

1. VALIDITY

These general terms and conditions for sale and delivery shall apply to the sale of spare parts and service by Zeppelin Danmark A/S – Power Systems (hereinafter "ZPDK") to the buyer, unless otherwise agreed in writing between ZPDK and the buyer. The terms and conditions may be amended by ZPDK without notice.

2. OFFER

All offers submitted by ZPDK shall be valid for four weeks, unless otherwise explicitly stated in the offer. An agreement is not final until the buyer has received a written order confirmation from ZPDK.

3. SPECIFICATIONS AND DRAWINGS

Illustrations, specifications and technical data such as weight, dimensions, volume, performance, power requirements, etc. in brochures and other promotional materials are for information only and should only be used as guidance. The drawings included with offers and deliveries must not be reproduced. Similarly, such drawings and any accompanying illustrations and printed material must not be made available to competing firms. In the event that an offer is not accepted, all construction drawings shall be returned to ZPDK. Any form of material or documentation, which the buyer receives from ZPDK, shall be the property of ZPDK.

4. DELIVERY TIME AND DISPATCH

All delivery times shall be guiding and stated with reservation for the delivery times applicable to ZPDK's suppliers and subject to prior sale.

5. FORCE MAJEURE

No party shall be liable for delays or non-performance of its obligations under the agreement (except for payment), provided that the delay or non-performance was caused by an event which (i) makes performance of the agreement impossible; (ii) is beyond the control of the affected parties; (iii) could not have been avoided or prevented by the party, including, but not limited to, and provided that the above conditions are fulfilled; strike, lockout, work stoppage, industrial dispute, scarcity of goods, shutdown, transport delay, fire, flooding, earthquake, rough weather, natural disaster, accident, trade sanction, embargo, war, epidemic/pandemic, national state of emergency, new or amended legislation, and non-delivery or delayed delivery from sub-suppliers caused by any of the above-mentioned circumstances (a "Force Majeure event").

If the fulfilment of an obligation under the agreement requires that ZPDK's employees, agents, sub-suppliers or suppliers go abroad, and the travel to the required destination is limited or advised against by the Danish Ministry of Foreign Affairs or a similar institution, such limitation or travel advice shall be deemed to be a Force Majeure event.

The affected party shall be released from the performance of the obligation as long as the Force Majeure event exists.

6. DELIVERY AND TRANSFER OF RISK EXW (EX WORKS)

6.1. Terms of delivery are Ex Works (Incoterms®2020) ("EXW").
6.2. Unless otherwise agreed in writing, loading and dispatch shall take place at the buyer's risk and expense, and ZPDK shall not in any event be held liable for any irregularities in this connection, including delays, loss or damage to the shipment. Upon written request, ZPDK will be able to help arrange transport and insurance on behalf of the buyer, which, however, will still take place at the buyer's expense and risk.
6.3. The sold products shall be deemed to be delivered at the passing of the risk, unless otherwise expressly agreed in writing. This shall also apply even if ZPDK subsequently carries out any remedial work, cf. clause 13.3, or makes a supplementary delivery of parts which are of minor financial importance compared to the whole delivery.

7. OWNERSHIP RESERVATION

The ownership of the delivered products shall remain with ZPDK until the purchase price including interest and delivery costs have been paid in full into ZPDK's account. The buyer must not actually or legally dispose of the sold products in a way that may be detrimental to ZPDK's security.

8. PRICES

8.1 Unless otherwise agreed in writing, the price shall not be final until the confirmation of order. Unless otherwise expressly stated, all prices are EXW from ZPDK's warehouses. The prices shall be subject to alterations in prices from ZPDK's suppliers or factory and forwarding expenses as well as duties imposed by the authorities. In the event that customs duties are changed before the product is imported to ZPDK, the difference shall be charged or credited to the buyer's account.
8.2 The minimum invoice amount shall be EUR 100 per order. If the order amount is below EUR 100, ZPDK will charge a fee to increase the order value to EUR 100.

9. RETURN OF SPARE PARTS

9.1. Prior to physical return, all returns must be approved in advance by ZPDK and be labelled with return numbers. Any spare parts returned must be new, in stock and in fully marketable condition. The original packaging for each part returned must be intact. The spare parts shall be labelled with spare part number and a packing slip must be attached.
9.2. Spare parts, which are not returned within 90 days, or which ZPDK does not have in stock, shall not be deemed to be returned products but repurchases and require agreement in each individual case.
9.3. Any agreements between ZPDK and the purchaser regarding repurchase or incorrect shipments must be stated in the covering letter.
9.4. Small parts with a value below EUR 40 per spare part number/ item number will not be credited.
9.5. Spare parts from a kit/set and parts of assembled units will not be credited.
9.6. Return freight and payment of duties in connection with the return shall be at the buyer's risk and expense, and crediting shall be based on ZPDK's counting of the received parts. Collect shipments, shipments at the expense of ZPDK, or equivalent will be rejected.
9.7. Returned parts which are not approved by ZPDK will be discarded unless otherwise expressly agreed.
9.8. When the returned products are received and approved by ZPDK within 30 days after the delivery date, the buyer will be credited 90% of the invoice value. The buyer will be credited 85% of the invoice value for products returned between 30 and 90 days after the delivery date. Any discounts will be deducted before any return costs are calculated.
9.9. Products returned without a covering letter shall be deemed to be older than 90 days. The value shall then be determined in each individual case by ZPDK and buyer's account will be credited the amount.

10. TERMS OF PAYMENT

10.1 Unless otherwise agreed in writing, the term of payment is 30 days from the invoice date. Prior to the start of work and while work is ongoing, ZPDK shall have the right to demand prepayment of up to 100% of the value of the estimated work, travel cost and usage of parts.
10.2. In the event of overdue payment, interest will be charged pursuant to section 5, subsection 1, of the Danish Interest Act. Default interest will accrue from the invoice date until payment is made.
10.3 Unless otherwise agreed, invoices will be issued at or prior to delivery at the choice of ZPDK. In the event that additional costs are incurred during the performance of the work for which a prepayment has been made, ZPDK will issue an invoice for such additional work to be paid by the buyer. In any circumstances payment shall be made without set-off. Only payment by bank transfer is accepted.

11. DELAY

11.1. In the event that a Force Majeure event should arise, cf. clause 5, the delivery time will be prolonged by the time of duration of the Force Majeure event.
11.2. If the agreed delivery time - suggested or guaranteed - is exceeded by six months or more, the buyer shall be entitled to terminate the agreement and claim a refund of any prepayments.
11.3. If ZPDK cannot make delivery within the delivery time suggested to the buyer, ZPDK shall be entitled to terminate the agreement with the buyer without any financial consequences for ZPDK except for repayment of any advance payment of the purchase price.
11.4. ZPDK shall not assume any liability in case of delayed delivery. Consequently, the buyer shall not be entitled to claim compensation from ZPDK for any direct and/or indirect loss suffered as a result of delayed delivery or consequential termination of agreement (by either ZPDK or the buyer).
11.5. The provisions in clause 11 substitutes for clauses 21 to 28 of the Danish Sale of Goods Act.

12. CANCELLATION

12.1. Cancellation of the service orders shall be made in writing. If notification of cancellation is received by ZPDK later than three working days before the planned start-up, the buyer shall pay a cancellation fee to ZPDK equivalent to the cost of the first working day in accordance with the applicable hourly rates. In addition, the buyer shall in any event compensate ZPDK for any costs for travel, equipment rental, etc. related to the order and which ZPDK is not able to cancel without costs.
12.2. Cancellation of ordered, but undelivered, spare parts requires the consent of ZPDK. In case of cancellation, the buyer will be charged a cancellation/return fee equivalent to 20 % of the agreed price for the cancelled parts.
12.3. In case of ex-works delivery – or if the sold products are to be delivered wholly or partly by a sub-supplier – the buyer shall only be entitled to terminate the agreement if ZPDK is able to exercise the right of cancellation against its supplier. It is a precondition that the buyer has been notified of the terms of sale of the delivering factory or the sub-supplier.

13. DEFECTS AND COMPLAINTS (INCLUDING LIMITATION OF LIABILITY)

13.1. Unless otherwise expressly agreed, ZPDK shall only be liable for defects proved to arise from material or assembly defects within the following period of time as from the date of delivery or completion of work:

- The right of complaint for new original Cat or MaK spare parts, REMAN® and REParts®, shall be valid for 12 months.
- The right of complaint for reconditioned (or repaired) components or serviced performed by ZPDK shall be valid for six months or 2000 operating hours, whichever comes first.
- The right of complaint for new spare parts of another make than Cat and MaK, REMAN® and REParts®, shall be valid for eight days.

13.2. The buyer undertakes to examine the sold products immediately upon delivery and/or inspect the work as soon as it is completed. Any complaint relating to the delivery shall be submitted in writing and no later than two weeks after the lack of conformity giving rise to the complaint was discovered or ought to have been discovered. A filled notification form with documentation and description of the defect must be enclosed with the complaint. The buyer shall prove the existence of the defect. If the complaint is not submitted as indicated above, the buyer shall forfeit any right to claim remedy for breach, including the possibility of remedial work.

13.3. Provided that the complaint is timely, in writing and approved by ZPDK, ZPDK shall be entitled, without undue delay, to remedy the defect. ZPDK shall determine how to remedy the defect, including whether the remedial work shall consist of insertion of new parts, exchange parts or repair work, and where the remedial work is to take place.

13.4. With regard to complaints on parts approved by ZPDK, ZPDK shall at its own discretion replace the defective parts, exchange parts and equipment by new or repaired parts. If the complaint concerns parts adapted by others than ZPDK, ZPDK shall only be obligated to remedy the defective part, and consequently ZPDK shall not be liable for any costs related to dismantling/assembly as well as any other cost or loss caused by the adaptive measures, including costs for re-fitting of parts after remedy of defects. All costs and risks related to shipments shall be borne by the buyer.

13.5. In the event of complaints regarding service work approved by ZPDK, ZPDK shall pay all costs related to the remedial work and parts as well as ZPDK's reasonable travel expenses (limited to travel costs to the original place of work/service) and reasonable accommodation costs in connection with the performance of the work. It is a condition that the work is performed by ZPDK's service technicians during normal working hours, or by others upon written agreement with ZPDK. Extra costs for obligatory overtime work, or work which is not covered by the remedial work, shall always be paid by the buyer. In any event, ZPDK reserves its right to claim compensation from the buyer for expenses incurred by ZPDK if service technicians are called in unnecessarily or in case of incorrect complaints.

13.6. ZPDK shall not be liable for any costs related to insertion of engines or equipment in a repair facility (e.g. expenses for repair work, transport or rent), and consequently such costs shall be paid by the buyer unless otherwise prior agreed in writing.

13.7. All replaced parts belong to ZPDK and shall come into ZPDK's possession within 30 days from the repair date. If the part(s) are not returned as stated above, any liability of ZPDK will lapse, and consequently the buyer shall pay all costs related to the remedial work and/or the forwarded spare parts.

13.8. Except for the above provision regarding remedy of defects, the buyer shall not be entitled to raise other claims against ZPDK in connection with alleged defects.

13.9. In the event of defects, ZPDK shall not be liable for any direct or indirect loss suffered by the buyer or any third party due to the defects, including operating loss, loss of earnings, and other financial consequential losses.

13.10. ZPDK shall not be liable for faults, deficiencies or damage caused by age, fair wear and tear, use of unapproved lubricants, use of unoriginal spare parts, improper or unusual treatment or use, inadequate maintenance, or overloading etc. Nor shall ZPDK be liable for any faults, deficiencies, damage or loss caused by the buyer's neglect of its duty to mitigate damages or failure to complete work or initiate measures to limit the damage or loss.

13.11. If a sales item, including engines, is modified or repaired without prior written approval of ZPDK, ZPDK shall not be liable for any costs related to this. If such modification or repair work takes place, ZPDK's liability for any defects in the delivery shall lapse.

13.12. With respect to replacement parts or work provided by ZPDK in connection with remediation of a defect, for which ZPDK is responsible, the deadline for complaints shall expire simultaneously with the deadline for complaints of the original delivery, cf. clause 13.1.

13.13. The original buyer alone shall be entitled to raise liability claims against ZPDK for faults and/or deficiencies in deliveries.

14. LIMITATION IN PRODUCT LIABILITY

14.1. ZPDK shall not be liable for any damage caused by the delivered products on real property or movables, or for any consequential damage. Nor shall ZPDK be liable for any damage on products manufactured by the buyer or products in which the buyer's products are incorporated.

14.2. ZPDK disclaims any liability in the event of alterations or modifications of the delivered products without the written approval of ZPDK as well as in the event of non-compliance of applicable rules, regulations or instructions.

14.3. In any event, ZPDK's product liability shall be limited to EUR 10,000,000 per damage.

14.4. ZPDK shall under no circumstances be liable for any operational loss, loss of time, loss of profit, loss of use, or any financial consequential loss, consequential damage or indirect loss, which the buyer or the buyer's customers or other users of the delivered products may suffer.

14.5. The buyer shall indemnify ZPDK to the extent that ZPDK is held liable towards a third party for such damage or such loss, which ZPDK is not liable for according to the above provisions in this clause.

14.6. The above limitations in ZPDK's liability shall not apply to the extent that they are contrary to mandatory legislation or if ZPDK has exercised gross negligence.

14.7. In the event that a claim is raised by a third party against ZPDK or the buyer regarding compensation for damage or loss pursuant to this clause, the other party shall immediately be notified of this in writing.

15. WORKPLACE AND WORK ENVIRONMENT REQUIREMENTS

15.1. In the event that work is performed under the agreement by ZPDK at the buyer's premises or outside ZPDK's workshop, the buyer shall be responsible and bear the risk for ensuring that the workplace is properly secured and prepared no later than at the agreed start time, and that the work can be performed according to ZPDK's safety standards.

15.2. ZPDK shall not be obligated to commence or perform any work which may involve an undue or unacceptable danger or risk, or if the workplace is not properly secured or prepared. The buyer shall compensate ZPDK for any costs or losses arising as a result of the fact that the workplace has not been secured as stated in clause 15.1 or prepared according to agreement.

16. LIMITATION OF LIABILITY

16.1 With the exception of the duty to remedy defects and standardized compensation as stated in clauses 13 and 14, ZPDK shall not be liable for any compensation, price reductions or other direct, special, incidental or indirect losses, including, but not limited to, loss of income, loss of actual or anticipated profits, lack of funds, loss of anticipated savings, loss of sales, loss of sales opportunities, loss of goodwill or any other consequential loss, including loss resulting from damage to equipment or property, as well as any costs for repair of such damage or loss, irrespective of whether the claim is based on a complaint, liability relating to the law on the sale of goods, or any other legal basis.

16.2. Any claim for compensation arising out of an agreement with ZPDK shall in any circumstances be limited to the direct documented loss, however, never exceeding the invoice value of the work or the parts comprised by the agreement, provided that no express agreement has been entered into in writing. The buyer shall in every case document the loss suffered and that ZPDK is responsible for this. These terms and conditions shall limit ZPDK's liability for delays, defects, faults, and product damage compared to the general rules of Danish law.

17. APPLICABLE RULES; INCLUDING EXPORT CONTROL AND SANCTIONS

The buyer shall comply with all applicable laws, rules and regulations including export controls, sanctions, embargoes, and other restrictions in connection with products delivered by ZPDK under these terms and conditions. The buyer warrants that any products delivered by ZPDK will not be re-exported, sold, transferred, or used contrary to the aforesaid laws, rules and regulations. The buyer shall secure, defend and indemnify ZPDK and its affiliates/business partners against all claims, losses, damage, costs, penalties, and/or duties suffered by or imposed on ZPDK due to non-compliance of the above warranty.

18. VENUE AND CHOICE OF LAW

18.1 Any disputes arising out of agreements with ZPDK regarding work and deliveries as well as anything related thereto shall be settled finally and conclusively by arbitration under Danish law.

18.2 The arbitration tribunal shall reside in Copenhagen, Denmark, and the language of the matter shall be Danish, provided that the contracting party is a legal entity registered in Denmark, or English in all other instances.

19. PRIVACY AND PERSONAL DATA

19.1. The parties shall make every effort to enable the other party to fulfil its obligations in accordance with applicable legislation and regulations in respect of the protection of the buyer's personal data.

19.2. In connection with the fulfilment of its obligations during the term of the agreement, ZPDK shall comply with all applicable relevant rules and regulations in respect of the protection of the buyer's personal data.

19.3. ZPDK shall only process personal data relating to the buyer on behalf of the buyer, in so far as required to fulfil its obligations under the agreement.

19.4. ZPDK shall implement appropriate technical and organisational measures to protect the buyer's personal data against any unauthorised or unlawful processing.

