

**EPC Power Corp.**  
**General Terms and Conditions**

1. **Acceptance of Purchase Order.** These General Terms and Conditions (“T&Cs”) shall represent the binding purchase order agreement between EPC Power Corp. (“EPC”) and the supplier / provider (“Seller”) referenced on the purchase order (“P.O.”). By acceptance of the P.O., both EPC and Seller (collectively, the “Parties”) mutually agree to the terms and conditions outlined in these T&Cs as first precedence, unless otherwise noted, mutually approved, and documented.
  - a. Cost / price (“Price”) on the P.O. shall include all of Seller’s required materials, labor, packaging, storage, taxes, fees, overhead required to produce the P.O. line item (“Goods”).
  - b. This P.O. is considered accepted within five (5) business days of receipt if no communication in writing is received from the Seller. Any Seller delay in the execution of this P.O. shall be communicated as soon as possible to EPC in writing and shall include a revised schedule and/or recovery plan to meet the requirement date(s) on this P.O. Any additional costs incurred by Seller in meeting the requested schedule shall be borne by the Seller unless prior written approval is given by EPC.
  - c. Seller shall provide, where applicable, a separate estimate for tariffs and expedite fees (excluding standard freight costs) for EPC’s review and potential inclusion as a separate service line item on the P.O. Notwithstanding any estimate, the Price listed in the P.O. is deemed to be fully inclusive of all tariffs, duties, customs charges, and any other government-imposed fees applicable to the Goods or services supplied by Seller. Seller shall be solely responsible for the payment of any such charges, including any new, additional, or increased tariffs or duties imposed after the P.O. date. Seller may not request reimbursement for such costs unless expressly agreed to in writing by EPC prior to acceptance of the P.O.
  - d. Seller shall ensure that all relevant obligations under these T&Cs are flowed down to any subcontractor or supplier of materials used to produce the Goods requested on the P.O.
  - e. Entire Agreement. This P.O., including and together with any related exhibits, schedules, attachments, and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding such subject matter.
2. **Change Management.**
  - a. Any changes to the P.O., including but not limited to these T&Cs, quantities, Price, fees, charges, taxes, tariffs, part numbers, and associated revisions to drawings or specifications, shall require the mutual written agreement of both Parties prior to implementation. Any tariff or duty changes imposed after the P.O. date shall not entitle the Seller to adjust pricing unless separately negotiated and approved by EPC as part of a change order.
  - b. For production items, these changes shall be communicated by EPC’s authorized procurement department personnel only. For any changes requested verbally or in writing by any other group within EPC’s organization, the Seller shall direct them to work through EPC’s authorized procurement department personnel, or the Seller shall be liable for any rework that may arise from requested changes from any EPC’s unauthorized personnel.
  - c. Any cost impact associated with these changes shall be considered the cost of doing business, unless specified and agreed upon prior to the execution of those changes. The Seller has five (5) business days to request and come to agreement with EPC on a reasonable equitable adjustment for any changes.
  - d. No substitution of any materials, parts, or accessories may be made without EPC’s written prior approval. EPC shall be notified of any significant changes in the Seller’s systems, processes, organization, and facilities / locations.
  - e. Seller may request a deviation or waiver from EPC in cases where there are changes required to produce the requested item, which Seller has determined to be in EPC’s best interest (e.g., tolerances, clarification of specs, drawings, or other technical information). These cases require EPC’s written approval prior to execution of the waiver.
3. **Packaging, Shipping, Delivery and Inspection.**
  - a. Seller shall ensure that Goods are packaged to prevent any handling and transportation damage during normal transportation. The packaging cost shall be considered as part of the cost of the Goods, i.e., it should not be broken out on the invoice (see 1.a.).
  - b. The packaging shall include the following paperwork, information and labeling: packing list with P.O. number, P.O. ship to address, EPC part number, Seller’s part number, quantity, weight; bill of lading with all required customs and import / export documentation, taxes, tariffs, US HTS code (as required); certificate of conformity (CoC); material safety data sheet (MSDS); calibration certificates (as required); and country of origin / manufacturing.
  - c. The shipment of Goods shall be considered Delivered Duty Paid (DDP - Incoterms 2020). If alternate Incoterms are agreed upon prior to shipment that requires EPC to pay for shipment from Seller’s location, EPC’s preferred carrier as noted in the P.O. will be used. Any expedited shipping method and associated costs resulting from Seller’s delay shall be borne by the Seller unless mutually agreed upon in writing prior to shipment. If not mutually agreed upon prior to shipment, Seller shall be responsible for any additional shipping costs that may be incurred.
  - d. Time is of the essence in delivering the Goods. Delivery shall not be earlier than five (5) business days prior or zero (0) business days later than the required delivery date on the P.O. without prior written approval. For late deliveries, EPC shall be entitled to impose late delivery fees of: (i) 0.1% of the P.O. value per calendar day for the first seven (7) days following the required delivery date, and (ii) 0.2% of the P.O. value per calendar day thereafter, up to a maximum of 20% of the P.O. value. Such late delivery fees represent a reasonable pre-estimate of damages and shall be treated as liquidated damages, not

penalties. These liquidated damages shall be in addition to, and not in lieu of, any other remedies available to EPC under this agreement or applicable law.

- e. For any shipments received prior to five (5) business days without prior authorization, EPC reserves the right to refuse delivery and the Seller shall incur the costs for the return freight and re-delivery of the Goods per the P.O. required delivery date.
- f. Partial deliveries (less than full P.O. line quantity on a given date) shall only occur when specifically requested by EPC. Any additional shipping costs associated with partial deliveries that were not specifically requested by EPC, shall be at Seller's cost. Any over-delivery or future delivery received without prior approval shall be returned to the Seller at Seller's cost.
- g. EPC shall visually inspect and/or functionally test (where applicable) the Goods within five (5) business days of delivery. If any damage or discrepancies are noted, EPC shall have an additional five (5) business days to notify the Seller and request an RMA or agree upon the most cost-effective resolution to the issue.

#### **4. Invoicing, Payment, and Net Terms.**

- a. Seller shall invoice upon confirmed delivery to EPC's delivery location specified on the P.O. The invoice shall include all relevant data from the P.O., specifically P.O. number, ship to / bill to address, EPC part numbers, Seller's part numbers, quantity, price per unit, total cost per line item, tariffs, expedite fees (when applicable).
- b. EPC has tax exempt status and resale certificates for production material; no state tax sales shall be applied to the invoice. For international shipments, any applicable tariffs shall be applied per import / export regulations and on a separate invoice line.
- c. The Seller shall submit all invoices in United States dollars (\$ USD). EPC shall pay all invoices in USD. Invoices submitted in any currency other than USD shall be charged a 2% currency conversion fee that shall be subtracted from the total amount due on Seller's invoice.
  - i. Exchange rate shall be determined by the current data (invoice date) from United States Federal Reserve Board (<https://www.federalreserve.gov/>). Select "Data", "Exchange Rates and International Data", "Foreign Exchange Rate".
- d. EPC payments to Seller shall be processed weekly per the agreed upon P.O. terms outlined below. Any exceptions to these terms shall be mutually agreed upon prior to the Seller's acceptance of the P.O.
  - i. All P.O.'s / invoices shall be paid on Net-60 terms or,
  - ii. Per previously approved and agreed upon written terms or specific milestone payment schedule.
- e. Any Seller requiring a downpayment at time of P.O. placement shall apply the downpayment prorated / spread evenly across deliveries when later invoiced at delivery and shall not apply the downpayment in whole to any single P.O. line, unless there is only one P.O. line.
- f. All service invoices shall be dated within the same calendar month in which the services were provided.
- g. EPC will have the right to set off any undisputed amount then owing from Supplier to EPC against amounts shown on any invoice.

#### **5. Title to the Goods and Warranties.**

- a. Title to the Goods. The risk of loss and title to Goods supplied by Seller to EPC pursuant to the Work Scope shall pass upon delivery to EPC which shall be Delivered Duty Paid (DDP - Incoterms 2020) unless alternate Incoterms are agreed upon prior to shipment.
- b. Warranties. Seller warrants that Goods shall be delivered free from defects in material, workmanship, and title and that the services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications, as identified in the specific P.O. The warranty period shall commence upon delivery of the Goods or completion of services.
  - i. The Seller warrants that the services performed by it hereunder will be performed in a professional, competent, and workmanlike manner, in accordance with the highest industry standards and best practices, and in compliance with all applicable laws, regulations, and specifications set forth in this Agreement. In the event the services do not conform, such nonconforming services shall be corrected by Seller.
  - ii. If Goods or services do not meet the above-warranties, EPC shall promptly notify Seller in writing prior to expiration of the warranty period. The Seller shall (i) at its option, repair or replace defective Goods and (ii) re-perform defective services. If despite the Seller's reasonable efforts, a non-conforming Good cannot be repaired or replaced, or non-conforming services cannot be re-performed, Seller shall refund, or credit monies paid by EPC for such non-conforming Goods and services.
  - iii. Seller shall pass through all original equipment or component manufacturer (OEM and OCM) warranties to EPC and EPC's customers. In addition, unless previously agreed in writing by the Parties or included in stated warranty terms, Seller shall provide a one-year warranty for all workmanship issues and a two-year warranty for electrical or mechanical components that are determined to be latent or early life failures without special cause, i.e. caused by a third party. Any epidemic failure (defined as failure of 2% or more of same components within warranty period) shall extend warranty for affected component type by additional twelve (12) months.

#### **6. Counterfeit Parts.**

- a. Seller shall ensure that all components used in the Goods provided to EPC originate from the original equipment or component manufacturer (OEM and OCM) or an OEM or OCM authorized or franchised (with EPC approval and certification testing) reSeller or distributor.
- b. Seller shall do whatever is necessary to ensure that no counterfeit materials are used in the Goods provided to EPC. When any "gray market" parts are provided, Seller must perform, at its own expense and prior to delivery: x-ray analysis, decapsulation

testing, solderability testing, die comparison, comparisons to a golden sample, and verify date codes are within last two (2) years. Test results must be provided to EPC for review and approval before incorporation into Goods.

**7. Confidentiality.**

- a. Confidential Information. All non-public, confidential, or proprietary information of each Party, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by either Party to the other, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," in connection with this P.O. is confidential, solely for the use of performing this P.O. and may not be disclosed or copied unless authorized by the disclosing Party in writing.
- b. Upon the disclosing Party's request, the recipient of information shall promptly return all documents and other materials received from the other Party. The recipient shall be entitled to seek injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to the recipient at the time of disclosure; or (c) rightfully obtained by the recipient on a non-confidential basis from a third party. Each Party agrees that it shall not violate contractual owed agreements to third-parties in performing obligations under this P.O. This provision does not supersede any separate confidentiality or nondisclosure agreement signed by the parties.
- c. Any violation of this Section may result in termination of this P.O., overall business relationship, and/or legal action to recover damages from such a breach.

**8. Insurance, Indemnity, Intellectual Property.**

- a. Insurance. Seller shall at its sole cost and expense procure, provide, and maintain in effect during its provisions of Goods or Services under this P.O. insurance coverage as follows: (i) Commercial General Liability (\$2 million per occurrence / \$4 million aggregate) including bodily injury, property damage, Goods, and completed operations; (ii) all-risk property insurance covering all of Seller's property, including the Goods, for full replacement value, including coverage for earthquake, flood, and other natural disasters; (iii) umbrella/excess liability (\$5 million) for the coverage in subparts (i) and (ii) of this sentence; and (iv) worker's compensation insurance as required by applicable law, and employer's liability insurance with minimum limits of \$1 million per accident. All required policies shall (i) name EPC as an additional insured (except workers' compensation), (ii) be primary and non-contributory with respect to any insurance maintained by EPC, (iii) include a waiver of subrogation in favor of EPC, and (iv) provide not less than a thirty (30) day notice of cancellation to EPC. Upon request of EPC, Seller shall furnish EPC proof of all specified insurance by written evidence of insurance acceptable to EPC.
- b. Indemnification. Seller shall indemnify, defend and hold harmless EPC and its officers, directors, employees, agents, affiliates and successors against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification in connection with this P.O. relating to or arising out of any claim of a third party in connection with the Goods or Services purchased from Seller or Seller's negligence, willful misconduct, or breach of the P.O.
- c. Intellectual Property. Except as expressly set forth herein, as between the Parties, each Party is and shall remain the owner of all intellectual property that it owns or controls as of the Effective Date or that it develops or acquires thereafter. Seller grants EPC and its customers a non-exclusive, irrevocable and transferable license to use the Goods purchased by EPC. EPC grants Seller a nonexclusive, non-transferable, non-sublicensable right to use the intellectual property rights owned by EPC that are embodied in the Goods pursuant to the terms of this Agreement. All rights not granted by EPC hereunder are reserved to EPC.
- d. Intellectual Property Infringement. Seller shall defend, indemnify, and hold EPC free and harmless from and against any loss, cost, and expense that EPC incurs because of a claim that any deliverables, materials, or equipment provided pursuant to this P.O. infringes on the intellectual property rights of others.

**9. Termination for Default, Termination for Convenience, Force Majeure.**

- a. EPC shall have the right to immediately terminate this P.O. for default if the Seller (i) does not meet the requirements defined in these T&Cs, (ii) is unable to perform the required work to satisfy this P.O., or (iii) becomes insolvent or files for bankruptcy protection.
- b. EPC shall have the right to terminate this P.O. for convenience if there is a significant shift in EPC's demand that no longer requires the Goods. In these circumstances, EPC shall issue a "stop work order" to the Seller. The Seller shall use their best effort to minimize the inventory and cost impact on both the Seller and EPC.
- c. EPC shall have the right to terminate this P.O. for convenience if there is a significant shift in the Seller's lead-time that results in failure to meet P.O. requirement dates. In these circumstances, the Seller shall bear all cost of Goods not previously provided to EPC.
- d. If termination for convenience is executed: (i) Seller shall reimburse EPC for all payments made by EPC for Goods not delivered or Services not yet completed, or (ii) if outstanding payments are owed to Seller, EPC shall pay Seller for all Goods or Services satisfactorily performed in accordance with this P.O. up to the date of termination. Notwithstanding the foregoing, EPC shall not be liable for any material bought above and beyond the requested amount on the P.O., nor any material that can be used by the Seller to satisfy other customers' requirements.
- e. Neither EPC nor Seller shall be held liable for failure to perform against this P.O. in the case of Force Majeure. Force Majeure includes but is not limited to acts of God, fire, floods, earthquakes, epidemics, terrorism, strikes, embargoes, unusually severe weather, political unrest, or revolt. In such cases, the impacted party shall notify the other Party in writing within ten (10) calendar days of the event or when first aware of the event's impact on performance (quality, cost, schedule) of this P.O. If the

impact is non-recoverable in such a way that the P.O. no longer meets EPC's or Seller's needs, the P.O. shall be terminated for convenience.

**10. Compliance with the Law; Dispute Resolution; Choice of Law and Venue.**

- a. The Seller is in compliance with and shall comply with all applicable laws, regulations, and ordinances. The Seller has and shall maintain in effect all licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under the P.O.
  - b. Moreover, EPC, the Seller, and all employees of the companies involved with the execution of this P.O. confirm that they are committed to obeying all applicable local, state, national, and international laws and maintaining high, unwavering ethical standards and code of conduct. Those laws and ethical standards are, but not limited to, the following items:
    - i. Equal Employment Opportunity, Sexual Harassment
    - ii. Civil Rights Act - Title VII; Fair Labor Standards Act
    - iii. Occupational Safety & Health Administration (OSHA, Cal/OSHA)
    - iv. Department of Transportation – Hazardous Materials
    - v. Human Trafficking and Slavery, Child Labor, Forced Labor
    - vi. Conflict Minerals Regulations; Embargoes & Sanctions (where applicable)
    - vii. EU REACH SVHC (Substances of Very High Concern)
    - viii. EU RoHS (Restrictions of Use of Hazardous Substances) Directive
    - ix. EU Waste Framework Directive (SCIP – Substances of Concern in Products)
    - x. TSCA Restrictions (PBT - Persistent, Bio-accumulative, and Toxic)
  - c. Dispute Resolution. In the event of a dispute between the Parties arising out of or relating to this Agreement, either Party may deliver to the other Party a notice of dispute with a detailed description of the underlying circumstances for the dispute. The dispute notice shall include a schedule of availability of the notifying Party's senior officers having authority to settle the dispute during the thirty (30) day period following delivery of the dispute notice. The recipient Party shall, within five (5) business days of receipt of the dispute notice, provide to the notifying Party a parallel schedule of availability of its senior officers having authority to settle the dispute. The senior officers of the Parties shall meet and confer as often as reasonably necessary during the thirty (30) day period in good faith negotiations to resolve the dispute. In the event the dispute is not resolved within the thirty (30) day period, the Parties agree to submit the dispute to binding arbitration in San Diego, California under the rules of the American Arbitration Association before pursuing any other legal remedy.
  - d. Choice of Law and Venue. Subject to the arbitration provisions above, this Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without regard to the conflict of law provisions thereof. The Parties hereby irrevocably submit to the exclusive jurisdiction of the state and federal courts located in San Diego County, California for any legal proceedings that may be brought by a Party arising out of or in connection with this Agreement. Each Party waives any objection to venue in such courts.
11. **Taxes.** All taxes imposed on the Seller's income, imposed, or assessed by reason of this P.O. or its performance, including but not limited to sales or use taxes, shall be paid by Seller.
12. **Financing Assistance.** Upon EPC's request, Seller shall, within ten (10) days, execute and deliver all documentation required in connection with the financing efforts of EPC or EPC's customers, including, without limitation, consents to assignment, subordination agreements, estoppel certificates, lien waivers, financial statements, certificates of good standing, and any other similar documents. Seller agrees to act in good faith and shall not unreasonably withhold, condition, or delay execution of such documents. Failure to comply with this provision within the stated time shall be deemed a material breach of this Agreement.
13. **Assignment.** Seller shall not assign any of its rights under this Agreement without the prior written consent of EPC. EPC may at any time assign any or all of its rights or obligations under this Agreement without Seller's prior written consent.