

## TERMS OF SALE

**General:** The terms and conditions contained herein constitute the entire agreement between Power Technology, Inc. (referred to as PTI or the Company) and its customer. PTI will not be bound by any terms of customer's order to purchase. The terms on the purchase order shall not change, enlarge, or modify Company's liability or obligations. No form of acceptance except PTI's written acknowledgement sent to customer, or PTI's commencement of performance shall constitute valid acceptance of the customer's order. Any such acceptance is expressly conditioned on assent to the terms hereof and the exclusion of all other terms. The customer shall be deemed to have assented to the terms hereof, whether or not previously received, upon accepting delivery of any product shipped by PTI. PTI shall not be liable for delay or failure in performance whatsoever due to acts of God, shortage of supplies, transportation difficulties, labor disputes, riots, war, fire, explosion, epidemics, or other occurrences beyond PTI's reasonable control or due to unforeseen circumstances. PTI makes no claim as to the suitability for purpose of its product, nor does PTI make any guarantees with respect to the level of performance of its product utilized in any given application or use by its customer.

**Pricing:** Quantity price discounts may apply to purchase orders with single or multiple ship dates for up to one year. Quantity discount rates may vary depending on product type. PTI may change its pricing at any time without prior notice to customer, but such changes shall not affect any accepted orders. All prices are exclusive of taxes and all handling or other charges, including (without limitation), brokerage fees, tariffs, taxes, and transportation charges. All applicable taxes not collected on PTI invoices are the responsibility of the buyer.

**Quotations:** PTI quotations (unless they expressly specify otherwise) are valid for thirty (30) days from the date of the quote.

**Order Acceptance:** Written purchase orders are required for all purchases. Each purchase order shall constitute a firm offer and shall indicate specific products, quantity, price, shipping instructions, requested delivery dates, bill-to and ship-to addresses, and any other special instructions. Any contingencies contained on such order are not binding upon PTI. All orders are subject to acceptance by PTI, who will accept or reject orders according to PTI's then current practices.

Customer's orders are subject to acceptance at PTI's sole discretion. No form of acceptance, except PTI's written acknowledgment sent to Customer or PTI's commencement of performance, shall constitute valid acceptance of Customer's orders, with any such acceptance being expressly conditioned on assent to the terms hereof and the exclusion of all other terms.

PTI may change its prices at any time without prior notice to Customer, but such change shall not affect any quotation that has been outstanding for less than thirty (30) days or any order that PTI's has expressly accepted in writing or through performance (whereby partial performance constitutes only partial acceptance to the extent performed).

If the order is a "Blanket Order" or "Frame Orders" (i.e. long term order with multiple delivery dates), the order size must exceed \$20,000. The initial release may be schedule according to current lead times and the balance must be scheduled for delivery within 365 days from the date on the PO (the date PO is issued). At the end of 1 year, unshipped items will be shipped without additional notice to the customer. Deliveries made over the term of the blanket must be reasonably well distributed over the term of the order. No more than 25% of the order may be scheduled in the final 90 days of the term of the order. Deliveries against blanket orders will be made no more than 1 shipment per 30 day period, without prior authorization by PTI's Sales Manager, VP or CEO.

Orders with a single delivery date will be scheduled per PTI's current lead times. PTI reserves the right to ship earlier than the confirmed ship date, at its discretion. Orders with a single delivery date may not be rescheduled (pulled in or pushed out) by customer request.

**Order Changes and Cancellations:** Purchase order changes affecting product configuration/options must be authorized by PTI in advance and may be subject to additional charges and/or price adjustments. The maximum period a blanket purchase order is valid is twelve (12) months. Additions to blanket purchase orders may not be made after thirty (30) days from the original Purchase Order date. Due to purchasing commitments made by PTI in response to blanket orders, no reductions in initial blanket order quantities can be accepted. Once PTI's has accepted an order, Customer may not cancel, terminate, reschedule, suspend performance of, or issue a hold on, such order, in whole or in part, without the prior written consent of PTI, which consent, if given, shall be upon terms that will compensate PTI's for any loss or damage therefrom, including but not limited to any work in process or services performed, the price of Goods and Services shipped to, manufactured for, or held separately for, Customer, and loss of profits, incurred costs, and a reasonable allocation of general and administrative expenses. Cancellations must be in the form of an amended PO. A voice mail or e-mail is not sufficient to cancel an order.

Changes to scheduled ship dates for blanket purchase orders must be made at least twelve (12) weeks in advance. If, for any reason, the purchaser desires to cancel an order, such cancellation shall only be with written consent of Power Technology, and then only after payment is made to the Company for all costs incurred which shall include but not be limited to, material, labor, overhead, and reasonable profit. Order cancellations for standard products are subject to a minimum cancellation penalty of 20-40% of remaining order balance and a price adjustment equal to difference in unit price granted for the blanket order vs. the calculated unit price based on actual quantity shipped multiplied by the number of units already shipped. Purchaser is obligated to accept any product previously built (full or partial) and held in inventory at PTI, and for any components ordered specifically for the order being cancelled. Cancellation charges will be calculated and communicated to the customer.

within 10 business and are due in 10 business days after notification. Order cancellations for non-standard products are addressed in the section titled "Custom products are Non-Cancelable, Non-Returnable (NCNR)".

**Delivery:** Upon receipt of purchase order, PTI will provide an estimate of lead-time until delivery. If an order is subject to a credit hold, it will be scheduled for shipment only after it is released from credit hold. All order acknowledgements contain an estimated shipping date, which is subject to change. While this is not a binding commitment, PTI will make every effort to make delivery based on this lead-time estimate. Each shipment released from a blanket must be at least equal to \$1000 or 8% of PO total value whichever is greater (See also Order Acceptance section). Accelerated deliveries may be available with an expedite fee. Late delivery does not entitle the customer to cancel the order, to claim damages, or to assess penalties. PTI is not obligated to pay any contractual penalty should it delay in delivering product.

**Shipment:** All shipments are FOB shipping point. Shipping costs and the risk of loss from FOB point are the responsibility of the customer. PTI shall be permitted to make partial shipments of products. Delivery shall be deemed completed upon transfer of possession to the carrier at the FOB point. All claims for shortage of products ordered or for incorrect charges must be presented to PTI within ten (10) calendar days after receipt by customer.

**Payment:** Payment for all products and services shall be in U.S. dollars, unless Euro payment is authorized in writing. First time customers must pay in advance by Electronic Funds Transfer (EFT), credit card, COD, or money order. PTI encourages payments by EFT. In this case, POs will not be processed until the payment is received (i.e. Credit card payment will be processed when the order is placed). NCNR orders have special requirements defined below. Please check your order confirmation E-mail or contact your salesman for payment details. Credit card order will incur a 3% credit card fee in addition to the quoted price. For custom orders (define below) with a single delivery date, PTI reserves the right to charge the customer's credit card at the time the order is placed.

In cases where the customer has overdue invoices, PTI may, at its sole discretion, place the customer's account on hold. While the account is on hold, scheduled production may continue and may be invoiced when work is complete. This shipment will sit on our dock until the accounting issue is resolved. Payment is expected from the invoice date regardless of the ship date.

**Trade Credit:** For customers ordering more than twice per calendar year, PTI may choose to extend credit terms. Payment terms and issuance of trade credit are at the sole discretion of PTI. If credit is approved by PTI, payment terms shall be strictly enforced NET thirty (NET30) days from the date of invoice. Payments not received according to these terms may result in delayed shipments. PTI requires three credit references and a signed tax exempt certificate to begin the process of establishing an account. PTI reserves the right to set credit limits, to reduce credit limits or to revoke any previously extended credit for any reason. In this case, full payment is due immediately and the account will require prepayment for a minimum of 12 months after being revoked. Credit terms are automatically revoked after 12 months with no order. Any delinquent invoice is subject to additional charges not to exceed the maximum permitted by law. Payments not received within 30 days from the date of invoice will accrue interest at 18% per annum or the maximum amount allowed by law. The interest payment will become part of the outstanding receivable and will reflect as such on the invoice. Non-payment, delinquent payment or refusal of payment and penalties will cause any and all work, either in-process or outstanding to be halted until payment is received in full. It will be the discretion of PTI to require payment in full of any outstanding balance should any payment become delinquent according to the terms and conditions contained herein. PTI reserves the right to pursue any and all avenues available to it to collect unpaid invoices. Buyer agrees to and is required to pay any collection and/or attorney fees accrued in pursuit of such unpaid money in addition to whatever money is owed to PTI.

**Minimum Orders:** PTI is an OEM manufacturer of laser products. As such, PTI has established minimum order criteria. PTI's domestic minimum order is \$500. Orders not meeting our domestic minimum order requirement will result in an additional fee of \$40 USD. PTI's international minimum Order is \$750 USD. Orders not meeting our international minimum order requirement will result in an additional fee of US\$50.

**International Orders:** PTI is pleased to accept international orders. Due to the additional documentation complexity, PTI charges an "International Documentation Fee" of \$100 USD on orders shipping outside of the United States. Prepayment is required for international orders unless previous contracts are in place. EXWORKS (Incoterms® 2020) applies unless otherwise agreed in writing.

**Product Returns:** Products being returned for warranty repair, non-warranty repair, or modification must be pre-authorized, please contact PTI's sales department and request a Return Material Authorization (RMA) number. Standard products may, at PTI's sole discretion, be returned for account credit, if they are unused. Standard product returns are subject to a 20-40% re-stocking charge, depending on the product. Custom products are not returnable. Products being returned must be packaged properly, and units with fiber coupling must be shipped to PTI using original packaging material. Refer to RMA number on shipping documents and on the outside of each package. Mark package(s) "Fragile-Contains Electronic Instruments." Ship returned items to 16302 Alexander Road, Alexander, AR 72002, USA. For international returns, the commercial invoice should include one of the following statements:

"Item is of U.S. origin and is being returned for repair and has not been advanced in value or improved in condition. Value of USD50.00 is for customs only. Item is not for sale or resale."

International return shipments must have two HTSUS numbers on the commercial invoice: 9801.00.1055 (goods being returned) and the code for the product (example 9013.20.000 for Laser Diode Module). Failure to follow these instructions may result in extra duty and tariff charges being invoiced to the buyer.

Shipping charges to Power Technology, Inc. are the responsibility of our customer. Power Technology, Inc. will pay return shipping charges to the customer for warranty repairs. Return shipments will be sent via UPS Ground (Domestic) and UPS Worldwide Express Saver (International). Faster service is available if you provide a shipping account number and authorization for use. If the customer has an order due to ship within 15 days of PTI completion of a warranty repair, PTI will consolidate its shipment with the order shipment. In all cases, repaired product will be clearly marked. PTI's customer is responsible for return shipping for products returned for non-warranty repair or modification.

Since it is not possible to determine warranty status for products in the field, PTI does not accept "Debit Memo's" against any returned product. "Advanced Replacements" are not available unless customer is participating in a Kanban program. The return of a product does not modify the due date of any invoices. Buyer agrees to pay invoices, in full, within the payment terms given to them by PTI.

If Customer returns Goods without an RMA, PTI will not evaluate the Goods and Services but will return them to the Customer at the Customer's expense. Any Goods that are returned to PTI but which is found to meet the applicable specifications for the Good and/or is not defective in workmanship and materials shall be subject to PTI's standard examination charge in effect at the time, which shall be charged to, and paid for by, Customer.

**Limited Product Warranty:** Unless otherwise noted, PTI warrants its products to be free of defect in workmanship and material the lesser of a period of twelve (12) months from the date of shipment. The customer must make all claims under these warranties and no claim will be accepted from a third party. Product warranties are non-transferable. Customer shall have no warranty claims, unless PTI receives from Customer, before the end of the warranty period and within thirty (30) days of the date on which Customer first came to know, or should have known, about the warranty claim. PTI will repair or replace product, provided customer notifies PTI of defect within warranty period and pre-authorizes return of product as outlined in "Product Returns" section above. Any product repaired or replaced under warranty is only warranted for the longer of 1) the period of time remaining in the original warranty for the product 2) a period of ninety (90) days. The entirety of PTI's liability is limited to the replacement cost of product. PTI is not responsible for any consequential damages.

Due to their ESD sensitive nature, Laser Diodes sold without a Power Technology brand laser driver attached do not have any warranty.

**Build to Print:** Any Product that PTI makes or customizes in accordance with Customer's specifications ("Build to Print Product") is excluded from the limited warranty in Product Warranty section. With respect to Build to Print Product, PTI warrants only that PTI performs the manufacturing services in a professional and workmanlike manner and in accordance with standards reasonably applicable to such services. PTI will re-perform any services which are not in compliance with this warranty if Customer notifies PTI of non-compliance in writing, on or before thirty (30) days immediately following completion of the applicable services. **THIS SERVICE WARRANTY IS THE ONLY WARRANTY THAT APPLIES TO THE PROVISION OF CONTRACT MANUFACTURING SERVICES OR BUILD TO PRINT PRODUCTS TO CUSTOMER.**

**Custom products are Non-Cancelable, Non-Returnable (NCNR):** In some cases PTI builds custom products. In most cases, custom parts have unique specifications and cannot be sold to other customers. In these cases, this binding agreement acknowledges that PTI's customer will be 100% financially responsible for all products ordered, regardless if they have been built or shipped. Any product that includes options or where the customer selects the laser diode, lens, operating voltage, operating current, etc., are considered custom product. In case of disagreement, PTI will work to resolve any customer concerns but is entitled to make the final decision.

**Safety and Limitation of Liability:** PTI provides product label information, including laser class, in compliance with U.S. FDA/CDRH regulations. Purchaser is responsible for determining appropriate safety practices and warnings when operating various laser products. Except for the warranties stated herein for the customer, no warranty, condition or representation, express, oral, or statutory, is provided to the customer or any third party, including (without limitation), any warranty, condition or representation (a) of merchantability, fitness for a particular purpose, satisfactory quality, or arising from a course of dealing, usage, or trade practice; or (b) that the products will be free from infringement or violation of any rights, including intellectual property rights, of third parties. This disclaimer and exclusion shall apply even if the express warranty herein fails of its essential purpose. The customer's sole and exclusive remedies hereunder and the only liability of PTI is expressly limited to the terms of this agreement. PTI shall not be liable to the customer, or any third party, for any other special, consequential, incidental, exemplary or indirect costs or damages, including without limitation, legal costs, installation and removal costs, production or profit arising from any cause whatsoever, regardless of the form of the action, whether in contract, tort (including negligence), strict liability or otherwise, even if advised of the possibility of such costs or damages. For the purposes of this provision, "PTI" includes PTI's directors, officers, owners, employees, agents, representatives, subcontractors and suppliers. In no event shall the total collective liability of PTI, its employees, officers, agents, and directors exceed the amount paid to PTI for products from which such liability arose during the twelve (12) month period preceding the date of the most recent claim.

**Export Orders:** Customer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Customer shall indemnify and hold PTI harmless for any violation or alleged violation by customer of such laws, rules, policies or procedures. Customer shall not export or re-export, directly or indirectly, separately or as part of any system, the Products or any technical data received from PTI, without first obtaining any license required by the applicable government, including (without limitation), the United States government and/or any other applicable competent authority. Customer also certifies that none of the products or technical data supplied by PTI will be sold or otherwise transferred to, or made available for use by or for, any entity that is engaged in the design, development, production or use of nuclear, biological or chemical

weapons or missile technology without written notice to and acknowledgement from PTI. Sales of software to the U.S. Government may be subject to license restrictions in accordance with DFARS 252.227-7013 and FAR 52.227-19.

**Security:** The Buyer agrees that Power Technology, Inc. maintains a security interest and title, to all merchandise sold by it to the Buyer until all monies have been paid to Power Technology, Inc. for said merchandise.

**Marks and Labels:** Customer acknowledges the goodwill associated with PTI's trademarks. Customer shall not obscure, remove or alter any trademarks, patent numbers, labels, serial numbers, product identification, copyright or other notices affixed to any Goods and Services, related documentation or packaging, without the express prior written consent of PTI. Customer shall display PTI's and its licensors' names and logos as well as the name of any Goods and Services on each copy of Software or Documentation made by Customer (provided that Customer shall not make any copies except as permitted by PTI in a duly signed writing).

**Firmware License:** Subject to the terms and conditions of this Agreement, PTI grants Customer a non-exclusive, limited and restricted license to use Firmware as part of the Product on, with, or for, which it is delivered or made available; PTI does not permit Customer to make any copies or derivative works of Firmware and Customer may not transfer Firmware, except as part of the same Product on, with, or for, which it is delivered or made available. Firmware may include license terms provided by PTI and/or its third party licensors which will apply to the use of the Firmware, and take precedence over these license terms.

**Documentation License:** PTI grants Customer a non-sub-licensable, non-exclusive, non-transferable, limited license to use the Documentation that PTI provides for Customer's internal business purposes solely in support of Customer's use of the Goods and Services. Customer is not authorized to copy, distribute publicly, or modify Documentation, except as expressly permitted by PTI in a duly signed writing.

**Export Compliance:** PTI's Customer will comply with all applicable export and re-export control laws and regulations, including (a) the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, (b) trade and economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Assets Control, and (c) the International Traffic in Arms Regulations ("ITAR") maintained by the U.S. Department of State. Customer shall not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Goods or any technical data (including processes and services) received from PTI, without first obtaining any license required by the applicable government, including without limitation, the United States Government and/or any other applicable competent authority. Customer also certifies that (i) none of the products or technical data supplied by PTI will be sold or otherwise transferred to, or made available for use by or for, any entity that is: (a) located in an "embargoed" country in accordance with any applicable government list(s) including without limitation, those of the United States, (b) a 'denied' or 'restricted' party on any applicable government list(s) including without limitation, those of the United States, and/or (c) engaged in the design, development, production or use of nuclear, biological or chemical weapons or missile technology; (ii) no relevant agency or authority has suspended, revoked or denied Customer's export and/or import privileges; and/or (iii) Customer is not located in or under the control of a national or resident of, a jurisdiction where this transaction is prohibited. Customer will indemnify and hold PTI harmless for any violation or alleged violation by Customer of such laws, rules, policies or procedures.

**Compliance:** Customer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Customer will indemnify and hold PTI harmless for any violation or alleged violation by Customer of such laws, rules, policies or procedures.

**No Reverse Engineering:** To the extent legally permissible, Customer agrees not to, and shall not, reverse engineer, translate, create derivative works of, decompile, separate, and/or disassemble, any Goods or portions thereof nor allow or assist others to do so.

**Dates and Timelines:** All references to days shall be to calendar days, except as expressly noted otherwise. All scheduled shipment dates, delivery dates, and other dates are non-binding estimates, unless a senior executive of PTI (vice president and above) expressly agrees in a duly signed writing that a certain date shall be legally binding.

**Jurisdiction:** The validity, interpretation and performance of this agreement shall be governed by and construed under the applicable laws of the State of Arkansas and the United States of America, as if performed wholly within the state and without giving effect to the principles of conflict of laws. The parties specifically disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods. PTI and Buyer hereby irrevocably and unconditionally submit to the jurisdiction of the courts of the State of Arkansas and all courts competent to hear appeal there from.

**Intellectual Property Claims:** PTI will defend or settle any third party claim against Customer that Goods and Services (excluding Build to Print Products) as delivered by PTI infringe a third party's copyright, trade secret right or U.S. patent provided Customer promptly notifies PTI in writing, and cooperates with and provides control of the defense or settlement to PTI, to the extent legally permissible.

**Intellectual Property Claim Remedies:** In the event of an infringement claim under the Intellectual Property claim section above, PTI will pay (i) infringement claim defense costs, and (ii) settlement amounts and final court-awarded damages, provided in all cases that such costs, amounts, and/or damages do not exceed the limitations provided in the Safety and Limitation of Liability section above. If such a claim appears likely, PTI may, at its option, modify the Good or Service, procure any necessary license, or replace it. If PTI determines that none of these

alternatives is reasonably available, PTI will, subject to Customer's return of the Goods or Services upon request by PTI, provide a prorated refund of the fees that Customer paid for such Goods or Services, depreciated on a 36 month (Software) or 60 month (Product) linear basis.

**Exclusions:** PTI has no obligation for any claim of infringement arising from: (i) PTI's compliance with, or use of, Customer's designs, specifications, instructions or technical information; (ii) Goods and Services modifications by Customer or a third party; (iii) Goods and Services not used as expressly provided within the Documentation, PTI's specifications or related application notes; or (iv) use, combination, and/or operation of the Goods and Services with products not supplied by PTI. The Remedies section states PTI's entire liability, and Customer's sole remedy, for infringement claims. This indemnity is given to Customer solely for its benefit. PTI disclaims all warranties, conditions and other terms of non-infringement or title with respect to any Goods and Services.

**No Waiver:** The failure or delay of either party to exercise or enforce any right or claim does not constitute a waiver of such right or claim and shall in no way affect that party's right to later enforce or exercise it, unless such party issues an express written waiver, signed by a duly authorized representative.

**Assignment and Delegation:** Customer may not assign any of its rights against PTI, and any (purported) assignment, either voluntarily or by operation of law, is invalid. Any warranties extended by PTI are nontransferable and for Customer's benefit only. PTI may assign its rights and delegate its obligations.

**Force Majeure:** Any non-performance or late performance – except of payment obligations – of either party shall be excused to the extent that performance is rendered impossible or delayed by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing or late-performing party whether or not similar to the foregoing. If by reason of any such force majeure event, PTI's supplies of Goods and Services are limited, PTI shall have the right to prorate the available supply in such a manner as it, in its sole discretion, determines appropriate.

**Audit:** Upon reasonable notice, PTI or its agent(s) may inspect Customer's facilities (including computers) and records to verify Customer's compliance with these Terms of Sale and any Software license terms and payment for all Software licensed (including applicable support fees) to Customer. Customer will keep records regarding its use in sufficient detail to permit this verification. Customer shall fully cooperate with such audit, and grant all required assistance and dial-in and/or on-site access to all networks, records, materials and equipment. If, after an audit, it is determined that Customer had underpaid any amounts due, PTI will invoice Customer for and Customer will pay the amount of the underpayment plus interest from the date payment was due. If the underpayment is more than five (5%) percent of the amount properly due, Customer will also reimburse PTI for its audit expenses. PTI's rights and remedies under this section shall be in addition to and not in lieu of any other rights or remedies that are available to PTI at law or in equity.

**Severability:** If and to the extent that any of the terms of this Agreement, except payment obligations, become or are declared to be illegal by any court of competent jurisdiction, such terms shall be null and void and shall be deemed deleted from this Agreement, but only to the extent that such term is illegal, it being the intent and agreement of the parties that the Agreement shall be deemed amended by modifying such term to the extent necessary to make it legal while preserving its intent or, if that is not possible, by substituting therefore another term that is legal and achieves the same objective. All remaining terms of this Agreement shall remain in full force and effect.

**No Authority:** The parties to this Agreement are independent contractors. No relationship of principal to agent, master or servant, employer to employee or franchiser to franchisee is established hereby between the parties. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever. PTI neither assumes nor authorizes any third party, person or entity to assume or accept any liability or obligation, or to make any commitment for PTI with regard to the Goods and/or Services.

**Interpretation:** In this Agreement, unless a contrary intention appears: (i) the terms, "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular portion hereof and include any agreement supplemental hereto; (ii) words importing a singular number only shall include the plural and vice versa; (iii) the term "including" means "including without limitation"; (iv) other grammatical forms of defined words or expressions have corresponding meanings; (v) a reference to a section, document or agreement, including this Agreement, includes a reference to that section, document or agreement as amended from time to time, as permitted hereunder; and (vi) the division of this Agreement into sections and the insertion of headings are for convenient reference only, and shall affect neither the construction nor the interpretation of this Agreement.