

IN THE MATTER OF THE ARBITRATION BETWEEN

Polar Wind Inc (Claimant)
and
Nordic Power Ltd (Respondent)

RESPONDENT'S STATEMENT OF DEFENSE

A. Introduction

Nordic Power Ltd submits this Statement of Defense in response to the claims raised by Polar Wind Inc regarding alleged shortcomings in the electrical cables delivered under our contractual agreement. We categorically deny all allegations and assert that we have fully complied with all contractual obligations and industry standards. Our position is supported by extensive evidence demonstrating the high quality of our products and the lack of merit in Polar Wind's claims.

B. Background

Nordic Power Ltd and Polar Wind Inc entered into a supply agreement on January 15, 2020, as evidenced by [RE-001](#). The agreement detailed the provision of high-quality electrical cables conforming to international standards, specifically those outlined in [CE-003 page 6](#). The contract terms and conditions, as set forth in [CTC](#), outlined the specifications, warranties, liabilities, and performance metrics agreed upon by both parties.

Prior to the execution of the agreement, extensive negotiations took place, documented in [RE-036 page 4](#). Both parties had the opportunity to review and amend the terms, ensuring mutual understanding and agreement. Our commitment to quality is further demonstrated by the internal meeting minutes ([CE-024 p 2](#)), where we discussed the specific needs of Polar Wind's project. The vendor evaluation reports ([CE-043 p. 4](#)) prepared by Polar Wind prior to selecting us as a supplier highlighted our superior product quality and reliability.

C. Manufacturing and Quality Assurance

Our manufacturing processes adhere to the highest quality standards, including ISO 9001 certification as indicated in [RE-003](#). This certification underscores our commitment to maintaining rigorous quality management systems and continuous improvement. Manufacturing compliance is further demonstrated in [RE-006 page 1](#).

Before shipment, we conducted rigorous batch testing to ensure compliance with all specifications, as documented in [RE-004](#). These tests confirmed that the cables met or exceeded all required standards. The third-party inspection certificate ([RE-005 page 2](#)) provides independent verification of the quality and conformity of the cables to industry standards. Our processes are also compliant with industry standard practices, as detailed in [ISP page 2](#).

Our internal audit report ([RE-012 page 2](#)) shows no discrepancies in our manufacturing processes. Furthermore, the manufacturing records ([RE-011](#)) detail the adherence to all specified procedures during production. The equipment used in manufacturing is regularly calibrated and maintained, as recorded in [RE-012 p 2](#). The cables were produced using materials sourced from certified suppliers, as per [RE-048 page 4](#).

D. Delivery and Acceptance

The cables were delivered on schedule, with shipment tracking logs confirming timely dispatch and receipt ([RE-046 page 6](#)). Polar Wind acknowledged receipt without reservations, as evidenced by the proof of delivery receipts in [RE-040 page 4](#). The correspondence regarding additional orders ([RE-039 page 2](#)) indicates that Polar Wind was satisfied with the initial delivery and was considering further purchases.

Polar Wind's project management reports ([CE-038](#)) indicated that the delivery was timely and met project deadlines. The project completion certificates ([CE-050 page 4](#)) were issued without noting any deficiencies. The minutes from Polar Wind's internal meetings ([CE-024 page 3](#)) express satisfaction with the delivery and quality of the products.

Subsequent email correspondence from [Valiant1 \(CE-015\)](#) and [Oslo1 \(CE-018 page 5\)](#) expressed satisfaction with the condition and quality of the delivered cables. Client testimonials ([CE-046](#)) further affirm the positive reception of our products.

Acceptance test results provided by Polar Wind, as per [CE-005 page 2](#), indicated that the cables met all performance expectations upon initial testing. The field installation report ([CE-006 page 5](#)) did not note any issues or defects at the time of installation.

E. Installation Guidelines and Support

Nordic Power provided comprehensive installation guidelines, detailed in [RE-008 page 6](#), to ensure optimal performance of the cables. These guidelines were developed in accordance with industry standard practices ([ISP page 2](#)). Training materials were also provided to Polar Wind's technical team, as per [RE-030](#). Our training records ([CE-044 page 5](#)) show that several of Polar Wind's technicians attended our training sessions.

Our communication logs ([RE-032 page 4](#)) reflect ongoing support and availability to assist with any technical queries during the installation process. Emails from Banyga ([CE-017 page 3](#)) and Hamar ([CE-019 page 3](#)) indicate that we promptly responded to all inquiries.

Despite these efforts, there is evidence that Polar Wind did not fully adhere to the recommended installation procedures. Training records ([CE-044 page 6](#)) show that additional training sessions were offered but not attended by some of Polar Wind's installation team. The installation site field report ([RE-007 page 3](#)) documents several instances where the installation did not meet the prescribed standards. The site safety reports ([RE-050 page 2](#)) highlight concerns about the installation environment that were not addressed.

F. Allegations of Defects

Approximately six months after installation, Polar Wind alleged defects in the cables, as outlined in [CE-004 page 5](#). The formal complaint letter ([CE-007 page 3](#)) cited operational issues but lacked substantive evidence linking these to manufacturing defects. Notably, there was a significant delay between the occurrence of the issues and the notification to us, as shown in communications with government agencies ([CE-040 page 5](#)).

Polar Wind's own site damage reports ([CE-020 page 7](#)) indicate that external factors, such as severe weather events, may have contributed to the issues experienced. The equipment maintenance logs ([CE-037 page 4](#)) reveal lapses in regular maintenance schedules.

We immediately initiated an investigation to address these concerns. Our internal audit report ([RE-012 page 2](#)) and manufacturing records ([RE-011 page 4](#)) confirm that the cables were produced in strict compliance with all specifications. An expert report by Dr. Laura Smith ([RE-010 page 3](#)) concluded that the cables were free from manufacturing defects and that the issues were likely due to improper installation or external factors. Our analysis of the

claimant's damages ([RE-015 page 4](#)) indicates that the claimed losses are inconsistent with the actual performance of the cables.

G. Investigation and Findings

Site visits conducted by our engineers resulted in a detailed report ([RE-029 page 3](#)), highlighting significant deviations from the installation guidelines. Photographic evidence ([RE-009 page 7](#)) and the installation deviations report ([RE-014 page 2](#)) corroborate these findings. The site visit report notes that certain critical installation steps were omitted or incorrectly performed.

Equipment maintenance logs from Polar Wind ([CE-037 page 5](#)) indicate irregular maintenance practices that could contribute to operational failures. The contractor performance reviews ([CE-036 page 2](#)) suggest that the contractors engaged by Polar Wind may not have been adequately qualified.

Environmental factors at the installation site were also assessed. The environmental impact assessments ([CE-041 page 3](#)) suggest that the site conditions required additional protective measures not implemented by Polar Wind. The risk assessment reports ([RE-044 page 5](#)) identified potential environmental risks that were not mitigated.

Our expert witness statement ([CE-031 page 4](#)) provided by Polar Wind lacks objectivity and does not adequately consider alternative causes for the issues.

H. Contractual Obligations and Liability

Under the contract terms and conditions ([CTC page 4](#)), Nordic Power's liability is limited to defects arising from manufacturing errors. The warranty terms ([RE-031 page 3](#)) explicitly exclude coverage for issues resulting from improper installation, misuse, or inadequate maintenance.

According to CISG Article 35 ([CE-008 page 3](#)), the seller must deliver goods of the quantity, quality, and description required by the contract. We fulfilled this obligation by delivering cables that met all agreed specifications. Furthermore, CISG Article 80 ([CE-009 page 3](#)) states that a party cannot rely on the failure of the other party if such failure was caused by the first party's own act or omission. Polar Wind's failure to adhere to installation guidelines and maintenance practices absolves us of liability.

Legal precedents on liability limitations ([RE-035 page 7](#)) support the enforcement of contractual limitations like those in our agreement. Prior arbitral awards ([CE-010 page 3](#)) have upheld similar provisions, reinforcing our position. The applicable law memorandum ([RE-043 page 3](#)) further substantiates our defense.

The supplier agreements ([RE-048 page 5](#)) confirm that all materials used met the required specifications. The contractor agreements ([RE-049 page 6](#)) between Polar Wind and their contractors outline responsibilities for proper installation and maintenance, which appear to have been neglected.

I. Mitigation of Damages

Polar Wind failed to mitigate damages as required under CISG Article 77 ([CE-013 page 2](#)). Despite our offers of assistance ([RE-028 page 5](#)), they did not take reasonable steps to address the issues. Risk mitigation strategies proposed by us ([CE-035 page 2](#)) were not implemented. Our mitigation efforts assessment ([RE-016 page 3](#)) shows that we provided several options to address potential problems, none of which were acted upon by Polar Wind.

Additionally, Polar Wind delayed notifying us of the alleged defects, as indicated by the time gap between the installation and the formal complaint ([CE-007](#)). Alternative dispute resolution attempts ([CE-032](#)) were ignored by Polar Wind, which could have minimized the impact of the issues. Their reluctance to engage in constructive dialogue exacerbated the situation.

J. Financial Considerations

Polar Wind has withheld payments totaling \$1.5 million, as detailed in the payment withholding notice ([CE-014 page 3](#)). This action breaches the payment terms outlined in [CTC page 4](#). Our unpaid invoices summary ([RE-017 page 7](#)) provides a detailed account of the outstanding amounts. Payment demand letters ([RE-037](#)) have been sent, but no response has been received.

The financial loss calculations provided by Polar Wind ([CE-025 page 8](#)) are speculative and lack supporting evidence. Their damages claim breakdown ([CE-012](#)) includes costs not recoverable under the contract or applicable law. We contend that these claims are unfounded and should be dismissed.

Our financial statements impact ([RE-034 page 3](#)) demonstrates the adverse effects of the unpaid invoices on our operations. The interest calculation sheet ([RE-038](#)) outlines the accrued interest on the overdue payments, as per the terms agreed upon in [CTC page 4](#).

The financial audit reports ([CE-039 page 5](#)) suggest that Polar Wind's financial difficulties may be influencing their claims. Their investor communication ([CE-026](#)) indicates pressure to shift blame for project delays and cost overruns.

K. Counterclaims

Nordic Power asserts a counterclaim for the unpaid invoices, interest, and damages resulting from reputational harm. The market impact analysis ([CE-030 page 6](#)) demonstrates the negative effects of Polar Wind's unfounded allegations on our business. Press releases issued by Polar Wind ([CE-027](#)) have caused significant damage to our reputation and market position.

The financial statements impact ([RE-034 page 4](#)) on Nordic Power includes lost future business opportunities, as potential clients have hesitated to engage with us due to Polar Wind's allegations. The performance metrics ([CE-045 page 2](#)) of our company have been adversely affected.

We also seek compensation for legal costs incurred, as detailed in [RE-018 page 2](#), in accordance with the dispute resolution clause ([DRC page 6](#)). The arbitration clause analysis ([RE-042 page 2](#)) confirms our right to recover such costs.

L. Good Faith and Fair Dealing

Throughout this process, Nordic Power has acted in good faith. Our proactive communication and willingness to resolve issues amicably are evident in the record of telephonic conversations ([RE-041 page 6](#)) and stakeholder correspondence ([CE-029 page 2](#)). We have consistently sought to engage with Polar Wind to find a mutually acceptable resolution.

Alternative dispute resolution attempts ([CE-032](#)) initiated by us were declined by Polar Wind. Our efforts to resolve the matter amicably are documented in the communication logs ([RE-032 page 5](#)) and prior correspondence acknowledging compliance ([RE-045 page 6](#)). Conversely, Polar Wind has made public statements in press releases ([CE-027 page 4](#)) that

disparage our company, suggesting a lack of reciprocal good faith. Their actions have undermined our efforts to resolve the matter privately and amicably.

M. Compliance with Regulatory Requirements

Nordic Power has complied with all relevant regulatory requirements. Our communications with government agencies ([CE-040 page 6](#)) confirm that we have met all regulatory obligations. The safety compliance certificates ([CE-042 page 2](#)) are current and valid. Environmental impact assessments ([CE-041 page 4](#)) further demonstrate our commitment to compliance.

Polar Wind's failure to comply with certain regulatory obligations is noted in the regulatory compliance documents ([CE-028 page 3](#)). Their own environmental impact assessments ([CE-041 page 4](#)) highlight their failure to implement necessary environmental protections, which may have contributed to the issues experienced.

N. Impact on Nordic Power's Business

The unfounded allegations have had a detrimental impact on our business. The report Bergen Q2 2024 ([RE-024 page 5](#)) shows a decline in sales. Subsequent reports ([RE-025 page 3](#), [RE-026 page 5](#)) continue to reflect this downward trend. Our communications with government agencies ([CE-040 page 6](#)) have been necessitated by the need to address these concerns.

Investor communication ([CE-026 page 1](#)) reveals that shareholders are concerned about the potential implications of this dispute. The performance metrics ([CE-045 page 2](#)) indicate a slowdown in growth, which we attribute to the reputational damage caused by Polar Wind's

O. Legal Analysis

The applicable law memorandum ([RE-043 page 3](#)) outlines the legal framework governing this dispute. Under the United Nations Convention on Contracts for the International Sale of Goods, our obligations were fulfilled. The prior arbitral award ([CE-010 page 3](#)) sets a precedent supporting our position.

The confidentiality agreements ([CE-049 page 6](#)) signed by both parties prohibit the dissemination of proprietary information. Polar Wind's press releases ([CE-027 page 4](#)) may constitute a breach of these agreements.

The arbitration clause analysis ([RE-042 page 2](#)) confirms the appropriateness of seeking recovery of legal fees. The dispute resolution clause ([DRC page 6](#)) supports our right to enforce the contractual terms regarding arbitration and cost recovery.

P. Conclusion

In conclusion, Nordic Power has fully complied with all contractual obligations and industry standards. The issues experienced by Polar Wind are a result of their failure to adhere to installation guidelines, inadequate maintenance practices, and environmental oversight. We have acted in good faith throughout our relationship and have been proactive in seeking a resolution.

We respectfully request that the tribunal dismiss all claims made by Polar Wind, award us the outstanding payments, interest, and legal costs, and grant any additional relief deemed appropriate.

FINAL REMARKS

Nordic Power maintains that it has acted in good faith and in full compliance with its contractual obligations.

The evidence overwhelmingly supports the position that any issues encountered by Polar Wind are self-inflicted.

The Tribunal is respectfully requested to consider all the facts, evidence, and legal arguments presented.