

# Ericsson nkt cables Venture Ltd.

## General conditions of sale and delivery for Ericsson Network Technologies AB or nkt cables a/s, hereinafter called "the Seller"

October 2004

### 1. General

The general conditions of sale and delivery set out below shall apply to all offers, orders and similar unless a departure from them has been agreed in writing between the parties. Unless accepted in writing by the Seller, any reservation inserted in the documents or by other means put forward by the customer shall be deemed inapplicable.

### 2. Offers and orders

Offers in writing shall be binding on the Seller for eight days from the date of the offer. Any order which is not based on a preceding written offer shall not be binding until the customer has received a written confirmation of the order from the Seller. Dates for delivery shall be calculated from the date when the order is confirmed.

### 3. Dimensions and drawings

All details of dimensions, weight, capacity, price, tools, technical data or other data set out in catalogues, prospectuses, circulars, advertisements, illustrations or price lists are solely for guidance. Such details shall not be binding except as specified in a written agreement.

All drawings, technical documents or other written material delivered to the customer in the course of entering into the agreement for use in connection with the application, production, repair or maintenance of the goods supplied or parts thereof shall remain the property of the Seller. Without the Seller's consent in writing, such drawings, documents and similar may not be used by the customer for purposes other than those agreed upon, and similarly they may not be copied, reproduced, handed over or by other means brought to the knowledge of third parties. All drawings, technical documents and other written material entrusted by the customer to the Seller for use in the production of goods to be supplied shall remain the property of the customer and shall be treated as confidential provided that it is clearly marked as such.

### 4. Prices

Unless otherwise stated specifically in the offer or order confirmation all prices are quoted EX WORKS (Incoterms 2000) and excluding cable drums, packaging, turnover tax, customs duty and other public charges.

### 5. Packaging

Cable drums and packaging are not included in the price. An invoice for cable drums will accompany deliveries. With regard to returning cable drums and refunding deposits, reference is made to the separate description of the Seller's cable drum system.

### 6. Payment

Payment shall be made in accordance with the conditions of payment stated on the invoice.

All expenses related to purchase on credit, including bank charges and other charges, shall be paid by the customer.

If the purchase sum is not paid by the due date, default interest will be calculated from the date when payment was due at a rate which currently is 1% per commenced month.

If sums payable are not paid as they fall due, the remainder of the purchase price for all goods delivered shall fall due for payment with immediate effect regardless of previously agreed credit terms. In this case the Seller shall be entitled with immediate effect to cancel further deliveries and to cancel wholly or in part other contracts for goods not yet delivered.

### 7. Delivery

The Seller's delivery terms are EX WORKS (Incoterms 2000). Delivery times are stated according to the Seller's best estimates. The Seller makes reservations for quantity variance up to +/- 10% on all deliveries. In the case of goods delivered by weight no guarantee is given for the number of items or length in metres. Goods shall be forwarded at the customer's expense and risk regardless of whether the Seller lays out the expenses of forwarding. If no specific form of transport has been agreed, goods ordered will be forwarded by the form of transport which the Seller finds most appropriate at any time.

If the customer cancels the purchase as a result of significant delay, the customer shall at no time be entitled to compensation exceeding 10% of the purchase price.

### 8. Complaints and return of goods

The goods delivered shall be inspected immediately on arrival. The Seller shall be notified in writing without undue delay and not later than eight days after the delivery has been received, of any defect, which is discovered through such inspection and for which a claim against the Seller will be made. Goods may not be returned without the Seller's prior consent in writing.

Registered office:  
3 Grove Park Court, Harrogate HG1 4DP

### 9. Liability for defects

If within one year after the date of delivery the goods delivered prove to be defective and it can be proved that the defects are due to errors related to the design or production of the goods delivered or the materials used, then the defective delivery shall be remedied or replaced at the Seller's discretion. If a more intensive use is made of the goods than was agreed upon or could reasonably be anticipated at the time when the agreement was entered into, the period of

the guarantee will be reduced accordingly. If the goods delivered are used for purposes other than those which the Seller reasonably could anticipate, the guarantee shall lapse.

In the case of parts which must be replaced or repaired within the guarantee period, a new guarantee period of one year shall begin on terms corresponding to those of the original delivery. Unless otherwise agreed, the transport or forwarding to the Seller's premises of parts for replacement or repair shall be at the customer's expense and risk, while transport or forwarding of the repaired parts or new replacement parts to the customer shall be at the Seller's expense and risk.

The Seller shall only be liable for defects arising in the course of correct use of the goods. The Seller's liability shall not cover defects arising from inadequate maintenance by the customer, incorrect installation, constructional alterations or repairs incorrectly carried out, nor shall the Seller be liable for general wear and tear.

The Seller shall not be liable for defects other than as set out above.

Defects in the quality of goods delivered in instalments shall not entitle the customer to cancel the remainder of the order or contract.

### 10. Deliveries for building construction

To the extent – and solely to the extent – to which goods delivered are to be used for buildings in Denmark, deliveries shall take place subject to the following clause concerning deliveries for building construction which has been drawn up by the National Building Agency under the Ministry of Housing and Urban Affairs.

The Seller's liability in accordance with Clause 9 above for defects in deliveries shall lapse five years after the handing over of the building in which the goods delivered are included. However, in the case of deliveries to stocks or for resale, the Seller's liability shall lapse not later than six years after the delivery of goods to the customer.

If it is held to be certain that a claim concerning defects in goods delivered cannot or can only with considerable difficulty be raised against the Seller's customer or subsequent customers, it shall be admitted that the claim may also be raised directly against the Seller. However, even in such cases, the Seller may only be held liable for defects to the extent that the goods delivered by the Seller itself were defective and furthermore only to the extent that derives from the Seller's own contractual agreement with its own customers.

Nevertheless, the Seller recognises that in all cases legal action may be brought against it together with the customer or subsequent customers with reference to the parties' mutual relations. Such cases will be brought before the arbitration tribunal for building and construction enterprises.

### 11. Limitation of liability

The Seller shall at no time be liable for fines, operating loss, loss of profits or other indirect or consequential damage or losses. The Seller's liability for material damage shall on no occasion exceed DKK 500,000.

### 12. Product liability

If liability is imposed on the Seller in connection with the customer's use of the goods delivered – including resale – the customer shall be obliged to indemnify the Seller to the extent to which any such liability exceeds the agreed limits for the Seller's liability. The customer shall be obliged to submit to legal proceedings before the same court where the claim for damages is to be heard against the Seller in connection with the goods delivered.

### 13. Consultancy

The Seller shall accept no liability for consultancy or advisory services provided by the Seller in connection with goods delivered unless the consultancy is provided under the terms of a specific written agreement.

### 14. Force Majeure

The Seller reserves the right to exemption from liability for the following events if they cause deliveries to be delayed or hinder performance as agreed: war, civil commotion, revolution, sabotage, requisition, piracy, natural disasters such as violent storms, cyclones, earthquakes, flooding, lightning strikes, epidemics and quarantine, boycotting, explosions, fire, destruction of machinery, factories or other installations through no fault of the Seller's, actions by authorities, strikes of any type whatsoever, including unofficial strikes

Ericsson nkt cables Venture Ltd.  
Registered in England No. 5212765

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and similar which do not involve formal interruption of work, lock-outs, suspension of operations regardless of the reason thereof, currency restrictions, restrictions on motive force, lack of transport, delayed or lacking deliveries from the Seller's suppliers or other similar circumstances beyond the Seller's control. In these circumstances the date for delivery shall be postponed to the same extent to which the circumstances cause delay. If these circumstances prevent or cause delays exceeding 180 days, the Seller shall be entitled to cancel the order without liability.

## **15. Choice of governing law and venue**

All disputes in connection with orders or contracts shall be governed by the law of the Seller's country and shall be settled in the Commercial Courts of the Seller's country.

However, the Seller shall be entitled to the option at its own discretion to choose as the venue the court in the customer's domicile or the capital of the importing country.