused or contributed to by Buyer that may occur; and (f) Buyer must provide at least 72 hours' notice of cancellation of any Service order. If Buyer cancels with less than 72 hours' notice, Buyer is responsible for any fees and costs incurred by Seller caused by such cancellation.

Terms and Conditions of Sale (continued)

Powerex-Iwata Air Technology, Inc.

11. INSURANCE. Buyer shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$2 million per occurrence, \$2 million products-completed operations aggregate and \$2 million general aggregate with insurance carriers having an AM Best rating of "A- VIII" or better. Upon Seller's request, Buyer shall provide Seller with a certificate of insurance from Buyer's insurer evidencing the insurance coverage specified in these Terms. Buyer shall provide Seller with 30 days' advance written notice in the event of a cancellation or material reduction of coverage in Buyer's insurance policy. Except where prohibited by Law, Buyer shall waive, and shall require its insurer to waive, all rights of subrogation against Seller's insurers and Seller.

12. LIMITED WARRANTIES. Unless otherwise provided by Seller in its written warranty, Seller warrants that (i) Goods designed and manufactured by Seller will be free from defects in material and workmanship for a period of twelve (12) months after the date of shipment; and (ii) Services will be performed in a timely and workmanlike manner in accordance with industry standards. THESE ARE SELLER'S ONLY WARRANTIES. SELLER EXPRESSLY DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES OF EVERY KIND, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

If during the warranty period, Buyer notifies Seller in writing that the Deliverables are not in conformity with the aforementioned warranty and Seller, after a reasonable opportunity to inspect the Goods and/or request additional substantiation, agrees that the Goods are defective, then, at Seller's sole option: (a) for Goods, Seller will repair the specific Good(s), replace the specific Good(s) or refund the total amount received by Seller for the Good(s) at issue, provided Buyer returns such Goods to Seller's plant; and (b) for Services, for Seller to re-perform the Services, or if that is not reasonably feasible, to credit Buyer's account for any prepaid fees. These shall be Buyer's exclusive remedies for defective Goods or Services and the limit of Seller's liability. Repair or replacement of Goods does not include labor or the deconstruction of any equipment. Any claims not made during the warranty period are deemed waived. Seller's warranty does not attach to Deliverables or parts not manufactured by Seller. Any contract created between Seller and Buyer is subject to the specific conditions that (a) Seller is not obligated to provide insurance or indemnify Buyer, and (b) there are no flow-downs from any person or entity including the federal government that become part of the contract. Upon the occurrence of any event described in Section 14(e)(i)-(vi) below, without the prior written consent of Seller, the aforementioned warranties shall be void.

13. LIMITATION OF LIABILITY. SELLER SHALL NOT BE LIABLE TO BUYER OR ANY OTHER PERSON OR ENTITY FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OR ANY OTHER LOSSES, DAMAGES OR EXPENSES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE PRICE RECEIVED BY SELLER FOR THE DELIVERABLES OR SERVICES WITH RESPECT TO WHICH SUCH

14. INDEMNIFICATION. Buyer shall defend, indemnify and hold Seller, its affiliates and their respective officers, directors, members, managers, representatives, agents and employees harmless from and against all third party claims, suits, demands, losses, liabilities, damages (including injury and death) and expenses (including reasonable attorneys' fees) (collectively, "Losses"), arising out of or relating to: (a) Buyer's or its agents provided specifications, design, structure, operation, material or method of making Deliverables, including without limitation, any resulting alleged or actual violation of intellectual property or proprietary rights; (b) Buyer's use, misuse or disposal of Deliverables or materials; (c) Buyer's non-compliance with any Law; (d) breach of these Terms by Buyer; and (e) Deliverables subjected to: (i) improper installation or storage; (ii) accident, damage, abuse or misuse; (iii) abnormal operating conditions or applications; (iv) operating conditions or applications above the rated capacity of the Deliverables; (v) repairs or modifications made to all or part of the Deliverables without the prior written consent of Seller or misuse of any Services; or (vi) a use or application of the Deliverables other than or varying in any degree from the mutually agreed upon Specifications and Seller's instructions.

15. TOOLING. In no event shall Buyer have any interest in any tools, jigs, dies, patterns, etc. (collectively, "Tooling") which is made or obtained for the production of the Deliverables. Such Tooling shall remain the property of Seller.

16. CONFIDENTIALITY. Unless and until the parties have negotiated a separate nondisclosure agreement, all non-public, confidential and/or proprietary information of Seller, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," is confidential, solely for use under the Terms and may not be disclosed or copied unless authorized by Seller in writing in advance. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to obtain injunctive relief for any violation of this Section by Buyer. This Section shall not apply to information that is: (a) in the public domain; (b) can be proven by credible written evidence was known to the Buyer at the time of disclosure; or (c) rightfully obtained by the Buyer on a non-confidential basis from a third party without a duty of confidentiality. SELLER MAKES NO WARRANTY WITH RESPECT TO ITS CONFIDENTIAL INFORMATION. ANY IMPLIED WARRANTIES THAT MAY EXIST WITH RESPECT TO ANY INFORMATION PROVIDED BY SELLER, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED.

17. INTELLECTUAL PROPERTY. All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights, trademarks, patents and applications, and other information or intellectual property disclosed or otherwise provided to Buyer by Seller and all rights therein (collectively, "IP") are and will remain the property of Seller. Buyer shall have no claim to, nor ownership interest in, any IP and such information, in whatever form and any copies thereof, shall be promptly returned to Seller upon written request from Seller. Buyer acknowledges that no license or rights of any sort are granted to Buyer hereunder in respect of any IP, other than the limited right to use the Deliverables purchased from

Terms and Conditions of Sale (continued)

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18. EXPORT COMPLIANCE. Any items provided by Seller are controlled by the United States Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the United States Government or as otherwise authorized by U.S. Law and regulation.

19. TARIFFS. The stated price is inclusive of any tariffs, duties, taxes, and fees imposed on imported merchandise that are or were in effect as of the date that the quote was issued. Seller may, in its sole discretion, increase the price to Buyer of the Goods by the amount of any increase in the tariffs, duties, taxes, or fees increased on the Goods. Seller shall endeavor to provide Buyer with 30 days' advanced written notice prior to implementing any tariff-related price increase, to the degree that there is at least 30 days between the implementation of the increase in tariffs, duties, taxes, or fees and the assessment of such increased tariffs, duties, taxes, or fees.

20. RELATIONSHIP OF THE PARTIES. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

21. FORCE MAJEURE. Seller shall not be liable for any delay in or failure to perform due to any event or contingency beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, quarantine, acts of war whether declared or undeclared, blockades, labor disputes (whether of Seller's employees or the employees of others), raw material shortages and material increases in costs of raw materials, including those material increases in costs resulting from the imposition of tariffs. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable Seller to perform. Seller may, during any period of shortage due to any of the above circumstances, allocate its available supply of Deliverables among itself and its purchasers in such manner as Seller, in its sole judgement, deems fair and equitable.

22. TERMINATION. Seller shall have the right to cease work or terminate these Terms or any purchase order, in whole or in part, at any time, without liability, if: (i) Buyer breaches or defaults under these Terms or any other agreement it has with Seller; (ii) a petition under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Buyer; (iii) Buyer executes an assignment for benefit or creditors; (iv) a receiver is appointed for Buyer or any substantial part of its assets; or (v) Seller shall have any reasonable ground for insecurity with respect to Buyer's ability to perform and Buyer is unable to provide Seller with adequate assurance within 10 days after written request by Seller. In all cases, Seller's rights are cumulative, are not exclusive and in addition to all other rights and remedies it may have at law or in equity. No termination shall affect any accrued rights or obligations of either party as of the effective date of such termination.

23. WAIVER. All waivers by Seller shall be in writing. Failure of Seller at any time to require Buyer's performance of any obligation hereunder shall not affect Seller's right to require a subsequent performance of that obligation. No delay or omission in the exercise of any right, power, or remedy hereunder shall impair such right, power, or remedy or be considered to be a waiver of any default or acquiescence therein.

24. GOVERNING LAW. Any dispute arising out of or related to these Terms will be governed by and construed in accordance with the laws of the State of Illinois without regard to any rules on conflicts of laws and exclusively litigated in either (i) a state or federal court located in Cook County, Illinois, or (ii) a state or federal court located in the state of Illinois, County of Cook.

25. SEVERABILITY. The unenforceability or invalidity of any clause in these Terms shall not have an impact on the enforceability or validity any other clause in these Terms. Any unenforceable or invalid clause shall be regarded as removed from these Terms to the extent of its unenforceability and invalidity.

26. MISCELLANEOUS. Buyer shall not assign any of its rights or obligations under these Terms or any purchase order without Seller's prior written consent. Buyer shall comply with all applicable Laws, as well as Seller's then-current Prohibited Business Practices Policy and Code of Business Conduct and Ethics Policy. There are no third-party beneficiaries. Provisions which by their nature should survive will remain in force after any termination or expiration of the Terms or any sale of Deliverables or performance of any Services. The section headings are included solely for the convenience of the parties.