

## Eesti Energia AS' and its Group Companies' General Terms and Conditions for the Purchase of Goods

### 1. GENERAL PROVISIONS, TERMS AND DEFINITIONS

**1.1.** These general terms and conditions for contract of sale (hereinafter the General Terms and Conditions) shall establish the conditions of sale between the buyer (hereinafter referred to as the Buyer) and the seller (hereinafter referred to as the Seller). For the purposes of the General terms and Conditions, the Buyer and the Seller shall hereinafter be referred to as the Party or jointly the Parties.

**1.2.** The General Terms and Conditions shall form an integral part of the contract of sale to be entered into between the Seller and the Buyer (hereinafter referred to as the Contract). The General Terms and Conditions and the Contract shall hereinafter jointly be referred to as the Contract of Sale.

**1.3.** The documents of the Contract of Sale shall consist of the Contract together with the General Terms and Conditions, annexes and any amendments and additions to be introduced in writing in the Contract and/or its annexes, signed by the authorised representatives of both Parties.

**1.4.** The Contract of Sale shall establish the object to be sold by the Seller (hereinafter referred to as the Goods), the characteristics, quality and packaging of the Goods, the advance payment where applicable, the terms and conditions of delivery, the Parties' contact data and other conditions deemed relevant by the Parties.

**1.5.** The information obtained in the course of entry into and performance of the Contract of Sale (including the documentation) shall be deemed confidential, except for the information obtained from public sources.

**1.6.** In case of any contradiction between the General Terms and Conditions and the Contract, the provisions of the Contract shall apply.

**1.7.** The priority of the contract documents has been stipulated in the Contract.

**1.8.** The Contract and any information contained therein shall be kept confidential and shall not be disclosed to third parties. The confidential information related to the Contract may be disclosed to third parties only upon the previous written consent of the other Party. The confidentiality requirement set forth in the Contract shall not extend to the disclosure of information to the Parties' auditors, attorneys and banks, as well as to cases where a Party is obliged to disclose the information under the legal acts of the Republic of Estonia.

**1.9.** Where the Parties have entered into a separate confidentiality agreement which applies to any relationship between the parties, or a general non-disclosure agreement, the conditions of which are more restrictive with regard to the Parties' rights and freedoms than this Contract, the latter, more

restrictive conditions shall apply.

### 2. SALES PRICE AND TERMS OF PAYMENT

**2.1.** The price of the Goods shall include the cost of the Goods, warranty-related expenses and any expenditure incurred up to the moment of delivery of the Goods to the Buyer. Value added tax shall be added to the price of the Goods in the cases provided by law.

**2.2.** The Buyer shall pay the Seller for the Goods:

**2.2.1.** in case of procurements with a value of more than two hundred and fifty thousand euros (EUR 250,000), at the Seller's discretion, within ninety-five (95) calendar days after receipt of the corresponding invoice by the Buyer, together with the option of participating in Eesti Energia group's key supplier factoring programme (see: <https://www8.energia.ee/public/ee043.nsf/WebiOmaKJP?OpenFrameSet> or within forty-five (45) calendar day after receipt of the corresponding invoice, without the factoring programme. The Seller may present the invoice immediately after the signing of the instrument of delivery and receipt of the Goods by the Buyer.

**2.2.2.** in case of procurements with a value of less than two hundred and fifty thousand euros (EUR 250,000), within 35 calendar days after receipt of the corresponding invoice by the Buyer, if the Seller has joined Eesti Energia group's key supplier factoring programme. The Seller may present the invoice immediately after the Buyer has signed the instrument of delivery and receipt of the Goods.

**2.3.** The right of possession of the Goods shall be transferred by the Seller to the Buyer immediately after the Parties have signed the instrument of delivery and receipt of the Goods. The right of ownership of the Goods shall be transferred by the Seller to the Buyer upon full payment of the price of the Goods to the Seller. The risk of accidental destruction and damage of the Goods shall be transferred by the Seller to the Buyer on the moment the Buyer signs the instrument of delivery and receipt of the Goods.

**2.4.** Where the Goods, a part of the Goods or any documents or other objects to be delivered to the Buyer in the course of performance of the Contract constitute copyright-protected works, the Contract shall, upon the Parties' agreement, also be considered the author's contract in the meaning of the Copyright Act, with the Seller transferring (assigning) to the Buyer all economic rights with regard to the aforementioned works (including the Goods) which form the content of copyright. The sales price shall include the author's remuneration in the meaning of the Copyright Act.

### **3. QUALITY OF THE GOODS**

**3.1.** The Goods shall comply with the Seller's offer (sample), the conditions established by the Buyer in the procurement documents, the valid standards and the amounts specified in the Contract of Sale. The Goods shall be complete, legitimate, accompanied by the technical documentation and quality certificates. The Goods shall carry the CE marking in accordance with the requirements provided by law. The Goods shall not be previously used. Third parties may not have any rights with regard to the Goods and/or any basis for claiming such rights.

**3.2.** If the Goods do not meet the conditions set forth in Article 3.1 or do not have the previously agreed characteristics or cannot be used for the designated purpose, the Goods shall be deemed non-compliant.

**3.3.** If the Buyer discovers non-compliance of the Goods, the Buyer shall inform the Seller thereof by submitting a written claim.

**3.4.** If the Seller does not agree with the non-compliance of the Goods, the Seller may order an independent expert analysis. The expert conducting the analysis shall be previously agreed between the Parties. If the expert analysis reveals that the Goods are non-compliant, the Seller shall bear the expenses on the expert analysis. If not, the Buyer shall bear the expenses.

**3.5.** If the Goods are deemed non-compliant, the Buyer shall have the right to claim from the Seller compensation for the entire damage and:

**3.5.1.** demand replacement of the Goods with non-deficient Goods at the expense of the Seller by the agreed term;

**3.5.2.** prematurely cancel the Contract of Sale, triggering the Seller's obligation to pay the Buyer a contractual penalty in the amount of twenty-five per cent (25%) of the cost of Goods unreceived.

### **4. DELIVERY AND RECEIPT OF THE GOODS**

**4.1.** The Seller shall inform the buyer in writing of the exact term of delivery of the Goods at least seven (7) calendar days in advance. The delivery of the Goods shall take place on a day when the Buyer is open for business.

**4.2.** The delivery of the Goods before the agreed term shall only take place upon the Parties' agreement.

**4.3.** The delivery and receipt of the Goods shall take place on the basis of an instrument of delivery and receipt (consignment note), signed by the authorised representatives of both Parties. Upon delivery of the Goods, the Seller is obliged to hand over to the Buyer the documentation concerning the Goods, including the technical documentation, quality certificates, statement of compliance with safety requirements, consignment documents and invoice.

**4.4.** The invoice to be presented by the Seller to the Buyer shall be prepared in accordance with legal acts and shall specify the Contract number and the Buyer's contract person. The invoice shall

be presented in electronic form at the latest by the fifth (5th) working day of the month following the sale of the Goods, at the address specified in Article 10.

**4.5.** A shipment of Goods (a unit loaded or operated separately) with a gross weight of more than 5 tons shall be delivered on top-operated trailers, if the Buyer is obliged to unload the Goods.

**4.6.** The place and conditions of delivery shall be specified in the Contract. If the conditions of delivery have not been specified in the Buyer's procurement documents, the DDP (Incoterms 2010) shall be used as the conditions of delivery. The place specified by the Buyer shall be the place of delivery.

### **5. WARRANTY**

**5.1.** During the warranty period, the Seller is obliged, on the Buyer's demand, to repair any defects, malfunctions or other deficiencies occurring during the warranty period. If the Goods cannot be repaired or if the repairs prove unfeasible, the Seller shall, upon the Buyer's demand, replace the Goods within seventy-two (72) hours after receipt of the corresponding written notice from the Buyer, unless the Parties agree on a later term. Where the terms of delivery do not allow to adhere to the above terms, a new term shall be agreed by the Parties, with the Seller providing replacement goods, where necessary.

**5.2.** The Seller is obliged to respond to the Buyer's claims regarding deficient Goods within twenty-four (24) hours.

**5.3.** In case of failure to adhere to the terms stipulated in Articles 5.1 and 5.2 of the General Terms and Conditions, the Buyer shall have the right to demand from the Seller and the Seller shall have the obligation to pay to the Buyer a contractual penalty in accordance with Article 6.2. The payment of the contractual penalty shall not exempt the Seller from the obligation to replace deficient Goods.

**5.4.** The Seller shall be exempted from the obligations stipulated in Article 5.3 of the General Terms and Conditions, if the Seller provides evidence that the deficiencies of the Goods have been conditioned by the Buyer's failure to use the Goods in accordance with their designated purpose and/or breach of the procedure for use of the Goods by the Buyer.

**5.5.** The warranty for the replaced or repaired Goods shall commence from the moment of delivery of the replaced and/or repaired Goods to the Buyer.

**5.6.** The warranty shall be provided for a period of twenty-four (24) months, unless otherwise stipulated in the procurement document.

### **6. THE PARTIES' LIABILITY**

**6.1.** A Party shall be liable for failure to fulfil or appropriately fulfil the obligations arising from the Contract or law pursuant to the procedure provided in the Contract of Sale and the laws valid in the Republic of Estonia, and is obliged to compensate to the other Party any damage caused by the failure to fulfil or appropriately fulfil the obligations.

Eesti Energia AS' and its Group Companies' General Terms and Conditions for the Purchase of Goods

**6.2.** If the Seller fails to deliver the Goods by the agreed term, the Buyer shall have the right to demand a contractual penalty in the amount of:

**6.2.1.** zero point five per cent (0.5%) of the price of the Goods per each calendar day of delay of delivery, if the cost of the Goods is up to EUR 25,000, but not more than 20% of the cost of the Goods;

**6.2.2.** zero point two per cent (0.2%) of the price of the Goods per each calendar day of delay of delivery, if the cost of the Goods is between EUR 25,000 and 250,000, but not more than 15% of the cost of the Goods;

**6.2.3.** zero point one per cent (0.1%) of the price of the Goods per each calendar day of delay of delivery, if the cost of the Goods is more than EUR 250,000, but not more than 10% of the cost of the Goods.

**6.3.** The Buyer shall have the right to decrease (i.e. offset) the price payable for the Goods by the amount of the contractual penalty. For this purpose, the Buyer shall file the corresponding application with the Seller.

**6.4.** If the Buyer withdraws from the Contract due to the Seller's failure to deliver the Goods by the agreed deadline, the Buyer shall have the right to demand from the Seller payment of the contractual penalty stipulated in Article 6.2 of the General Terms and Conditions in addition to the claim for compensation of damage in accordance with Article 6.1 of the General Terms and Conditions.

**6.5.** In case of failure to fulfil or appropriately fulfil the payment obligations arising from the Contract, a Party shall have the right to demand from the other party a fine for delay in the amount of:

**6.5.1.** zero point five per cent (0.5%) of the price of the Goods per each calendar day of delay of payment, if the cost of the Goods is up to EUR 25,000, but not more than 20% of the cost of the Goods;

**6.5.2.** zero point two per cent (0.2%) of the price of the Goods per each calendar day of delay of payment, if the cost of the Goods is between EUR 25,000 and 250,000, but not more than 15% of the cost of the Goods;

**6.5.3.** zero point one per cent (0.1%) of the price of the Goods per each calendar day of delay of payment, if the cost of the Goods is more than EUR 250,000, but not more than 10% of the cost of the Goods.

**6.6.** Failure to appropriately fulfil the obligations arising from the Contract shall not be deemed breach of Contract, if conditioned by circumstances which were beyond the control of the Parties, and which the Parties could not have been expected to foresee or prevent (inter alia natural disasters, strikes, civil unrest, war, acts of terrorism). The existence of such circumstances must be verifiable. Despite such circumstances, the Parties shall be obliged to apply measures to minimise the potential damage. Where the impediment is of temporary nature, non-performance of the obligation shall be excused only during the period when the

impediment hindered the performance of the obligation.

**6.7.** The Party whose actions in the performance of the obligations arising from the Contract of Sale are hindered by unforeseen circumstances is obliged to immediately inform the other Party thereof, ensuring the use of the fastest means of communication while simultaneously posting the notice by registered mail.

**6.8.** The price of the Goods w/o VAT shall be used as the basis for calculation of the contractual penalty.

## **7. COMMUNICATION AND NOTICES**

**7.1.** As a rule, information shall be communicated by phone, e-mail or post. Where the communication of the information triggers significant legal consequences, the notice to be submitted to the other Party shall be prepared in a format which can be reproduced in writing (i.e. in writing or by e-mail). Notices of cancellation of the Contract, as well as a Party's claims against the other Party arising from breach of the Contract shall be submitted in writing. Informal information may also be communicated by phone.

**7.2.** Any notices related to the Contract shall be submitted to the other Party at the address specified in the Contract. A Party shall be obliged to immediately inform the other Party of the change of address.

**7.3.** A written notice shall be considered as received by the other Party, if delivered against signature or sent via a post office by registered mail to the Party's address specified in the Contract, and 7 (five) calendar days have passed since the posting. If a Party has changed its address during the validity of the Contract and has failed to inform the other Party in writing thereof, the notice shall be considered as received by the Party, if posted to the address specified in the Contract.

## **8. AUDIT AND REPORTING**

**8.1.** On the Buyer's request, the Seller is obliged to provide truthful information on the progress of manufacturing or other preparation of the Goods, including by filling out reports, using the templates provided by the Buyer.

**8.2.** The Seller shall allow the Buyer's representative access to the Seller's production units, warehouses and places where the Goods or the materials used for the manufacturing of the Goods are manufactured, processed, stored, transported or otherwise prepared, regardless of whether these activities with regard to the Goods or the materials used for the manufacturing of the Goods were carried out in the past or will be carried out in the future.

**8.3.** Pursuant to Articles 8.1 and 8.2, the Seller is not obliged to disclose information which does not objectively allow the Buyer to assess with sufficient accuracy the Seller's ability to fulfil the conditions of the Contract, or information that can objectively be considered a business secret. Any information obtained by the Buyer under Articles 8.1 and 8.2 shall be kept confidential.

## **9. FINAL PROVISIONS**

**9.1.** The Contract of Sale shall enter into force upon its signing by the Parties and shall remain in force until appropriate and complete fulfilment of the contractual obligations. The Contract may only be amended on the Parties' written agreement.

**9.2.** The amendments to the Contract of Sale shall enter into force upon their signing by both Parties, or at a term specified by the Parties in writing.

**9.3.** Any dissensions and disputes arising from the Contract of Sale shall be solved by the Parties, above all, by way of negotiation. If the dispute arising from the Contract of Sale cannot be solved by way of negotiation, the dispute shall be settled in court at the location of the Buyer.

**9.4.** The Contract shall be governed by the laws of the Republic of Estonia.

**9.5.** These General Terms and Conditions shall not apply to contracts of sale entered into by Elektrilevi OÜ.

**10. E-MAIL ADDRESSES FOR INVOICING**

No	NAME OF BUYER	REGISTRY CODE	E-MAIL ADDRESS FOR INVOICING
1.	Enefit Solutions AS	10633284	<a href="mailto:ESinvoices@enefit.com">ESinvoices@enefit.com</a>
2.	Enefit Kaevandused AS	10032389	<a href="mailto:EEK.arved@energia.ee">EEK.arved@energia.ee</a>
3.	Enefit Energiatootmine AS	10579981	<a href="mailto:narva.invoices@energia.ee">narva.invoices@energia.ee</a>
4.	Narva Soojusvõrk AS	10549419	<a href="mailto:narva.invoices@energia.ee">narva.invoices@energia.ee</a>
5.	Eesti Energia AS	10421629	<a href="mailto:arved@energia.ee">arved@energia.ee</a>
6.	Pogi OÜ	10078240	<a href="mailto:arved@energia.ee">arved@energia.ee</a>
7.	Enefit Taastuvenergia Osühing	11184032	<a href="mailto:arved@energia.ee">arved@energia.ee</a>

**11. OVERVIEW OF THE TERMS OF PAYMENT**

	AS DESIGNATED BY THE SELLER
Estimated procurement value equals to or exceeds EUR 250,000 (Article 2.2.1)	95 calendar days with factoring option or 45 calendar days without factoring option
Estimated procurement value below EUR 250,000 (Article 2.2.2)	95 calendar days with factoring option or 35 calendar days without factoring option

\*cost w/o VAT

**12. OVERVIEW OF CONTRACTUAL PENALTIES UPON FAILURE TO APPROPRIATELY ADHERE TO THE TERMS OF DELIVERY**

	COST OF GOODS	FINE FOR DELAY	LIABILITY LIMIT	
The Buyer's right to demand a contractual penalty upon the Seller's failure to appropriately adhere to the terms of delivery of the Goods (Article 6.2.1, Article 6.2.2 and Article 6.2.3)	up to EUR 25,000	0.5% per day	20%	The Seller's right to demand a contractual penalty upon the Buyer's failure to appropriately fulfil the payment obligation (Article 6.5.1, Article 6.5.2 and Article 6.5.3)
	from EUR 25,000 to EUR 250,000	0.2% per day	15%	
	over EUR 250,000	0.1% per day	10%	

\*cost w/o VAT