

# Terms and Conditions of Use

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## 1. Introduction.

These Terms and Conditions of Use (“Terms”) apply to the use of the Power Lift Door Consultants, Inc.’s, and its subsidiaries and affiliates (“our,” “us,” “we,” or “PowerLift”), website located at <https://powerliftdoors.com/> or any other websites or application we own (collectively, the “Site”). Access to and use of the Site by any user (“you,” “your,” or “User”) is subject to these Terms, and your continued use of the Site is your consent to be bound by these Terms. From time to time, we may revise these Terms. You can determine when these Terms were last revised by referring to the top of this page. Any changes to the Terms will become effective upon posting of the revised Terms on the internet, accessible through the Site, unless otherwise noted. By continuing to use this Site following such changes, you will be deemed to have agreed to such changes. Access or use of the Site is void where prohibited by applicable law, and the Site is not intended for and must not be used by persons under the age of 18. By accessing or using the Site, you represent that you are at least 18 years of age. IF YOU DO NOT AGREE WITH THESE TERMS, OR ARE UNDER THE AGE OF 18, DO NOT ACCESS OR OTHERWISE USE THE SITE, THE SERVICES, OR ANY INFORMATION CONTAINED THROUGH THE SITE.

## 2. Use.

**a.** Our Site is for your personal use in connection with researching, obtaining, or assisting with PowerLift’s production, delivery, installation, and maintenance of hydraulic doors (“Services”). You agree not to use or permit third parties to use the Site for any illegal purpose, or to achieve any kind of unauthorized access, such as to any computer systems, software, data, real, personal, or violate any intellectual property rights or privacy rights of any third party. You agree not to interfere with other Users’ use of the Site or disrupt the network, connectivity, infrastructure, or other activity that may disrupts the Site or Services whether provided directly by PowerLift or through PowerLift suppliers, vendors, or contractors. PowerLift authorizes your use of the Site subject to the terms of these Terms. This authorization is nontransferable or assignable.

**b.** You shall access and use the Site ONLY: a) as permitted by, and in accordance with the obligations under these Terms; b) for its intended purposes of providing information about or facilitating the Services; c) in a reasonable manner for you own purposes; d) in a manner that does not violate any intellectual property right of PowerLift or any third party; e) for legitimate and lawful purposes; and f) as permitted by law. You shall not alter, modify, tamper with, make derivative works from, license, distribute, rent, lend, publish, reverse engineer, decode, re-sell, export, sublease, or attempt to derive the source code of or reproduce the Site. You shall take all reasonable action necessary to stop the violation of these Terms, and you will notify PowerLift of any violation, or threatened violation of which you are aware, of these Terms.

**c.** If PowerLift determines that a breach of these Terms has occurred, then PowerLift may, in its sole discretion, and without liability: (i) restrict Users’ access to the Site; (ii) remove or require removal of any offending content; and/or (iii) exercise other rights and remedies at

law or in equity. Except in an emergency, as deemed necessary by PowerLift, or as may otherwise be required by law, before undertaking the actions in this section, PowerLift may attempt to notify User by any reasonably practical means under the circumstances. User will promptly notify PowerLift of any event or circumstance related to these Terms, User's use of the Site, or content of which User becomes aware, that could lead to a claim or demand against PowerLift, and User will provide all relevant information relating to such event or circumstance to PowerLift at PowerLift's request.

### **3. Content; Intellectual Property Rights; Prohibited Actions.**

a. If you establish an Account with us (defined below), or provide any information to us through the Site, you agree to provide true and accurate data about yourself, and to update and keep such data current. For an explanation of how we use your data, please review our Privacy Policy on the Site.

b. If you establish an account, you will receive a password, username, and other account information ("Account"). You are solely responsible for maintaining, and obligated to keep, the confidentiality of your Account, and you are solely responsible for all use of your Account, whether authorized by you or not. You shall not allow other persons access to or use of your Account. You shall not post your Account information on any website nor transmit it through unsecured sites. You agree to (a) immediately notify PowerLift of any unauthorized use of your Account or any other breach of security, and (b) ensure that you exit from your Account each time you use the Site. Access and use of password-protected and/or secure areas of the Site is restricted to users who have been provided a valid Account to facilitate the Services. We may terminate your Account and access to the Site if we learn that you have provided us with false or misleading registration data. If we feel your Account is insecure or otherwise problematic, we may require you to change your password or terminate your Account.

c. You will not provide through the Site, to PowerLift, or through any PowerLift third-party vendor, any content that does or contains any of the following:

- i. fraudulent, false, deceptive, or misleading information;
- ii. material that is defamatory, pornographic, abusive, offensive, harassing, violent, hateful, inflammatory, or otherwise objectionable;
- iii. promotes sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;
- iv. infringes any patent, trademark, trade secret, copyright, or other intellectual property or other rights of another;
- v. violates the legal rights (including the rights of publicity and privacy) of others or contains any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms or our Privacy Policy;
- vi. promotes any illegal activity, or advocates, promotes, or assists any unlawful act;
- vii. involves commercial activities or sales, such as contests, sweepstakes, and other sales promotions, barter, or advertising; or
- viii. gives the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

d. Unless otherwise specified in these Terms, all information, designs, text, graphics, pictures, video, applications, software, music, sound and other content (collectively, "PowerLift Content"), together with the user interface, and the selection and arrangement of the Site, are the proprietary property of PowerLift and our subsidiaries and affiliates. We provide content through the Site that is protected by United States copyright or contains protectable trademarks of PowerLift or our third-party licensors and suppliers.

#### **4. License.**

Subject to these Terms, PowerLift grants to you a revocable, limited, personal, non-exclusive, and non-transferable license to use, view, print, display, and download PowerLift Content for the sole purpose of viewing them on a stand-alone personal computer or mobile device and to use the Site for your personal use in connection with researching, obtaining, or facilitating the Services. You may not remove or obscure any copyright notice, trademark notice, or other proprietary rights notices displayed on, or in conjunction with, the PowerLift Content. Except for the foregoing license and as otherwise required or limited by applicable law, you have no other rights in the Site or any PowerLift Content and you may not modify, edit, copy, reproduce, create derivative works of, reverse engineer, alter, enhance, or in any way exploit any of the Site or PowerLift Content in any manner or for any purpose that would constitute infringement of our, our licensors', or the other user's intellectual property rights. All rights not expressly granted herein are reserved. Any unauthorized use of PowerLift Content or violation of this provision is a material breach of these Terms and may be a violation of applicable law. If you breach any of these Terms, the above license will terminate automatically and you must immediately destroy any downloaded or printed PowerLift Content.

#### **5. Termination of Access.**

PowerLift has no obligation, but maintains the right, to monitor the Site. We reserve the right to terminate access to your account and your ability to use this Site with or without cause and with or without notice, for any action that we determine is inappropriate or disruptive to this Site or to any other User of the Site. We may report to law enforcement authorities any actions that may be illegal, and any reports received of such conduct. When legally required, or at our discretion, we will cooperate with law enforcement agencies in any investigation of alleged illegal activity on this Site or on the internet, which may include disclosing any information we obtain. In addition, we may disclose information we obtain as necessary or appropriate to operate or improve the Site, to protect PowerLift and/or our Site Users, or for any other purpose that the law permits.

#### **6. Privacy Policy.**

Besides these Terms, we also publish a Privacy Policy. Your use of the Site and any information provided by you or gathered by PowerLift or third parties during any visit to the Site is governed by the Privacy Policy, which is found on the Site and incorporated by this reference. You agree to PowerLift's collection and use of your information, or may exercise your rights over such information, as set forth in the Privacy Policy.

## **7. Electronic Communications.**

When you use the Site, the chat or text feature, or send emails to PowerLift, you are communicating with us electronically. By using the Site, you consent to receiving electronic communications, including electronic notices, from us. These electronic communications may include notices about applicable fees and charges, transactional information, receipts for purchases and other information concerning or related to the Site or Services. These electronic communications are part of how PowerLift provides the Services, and you agree that all notices, agreements, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communication be in writing.

## **8. Use by Children.**

The Site is prohibited for use by children under 18, and thus all users must be at least 18. If you are under 18, you must cease using the Site. If you are a parent or guardian and believe a child in your care under the age of 18 has used the Site or provided information through the Site, please immediately contact us at sales@powerliftdoors.com.

## **9. Third-Party Vendors.**

The Site may link to other websites that are not websites controlled or operated by PowerLift. Certain areas of the Site may allow you to interact and/or conduct transaction with third-parties. Your navigation to and participation in promotions, your purchase of, payment for and delivery of goods or Services, if any, and any terms and conditions, warranties, or representations related to such promotions or your purchase of goods and services with third parties found on or accessible through the Site are solely between you and the third party. Advertisements and other information, if any, provided by third-parties found on or made available through the Site are provided solely for your convenience and should not be construed as an endorsement by PowerLift of the materials, goods or services provided, or made available, by the third parties. YOU AGREE THAT POWERLIFT WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY GOODS, SERVICES, INFORMATION, RESOURCES AND/OR CONTENT AVAILABLE ON OR THROUGH ANY THIRD-PARTY WEBSITES AND/OR DEALINGS OR COMMUNICATIONS, OR FOR ANY HARM RELATED THERETO, OR ANY DAMAGES OR LOSSES CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH YOUR USE OR RELIANCE ON THE CONTENT OR BUSINESS PRACTICES OF ANY THIRD PARTY.

## **10. Site Provided As Is.**

YOUR USE OF THE SITE IS AT YOUR OWN RISK. The Site content has not been verified or authenticated in whole or in part by us and may include inaccuracies or typographical or other errors. We do not warrant the accuracy or timeliness of the Site content. We have no liability for any errors or omissions in the Site content, whether provided by us, our licensors, or suppliers, or other Users.

POWERLIFT PROVIDES THE SITE "AS IS" AND POWERLIFT DOES NOT PROVIDE AND EXPRESSLY DISCLAIMS ANY WARRANTY OF ANY KIND RELATING TO THE SITE OR POWERLIFT CONTENT, EXPRESS OR IMPLIED, STATUTORY OR OTHER, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE,

NONINFRINGEMENT AND ALL WARRANTIES WHICH ARISE FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, USER ACKNOWLEDGES AND AGREES THAT NO TECHNOLOGY IS FOOLPROOF OR IMMUNE FROM ATTACK. POWERLIFT CANNOT MAKE AND EXPRESSLY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE SITE, OR ANY RESULTS OR USE THEREOF WILL OPERATE WITHOUT INTERRUPTION, SECURELY, ERROR FREE, WITHOUT DEFECT, FREE OF HARMFUL CODE, THIRD PARTY DISRUPTION OR THAT POWERLIFT WILL CORRECT ALL DEFECTS. IN ADDITION, USER UNDERSTANDS AND ACKNOWLEDGES THAT THE INTERNET IS NOT A SECURE MEDIUM, MAY BE INHERENTLY UNRELIABLE AND SUBJECT TO INTERRUPTION OR DISRUPTION AND MAY BE SUBJECT TO INADVERTENT OR DELIBERATE BREACHES OF SECURITY, FOR WHICH POWERLIFT WILL NOT BE HELD LIABLE.

No statement or writing of any representatives, suppliers, or vendors of PowerLift will create any warranty whatsoever not expressly set forth in these Terms.

#### **11. Indemnification.**

**a.** You release, and will defend, indemnify and hold PowerLift, its subsidiaries and affiliates, and its officers, directors, employees, agents, successors and assigns (“Indemnified Parties”), harmless from and against all claims or causes of actions, and any liabilities, obligations, judgments, fines, costs and expenses (including reasonable attorneys' and expert witnesses' fees and costs) incurred by us or any other Indemnified Party due to a claim or cause of action (“Claim”) arising out of or alleged to arise out of: (a) any breach of these Terms by you, (b) your use of the Site, Account, your download, installation and use of any mobile application (if applicable), and your contributions and conduct on the Site, (c) the use by any other person using the Site or through your Account, (d) the content you post or otherwise make available through the Site or Account, or (e) any infringement claims against you. You further agree to pay our reasonable attorneys' and expert witnesses' fees and costs arising from any actions or claims by third parties and those incurred in establishing whether this section applies.

**b.** If you are obligated to indemnify any of the Indemnified Parties, an Indemnified Party may, in its sole and absolute discretion, control the defense and disposition (including its possible settlement) of any Claim at your sole cost and expense. Without limitation of the foregoing, you will not settle, compromise or in any other manner dispose of any Claim without the written consent of the Indemnified Party.

#### **12. Limitation of Liability.**

IN NO EVENT WILL POWERLIFT OR ANY OF OUR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOST DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR THE LIKE), WHETHER FORESEEABLE OR UNFORSEEABLE, ARISING OUT OF YOUR USE OR INABILITY TO USE THE SITE or POWERLIFT CONTENT, REGARDLESS OF THE BASIS OF THE CLAIM, INCLUDE IF WE OR ONE OF OUR REPRESENTATIVES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH

DAMAGES. IN NO EVENT WILL POWERLIFT'S AGGREGATE LIABILITY TO YOU IN CONNECTION WITH THE SITE OR THESE TERMS EXCEED THE AMOUNT (IF ANY) PAID BY YOU TO POWERLIFT IN THE SIX MONTHS IMMEDIATELY PRECEDING THE EVENT WHICH GAVE RISE TO THE LIABILITY. POWERLIFT SHALL NOT BE RESPONSIBLE FOR, OR HAVE ANY LIABILITY FOR, ANY ACTIONS, OMISSIONS, OCCURRENCES, INJURIES OR DAMAGES THAT OCCUR ON OR NEAR ANY POWERLIFT THEATER OR OTHER LOCATION, OR IN CONNECTION WITH ANY SERVICE OR PRODUCT, TICKETED OR MADE AVAILABLE THROUGH POWERLIFT'S SITE.

### **13. Governing Law; Venue.**

**a.** These Terms and the relationship between PowerLift and User shall be governed by the laws of the United States of America and the State of Minnesota without regard to its conflicts of law provisions. You are responsible for complying with local laws, if and to the extent local laws are applicable. You specifically agree to comply with all applicable laws concerning the transmission of technical data exported from the United States or the country in which you reside.

**b.** Any action or proceeding arising from, relating to or in connection with these Terms will be brought exclusively in the federal or state courts located in the State of Minnesota, and you consent to the personal jurisdiction of such courts and agree that it is a convenient forum and that you will not seek to transfer such action or proceeding to any other forum or jurisdiction, under the doctrine of forum non conveniens or otherwise.

### **14. Dispute Resolution.**

If a dispute arises out of or relates to these Terms or the Site, the User agree to engage with PowerLift management in direct discussions in a good faith to attempt to resolve the dispute. If a resolution cannot be reached through such discussions, the parties agree to engage in nonbinding mediation to attempt to resolve the dispute. If mediation fails, the dispute will be resolved by arbitration before a single arbitrator administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration will take place in an agreed upon location in the State of Minnesota. The arbitrator's decision will be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to award relief in excess of what these Terms provide. All claims shall be arbitrated individually. User shall not bring or join any class action of any kind in court, arbitration or otherwise. Nothing in this Section shall prohibit either party from seeking injunctive relief from any authority authorized by law to grant it. This Section does not prohibit PowerLift from enforcing any claim for payment in any court or other forum. **THE PARTIES WAIVE ANY RIGHT TO JURY TRIAL ARISING OUT OF THESE TERMS OR USE OF THE SITE.**

### **15. Termination.**

In its sole and absolute discretion, with or without notice to you, PowerLift may suspend or terminate your use of and access to the Site, terminate your account (if any) and/or remove and discard anything transmitted by you, or information stored, sent, or received via the Site without prior notice and for any reason, including, but not limited to: (i) concurrent access of the Site with identical user identification, (ii) permitting another person or entity to use your user identification to access the Site, (iii) any unauthorized access or use of the Site, (iv) any

violation of these Terms, (v) tampering with or alteration of any of the software and/or data files contained in, or accessed through, the Site, or (vi) abuse, deception or fraudulent behavior. Such suspension or termination may include, but not be limited to, suspension or termination of access or rights to receive any content. You may terminate your account for any reason by emailing PowerLift at sales@powerliftdoors.com. PowerLift shall not be liable to you or any third party for any claims or damages arising out of any termination or suspension of the Site. Termination, suspension, or cancellation of your access rights and use of the Site shall not affect any right or relief to which PowerLift may be entitled, at law or in equity, and all rights granted to you will automatically terminate and immediately revert to PowerLift.

## **16. Miscellaneous.**

a. Assignment. PowerLift may freely assign its obligations and rights under these Terms. Users may not assign their rights or obligations under these Terms without PowerLift's written consent.

b. Force Majeure. PowerLift shall not be liable for or be in breach of these Terms for failure or delay in performance to the extent caused by circumstances beyond the PowerLift's reasonable control. Such circumstances include, but are not limited to, acts of God, flood, fire, earthquake, war, terrorism, strikes or other labor or industrial disturbances, war, epidemic, pandemic, cyberattacks that could not have been reasonably prevented, internet or other system or network outages that could not have been reasonably prevented, governmental action, or interruption of, delay in, or inability to obtain on reasonable terms and prices adequate power, telecommunications, transportation, raw materials, supplies, goods, equipment, Internet or other services.

c. Severability. If any provision of these Terms is found invalid or unenforceable by a court of competent jurisdiction, you agree that every attempt will be made to give effect to the parties' intentions as reflected in that provision to the extent permitted by applicable law, and such finding will not affect the balance of these Terms, which will remain valid and enforceable.

d. Headings; No Waiver. Headings are for convenience only and are not part of these Terms. Any section of the Terms that by its nature is designed to survive completion, expiration, or termination shall so survive. No failure, omission, or delay of PowerLift at any time to exercise any right under these Terms or require performance by User of any provisions of these Terms, will in way affect PowerLift's right to require performance of that provision nor be construed as a waiver of any PowerLift right under these Terms.

e. Entire Agreement. These Terms constitute the entire understanding between the parties relating to the subject matter thereof and supersede and replace any and all prior discussions, agreements, understandings, promises, and representations whatsoever, whether oral or written, express or implied, between the parties. Except as expressly stated herein, no modification of or amendment to these Terms will be effective unless expressly authorized by PowerLift.

f. Notice. Any notice required or permitted to be given to PowerLift in accordance with these Terms shall be properly addressed if sent follows:

- i. Power Lift Door Consultants, Inc.  
20032 Ridgfield Loop  
Spearfish, SD 57783