

# **PowerPlan Learning Portal Terms of Use and Training Policy**

## Use of the PowerPlan Learning Portal and Training Materials

Use of the PowerPlan Learning Portal. Subject to this PowerPlan Learning Portal Terms of Use and Training Policy (the “Terms of Use”) and, if applicable, the written agreement signed between PowerPlan and the customer or partner company, PowerPlan grants to user a limited, non-exclusive, non-transferable right while registered to use the PowerPlan Learning Portal for internal business purposes.

Use of the Training Materials. Subject to the Terms of Use and, if applicable, the written agreement signed between PowerPlan and the customer or partner company, PowerPlan grants to user a limited, worldwide, non-exclusive, non-transferable license, without right of sublicense, during the duration of the training course to use the training materials provided, if any, for internal business purposes solely in connection with use of the PowerPlan Learning Portal and registered training course(s).

Use Restrictions. Except as otherwise explicitly provided in the Terms of Use or as may be expressly permitted by applicable law, user will not, and will not permit or authorize third parties to: (a) rent, lease, or otherwise permit third parties to use the PowerPlan Learning Portal or training materials; (b) use the PowerPlan Learning Portal to provide services to third parties (e.g., as a service bureau); nor (c) circumvent or disable any security or other technological features or measures of the PowerPlan Learning Portal.

Compliance with Laws. User will use, and PowerPlan will provide, the PowerPlan Learning Portal and training materials in compliance with all applicable laws and regulations.

Protection against Unauthorized Use. User will use reasonable efforts to prevent any unauthorized use of the PowerPlan Learning Portal and training materials and promptly notify PowerPlan in writing of any unauthorized use that comes to user’s attention. If there is unauthorized use by anyone who obtained access to the PowerPlan Learning Portal directly or indirectly through user, user

will take all steps reasonably necessary to terminate the unauthorized use. User will cooperate and assist with any actions taken by PowerPlan to prevent or terminate unauthorized use of the PowerPlan Learning Portal or training materials.

**Reservation of Rights.** The PowerPlan Learning Portal and training materials are owned or licensed by PowerPlan. The PowerPlan Learning Portal and training materials are protected by United States copyright, trade dress, and trademark laws, international conventions, and all other relevant intellectual property and proprietary rights, and applicable laws. Except as expressly authorized by PowerPlan, user agrees not to sell, license, distribute, copy, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, or otherwise make unauthorized use of the PowerPlan Learning Portal or training materials. PowerPlan grants to user a limited right to use the PowerPlan Learning Portal and training materials under the Terms of Use. User will not have any rights to the PowerPlan Learning Portal or training materials except as expressly granted in the Terms of Use.

PowerPlan reserves to itself all rights to the PowerPlan Learning Portal and training materials not expressly granted to user in accordance with the Terms of Use.

**Feedback.** If user provides any feedback to PowerPlan concerning the functionality and performance of the PowerPlan Learning Portal (including identifying potential errors and improvements), user hereby assigns to PowerPlan all right, title, and interest in and to the feedback, and PowerPlan is free to use the feedback without payment or restriction.

## Confidentiality

**Restrictions on Use.** User agrees to hold PowerPlan's Confidential Information in strict confidence and not to disclose such Confidential Information to any third parties. "Confidential Information" means all nonpublic information, data or knowledge, in any form, disclosed by PowerPlan, its affiliates, or its agents ("Disclosing Party") to user, its affiliates, or its agents ("Receiving Party") that is designated as confidential or, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered confidential. Confidential Information includes without limitation all proprietary information; technical, customer, marketing or financial information of Disclosing Party or its customers; business plans or projections; information

that was observed or learned by Receiving Party in connection with its use of the PowerPlan Learning Portal or training materials; and any other information pertaining to the past, present, or future business operations or financial condition of Disclosing Party. Receiving Party may disclose Confidential Information in response to a valid order by a court or other governmental body, as otherwise required by law. All Confidential Information furnished by Disclosing Party is the sole and exclusive property of Disclosing Party.

The provisions of this section relating to use and disclosure shall not apply to any information that: (a) is rightfully known to Receiving Party prior to disclosure by Disclosing Party, (b) is rightfully obtained by Receiving Party from any third party without restrictions on disclosure, or (c) is or becomes available to the public without restrictions. The obligations set forth in this section shall survive any expiration or termination of the Terms of Use and, if applicable, the written agreement signed between PowerPlan and the customer or partner company for five (5) years thereafter for Confidential Information that is not a trade secret under applicable law and for trade secrets shall continue for so long as such Confidential Information remains a trade secret. Upon Disclosing Party's request, Receiving Party will promptly (x) return to Disclosing Party or, if so directed by Disclosing Party, destroy all tangible embodiments of the Confidential Information (in every form and medium), (y) permanently erase all electronic files containing or summarizing any Confidential Information, and (z) certify to Disclosing Party in writing that Receiving Party has fully complied with the foregoing obligations.

**Injunctive Relief.** The parties agree that monetary damages are not an adequate remedy if this section is breached and that PowerPlan will suffer irreparable damage, and therefore, PowerPlan, in addition to any other legal or equitable remedies, shall be entitled to seek an injunction or similar equitable relief against such breach or threatened breach.

## Enrollment & Payment Information

For instructor-led trainings, PowerPlan adheres to standard published pricing for all scheduled training classes. All customers receive the same pricing, for the same class. Enrollment for each PowerPlan training session is limited and requires advanced online registration. Registrations are accepted on a first-come, first-served basis and customers will receive a confirmation of their registration. Fees for each class include instructional materials and meals as

referenced below. Payment for each class must be received at least 2 weeks prior to the commencement of the training class or your seat will be forfeited and offered to participants on the waiting list.

## Wait List

For instructor-led trainings, Training class size is limited to the facility space and to best practices in training. In the event that a training class reaches maximum capacity, PowerPlan will take all subsequent registrations in order of receipt and place the individuals on a wait list. If seats become available for a particular class due to cancellations or non-payment, wait list members will be notified in order of registration receipt. Additionally, anyone added to the wait list will be notified of their status at least 2 weeks prior to the commencement of training classes.

## Substitutions

For instructor-led trainings, customers may substitute delegates at any time, however substitutions requests must be sent to the training team in advance of the class. To make a substitution request please contact [training@pwrplan.com](mailto:training@pwrplan.com).

## Cancellation

For instructor-led trainings, all training registration changes, cancellations, or substitutions must be emailed to the PowerPlan Training Department at [training@pwrplan.com](mailto:training@pwrplan.com).

For instructor-led trainings, registration cancellations are considered official on the date they are received in writing.

For cancellations made 30 days prior to the commencement of a training session, PowerPlan will refund the entire registration fee; however, refunds will not be processed until after the scheduled classes. For cancellations received less than 30 days prior to the training class commencement date, no refund will be provided however substitutions are welcome. In addition, refunds will NOT be made for no-shows to any class. Learning Portal Fees are due annually in advance and are non-refundable.

Training dates and registration will be confirmed 2 weeks prior to the commencement of the Training.

PowerPlan reserves the right to cancel any instructor-led training course due to insufficient enrollment at least 30 calendar days in advance of the scheduled course date. Notice will be provided with the option to reschedule for a future course date or to receive a full refund of registration fees.

PowerPlan is not responsible for any expenses incurred if a training course is cancelled.

If an instructor-led training class is cancelled due to any unforeseen circumstances such as weather or natural disaster, the customer is entitled to reschedule for a future training course.

## Payment Options

PowerPlan offers several payment options for training sessions:

- Credit card (Visa, MasterCard or American Express) via our online registration (for instructor-led training only)
- Prepayment via cleared bank check, money order, or wire transfer. Wire transfer instructions will be provided upon request.

## Classroom Facilities

**Classroom Dress Code:** The dress code for all PowerPlan classes is casual to business casual. As a reminder, meeting room temperatures and personal comfort ranges vary widely. Since meeting rooms always seem cool, please bring a sweater or jacket.

**Atlanta Classroom Configuration:** The PowerPlan standard configuration is to assign one student per PC. Notepads and pens are provided to all students as well as applicable handouts.

**Virtual Classroom:** PowerPlan will furnish a cloud environment to be used during the training session. A link to access the environment will be provided to registrants 1 week ahead of the training session. Attendees will be responsible for their own access (computer, internet and clearing all firewall issues prior to

the start of the training session). Applicable digital handouts and materials will be provided.

**Special Access Requirements:** If you require special access during your education event, please notify PowerPlan Training at least two weeks in advance of your scheduled event to allow us to assess your specific requirements.

**Recording:** PowerPlan prohibits the taping or digital recording and rebroadcast of our education events unless approved in writing by the Training department head and Legal department.

**Participant Responsibilities:** PowerPlan reserves the right to exclude participant from attending any course due to disorderly conduct, failure to observe any of PowerPlan's rules of participation or failure to attend prerequisite class or classes for a particular course. No refund of fees shall be paid to participant in such circumstances.

**Meals & Parking:** Registration fee includes specified meals during Atlanta PowerPlan training. Lunch will be provided for full day sessions or for classes that start prior to 1 p.m. Dinner is not included for any PowerPlan training. Meals or meal reimbursements will not be included for virtual training sessions. Free parking is available on site.

**Hotel Reservations:** Students and other course participants must make their own arrangements for accommodations. A list of hotels will be provided. This information is provided for your convenience. Please be advised that PowerPlan does not control, promote, endorse, or assume any liability of any kind for or relating to any aspect of the services provided by these hotels.

## Disclaimer

POWERPLAN MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. POWERPLAN EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, AND ACCURACY. POWERPLAN DOES NOT WARRANT AGAINST INTERFERENCE WITH THE ENJOYMENT OF THE POWERPLAN LEARNING PORTAL. POWERPLAN DOES NOT WARRANT THAT THE POWERPLAN LEARNING PORTAL IS ERROR-FREE OR THAT OPERATION OF THE POWERPLAN LEARNING PORTAL WILL BE UNINTERRUPTED. POWERPLAN DOES NOT WARRANT THAT ANY INFORMATION PROVIDED THROUGH THE POWERPLAN LEARNING PORTAL IS ACCURATE OR COMPLETE OR THAT ANY INFORMATION PROVIDED THROUGH THE POWERPLAN LEARNING PORTAL WILL ALWAYS BE AVAILABLE. POWERPLAN EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF USER'S USE OF THE POWERPLAN LEARNING PORTAL.

## INDEMNIFICATION

Defense. User agrees to defend, indemnify and hold harmless PowerPlan and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (collectively, the "PowerPlan Entities") from and against any and all Claims arising out of or in any way connected with: (i) user's unauthorized access to, prohibited use of or alleged prohibited use of the PowerPlan Learning Portal; or (ii) user's violation of any applicable law or regulation, provided that: (a) PowerPlan gives user prompt written notice of the claim, proceeding, or suit ("Claim") (provided that failure to so notify user will not relieve user of its indemnification obligations, except to the extent that the failure or delay is prejudicial); (b) PowerPlan grants user full and complete control over the defense and settlement of the Claim; (c) PowerPlan provides assistance in connection with the defense and settlement of the Claim as user may reasonably request; and (d) PowerPlan complies with any settlement or court order made in connection with the Claim. User will not agree to any settlement which results in an admission of liability by PowerPlan without

PowerPlan's prior written consent and will include PowerPlan on any settlement release. PowerPlan will not defend or settle any Claim without user's prior written consent. PowerPlan will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but user will have sole control over the defense and settlement of the Claim.

Indemnification. User will indemnify PowerPlan from and pay (a) all damages, costs, and attorneys' fees finally awarded against PowerPlan in any Claim; and (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by PowerPlan in connection with the defense of a Claim (other than attorneys' fees and costs incurred without user's consent after user has accepted defense of the Claim).

## Complaints

Complaints/issues/questions concerning a training course and/or CPE credits, please email the Training Department at [training@pwrplan.com](mailto:training@pwrplan.com).

## General

Assignability. User may not assign its right, duties, and obligations under the Terms of Use without PowerPlan's prior written consent, except that user may assign its rights, duties, and obligations under the Terms of Use without PowerPlan's consent to a successor by way of merger, acquisition, sale of assets, or operation of law if the successor agrees to assume and fulfill all of user's obligations under the Terms of Use.

Governing Law. The Terms of Use will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Georgia, U.S.A., without reference to its choice of law rules and not including the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods. Each party hereby irrevocably consents to the exclusive jurisdiction and venue of the federal, state, and local courts in Cobb County, Georgia in connection with any action arising out of or in connection with the Terms of Use.

Waiver. The waiver by either party of any breach of any provision of the Terms of Use does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with the Terms



of Use will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of the Terms of Use.

**Severability.** If any part of the Terms of Use is found to be illegal, unenforceable, or invalid, the remaining portions of the Terms of Use will remain in full force and effect. If any material limitation or restriction on the use of the PowerPlan Learning Portal or training materials under the Terms of Use is found to be illegal, unenforceable, or invalid, user's right to use the PowerPlan Learning Portal or training materials, respectively, will immediately terminate upon written notice to user.

**Entire Agreement.** The Terms of Use is the final and complete expression of the agreement between these parties regarding user's use of the PowerPlan Learning Portal and training materials. The Terms of Use supersedes, and the terms of the Terms of Use govern, all previous oral and written communications regarding these matters, all of which are merged into the Terms of Use, except that the Terms of Use does not supersede any written software license or SaaS agreement between PowerPlan and the customer or partner company executed prior to the Terms of Use coming into force. No employee, agent, or other representative of PowerPlan has any authority to bind PowerPlan with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in the Terms of Use. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of the Terms of Use.