
GENERAL TERMS AND CONDITIONS GIVENERGY EUROPE B.V.

Article 1 - Definitions

1. In these General Terms and Conditions, the following terms have the following meanings:
 - a. Offer: a written proposal made by GivEnergy, including a quotation or other type of Offer, containing an offer to supply Products;
 - b. Customer: all those who enter into an Agreement with GivEnergy or request an Offer for that purpose;
 - c. General Terms and Conditions: the present General Terms and Conditions of GivEnergy;
 - d. Commercial(s): a Customer that in the course of its own business purchases Products from GivEnergy, which are intended for the Customer's own use, therefore not being a wholesale business;
 - e. Domestic: a Product for the purpose of storing energy in the home of an End User (energy home storage), including the related Products;
 - f. End User: the user of Domestics, not being a Customer, which user has not entered into an agreement with GivEnergy. Only the provisions in the General Terms and Conditions that relate to the warranty on the Products apply to the End User.
 - g. GivEnergy: the private company with limited liability under Dutch law GivEnergy Europe B.V., with its registered office and its principal place of business in (3447 GW) Woerden at Pelmolenlaan 16 and registered with the Chamber of Commerce under number 88090779;
 - h. Order: an order or request given by a Customer to GivEnergy to supply a Product;
 - i. Agreement: any Agreement between GivEnergy and a Customer to which these General Terms and Conditions apply;
 - j. Parties: GivEnergy and Customer jointly.
 - k. Product(s): all items supplied or to be supplied by GivEnergy to Customer pursuant to the Agreement.

Article 2 - Applicability

1. The General Terms and Conditions apply to any Offer and any Agreement relating to the sale and supply of Products by GivEnergy to Customer.
2. The General Terms and Conditions also apply to additional, amended and follow-up agreements with Customer.
3. Any general and/or purchasing conditions of Customer are expressly rejected.
4. Deviation from the General Terms and Conditions is only possible if explicitly agreed in writing between the Parties in the Agreement.

Article 3 - Offer

1. An Offer from GivEnergy is without obligation unless otherwise expressly stated in writing. If an Offer is limited or valid under specific conditions, this will be expressly stated in the Offer.
2. An Offer is valid for a maximum of 30 (in words: thirty) days, unless another acceptance period is specified in the Offer.
3. An Offer expires if Customer does not accept it within the specified period.
4. The Offer is deemed to be an accurate description of the Product offered with corresponding prices.

5. GivEnergy is not bound by an Offer if Customer could reasonably have expected, must have understood or should have understood that the Offer contains an obvious mistake or slip of the pen. Customer cannot derive any rights from this mistake or slip of the pen.
6. Any images and specific data in the Offer are only indicative and cannot be a ground for any compensation or termination of the Agreement. GivEnergy cannot guarantee that the colours in the image exactly match the real colours of the Product.
7. A combined quotation does not oblige GivEnergy to supply part of the Products included in the Offer at part of the quoted price.
8. If and insofar as there is a special offer, such as a discount campaign, this does not apply to repeat orders.

Article 4 Formation of the Agreement

1. The Agreement between GivEnergy and Customer has in any case been concluded at the time when:
 - a. GivEnergy has explicitly and unambiguously accepted the Customer's Order in writing or by email;
 - b. Customer has explicitly and unambiguously accepted GivEnergy's Offer in writing or by email and after GivEnergy has sent a written confirmation of the conclusion of the Agreement to Customer.
2. If the Customer's acceptance differs from the Offer, GivEnergy will not bound thereby.
3. GivEnergy will be entitled to revoke the Agreement within 14 (in words: fourteen) days after the conclusion of the Agreement.
4. The right of withdrawal is excluded for Customer, unless otherwise agreed in the Agreement.

Article 5 - Delivery

1. Delivery is made by GivEnergy on the basis of Delivered Duty Paid (as defined in Incoterms 2020) at the place of delivery agreed in the Agreement, unless the Parties have expressly agreed otherwise in writing. Other than the aforementioned definition of "Delivered Duty Paid", the contents of the Incoterms 2020 do not apply to the General Terms and Conditions.
2. The risk of loss, damage or theft of the Products will pass to Customer at the time they are legally and/or actually delivered, or at least come under the control of Customer or of a third party that takes delivery of the product on behalf of Customer.
3. The delivery times stated by GivEnergy are indicative and if exceeded do not entitle Customer to termination or compensation, unless the Parties have expressly agreed otherwise in writing.
4. If GivEnergy requires data from Customer in the context of the execution of the Agreement, the delivery period only starts after Customer has made available to GivEnergy all data necessary for the execution of the Agreement.
5. Customer is obliged to take delivery of the Product(s) at the time they are made available to it according to the Agreement, even if they are presented to it earlier or later than agreed.
6. If Customer refuses to take delivery of the Product(s) or fails to provide information or instructions necessary for delivery, GivEnergy will be entitled to store the Product(s) at the Customer's risk and expense.
7. GivEnergy reserves the right to refuse delivery if there is a well-founded fear of non-payment.
8. In the absence of a complete delivery, and/or if one or more Products are missing, and this is attributable to GivEnergy, GivEnergy will, at the Customer's request, either resend the missing Product(s) or cancel the remaining order. The acknowledgement of receipt of the Products is leading in this regard. GivEnergy is not liable for any loss suffered by Customer as a result of the (different) scope of delivery.

Article 6 - Examination and complaints

1. Customer is obliged to examine the Product, or have it examined, at the time of delivery or handover, but in any case, within 14 (in words: fourteen) days after receipt of the Product, but may only unpack or use it to the extent necessary to assess whether the Product is satisfactory. Customer must examine whether the quality and quantity of what has been delivered corresponds to the Agreement and whether the Products meet the requirements applicable to them in normal (commercial) dealings.
2. Customer is obliged to investigate and inform itself how the Product should be used and if Customer qualifies as Commercial, to test the Product in accordance with the instructions for use. Pursuant to Article 12(3) of the General Terms and Conditions, GivEnergy does not acknowledge any liability for the Customer's misuse of the Product.
3. Any visible defects or shortages must be reported in writing to GivEnergy after delivery at info@givenergy.com. Customer has a period of 14 (in words: fourteen) days after delivery for this purpose. Non-visible defects or shortages must be reported within 14 (in words: fourteen) days of discovery but no later than 6 (in words: six) months after delivery. In case of damage to the Product due to careless handling by Customer itself, Customer itself will be liable for any decrease in value of and/or damage to the Product.

4. If a complaint is lodged, Customer will not be entitled to suspend its payment obligation.
5. If Customer wishes to return defective Products, this may only be done with the prior written consent of GivEnergy in the manner indicated by GivEnergy.
6. GivEnergy is entitled to initiate an investigation into the authenticity and condition of the returned Products before a refund will be made.
7. Any refunds to Customer will be processed by GivEnergy as soon as possible after completion of the investigation, but no later than 30 (in words: thirty) days after completion thereof. Refunds will be made to an account number previously provided by Customer.

Article 7 - Prices

1. During the validity period of the Offer, the prices of the Products offered will not be increased, subject to changes in VAT rates.
2. All prices stated by GivEnergy and owed by Customer are in Euros and excluding VAT, unless expressly stated otherwise.
3. GivEnergy is entitled to unilaterally change the prices included in the Agreement on an annual basis.

Article 8 - Payment

1. Payments must be made by transfer into the account number made known to Customer by GivEnergy within the period specified by GivEnergy on the invoice or in the General Terms and Conditions.
2. GivEnergy is entitled to require partial or full advance payment from Customer, unless the Parties have agreed otherwise in writing.
3. Payment must be made within 30 (in words: thirty) days after the invoice date, unless the Parties have expressly agreed otherwise in writing in the Agreement.
4. For Commercials, contrary to what is included in paragraph 3, the following payment policy applies:
 - a. 40% (in words: forty percent) of the price will be invoiced and must be paid by the Commercial within 30 (in words: thirty) days from the invoice date upon entering into the Agreement;
 - b. 30% (in words: thirty percent) of the price will be invoiced and must be paid by the Commercial within 30 (in words: thirty) days from the invoice date upon delivery of the Product;
 - c. 30% (in words: thirty percent) of the price will be invoiced and must be paid by the Commercial within 30 (in words: thirty) days from the invoice date upon commissioning of the Product.
5. GivEnergy will start the execution of the Agreement after the advance payment of 40% (in words: forty percent) included under Article 8(4)(a) has been paid by Customer to GivEnergy.
6. Invoices for different Products must be paid strictly separately, unless there is a composite Agreement or composite invoice.
7. If timely payment is not made, Customer will enter into default by operation of law.
8. From the day the aforementioned default commences, GivEnergy will, without further notice of default being required, charge the then current statutory interest per month on the outstanding amount until payment and compensation of extrajudicial costs (calculated in accordance with Section 6:96 of the Dutch Civil Code according to the graduated scale from the Dutch Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*) of 1 July 2012) have been paid in full. In this regard, part of a month is considered a full month.
9. In the event of liquidation, bankruptcy, attachment or suspension of payments of Customer, the amounts owed by Customer to GivEnergy will be immediately due and payable.
10. GivEnergy is entitled to apply payments made by Customer firstly to reduce the costs, then to reduce the interest that has fallen due and finally to reduce the principal sum and accrued interest. GivEnergy may, without thereby entering into in default, refuse an offer to pay if Customer designates a different order for the allocation. GivEnergy may refuse full repayment of the principal sum if this does not include the interest due and accrued and the costs.
11. Customer must notify any objections regarding received invoices in writing within a period of 14 (in words: fourteen) days from the invoice date. If no written objection is received within the specified period, the invoice will be deemed to be accepted in its entirety and Customer will be obliged to pay the invoice amount in full.
12. Submitting an objection to the invoice does not release Customer from its obligation to pay the disputed invoice amount, unless otherwise agreed between GivEnergy and Customer.
13. If the objection to the invoice is considered well-founded by GivEnergy, GivEnergy will adjust the invoice amount and refund the overpayment to Customer.
14. Under no circumstances is setoff by Customer permitted.

Article 9 - Retention of title

1. All Products delivered by GivEnergy will remain the property of GivEnergy as long as Customer has not fully performed all of its obligations under the Agreement.
2. Customer is not entitled to pledge or otherwise encumber the Products subject to the retention of title if ownership has not yet fully passed to Customer.
3. If third parties levy an attachment on the Products delivered under retention of title or wish to establish or assert rights in respect thereof, Customer will be obliged to notify GivEnergy thereof as soon as can reasonably be expected.
4. In case GivEnergy wishes to exercise its proprietary rights included in this Article, Customer hereby already gives unconditional and irrevocable permission and authorisation to GivEnergy, or third parties designated by it, to enter places where GivEnergy's property is located and to take back the Products in question.
5. GivEnergy has the right to retain the Product(s) purchased by Customer if Customer has not yet (fully) fulfilled its payment obligations, despite an obligation to transfer or deliver on the part of GivEnergy. Once Customer has fulfilled its obligations, GivEnergy will endeavour to deliver the purchased Product to Customer as soon as possible, but at the latest within 20 (in words: twenty) business days.
6. Any costs and (consequential or other) loss resulting from the retention of the purchased Products will be at Customer's expense and risk and will be compensated by Customer to GivEnergy at GivEnergy's first request.

Article 10 - Warranty

1. GivEnergy's liability under this warranty is limited to replacement or repair of new or refurbished goods at GivEnergy's sole discretion.
2. All replacement parts/Products are subject to the remainder of the original warranty period.
3. The maximum warranty period for Domestic is 12 (in words: twelve) years, starting from the date of sale by Customer to End User. The warranty for Domestic is structured as follows:
 - a. The standard warranty is 5 (in words: five) years from the date of sale by Customer to End User;
 - b. In the fifth year after the sale by Customer to End User, an invitation will be sent by GivEnergy to End User for the performance of a remote service check by GivEnergy. After performing the remote service check, the warranty will be extended by 3 (in words: three) years, resulting in a warranty period of 8 (in words: eight) years after the sale by Customer to End User;
 - c. Following extension of the warranty pursuant to subparagraph b of this paragraph, in the eighth year after the sale by Customer to End User, GivEnergy will again send an invitation to End User for the performance of a second remote service check by GivEnergy. After performance of the second remote service check, the warranty will be extended by 2 (in words: two) years, resulting in a warranty period of 10 (in words: ten) years after the sale by Customer to End User;
 - d. Following extension of the warranty pursuant to subparagraph c of this paragraph, in the tenth year after the sale by Customer to End User, GivEnergy will again send an invitation to End User for the performance of a third remote service check by GivEnergy. After performance of the third remote service check, the warranty will be extended by 2 (in words: two) years, resulting in a warranty period of 12 (in words: twelve) years after the sale by Customer to End User;
4. The costs of the remote service checks referred to in paragraph 3 of this Article will be borne by End User. Simultaneously with the invitation for the remote service check, an invoice for this purpose will be sent by GivEnergy to End User. The remote service check will not be performed until End User has paid the relevant invoice.
5. The extensions of the warranty period for Domestic as mentioned in paragraph 3(b through d) will expire if End User has not had remote service checks performed at the times designated by GivEnergy or has not paid the relevant invoice in time. GivEnergy cannot be held liable for the expiration of the warranty extension.
6. The warranty period for Domestic applicable to Customer is equal to the End User's warranty period.
7. The warranty on battery packs provided to a Commercial (Commercial Battery Packs) will continue until one of the following times is reached:
 - a. after the expiration of 10 (in words: ten) years from the first date of installation of the Product by an installer approved by GivEnergy, or;
 - b. upon reaching a bounded discharge limit on the usable capacity of 10MWh per 1 kWh or 10,000:1 in relation to the battery capacity.
8. The warranty applies only to defects caused by defective manufacturing, defective construction or defective materials.
9. The warranty does not apply in the case of normal wear and tear and damage caused by accidents, modifications made to the product, negligence or incompetent use by Customer, as well as when the cause of the defect cannot be clearly determined.

10. The warranty expires immediately and completely if Customer opens the Product or makes adjustments without GivEnergy's explicit permission. In such a case, GivEnergy will be entitled to take back the Product without owing anything to Customer.
11. The warranty on GivEnergy's Products as set forth in this Article is subject to a fair use policy. If a full charge and discharge of the Product occurs more than 2 (in words: two) times per day, the warranty conditions contained in this Article do not apply. In such cases, different warranty conditions will apply, which will be included in writing in the Agreement with Customer.

Article 11 - Suspension and termination

1. GivEnergy is entitled to suspend the performance of the Agreement or to terminate the Agreement in whole or in part with immediate effect, if and to the extent that Customer fails to perform its obligations under the Agreement, or fails to perform them in time or in full. This also applies if after the conclusion of the Agreement circumstances come to GivEnergy's knowledge giving good reason to fear that Customer will not fulfil its obligations.
2. GivEnergy will be entitled to terminate (or have terminated) the Agreement, without prior notice of default being required, if circumstances arise of such a nature that performance of the Agreement is impossible or can no longer be required according to standards of reasonableness and fairness, or if other circumstances arise of such a nature that the unaltered maintenance of the Agreement can no longer be reasonably expected. This includes, but is not limited to:
 - a. If a winding-up petition for Customer has been filed for, whether or not by Customer, or Customer has been declared insolvent;
 - b. If Customer applies for suspension of payments;
 - c. Customer discontinues its business operations in any way;
 - d. If an attachment is levied on any or all of the Customer's assets.
3. If the Agreement is terminated, all amounts owed by Customer to GivEnergy will be immediately due and payable. If GivEnergy suspends performance of its obligations, it retains its claims under the law and Agreement.
4. GivEnergy always retains the right to claim compensation.

Article 12 - Liability

1. GivEnergy will not be liable for any damage suffered by Customer or any third party, unless the damage caused by wilful intent or gross negligence on the part of GivEnergy.
2. If GivEnergy is liable for any damage, this damage will always be limited to direct damage.
3. GivEnergy will not be liable for:
 - a. indirect loss, including (but not limited to) consequential loss, loss of profit, reputational damage and lost savings;
 - b. damage arising from the use of the Product, such as signs of use, usage damage, wear and tear, falling damage, light and water damage, theft and loss;
 - c. damage arising from power outages and/or malfunctions of the Product.
4. The extent of any liability will at all times be limited to a maximum of (part of) the agreed invoice amount to which the liability relates, but will never exceed the maximum claim amount paid out by GivEnergy's insurance company per event per year.
5. In the event of an attributable shortcoming by GivEnergy, GivEnergy will only be obliged to pay any compensation if Customer has given GivEnergy notice of default within 2 (in words: two) months after discovery of the shortcoming and GivEnergy has subsequently failed to remedy this shortcoming within a reasonable period of time. The notice of default must be in writing and contain such accurate description/substantiation of the shortcoming as to enable GivEnergy to respond adequately.
6. It is the responsibility of Customer that a notice of default actually reaches GivEnergy in a timely manner.

Article 13 - Force Majeure

1. GivEnergy will not be liable if, as a result of a force majeure situation, it cannot fulfil its obligations under the Agreement, nor can it be held to fulfil any obligation if it is prevented from doing so as a result of a circumstance that is not attributable to its fault and for which it is not responsible pursuant to the law, a legal act or generally accepted practice.
2. Force majeure in any case includes, but is not limited to what is understood in this regard in law and case law, (i) force majeure of suppliers of GivEnergy, (ii) failure to properly fulfil obligations of suppliers that have been prescribed or recommended by Customer to GivEnergy, (iii) defective goods, equipment, software or materials of third parties, (iv) government measures, (v) power outages, (vi) failure of internet, data network

- and telecommunications facilities, (vii) natural disasters and their consequences, (viii) war and terrorist attacks and their consequences, (ix) general transport problems, (x) strikes at GivEnergy's company, (xi) epidemics and pandemics and their consequences and (xii) other situations that, in GivEnergy's opinion, fall outside its sphere of influence that temporarily or permanently prevent the fulfilment of its obligations.
3. GivEnergy has the right to invoke force majeure if the circumstance preventing (further) performance occurs after the time by which GivEnergy should have fulfilled its obligation.
 4. During the period that the force majeure continues, the Parties may suspend their obligations under the Agreement. If this period lasts longer than 2 (in words: two) months, each of the Parties will be entitled to terminate (*ontbinden*) the Agreement, without any obligation to compensate the other Party for damage and/or loss.
 5. To the extent that GivEnergy has already partially fulfilled its obligations under the Agreement at the time of the occurrence of force majeure or will be able to fulfil them and the fulfilled or still to be fulfilled part has independent value, GivEnergy will be entitled to separately invoice the fulfilled or still to be fulfilled part. Customer will be obliged to pay this invoice as if it were a separate Agreement.

Article 14 Indemnity

1. Customer indemnifies GivEnergy against all third-party claims related to the Products supplied by GivEnergy.
2. Customer indemnifies GivEnergy against the damage and/or loss contained in Article 12(3) of the General Terms and Conditions.

Article 15 Confidentiality

1. Customer undertakes to keep confidential all confidential information obtained in the context of the Agreement and the Product, including GivEnergy's concept, software used, materials used and manufacturers. The confidentiality flows from the Agreement and must also be assumed if it can be reasonably expected to be confidential information. Confidentiality does not apply if the information in question is already public/generally known, the information is not confidential and/or the information has not been made known to Customer during the Agreement and/or has been obtained by Customer in some other way.
2. The obligation of confidentiality also applies to third parties to be engaged by Customer.
3. Any breach of the obligation of confidentiality will be punished by a one-time penalty in the amount of €50,000 (in words: fifty thousand euros).

Article 16 - Intellectual property

1. All of GivEnergy's intellectual property rights and copyrights belong exclusively to GivEnergy and are not transferred to Customer.
2. Customer is prohibited from disclosing and/or reproducing, modifying or making available to third parties any documents subject to GivEnergy's intellectual property rights and copyrights without GivEnergy's express prior written consent.
3. If Customer wishes to make changes to Products supplied by GivEnergy, GivEnergy must explicitly approve the intended changes.
4. Customer is prohibited from using the Products subject to GivEnergy's intellectual property rights other than as agreed in the Agreement.
5. Any infringement by Customer of the IP rights (and copyrights) of GivEnergy will be punished by a one-time penalty in the amount of €50,000 (in words: fifty thousand euros) and a penalty of €1,000 (in words: one thousand euros) for each day that the infringement continues.

Article 17 - Complaints

1. Customer is obliged to communicate any complaint regarding the execution of the Agreement by GivEnergy to GivEnergy in writing, stating reasons, as soon as possible but not later than 14 (in words: fourteen days) after its discovery. Complaints can be reported by emailing info@givenergy.com with the subject line "Complaint."
2. GivEnergy will respond substantively to the complaint as soon as possible, but no later than 14 (in words: fourteen) calendar days after receipt of the complaint.
3. Even if Customer complains in a timely and substantiated manner, its obligation to pay in full and in time, as well as its obligation to further fulfil the Agreement, will remain in effect.

Article 18 - Amendment of General Terms and Conditions

1. GivEnergy is entitled to amend or supplement the General Terms and Conditions.

2. In the event of a long-term relationship between GivEnergy and Customer, GivEnergy will disclose substantive amendments of the General Terms and Conditions to Customer.

Article 19 - Transfer of rights

1. Customer's rights under the Agreement cannot be transferred to any third party without GivEnergy's prior written consent.
2. This provision is considered to be a clause with effect under property law as referred to in Section 3:383(2) of the Dutch Civil Code.

Article 20 - Consequences of nullity or voidability

1. Should one or more provisions of the General Terms and Conditions prove to be null and void or voidable, this will not affect the validity of the remaining provisions of the General Terms and Conditions.
2. A provision that is null and void or voidable will be replaced by a provision that comes closest to what GivEnergy had in mind in that regard when drafting the General Terms and Conditions.

Article 21 - Applicable law

1. Each Agreement will be governed exclusively by Dutch law.
2. In the event that the General Terms and Conditions are translated, the Dutch version of the General Terms and Conditions will be decisive in interpreting the General Terms and Conditions.
3. Except to the extent prohibited by law, only the competent court within the district of GivEnergy's place of business is designated to hear any legal disputes between the Parties.

Woerden, October 2023