



WINDER POWER

ENERGY DELIVERED

WINDER POWER LTD – GENERAL CONDITION OF PURCHASE

1. Definitions

1.1 In these conditions (these “Conditions”) the following terms shall have the following meanings:

“Business Day” means a day (other than a Saturday, Sunday or public holiday in the UK) when banks in London are open for business;

“Buyer” means Winder Power Limited with company number 05446559 and having its registered office at Grangefield House, Richardshaw Road, Pudsey, Leeds, West Yorkshire, LS28 6QS;

“Conflict Materials” means tantalum, tungsten, tin or gold, which originated from mines in the Democratic Republic of the Congo, Angola, Burundi, Central African Republic, Congo Republic, Rwanda, Sudan, Tanzania, Uganda or Zambia that directly or indirectly benefit unlawful armed groups in those countries;

“Contract” means the contract for the sale and purchase of the Goods and/or the supply and acquisition of the Services;

“Delivery Date” means the date for delivery as set out in the Order;

“Delivery Location” means the Buyer's premises, or the delivery location as set out in the Order;

“Director” means a director on the board of directors of the Buyer as appointed from time to time;

“Force Majeure Event” means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme weather conditions, or default of suppliers or subcontractors;

“Goods” means the goods described in or required by virtue of the Buyer's Order;

“Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, moral rights, trade marks and services marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or

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unregistered and including all applications and right to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist of, will subsist now or in the future in any party of the world;

“Order” means any purchase order issued by the Buyer for the Goods and/or services incorporating these Conditions;

“Quotation” means the price quoted by the Seller to the Buyer for the Goods and/or Services;

“Russia Regulations” means the Russia (Sanctions) (EU Exit) Regulations 2019 (SI 2019/855) as amended or restated from time to time;

“Sanctions” means any laws or regulations relating to economic or financial trade, immigration, shipping or other sanctions, export controls, trade embargoes restrictive measures from time to time imposed, administered or enforced by the UK and or the United Nations or any other governmental authority with jurisdiction over a party, and in each case their respective governmental, judicial or regulatory institutions, agencies, departments and authorities, including (without limitation) the UN Security Council, His Majesty’s Treasury and the UK’s Office of Financial Sanctions Implementation and Department of International Trade;

“Seller” means the seller of Goods and, where applicable, the provider of Services subject to the terms of the Buyer’s Order;

“Services” means the services (if any) described in or required by virtue of the Buyer’s Order;

“Specification” means in relation to the Goods and Services the technical specifications of those Goods and Services and documents detailing the requirements of the Services; all preparatory, design and development materials which relate to the Goods and Services; all Information of any description which fully explains the structure, design, operation and functionality of the Goods and how the Services will be performed; and all information of any description which relates to the maintenance and/or support of the Goods;

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time

2. Basis of contract

2.1 These Conditions shall apply to the Contract to the exclusion of all and any other conditions or contractual provisions (whether in conflict with these Conditions or not) included or appearing in any quotation, form of acceptance, delivery form, invoice or other document emanating from the Seller. For the avoidance of doubt, the Buyer shall not be deemed to accept such other conditions or contractual provisions by failing to object to provisions contained in any such document.

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- 2.2 These Conditions extend to the supply of Services as well as Goods.
- 2.3 Any reference to Goods shall include references to any instalments of the Goods or parts of them.
- 2.4 In the Contract and all future contracts between the Seller and the Buyer these Conditions shall be deemed to be incorporated except to the extent that they may be expressly varied in writing by the Buyer. No other term or condition whatsoever whether oral or written regardless of the date or dates upon which they were sent or exhibited by the Seller shall affect or vary these Condition and/or the terms or conditions upon which the Contract is made. For the avoidance of doubt, the Buyer shall not be deemed to accept such other conditions nor to waive any of these Conditions by failing to object to provisions contained in any communication from the Seller.
- 2.5 The Contract shall come into existence as soon as the Buyer provides the Seller with the Order. Provision of the Order by the Buyer constitutes acceptance of the Seller's Quotation.
- 2.6 Delivery of the Goods or commencement of performance of the Services will be deemed conclusive evidence of the Seller's acceptance of these Conditions.
- 2.7 Unless previously agreed in writing by a Director of the Buyer and the Seller, the Buyer shall not be liable or bound by the terms and conditions of a main contract or head contract imposed by a third party.

3. Specifications

- 3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Seller or agreed in writing by the Buyer.
- 3.2 The Buyer may at any time make changes in writing to the Order, including changes in drawings or Specifications, method of shipment, quantities, packing or time or place of delivery. If such changes result in an increase in cost of, or time required for, performance of the Contract, an equitable adjustment will be made to the price, delivery schedule or both. Any such claim or adjustment must be approved by the Buyer in writing before the Seller proceeds with such changes.
- 3.3 Any Specification supplied by the Buyer to the Seller, or specifically produced by the Seller for the Buyer, in connection with the Contract, together with the Intellectual Property Rights in the Specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any rights or any such Specification except to the extent that it is, or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.
- 3.4 Prior to delivery, the Seller shall inspect and test the Goods and, If applicable, the Services for compliance with the Order. The Seller shall, If requested by the Buyer,

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supply certified copies of the records of such inspection and tests free of cargo and will grant to the Buyer or its nominated representatives a right of access at all reasonable times for the purpose of checking progress and carrying out or witnessing test and/or inspection procedures. Any tests or inspection the Buyer may carry out shall not in any way diminish, affect or impair the Seller's obligations hereunder or at law and the Buyer shall be entitled either to refuse to accept delivery of, or subsequently return at the Seller's expense, as provided in these Conditions, Goods which the Buyer's Inspection or test show do not comply with the requirements of the Order.

- 3.5 The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging and delivery of the Goods and the performance of the Services.
- 3.6 The Seller shall not unreasonably refuse any request by the Buyer to inspect and test Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing.
- 3.7 If, as a result of inspection or testing, the Buyer is not satisfied that the Goods will comply in all respects with the Contract and the Buyer so informs the Seller within 5 Business Days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- 3.8 The Goods shall be marked in accordance with the Buyer's instructions and any applicable regulations or requirements of the carrier and properly packed and secured so as to reach their destination in an undamaged condition in the ordinary course.

4. Availability of spares

- 4.1 The Seller will hold and make available to the Buyer on demand a sufficient quantity and range of spares for the Goods for a reasonable period from the date of the last delivery of Goods under the Order.
- 4.2 If the Seller is unable to comply with the provisions of Condition 4.1 above, the Seller will provide at no cost to the Buyer sufficient information and technical data to enable the Buyer to manufacture or obtain such spares.

5. Tools

- 5.1 Tools, gauges, dies, jigs, patterns or drawings (together referred to as the "Tools") specifically furnished by the Seller for the purpose of the Order, shall be used solely for the manufacture of Goods to the Order and for no other purpose. Any Tools shall be kept by the Seller in good order and the Seller shall, where they are not already the Buyer's sole property, grant to the Buyer the right to acquire them or any of them on payment of the written down value thereof as appearing in the Seller's price list at the date the Buyer exercises such right less any payment by the Seller towards the

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original cost of purchase or manufacture. Tools supplied by the Buyer to the Seller shall remain the Buyer's property and be returned by the Seller immediately on request. Also, on request the Seller shall, at its cost, supply to the Buyer an inventory of all Tools furnished by the Seller or supplied by the Buyer hereunder.

6. Free issue

6.1 Full responsibility must be accepted by the Seller for the Buyer's materials/components sent out on a free issue basis which must be insured by the Seller against loss or damage. In addition, where free issue materials/components are supplied to the Seller direct by one of the Buyer's sub-contractors or suppliers, the Buyer shall have no liability as regards the return or other disposal of chargeable packing.

7. Identification

7.1 All Goods and, where applicable, Services supplied against the Buyer's Specification must, wherever practicable, be marked with the identity reference used on the Order. Packages must be marked with the appropriate Order reference and Order item number.

8. Deterioration of Goods

8.1 If the Goods are perishable or have a life expectancy of a fixed duration, or If any circumstances are or become known to the Seller which could adversely affect the life span of the Goods, the Seller will forthwith advise the Buyer in writing of all such information, which, when received by the Buyer, shall form part of the description of the Goods and shall be deemed to have formed part of such description with effect from the date of the Order.

9. Price of the Goods and Services

9.1 The price of the Goods and the Services shall be stated in the Order or (if not so stated) as published by the Seller or notified by the Seller to the Buyer at the date of the Order and, unless otherwise specified shall be:

9.1.1 exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a VAT Invoice); and

9.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the delivery address and any duties, imports or levies other than value added tax.

9.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer (in writing).

9.3 Any increased costs due to a change in law will be borne by the Supplier.

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9.4 The Buyer shall be entitled to any discount for prompt payment, bulk purchase, or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

10. Payments and Retentions

10.1 The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services, as the case maybe, and each invoice shall quote the number of the Order. Payment is due within 60 days of receipt by the Buyer of such invoice. Time for payment is not of the essence.

10.2 If a party fails to make any payment due to the other under this agreement when due then, without limiting the other party's remedies, the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above the base rate of Barclays Bank plc from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the Interest together with the amount due. This clause shall not apply to payments that the defaulting party disputes in good faith.

10.3 All costs, damages or expenses for which, under the terms of the Contract, the Seller is liable may be deducted by the Buyer from any monies due or becoming due to the Seller under the Contract, such right being without prejudice to the Buyer's rights to take action against the Seller to recover the same.

11. Delivery

11.1 The Supplier shall deliver each Order to the Delivery Location and on the Delivery Date. The Seller shall not deliver an Order more than 2 (two) Business Days in advance of the date specified for delivery without the prior written consent of the Buyer.

11.2 Goods delivered in excess of the quantity ordered need not be paid for and the Buyer shall have no responsibility in respect of them except to notify the Seller of receipt.

11.3 Where the Delivery Date of the Goods or performance of the Services is to be specified after the placing of the Order, the Seller shall give the Buyer reasonable notice of the specified date.

11.4 The Delivery Date and time of delivery of the Goods and of performance of the Services is of the essence of the Contract.

11.5 A packing note must accompany each delivery or consignment of the Goods and must be displayed prominently, such packing note must quote the number of the Order, and also describe the Goods with quantities.

11.6 The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any inherent defect in the Goods has become apparent.

11.7 If all or any part of any combination of parts of the Goods and Services is rejected by the Buyer, the Buyer may reject all of the Goods and Services, or it may commence, use and continue use of the remainder of the Goods and Services, whether they are delivered or performed before or after the rejection of any of the Goods and Services.

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- 11.8 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single Contract and not several.
- 11.9 The Seller shall supply the Buyer, in good time, with any instructions or other information required to enable the Buyer to accept delivery of the Goods and performance of the Services.
- 11.10 The Buyer shall not be obliged to return to the Seller any packaging materials for the Goods, whether or not any Goods are accepted by the Buyer
- 11.11 If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, the Buyer shall be entitled to cancel the Contract in whole or in part.

12. Origin and instructions

- 12.1 The Seller shall, upon receipt of a request from the Buyer, provide to the Buyer evidence of the place of origin of Goods or parts thereof or of raw materials utilised in their manufacture.
- 12.2 The Seller shall submit with the Goods, full instructions for use and clear warnings with respect to anything which may reasonably be done or omitted to be done in relation to the Goods and which could render them unsafe.
- 12.3 The Seller declares and certifies that all products or goods supplied by the Seller to the Buyer:
 - 12.3.1 do not contain Russian-origin iron or steel components or materials that are listed under the Russia Regulations;
 - 12.3.2 are not prohibited for importation into the UK under the Russia Regulations.
 - 12.3.3 are not subject to any Sanctions related to their importation.
 - 12.3.4 do not contain any Conflict Materials.

13. Risk and Property

- 13.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery to the Buyer in accordance with the Contract, unless payment is not received by the time of delivery in which case risk will pass on payment.
- 13.2 The property in Goods shall pass to the Buyer upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Buyer, once payment has been made and the Goods have been appropriated to the Contract.

14. Confidentiality

- 14.1 The Seller shall keep in strict confidence, all technical know-how, inventions, or processes which are of a confidential nature and have been disclosed to the Seller by the Buyer, or its agents, and any other confidential information concerning the Buyer's business, which the Seller may obtain and the Seller shall restrict disclosure of such confidential material to such of its employees as need to know the same for the purpose of discharging the Seller's obligations to the Buyer and shall ensure that such employees are subject to the same obligations of confidentiality as bind the Seller.

15. Warranties and Liability

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- 15.1 The Seller warrants to the Buyer that the Goods and their manufacturing, packaging and delivery for a period of 18 months from delivery shall:
- 15.1.1 be of merchantable quality and fit for any purpose held out by the Seller or made known to the Seller in writing at the time the Order is placed;
 - 15.1.2 be free from defects in design, material and workmanship;
 - 15.1.3 conform in all respects with their description and with any relevant Specification or sample;
 - 15.1.4 be of satisfactory quality (within the meaning of the Consumer Rights Act 2015) and,
 - 15.1.5 comply with all other statutory requirements and regulations relating to the sale of Goods.
- 15.2 The Seller warrants to the Buyer that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence, in accordance with all applicable laws and regulations, in compliance with the Buyer's reasonable instructions and to such high standard of quality as it is reasonable for the Buyer to expect in all the circumstances.
- 15.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract then the Buyer shall be entitled:
- 15.3.1 to require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 5 Business Days, or
 - 15.3.2 at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the price which has been paid.
- 15.4 The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with
- 15.4.1 breach of any warranty given by the Seller in relation to the Goods or the Services
 - 15.4.2 breach of condition 14.1;
 - 15.4.3 any claim that the Goods infringe, or their importation, use or resale, infringe Intellectual Property Rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer.
 - 15.4.4 any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods;
 - 15.4.5 any act or omission of any of the Seller's personnel in connection with the performance of the Services; and
 - 15.4.6 all claims made against the Buyer in respect of any loss damage or expense sustained by the Buyer's servants or agents or by any customer or other third party to the extent that such loss damage or expense was caused by, relates to or arises from the Goods or the Services including (without prejudice to the generality of the foregoing) any claim against the Buyer under the Consumer Protection Act 1987 In respect of the Goods.
- 15.5 Neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure was due to a Force Majeure Event.
- 15.6 Nothing in these Conditions shall limit or exclude the Seller's liability for;

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- 15.6.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable).
- 15.6.2 fraud or fraudulent misrepresentation;
- 15.6.3 breach of the terms implied by section 2 of the Sale and Supply of Goods and Services Act 1982
- 15.6.4 defective products under the Consumer Protection Act 1987; or
- 15.6.5 any matter in respect of which it would be unlawful for the Seller to exclude or restrict liability.

16. Termination

- 16.1 The Buyer shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance and should the Buyer choose to exercise such right the Buyer shall have no liability to the Seller.
- 16.2 The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:
 - 16.2.1 the Seller commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after receipt of notice in writing requiring it to do so;
 - 16.2.2 the Seller commits a series of persistent minor breaches which, when taken together, amount to a material breach;
 - 16.2.3 the Seller makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction);
 - 16.2.4 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller,
 - 16.2.5 the Seller ceases, or threatens to cease, to carry on business;
 - 16.2.6 there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010);
 - 16.2.7 the Buyer reasonably anticipates that any of the events mentioned in 16.2.3 to 16.2.6 is about to occur in relation to the Seller and notifies the Seller; accordingly, or
 - 16.2.8 if the Seller shall have offered or given any bribe or inducement in relation to the obtaining of this Contract or any other Contract with the Buyer.

17. No Assignment

- 17.1 The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under the Contract without the written consent of the Buyer.

18. Notices

- 18.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance

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with this Condition, and shall be delivered personally, sent by pre-paid first class post, recorded deliver, commercial courier, fax or email.

18.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in condition 18.1; if sent by pre-paid first class post or recorded delivery, 48 hours after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or immediately upon receipt of confirmation of delivery if sent by fax or email.

18.3 The provisions of this Condition shall not apply to the service of any proceedings or other documents in any legal action.

19. Entire Agreement

19.1 The Contract (including these Conditions) constitutes the whole agreement and understanding of the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this Contract. Each party acknowledges that it has not relied upon any warranty, representation, statement or understanding other than those expressly set out in the Contract.

19.2 Nothing in this clause shall limit or exclude any liability for fraudulent misrepresentation.

20. Waiver and Variation

20.1 No failure to exercise or delay in exercising any right or remedy provided under the Contract or by law constitutes a waiver of such right or remedy, nor shall it prevent or restrict any future exercise or enforcement of such right.

20.2 No single or partial exercise or any right or remedy under the Contract shall prevent or restrict the further exercise of that or any other right or remedy.

20.3 Except as set out in these Conditions, any variation to the Contract, including the introduction of additional terms and conditions, shall only be binding when agreed in writing and signed by Winder.

21. Validity

21.1 If any provision of the Contract (or these Conditions) is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract (or of these Conditions) and the remainder of the provision in question shall not be affected thereby.

22. Third Party Rights

22.1 Except where expressly provided in the Contract, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties Act 1999) to enforce any term of this agreement.

23. Governing Law

23.1 The Contract (and these Conditions) shall be governed by and construed in accordance with the laws of England and the parties agree to submit to the exclusive jurisdiction of the English courts.

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