

POWERLINK, A DIVISION OF RICHARDSON ELECTRONICS LTD

TERMS AND CONDITIONS

Feb 09, issue 5

A Division of Richardson Electronics Limited

1. DEFINITIONS

The "Client" shall mean the corporate entity firm or person requesting the performance of the services.

The "Services" shall mean the services described in Powerlink's quotation.

The "Product" shall mean the products described in Powerlink's quotation.

The "Equipment" shall mean the equipment upon which the services are to be performed.

2. QUOTATIONS AND ORDERS

(a) The quotation is valid for a period of thirty days from issue provided that Powerlink has not previously withdrawn it or otherwise stated.

(b) No order resulting from any quotation, pro-forma invoice, price list or other similar document made or issued by the client shall be binding unless and until accepted by Powerlink and at Powerlink's option all orders shall be subject to prices ruling at date of despatch where applicable.

(c) All orders are placed under these terms and conditions alone and these terms and conditions exclude any other terms and conditions that the client might seek to impose.

(d) Variation of these terms and conditions is only permitted with acceptance in writing from Powerlink.

(e) All published prices are subject to change without notice.

(f) Unless otherwise stated in writing by Powerlink all prices quoted are Ex Works and exclude carriage, VAT and shipping insurance.

3. PAYMENT

(a) The client shall pay Powerlink's invoice as per the terms stated on the quotation, and limited to 30 days of the date thereof.

(b) Powerlink is entitled to charge interest at the minimum lending rate of National Westminster Bank plc plus 3% on overdue balances to accrue on a day to day basis.

(c) The Client shall not be entitled to withhold any payment or to make any deduction from the invoiced amount in respect to any set-off or counterclaim unless both the validity and the amount thereof have been admitted by Powerlink in writing.

(d) If the Client asks Powerlink to carry out any work additional to the Services then if Powerlink complies with such request the Client shall pay Powerlink for such work at Powerlink's current rate of charge.

(e) Non-compliance with these terms may constitute a breach of contract on the part of the client and entitle Powerlink to take any action deemed necessary, including the right to:-

- (i) refuse to supply more goods;
- (ii) terminate the contract;
- (iii) initiate legal proceedings to recover any monies due to Powerlink.

4. PERFORMANCE

(a) Dates indicated for delivery or other performance represent Powerlink's best estimate.

(b) Powerlink undertakes to make all reasonable endeavours to ensure that the results of the Services carried out are correct.

(c) The Product is at the client's risk from the time of physical delivery to the client to the client's carrier or other bailee for transmission to the client, whichever is the earlier.

5. CONFIDENTIALITY

Powerlink undertakes to keep confidential all technical information relating to the equipment which comes to its knowledge as a result of the Client's order save for any such information which is in the public domain.

6. LIMITATION OF LIABILITY

(a) Powerlink shall not in any event be liable (save in respect of death or personal injury) for any indirect or consequential loss damage or injury no matter how or by whom it is caused which may arise out of the provision of the services.

(b) In the event of any direct loss suffered by the Client as a direct result of Powerlink's breach of these terms and conditions or of Powerlink's negligence damages shall not in any event exceed the value of the Equipment or £10,000 whichever is smaller.

7. CANCELLATION

(a) The cancellation of any order by the Client shall not be effective without the prior written consent of Powerlink and shall be subject to the payment to Powerlink of such sums as Powerlink shall consider reasonable in respect of work done.

(b) If a client cancels an order for Services less than ten working days before the agreed Service commencement date Powerlink reserves the right to charge the full fee (50% of which will be credited against any future Services) plus any expenses that Powerlink has incurred in preparation of the Service.

8. RETENTION OF TITLE

(a) Despite delivery and passing of risk, title in the goods shall not (unless otherwise agreed in writing by Powerlink in relation to specified goods) pass to the Purchaser until whichever shall be first to occur of the following:-

(i) full payment for the goods (including any interest) being received by Powerlink and no other amount then being outstanding from the Purchaser to Powerlink;

(ii) the sale of the goods by the Purchaser in accordance with these conditions in which case title to the goods shall to the Purchaser immediately prior to delivery of the goods to the Purchaser's customer

(b) Until title to the goods passes the Purchaser will hold the goods as fiduciary agent and bailee for Powerlink. The goods shall (subject to para (c) hereof) be kept separate and distinct from all other property of the Purchaser and of third parties and in good repair and condition and stored, identified and insured (at the Purchaser's cost) as the Powerlink's property

(i) until payment the Purchaser is licensed by Powerlink to use or to sell the goods in the ordinary course of its business

(ii) Powerlink may at any time revoke this power of sale and use by notice to the Purchaser to take immediate effect

(iii) this power of sale and use shall automatically cease on the proceedings (in any jurisdiction) or taking of any action (whether by the Purchaser or any other person or body) which calls into question the solvency of the Purchaser

(iv) upon determination of this power of sale and use, whether by notice or automatically, the Purchaser shall immediately place any of the goods still in existence and unsold at the disposal of Powerlink who shall be entitled to enter upon any premises of the Purchaser to remove such goods.

(c) The design rights and copyright and tools made for the manufacture or the Product to be supplied under the contract remain Powerlink's property notwithstanding that the Client may have been debited with any sum in respect of their cost.

9. DELIVERY

Any delivery date quoted is an estimate only, although every endeavour is made to adhere to them. Powerlink however will not be liable for any delay in delivery. Any insurance required for shipments must be made by the Client. Powerlink will not be responsible for any loss or damage in transit.

10. ACCEPTANCE

- (a) Each Product supplied by Powerlink shall be deemed accepted by the Client unless notice of defect or nonconformity is received by Powerlink within five (5) days of receipt of the Product at the Clients designated receiving address.
- (b) Products for which Powerlink agrees in writing to provide installation by its personnel shall be deemed accepted by the Client upon completion by Powerlink of its applicable acceptance tests or execution of Powerlink's acceptance form by the Client.

11. NOTICES

Any notice to be given under these terms and conditions shall be in writing and shall be deemed to have been duly given if sent or delivered to the other party at the address set out in the estimate or such other address that the party may from time to time notify in writing and shall be deemed to have been served if sent by post forty-eight hours after posting by telex or facsimile transmission when received.

12. WARRANTY

- (a) All Powerlink products are warranted against defect in material construction and workmanship. If no period is stated then warranty is limited to ninety (90) days from date of delivery. Where Powerlink is not the manufacturer under no circumstances will its warranty extend beyond the warranty of the manufacturer.
- (b) Powerlink's obligation is limited to repairing or replacing products (except tubes, transistors and other active devices) which prove to be defective during the warranty period.
- (c) Tubes, transistors and other solid state devices are covered by the respective manufacturer's warranty which applies from the date of the shipment of the unit from Powerlink.
- (d) There will be no charge for repair of units under warranty except non-authorized shipping charges.
- (e) In the event that responsibility for repair lies with the Client the Client will be charged for the cost of re-testing, repair and shipment and the estimate of the repair charges will be supplied to the Client before the work begins.
- (f) Responsibility for ensuring the Product complies with the laws of any country outside the UK rests solely with the Client.

13. FIELD SERVICE WARRANTY

- (a) Powerlink's service parts and labour associated with factory or field service activity are warranted against defects in material and workmanship for ninety (90) days from the date of original shipment or field service job completion.
- (b) Powerlink will make all reasonable endeavours to schedule field service at the Clients request when preliminary analysis determines that field service is recommended.
- (c) The Client will be responsible for all transportation charges per day and daily engineering labour costs.
- (d) An order for these services must be raised prior to the field service activity.

14. WAIVER

The failure by Powerlink to enforce at any time one or more of these terms and conditions shall not be a waiver of those terms and conditions or of the right at any time subsequently to enforce these terms and conditions.

15. FORCE MAJEURE

- (a) Powerlink shall not be liable for any failure to perform the Services arising from circumstances outside Powerlink's control.
- (b) Non exhaustive illustrations of such circumstances would be an act of God, war, riots, explosions, fire, flood, strikes, lockouts, Government action or regulations (UK, EEC or otherwise) accidents and shortages of labour or facilities.
- (c) Should Powerlink be prevented from performing the Services in the above circumstances it shall notify the Client of the fact in writing as soon as reasonably practicable after discovering it.
- (d) If the circumstances preventing performance are still continuing three months after the Client receives Powerlink's notice then either party may give written notice to the other cancelling the order.
- (e) If an order is cancelled in this way Powerlink will refund any payment which the Client has already made on account of the price but Powerlink will not be liable to compensate the Client for any further loss or damage caused by failure to perform.

16. APPLICABLE LAW AND LEGAL CONSTRUCTION

All Agreements incorporating these terms and conditions shall be constructed and governed in all respects by English Law and all disputes arising under or relating to this contract shall be referred to the jurisdiction of the Courts of England only.

17. ORIGIN OF PRODUCT

Powerlink makes no representation and gives no warranty in respect of the sources or origin of manufacture or production of the Product or any part thereof.

18. UK AND NON-UK

UK and non-UK export control laws and regulations may be applicable to the Products supplied and the client warrants that prior to exportation of any product or technical data acquired by the client from Powerlink under this agreement that it will not sell export re-export transfer divert or otherwise dispose of such product or technical data without obtaining the requisition licenses.

19. CHANGES OF PRODUCT SPECIFICATION

Powerlink's policy is one of continuous product development. Powerlink therefore reserves the right to make reasonable changes to the specifications at its discretion without prior notice.