



General Terms and Conditions of Sale

**of
EC POWER A/S
domiciled in Hinnerup
As at: July 2014**

1. General

- 1.1 Our terms and conditions of sale apply exclusively; we do not recognise any general terms and conditions of business of the customer that conflict with or depart from our terms and conditions of sale unless we have expressly consented in writing to their application. Our terms and conditions of sale also apply if we carry out deliveries unconditionally in the knowledge of the existence of terms and conditions of the customer that conflict with or depart from our terms and conditions of sale.
- 1.2 All agreements that are made between us and the customer for the performance of this contract are recorded in this contract in writing.
- 1.3 Our terms and conditions of sale also apply to all future transactions with the customer.
- 1.4 Please note that we process and disclose our customer's personal data by means of electronic data processing, solely for business purposes, in accordance with the provisions of the Danish Data Protection Act.

2. Quotation/offer and documents

- 2.1 Our quotations are non-binding until a final order confirmation has been made.
- 2.2 An order by the customer is a binding offer. We are entitled to accept this offer within two weeks by sending an order confirmation or to send the customer the delivery item ordered within this time limit.
- 2.3 We reserve the unrestricted rights of use as owner and copyright holder in cost estimates, drawings and other documents. These documents may only be made available to third parties with our prior consent. The technical data included (including weights and measures) is carefully produced, errors excepted. The same applies to all data in our sales documents. However, such information does not represent any guarantee commitment. In all cases, guarantee commitments require our express confirmation.
- 2.4 We also reserve the right to make all changes that serve the purpose of technical progress after the order confirmation has been made.



3. Prices and terms of payment

- 3.1 Unless specified otherwise in the order confirmation, our prices are ex works, including loading and packaging at the works, but excluding carriage, release, insurance, customs duties and statutory VAT and other taxes and duties in force from time to time.
- 3.2 Our list prices valid on the date of delivery apply to orders without a purchase price agreed in advance. Any order value below EUR 50.00 is subject to a minimum quantity surcharge of EUR 10.00.
- 3.3 For goods with a delivery date at least 4 months after contract formation we reserve the right to increase the prices agreed in advance if, after 4 month have lapsed, price factors increase, in particular on account of wage settlements or material price rises. We will demonstrate these increases to the customer on demand. This applies to price increases of up to 10%. Price increases of more than 10% on the basis of increases in price factors require an agreement with the customer. If no such agreement is reached, we are entitled to withdraw from the contract within 14 days by giving written notice.
- 3.4 Unless specified otherwise in the order confirmation, the purchase price is immediately due for payment without any discount. Any cash discount is subject to a specific written agreement.
- 3.5 Unless other payment periods have been agreed, the payment is in default 14 days after the invoice date. Default interest is calculated per annum at 8 percentage points above the base rate from time to time in pursuance of Section 5, subsection 1 of the Danish Interest Act. This does not exclude the possibility of claiming further damages.
- 3.6 Bills of exchange and cheques are accepted only in fulfilment; the customer bears the costs of discounting and collection. After acceptance of bills of exchange, we are entitled to return them if the relevant Danish bank refuses to accept them.
- 3.7 The customer is only entitled to offset amounts if its counterclaims have gained legal force, are undisputed or have been accepted by us. Moreover, the customer is only entitled to withhold payment where its counterclaim relies on the same contractual relationship. The customer cannot withhold payment on account of partial performances.
- 3.8 If, after accepting an order, we become aware of facts that give rise to justified doubts about the customer's ability to pay, we are entitled to demand full payment or corresponding security before delivery or to withdraw from the contract if no such payment or security has been received after the time limit stipulated. In addition to any payment default that has already occurred, information provided with the due care and diligence of a prudent business person by a bank, a credit agency or a business or similar with business relations with the customer is considered to be particular proof of significant deterioration in solvency. If the delivery has already been made, the invoice amounts in question are due for immediate payment, regardless of the terms of payment agreed, and if necessary subject to return of their acceptance.



4. Delivery time and delay in delivery

- 4.1 Delivery periods begin on the date of the order confirmation, but not before the timely and orderly performance of the obligations of the customer, in particular not before the customer has provided documents, approvals and releases and any deposit agreed has been received.
- 4.2 The following applies to our list products:
- In the period from receipt of order to two calendar weeks before the confirmed delivery date, both the type of performance and the delivery date may be changed (the latter to a later date).
 - In the period between two and one calendar weeks before the confirmed delivery date, it is only possible to change the delivery address and standard accessories.
 - After this time, no further change is possible unless agreed otherwise.
 - Only one change of delivery date is possible per order free of charge. Any further changes incur a charge of EUR 50.00.
- 4.3 Delivery periods and dates are complied with if, by their expiry, the delivery item has left the works or the delivery store or the customer has been notified that it is ready for dispatch. This does not apply if acceptance was contractually stipulated or if an obligation to install the item was agreed.
- 4.4 For deadlines and delivery dates that are not expressly designated 'fixed' in the order confirmation, the customer may set us a suitable later deadline for delivery/performance when the original one has been passed. We can only enter into default after this later deadline has expired.
- 4.5 All performance is subject to our receiving correct deliveries on time.
- 4.6 In the event of force majeure or any other unforeseeable, extraordinary circumstances beyond our control, for example breakdown, strike, lockout, intervention by public authorities, energy supply problems etc. that prevent us from performing our obligations on time, the delivery time is extended by the duration of the obstacle and an appropriate start-up time. This also applies if these circumstances occur at upstream suppliers. The customer will be notified by us of the beginning and end of such circumstances as soon as possible. If the specified circumstances make delivery or performance impossible or unreasonable, we are released from our obligation to deliver. If the delivery time is extended or we are released from our obligation to deliver, the customer may not make any claims for damages as a result. If we are released from our obligation to deliver, we will return any advance payments made by the customer.
- 4.7 If our delivery is delayed, our liability for non-compliance with a material contractual obligation is limited to the documented and foreseeable damage that typically occurs, subject to the limitations set forth in clause 8. Further claims for damages by the customer on account of delay in delivery are excluded except in the event of intent or gross negligence and unless there is mandatory liability for loss of life, bodily injury or damage to health.
- 4.8 The customer's statutory right of termination due to material breach is unaffected, but is subject to the delay being our responsibility and non-compliance with an additional delivery deadline pursuant to clause 4.3. The customer is under an obligation, at our demand, to declare within an appropriate period of time whether it will withdraw from the contract after the expiry of the deadline on account of delay in delivery and/or demand damages instead of the performance or compensation for expenditure or insist that the delivery be made.



4.9 If dispatch is delayed at the request of the customer, we will charge it the costs of storage, starting 1 month after notification that the item was ready for dispatch. However, we are entitled, after setting a reasonable deadline and after its expiry and after corresponding prior notice, to make other use of the delivery item and to deliver to the customer with an appropriately extended delivery time.

5. Delivery, transfer of risk and dispatch

5.1 Part deliveries are permissible to a reasonable extent.

5.2 The risk is transferred to the customer when the item is handed to the carrier or haulier and at the latest when it leaves the works or delivery store. This also applies when carriage paid delivery has been agreed. Dispatch is organised by and takes place on behalf of the customer.

5.3 If dispatch is delayed as a result of circumstances for which the customer is responsible, the risk is transferred to the customer as from the date on which the item was ready for dispatch. However, we are under an obligation to take out the insurance cover required by the customer at its request and expense.

5.4 At the request and expense of the customer, the consignment will be insured against theft, breakage, transport damage, fire damage and water damage and other insurable risks.

6. Retention of title

6.1 We retain the title in the delivery item until we have received all payments from the business relations with the customer. If the customer is in breach of its contractual obligations, in particular in the event of payment default, we are entitled to terminate the contract and repossess the delivery item. The customer must immediately grant us or our representatives access to the delivery item subject to retention of title and surrender the item. After repossession of the delivery item, we are entitled to make use of it. The proceeds of such use must be set off against the obligations of the customer, less appropriate costs of use.

6.2 The customer is under an obligation to treat the delivery item with care and, at our demand, to insure it adequately against damage and loss for the duration of the retention of title. The customer cedes any claims against the insurance to us now.

6.3 In the event of seizure or other interventions by third parties, the customer must immediately notify us in writing in order that we can take action. If the third party is unable to compensate us for the court and out of court costs of such an action, the customer is liable for any loss caused to us.

6.4 The customer is entitled to resell the delivery item in its normal business operations. However, the customer cedes to us now all claims in the sum of the final invoice amount (including VAT) that accrue to it from the resale against its buyers or third parties, regardless of whether the delivery item was resold unprocessed or processed. The customer is authorised to collect these claims even after they have been ceded. Our right to collect the claim ourselves is unaffected by this. However, we undertake not to collect the claim provided that the customer meets its payment obligations from the proceeds received and is not in payment default and, in particular, no application has been made to open insolvency proceedings and payments have not been suspended.



If the undertaking not to collect lapses, we may demand that the customer informs us of the claims ceded and their creditors, provides all the information required for collection, surrenders the associated documents and notifies the creditors of the cession. In this case, we are also entitled to revoke the customer's authority to collect.

- 6.5 The processing or reconstruction of the delivery item by the customer is always carried out for us. If the delivery item is processed with other items that do not belong to us, we acquire co-ownership of the new item in the ratio of the value of the delivery item to the value of the other items processed at the time of processing. Furthermore, the item produced by processing is subject to the same terms as the item delivered under retention of title.
- 6.6 If the delivery item is inseparably mixed with other items that do not belong to us, we acquire co-ownership of the new item in the ratio of the value of the delivery item to the value of the other items mixed with it at the time of mixing. If the mixing takes place in such a way that the customer's item is to be regarded as the main item, it is agreed that the customer transfer us proportional co-ownership. The customer keeps the sole ownership or co-ownership thus produced for us.
- 6.7 If the delivery item is combined by the customer with real estate or movable property, the customer also, without the need for further specific declarations, cedes to us its claim that accrues to it as remuneration for the combination with all ancillary rights as security in the sum of the ratio of the value of the combined delivery item to the value of the other combined items at the time of the combination.
- 6.8 We undertake to release the securities accruing to us to the extent to which the realisable value of our securities exceeds the claims to be secured by more than 10%. We are responsible for selecting the securities to be released.
- 6.9 Where the law governing the territory in which the delivery item is located does not permit retention of title, we may exercise all rights that we are able to reserve in the delivery item. The customer is under an obligation to participate in measures that we wish to take to protect our title or, in its place, another security right in the delivery item.

7. Material defects and defective title

- 7.1 We provide the promised performances according to the agreed specifications and the relevant legal provisions and with the care standard in the industry.
- 7.2 If our performance has a material defect or defective title (hereinafter called defect), the cause of which was already present at the time of the transfer of risk, the customer is entitled, at our discretion, to supplementary performance by elimination of the defect or replacement delivery. We will pay the expenses necessary for this, for example salary, material, transport and road costs, only if these expenses do not increase as a result of a delivery item subsequently having been taken to a location other than the domicile of the customer unless this corresponds to its intended use. Replaced parts become our property and must be delivered to us.



- 7.3 If the supplementary performance fails, the customer is entitled, at its discretion and notwithstanding any claims for damages and compensation for expenditure in accordance with clause 8, to reduce the payment or, if our breach of duty is material, to withdraw from the contract.
- 7.4 We are liable for defects only if:
- a) they are not based on improper use, incorrect installation or commissioning, negligent treatment or the use of unsuitable equipment, lubricants, lubricant additives, fluids or replacement materials by the customer or third parties, natural wear and tear, defective construction works or chemical, electrochemical or electrical influences, unless we are responsible for these circumstances;
 - b) the customer has duly complied with its examination and notification obligations under Section 51 and section 52 of the Danish Sale of Goods Act. Notification of defects must, however, be given in writing within 10 days of receipt of the delivery item at the destination or, if they were not recognisable in a correct examination, within 10 days of their discovery;
 - c) the customer is not in payment default, subject to a reasonable warranty retention in accordance with sub-clause 7.8.
- 7.5 The customer must, following agreement with us, grant us the necessary time and opportunity to eliminate all defects and carry out all replacement deliveries that seem reasonably necessary to us. Otherwise, we are released from any loss consequences that occur because the customer did not grant us the necessary time and opportunity to carry out the necessary defect elimination measures and replacement deliveries. The customer is entitled, subject to prior written notification, to have the defect eliminated itself and to demand compensation from us for the necessary costs only in urgent cases in which operational safety is at risk and to avert excessively high losses, in which case we must be notified immediately, or if our elimination of the defect is delayed.
- 7.6 Claims relating to defects lapse 12 months after delivery of the item except in the event of intent or gross negligence and unless there is liability for loss of life, bodily injury or damage to health. As regards replacement items or our elimination of defects we are liable until the expiry of the limitation period applicable to the original delivery item.
- 7.7 The customer is entitled to recourse claims against us only in so far as the customer has made no agreements with its buyer that go beyond the statutory claims for defects. Sub-clause 7.2, sentence 2, applies accordingly. If a claim is made against the customer on account of a defect in a new delivery item, it is under an obligation to notify us immediately. The customer must place its buyers under a corresponding obligation. We reserve the right to fulfil any claims made by a buyer against the customer by means of subrogation. In this case, the fulfilment of the claims by the buyer is regarded as fulfilment of any claims by the customer.
- 7.8 In the event of notification of defects, payments by the customer may only be withheld at the time and to the extent that are proportionate to the defects that have occurred if the claims by the customer are undisputed or have gained legal force. If there is no basis for the notification of defects, we are entitled to demand compensation from the customer for the expenses we have incurred.



8. Claims for damages

- 8.1 We are liable under statutory regulations if the customer asserts claims for damages that are based on intent or gross negligence, including intent or gross negligence by our representatives or accomplices. We are also liable under statutory regulations if we have been guilty of a material breach of contract, in cases of loss of life, bodily injury or damage to health and if we have issued guarantees or assurances. Otherwise, we are not liable.
- 8.2 The damages for material breach of contract are limited to the documented and foreseeable losses that typically occurs and lapse 12 months after delivery of the item except in the event of intent or gross negligence and unless there is liability for loss of life, bodily injury or damage to health.
- 8.3 Any other liability for damages, regardless of the legal nature of the claim asserted, is excluded. In this respect, we are particularly not liable for loss or damage that did not occur on the delivery item itself, indirect losses for example loss of production, loss of profit and other financial loss incurred by the customer etc.
- 8.4 Except in cases of gross negligence or intent and unless there is liability for loss of life, bodily injury or damage to health, we are only liable for loss or damage that exceeds EUR 150.00 in each case and our liability is in all cases limited to the contract value.
- 8.5 The mandatory provisions of the Danish Products Liability Act are unaffected.
- 8.6 Where our liability is excluded or limited, this also applies to the personal liability of our employees, colleagues, representatives and accomplices.

9. Place of performance, venue and governing law

- 9.1 The place of performance for the delivery is the production works or our delivery store. The place of performance for payment is our place of business.
- 9.2 The venue is our place of business. However, we are entitled to bring action against the customer at another statutory venue.
- 9.3 The entire contractual relationship is governed by the law of Denmark, with the exclusion of conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods or other conventions on the law of sale of goods.
- 9.4 If any provisions in these General Terms and Conditions of Sale or other contractual agreements should become fully or partially inoperative, this does not affect the operativeness of the other provisions.