



**Lakeshore Power Systems**

397 South Edgeware Rd  
St. Thomas, Ontario N5P 4B8

519.631.6864

## **Authorized Dealer Terms and Conditions of Sale**

### **Terms and Conditions**

These terms and conditions are governing the sale of products (Products) by Lakeshore Power Systems (L.P.S.). These terms and conditions (Agreement) take precedence over Customer's additional or different terms and conditions. Acceptance by the customer is limited to these terms and conditions. Neither Lakeshore Power Systems commencement of performance nor delivery shall be deemed or constituted as acceptance of Customer's additional or different terms and conditions. All pricing is quoted in Canadian (CAD) dollars.

#### **(1) Approved Customers**

Orders can be placed with L.P.S. by all approved customers. Approved customers are those that have been accepted by L.P.S. through the dealer application process, and

- have been awarded a login identity to use this website to post orders to L.P.S. , or
- wish to submit orders via email, fax, or other approved method

#### **(2) Orders**

All orders placed by the Customer will be binding to the Customer. Order confirmations by L.P.S. will be binding for L.P.S. All orders not placed through the online portal must include quantities and a complete description of Products or item code being purchased. There will be a 15% cancellation fee for orders that (i) are changed more than 48 hours after placement of orders, or (ii) have already been shipped, or (iii) have already been placed with and confirmed by the manufacturer of Products.

#### **(3) Prices**

List prices do not include any federal, provincial, or local taxes, or other governmental charges. Applicable taxes will be invoiced in addition to the product costs. List prices to not include shipping. Shipping will be invoiced in addition to the product costs.

#### **(4) Payment and Credit Policy**

Initial payment terms are net 10, where the invoice amount or account balance does not exceed \$2000.00. Orders or outstanding invoices totaling above \$2000.00 may be subject to prepayment or approval prior to shipment.

Established customers may request an increase to both their net terms and account balance. A standard credit reference check will apply. Payment can be made by cheque, VISA, MasterCard, American Express, Wire transfer, or approved credit and payment terms. Credit card payments will be subject to an additional credit card processing fee of 1.5%.

L.P.S. reserves the right to establish, change, and/or cancel credit and payment terms extended to Customer based on L.P.S. sole opinion, the Customer's previous payment record warrants that action.

At L.P.S. sole discretion, all late payments may be charged interest computed on a daily basis from the due date until paid in full at the rate of one and one half percent (1.5%) per month or the maximum rate permitted by law, whichever is less. On delinquent accounts, L.P.S. shall not be obligated to continue performance under any agreement with the Customer.

At L.P.S. sole discretion, all delinquent accounts may be sent to collection without warning on the 91<sup>st</sup> day of non-payment. All interest, collection, attorney and court fees will be applied to the Customer in addition to the original amount owing.

#### **(5) Freight Charges and Ship Fees**

All prices are F.O.B St. Thomas Ontario, or manufacturer point of origin (where specified).

All "PP&S" (pre-paid and ship) courier shipments from Lakeshore Power Systems will be shipped via FedEx Ground. FedEx Express may also be used when directed by the customer. Courier rates and fees are those negotiated with FedEx at the time of shipment. Customers may request other couriers at time of order, and L.P.S. will honor those requests where possible.

Freight ship fees are based on the negotiated base rates with the carrier, with additional fees as defined by the recipient address and delivery requirements. Base rates are for commercial addresses which do not need lift gate delivery. Additional fees apply for lift gate, residential, call ahead service, and deliveries of products where any portion of the load exceeds 120" (most aluminum rails). Lakeshore Power Systems selects the freight carrier based on the recipient address.

In all cases, it is the jurisdiction of the shipping carrier (courier or freight) to determine the status of the delivery address, and the application of additional fees for the subject delivery. The customer is responsible to pay for any additional fees which may levied by the carrier which are not listed on the original invoice.

#### **(6) Ship Insurance**

Losses in transit are not covered by L.P.S. L.P.S. does not automatically assign ship insurance beyond the base rate provided by the carrier. Extra insurance may be requested prior to shipment, and the cost associated will be added to the customer at invoice.

#### **(7) Returns Policy**

No merchandise may be returned without prior authorization from L.P.S. If the return is authorized, the Customer will be issued a return authorization (RA) number, which must be clearly marked on the package. Only the purchasing customer may return products to Lakeshore Power Systems. All subsequent purchasers must return products through the dealer from whom they purchased products. L.P.S. will credit the purchase price of all normally stocked merchandise returned in new condition, in original packaging, within 30 days of purchase. There will be a 15% restocking charge on merchandise returned after 30 days. All items must be returned freight prepaid and insured.

Items not in salable condition, not normally stocked, and special order items may not be returned for credit. Items not returnable for credit include trackers, pole mounts, power panels, batteries, and other custom ordered or assembled items.

Product returned to L.P.S. that is damaged due to Customer error or misuse will be held for 30 days. Customer will be contacted and advised of no credit for returned and damaged product, and must make arrangements for product pick up. After 30 days, all such products left with L.P.S. will be disposed of without further liability to L.P.S.

**(8) Warranty Repairs**

All warranty repairs must be performed by the manufacturer. Contact L.P.S. for manufacturer contacts.

**(9) Security Interest**

L.P.S. retains a security interest in the products delivered to the Customer, and in their accessories, replacements, accessions, proceeds and products, including accounts receivable (collectively, the Collateral) to secure payment of all amounts due under this Agreement. If the Customer fails to pay any amount when due, L.P.S. shall have the right to repossess and remove all or any part of the Collateral from the Customer, including installed products. Any repossession or removal shall be without prejudice to any other remedy of L.P.S. hereunder, at law or in equity.

**(10) Statute of Limitations**

No action by the Customer may be brought at any time more than twelve (12) months after the facts occurred upon which the cause of action arose.

**(11) Limitations of Liability**

The liability of L.P.S. hereunder for all claims shall not exceed the sum of the Customer's payments for the products which are subject of the dispute. L.P.S. assumes no liability for consequential damages, anticipated or lost profits, incidental damages, loss of time, or other losses by Customer or any third party in connection with the products.

**(12) Governing Law**

The constitution, interpretation and performance of this Agreement and all transactions under it shall be governed by the province of Ontario.

**(13) Choice of Forum**

The parties hereto agree that any suits, actions or proceedings arising out of this Agreement that may be instituted by any party hereto shall be instituted only in the provincial or federal courts in the city of St. Thomas, Ontario, and the parties hereto do hereby consent to the jurisdiction of those courts and waive any objection which they may now or hereafter have to venue of those suits, actions or proceedings.

**(14) Force Majeure**

Except for the payment of money, neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent that delay or failure is caused by events beyond its control (Force Majeure Conditions), including, but not limited to, fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes. If any Force Majeure Condition occurs, the party delayed or unable to perform (delayed party) shall give immediate notice to the other party (Affected Party), and the Affected Party, upon giving prompt notice to the Delayed Party, shall be excused from performance under this Agreement for the duration of the Force Majeure Condition, provided, however, that the Affected Party shall take all reasonable steps and cooperate with the Delayed Party to avoid or remove the cause of non-performance and shall resume performance hereunder with dispatch when the cause is removed; and provide further that if the Delayed Party cannot within sixty (60) days remove the cause of non-performance, the Affected Party may terminate this Agreement.

**(15) Non-Waiver**

No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of that term, right or condition.

**(16) Entire Agreement**

This Agreement shall constitute the entire Agreement between the parties with respect to the subject matter of this Agreement and shall not be modified or rescinded. The provisions of this Agreement supersede all prior oral and written quotations, communications, agreements, and understandings of the parties with respect to the subject matter of this agreement.

September -2011