

QM POWER, INC. TERMS AND CONDITIONS OF SALE

1. **GENERAL.** These Terms and Conditions of Sale and the non-conflicting provisions in QM Power's quotation, if any, acknowledgment or invoice from QM Power (collectively, the "Agreement") govern in all respects all sales of any product ("Product") and services ("Services") from QM Power, Inc. ("QM Power") to the purchaser ("Buyer"), including without limitation future replacement Product purchased by Buyer. No terms stated by Buyer in any purchase order, acceptance or acknowledgement will become part of the Agreement unless expressly agreed to and accepted by QM Power in writing and QM Power hereby rejects any additional or different terms. The Agreement constitutes the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral, written, or electronic and all other communications between the parties relating to the subject matter of the Agreement. QM Power's quotations are offers that may only be accepted in full. All typographical or clerical errors made by QM Power in any quotation, acknowledgment or publication are subject to correction.

2. **FEES AND PAYMENT.** Fees for Product and Services will be itemized separately on QM Power's invoice. All prices are valid for 30 days from quotation, unless otherwise specified. Fees are exclusive of all shipping and handling charges, duties, tariffs, value added taxes, sales taxes, use taxes, or assessments levied by any federal, state, municipal or other government authority that may be owed by Buyer as a result of the purchase of the Product and Services, or other charges which may be imposed upon the sale or use of the Product so that QM Power receives the full amount of fees payable without reduction for any such taxes or other fees or charges. Such charges paid by QM Power will be for Buyer's account. Any claim for exemption from such charges must be plainly designated on the face of the order and accompanied by all required exemption certificates. Unless specifically stipulated on an invoice or otherwise agreed to in writing by the parties, fees are in U.S. Dollars and are due upon Buyer's receipt of the invoice, without right to deductions or set-off. QM Power may require payment to be made C.O.D. or via irrevocable letter of credit in favor of, and acceptable to, QM Power, established at Buyer's expense, or require Buyer to provide further assurance of payment satisfactory to QM Power. If payment is not made when due, QM Power may suspend all future delivery or other performance with respect to Buyer without liability or penalty and, in addition to all other sums payable hereunder, Buyer shall pay to QM Power (a) the reasonable costs and expenses incurred by QM Power in connection with all actions taken to enforce collection or to preserve and protect QM Power's rights hereunder, whether by legal proceedings or otherwise, including without limitation reasonable attorneys' fees, court costs and other expenses, and (b) interest on all amounts unpaid after 30 days charged at the lesser of (i) the rate of 1.5% per month (18% annum) or (ii) the highest rate permitted by law.

3. **SHIPMENT; DELIVERY; FORCE MAJEURE.** Unless otherwise agreed to in writing by the parties, shipment and delivery of the Product are EXW QM Power's place of manufacture (Incoterms® 2010). Risk of loss and title are transferred to Buyer at QM Power's place of manufacture. All shipment, insurance or similar charges shall be borne by Buyer and must be prepaid prior to shipment unless otherwise agreed in writing by QM Power. All claims for loss or damage in transit or for non-delivery shall be made by Buyer against the carrier. At QM Power's option, Product may be shipped in advance of the requested shipment date or in installments. Any claims against QM Power for shortages by it in making shipments must be made in writing to QM Power within five days after receipt of shipment and any claims for shortages occurring thereafter must be made by Buyer to the carrier. All delivery information (including time for shipment) is approximate. QM Power's sole responsibility is to use reasonable commercial efforts to meet specified shipment dates. Buyer expressly absolves QM Power from any liability for any loss or damage resulting from a failure to deliver or delays in delivery caused by any conditions related to, or caused by, labor dispute, fire, flood, governmental act or regulation, riot, inability to obtain supplies or shipping space, plant breakdown, power failure, delay or interruption of carriers, accidents, acts of God, acts or omissions of Buyer, or other causes beyond QM Power's reasonable control.

4. **CANCELLATION; FAILURE TO TAKE DELIVERY.** The Agreement, in whole or in part, cannot be canceled or postponed by Buyer except with QM Power's prior written consent and upon terms that will indemnify QM Power against loss. In the event of approval of a return request, (a) any applicable packing, shipping, and delivery costs will be at Buyer's expense and (b) all returns must be shipped freight prepaid at Buyer's expense. If Buyer delays, fails, or refuses to take delivery of Product or indicates its intention to do so, then the Product will be deemed to have been delivered when QM Power was willing and able to so deliver. If shipment of Product is postponed or delayed by Buyer, Buyer shall reimburse QM Power for any and all reasonable additional expenses, including but not limited to storage and transportation, resulting therefrom.