

GENERAL TERMS AND CONDITIONS OF EP POWER GRIT GMBH AND EP POWER GRIT HAMBURG GMBH

1. Definitions

The following definitions and rules of interpretation shall apply:

- (a) Seller: The legal entity of EP Power Grit GmbH or EP Power Grit Hamburg GmbH, hereinafter referred to as EPPG, providing the Document.
- (b) Buyer: The natural or legal person, company, firm, partnership or other legal entity that has purchased or agreed to purchase the goods.
- (c) Delivery Date: The delivery date specified in the Purchase Order, unless otherwise specified by the Seller.
- (d) Document: The offer, quotation, price list, order confirmation, or invoice for the sale of goods.
- (e) Goods: Any items sold by the Seller.
- (f) Insolvency Event: The Buyer becomes insolvent, enters into bankruptcy, receivership, administration or liquidation, suspends or ceases or threatens to suspend or cease its business (or any part thereof), is subject to a resolution relating to the winding up of the Buyer or by reason of any event occurring in any jurisdiction to which the Buyer is subject and which has an equivalent or similar effect to the foregoing.
- (g) Purchase Order: A purchase order placed by Buyer and accepted in writing by Seller or otherwise deemed to be accepted upon delivery of the Goods pursuant to Section 2 (b).
- (h) EPPG: A global materials solutions company with EP Holding as the ultimate parent company and its subsidiaries.
- (i) The word "including" is understood to mean "in particular" followed by the words "without limitation".

2. Ordering goods

- (a) The Buyer may submit an intended purchase order to the Seller orally or in writing. Such intended order shall be deemed an offer by the Buyer to purchase Goods in accordance with these Terms and Conditions. The Buyer is responsible for the accuracy of any order placed.
- (b) The Seller is entitled to reject any proposed order without giving any reason. An intended order shall not be deemed accepted until confirmed in writing by the Seller or when the Goods are delivered (in whole or in part) to the Buyer, whichever is the earlier. Upon acceptance by the Seller, a Contract shall be formed and these Terms and Conditions and the terms of the Purchase Order (Contract) shall be deemed incorporated into that Contract. The agreements set forth in the Seller's written order confirmation shall prevail over these Terms and Conditions in the event of any conflict.
- (c) The Contract Terms shall supersede any other terms and conditions and apply to the sale of Goods to the Buyer to the exclusion of any terms and conditions of the Buyer. All descriptions and information in the Seller's catalogs, technical data sheets, price lists, analyses, other documents and samples are approximate only and shall not form part of the Contract or give rise to any liability on the part of the Seller unless expressly stated otherwise in the Contract.
- (d) The General Terms and Conditions constitute the entire agreement between the parties and supersede and cancel all prior agreements and understandings between them, whether written or oral, with respect to their subject matter. Any amendments or additions to these Terms and Conditions shall be binding only if the Seller agrees to them in writing.
- (e) Subject to clause 8 (c), the Buyer acknowledges that it is not relying on, and has no remedy in respect of, any representation, covenant or warranty (whether in good faith or negligent) not set out in the Contract.

3. Price and payment

- (a) The price payable for the Goods shall be as set forth in the Purchase Order or, if no price is set forth in the Purchase Order, as set forth in Seller's price list in effect on the date of delivery (available to Buyer upon request).
- (b) The price is exclusive of value added tax and any other taxes, duties or levies in connection with the manufacture, transportation, export, import, sale or delivery of the goods and the costs of delivery, insurance, packaging, sorting, calibration, analysis and inspection. These costs and taxes will be charged to the Buyer.
- (c) Invoices will be issued on or after delivery and are payable within 30 days of the date of the invoice by electronic transfer to the account and in the currency specified on the invoice. Any queries must be made in writing to the Seller within 10 days of receipt. The Seller may require advance payment prior to delivery.
- (d) Statutory default interest will be charged on overdue amounts. Such interest shall accrue daily from the due date until the date of actual payment of the overdue amount. The Buyer shall pay the interest together with the overdue amount and all costs and expenses incurred by the Seller in collecting such amounts from the Buyer.
- (e) The payment term is an essential part of the contract. If the Buyer files for insolvency (or it becomes sufficiently probable that such will occur) or if the Buyer fails to pay the required amount on the due date, the Seller may, without further obligation, suspend delivery or performance of any unfulfilled order (or any part thereof or any partial shipment) and refuse to accept any further orders proposed by the Buyer.
- (f) The Buyer shall pay in full all amounts due without deduction, set-off, counterclaim or withholding, unless a deduction or withholding is required by law (in which case Buyer shall pay such amount to ensure that Seller receives the full invoice amount). The Seller may at any time, without limiting any other right or remedy, set off any amounts due to it from the Buyer against any amounts due to the Buyer and shall have the right, at its sole discretion, to apply any payments received from the Buyer to any outstanding invoices in the sequence preferred by the Seller.

4. Delivery

- (a) Unless otherwise specified in the Purchase Order, delivery of the Goods shall be made on an EXW (Incoterms® 2020) basis (i.e., the Buyer shall be responsible for collection and transportation at the Buyer's risk), and delivery shall be deemed to have been made to the Seller's premises.
- (b) Without prejudice to any other rights of the Seller, if the Buyer fails to provide on or before the Delivery Date all instructions reasonably requested by Seller and all necessary documents, licenses, consents and authorizations (which the Buyer is obliged to obtain under the Contract or by law) for delivery, or otherwise fails to accept delivery or provide assistance or cause or request a delay:

- (i) The Buyer shall pay to the Seller all transportation, storage and standing time charges and all other losses, damages and expenses, including all losses caused by depreciation of the Goods, incurred by the Seller by reason of such delay or failure;
- (ii) The delivery of the goods shall be deemed completed at 9 a.m. on the Delivery Date and an invoice shall be issued;
- (iii) If the goods have not been actually delivered within seven days from the Delivery Date, the Seller shall have the right to resell or otherwise dispose of the goods.
- (c) The Seller shall be entitled to make partial deliveries and each partial delivery may be invoiced separately.
- (d) If the Seller has agreed to delivery on call, the parties shall specify in the order a latest date and delivery times. Otherwise, the Seller may at any time require the Buyer to take delivery of the remaining quantity of the ordered goods immediately and shall be entitled to invoice the Buyer for the same.
- (e) The Delivery Date (including the delivery time) is only an estimate, and the time of day shall not be of the essence. The Seller shall not be liable to Buyer in any way for any delay or failure in delivery. The Buyer shall not be entitled to reject any delivery or partial delivery because of failure to deliver or delay in delivery. The Buyer's sole remedy shall be a refund of all amounts paid in advance for the undelivered Goods, which refund shall be made when the Seller has confirmed in writing that it is unable to deliver the Goods.
- (f) The Buyer shall comply with all applicable national and international requirements relating to export controls, export laws, restrictions and regulations of other governmental bodies or authorities (Export Regulations).
- (g) The Buyer agrees not to export or permit the (re-)export of any technical data, information or goods in violation of export regulations or to release the same to a national of a country with export restrictions or embargoes or to a natural or legal person or shipping company listed as a restricted party by an export authority or export regulations unless all necessary licenses and permits have been obtained from the relevant export authority.

5. Ownership and risk

- (a) The risk for the goods is transferred to the Buyer upon delivery.
- (b) Notwithstanding the delivery, the Seller retains title to the object of sale until all present and future claims arising from the business relationship have been satisfied.
- (c) The Buyer is entitled to resell the reserved goods in the ordinary course of business. He hereby assigns to the Seller the claims arising from the resale in the amount of the final invoice amount including value added tax with all ancillary rights; the Seller accepts the assignment. If the resold goods are co-owned by the Seller, the assignment of the claims shall extend to the amount corresponding to the Seller's co-ownership share. The Buyer shall not be entitled to pledge the goods subject to retention of title, to assign them as security or to use them in any other way as security. The Seller authorizes the Buyer to collect the assigned claims. The Seller may revoke this authorization at any time. The Seller shall not make use of its right of revocation and its authority to collect as long as the Buyer meets his payment obligations, including those to third parties. At the Seller's request, the Buyer shall name to the Seller the debtors of the assigned claims and notify them of the assignment. The Seller is authorized to notify the debtors of the assignment itself.
- (d) If insolvency proceedings are commenced against Buyer before title passes to Buyer, without limiting any other right or remedy, the Buyer's right to use, process or sell the Goods in the ordinary course of business shall immediately cease and the Seller may at any time: (i) require the Buyer to deliver all Goods in its possession; and (ii) access any premises where the Goods are stored and collect the same.

6. Quantity and weight

The Goods shall be weighed by certified equipment at the Seller's premises prior to shipment and such weight shall be final and binding. The Buyer shall have no right to dispute the weight of the Goods or to reject the Goods on the basis of weight loss or shortage. The Seller shall have the right to deliver up to 10% above or below the ordered quantity of the Goods and adjust the applicable invoice accordingly.

7. Liability for defects

- (a) The Seller warrants that, upon delivery, the Goods will conform in all material respects to the specification set forth in the Purchase Order or on the applicable Invoice (or, if not set forth, to the product specification in effect at the time of delivery, which specification will be made available to Buyer upon request) (the Specification).
- (b) Without prejudice to clause 7 (a) it shall be the Buyer's responsibility to ensure that the Goods are fit for their intended purpose and to test the Goods before using them. The Seller shall have no liability to the Buyer in this respect.
- (c) Any material deviation from the specification (Defect) shall be reported to the Seller in writing as soon as possible if it is or should be visible upon delivery. The Seller shall be allowed a reasonable time to inspect the Goods and the Buyer shall, upon request, return the Goods to the Seller at the Seller's expense.
- (d) Subject to clause 7 (e), if the Seller has been validly notified of a justifiable defect, the Seller shall, at its discretion, replace the Goods or refund the price of the defective Goods. This is the sole and exclusive warranty right available to the Buyer in respect of defects.
- (e) The provision set forth in clause 7 (d) shall not apply if:
 - (i) The Buyer has used, modified or processed the Goods or combined them with other products or substances, unless these listed measures have not caused the defect;
 - (ii) The defect is due to normal wear and tear, intentional damage, negligence or exceptional working conditions;
 - (iii) The Goods deviate from the specification due to changes made to comply with applicable laws or regulations;
 - (iv) The Goods have not been properly handled, transported, stored or maintained after delivery (including during transport to the Buyer's premises at the Buyer's risk), unless this has not caused the defect;
 - (v) The Goods have been contaminated after delivery, unless such contamination has not caused the defect and the contamination does not unreasonably interfere with the remedy under clause 7 (d);
 - (vi) The Buyer continues to use the Goods after a defect has been discovered, unless such

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continued use is necessary for the Buyer to avoid further damage or if such continued use does not cause deterioration or further damage to the Goods and if such continued use does not interfere with the remedy under 7 (d);

- (vii) The Buyer has sold the Goods, unless this does not in practice preclude or impede the remedy under Clause 7 (d); and/or
- (viii) The defect arises as a result of the Seller following a specification or other requirement of the Buyer.
- (f) If the alleged defect is loss or damage during transportation (for which the Seller was responsible), this Section 7 shall apply provided that the Buyer shall notify the Seller in writing as soon as possible of the non-delivery of or damage to the Goods delivered to the extent brought to the Seller's attention.
- (g) Nothing in these Terms and Conditions, including (but not limited to) the provisions in this Section 7, shall limit Seller's remedies for willful misconduct and/or gross negligence or for damages resulting from personal injury or harm to health.

8. Liability

- (a) Except as provided in clause 8 (c), the Seller shall not be liable to the Buyer under any circumstances, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any third party loss, loss of profit, loss of production, loss of business or loss of opportunity and/or for any indirect, consequential or special or punitive damages arising out of or in connection with the delivery of Goods and/or the Contract.
- (b) Except as provided in clause 8 (c), the Seller's total liability to the Buyer in respect of all losses arising out of or in connection with the delivery of Goods and/or the Contract, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall in no circumstances exceed the price paid for the Goods which is the subject of such action, dispute or claim.
- (c) Nothing in these Terms and Conditions, including (but not limited to) any provision in Section 8, Section 4, Section 7 or Section 10, shall limit the liability of the Seller for willful misconduct and/or gross negligence or for damage arising from personal injury or harm to health.
- (d) The Buyer shall indemnify the Seller and its affiliates on demand against all losses, damages, liabilities, claims, fines, costs and expenses incurred by or brought against the Seller arising out of or in connection with any claim or demand of any kind by any third party to whom the Goods were sold (or resold) after the sale to the Buyer. Third party rights shall not be affected by this provision.

9. Force majeure

The Seller shall not be in breach of the Contract or liable for any delay in performance or failure to perform its obligations due to events beyond Seller's reasonable control, including interruptions or failures of utilities or transportation networks, acts of nature, floods, droughts, earthquakes or other natural disasters, epidemics or pandemics, wars or armed conflicts, terrorist attacks, riots or civil commotion; nuclear, chemical or biological contamination; sonic wave; malicious damage; governmental action or interference; compliance with applicable laws; equipment or machinery failure; building collapse, fire, explosion or accident; power supply restrictions; labor or trade disputes, strikes, labor disputes or lockouts; failure to obtain permits; adverse transportation or weather conditions; and/or failure of suppliers or subcontractors to perform. If performance is delayed by more than six months, either party shall be entitled to terminate the Contract immediately upon written notice without further obligation.

10. Termination

- (a) Without prejudice to any other right or remedy, the Seller shall have the right, without further obligation, to terminate any Contract and/or immediately cancel any Purchase Order or partial delivery upon written notice if: (i) the Buyer fails to make a payment in full on the due date; or (ii) the Buyer commits any other breach of the Contract.
- (b) Without prejudice to the provisions of Section 9, the Buyer shall not be entitled to cancel an order which has already been accepted.
- (c) In the event of termination or cancellation, all invoices shall become immediately due and payable by the Buyer together with the applicable interest. Clauses that expressly or implicitly survive termination or cancellation shall remain in full force and effect despite such termination or cancellation.

11. General

- (a) The Seller shall comply with applicable laws on the processing of personal data (including the GDPR). This processing shall be in accordance with the Privacy Policy (current edition available at <https://www.eppowergrit.com/en/privacy>).
- (b) If any provision or partial provision of a contract is or becomes invalid, illegal or unenforceable, the remainder of the terms and conditions shall continue in full force and effect.
- (c) Failure or delay to exercise (or incomplete exercise of) any right or remedy shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or limit the further exercise of that or any other right or remedy.
- (d) The Seller may assign, subcontract, transfer or otherwise deal in any manner with all or any part of its rights or obligations under a Contract at any time without Buyer's consent. The Buyer may not assign or transfer, subcontract or otherwise deal in any manner with its rights or obligations under a Contract without Seller's prior written consent.
- (e) A person who is not a party to a contract has no rights under it. Each Contract shall be entered into by the company named in the Purchase Order or otherwise specified in writing by Seller. The Buyer shall not be entitled to enforce the Contract against any other company of the Seller, and such other companies shall not be liable to the Buyer.

12. Applicable law and jurisdiction

- (a) These Terms and Conditions and any Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them, their subject matter or their creation shall be governed by and construed in accordance with the laws of the country in which Seller's registered office is situated. Each party irrevocably agrees that the courts of the territory in which Seller's registered office is located shall have exclusive jurisdiction to settle any dispute or claim (including non-

contractual disputes or claims) arising out of or in connection with these Terms and Conditions and any Contract, its subject matter or formation. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded in its entirety.

- (b) Notwithstanding clause 12 (a), the Seller shall be entitled to bring an action or claim in any country in which Buyer is domiciled and/or has assets.