



## WEBSITE TERMS AND CONDITIONS

WELCOME TO THE WEBSITE (the "**Website**") OF ERCO WORLDWIDE ("**ERCO Worldwide**"). PLEASE READ CAREFULLY ALL OF THE TERMS AND CONDITIONS ("**Terms of Use**") BEFORE PROCEEDING.

THESE TERMS OF USE WERE LAST UPDATED: April 21, 2006

### 1. Acceptance of Terms of Use

These Terms of Use are an agreement between ERCO Worldwide and you. By accessing, browsing and using the Website, you agree to accept and abide by these Terms of Use. If you do not agree to accept and abide by these Terms of Use, you may not access or use this Website.

ERCO Worldwide has the right, in its sole discretion, to modify part or all of these Terms of Use at any time. Any change will be effective when notice of updated Terms of Use is posted above. Please review these Terms of Use frequently for updates. Your continued access, browsing or use of the Website after any such changes are posted will constitute acceptance of these changes.

### 2. Proprietary Rights

All works, content and materials on this Website, including without limitation, all information, text, design, graphics, images, drawings, code and software (the "**Materials**") and all organization and presentation of the Materials which form a part of this Website are the exclusive property of ERCO Worldwide or its licensors and are protected by intellectual property laws relating to copyrights, trade-marks, trade names, Internet domain names, trade dress and other proprietary rights. Nothing on this Website shall be construed as providing, by implication, estoppel or otherwise any license to any proprietary or intellectual property rights in or to any of the Materials to you or any other party, except as expressly granted in these Terms of Use.

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### 3. Permitted Uses

You agree that you shall:

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- b. use the Materials solely for lawful purposes;
- c. not create derivative works from, exploit or modify the Materials in any way;
- d. not interfere with the security of, or otherwise abuse the Website or any system resources, services or networks connected to or accessible through this Website; and
- e. acknowledge that the unauthorized use of the Materials may cause irreparable harm to ERCO Worldwide and that in the event of an unauthorized use, ERCO Worldwide shall be entitled to an injunction, in addition to any other remedies available at law or in equity, to prevent such irreparable harm and that the balance of convenience in preventing such use rests with Superior Plus.

#### **4. No Endorsement of Third Parties**

ERCO Worldwide may provide links to Internet websites of third parties for your convenience only. Because ERCO Worldwide has no control over such websites and resources therein, you acknowledge and agree that ERCO Worldwide is not responsible for the availability of such websites or resources, does not endorse and is not responsible or liable for any content, products or services or other materials or information on or available from any such websites. You acknowledge and agree that you access such websites at your own risk. You further acknowledge and agree that ERCO Worldwide shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, products or services other materials or information on or available through any such websites.

#### **5. Personal Information**

Please refer to ERCO Worldwide's Privacy Policy on this website.

#### **6. Viruses**

ERCO Worldwide assumes no responsibility and shall not be liable to you or to any other party for any damages to or any viruses, "Trojan horses", "worms", "cancelbots" or other harmful, disruptive or destructive files or computer programs that may infect your computer equipment or other property on account of your access to, use of or browsing on the Website or your downloading of any the Materials from the Website.

#### **7. E-mail Communication**

You acknowledge and agree that the Internet is not a fully secure medium and that any e-mail messages sent may be lost, intercepted or altered. ERCO Worldwide is not liable for any damages arising from e-mail messages sent to us on the Website. With respect to any information and materials provided to ERCO Worldwide through the Website, you acknowledge and agree that:

- a. the information and materials become the property of ERCO Worldwide and are not confidential; and
- b. ERCO Worldwide has no obligation regarding such information and materials and may use, reproduce and disclose same for any purpose.

#### **8. No Representation or Warranty**

THIS WEBSITE AND ALL MATERIALS ON THIS WEBSITE OR MADE AVAILABLE THROUGH THIS WEBSITE ARE PROVIDED "AS IS" WITHOUT ANY REPRESENTATIONS, WARRANTIES, GUARANTEES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, WARRANTIES OR CONDITIONS AS TO UNINTERRUPTED OR ERROR FREE OPERATION, AVAILABILITY, ACCURACY, COMPLETENESS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUALITY, NON-INFRINGEMENT, OR THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE.

#### **9. Limitation of Liability**

YOU ASSUME ALL RESPONSIBILITY AND RISK FOR USE OF THIS WEBSITE INCLUDING WITHOUT LIMITATION ANY OF THE MATERIALS CONTAINED THEREIN. IN NO EVENT WILL SUPERIOR PLUS, ITS AFFILIATES, SUBSIDIARIES, AGENTS, LICENSORS, PARTNERS, SUPPLIERS, OR THEIR RESPECTIVE DIRECTORS OR EMPLOYEES BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, AGGRAVATED, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR HARM TO BUSINESS, LOSS OF OPPORTUNITY, LOSS OF INFORMATION OR DATA, LOSS OF REVENUE OR LOSS OF SAVINGS), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM, WHETHER IN AN ACTION IN CONTRACT OR TORT INCLUDING NEGLIGENCE, OR BASED ON A WARRANTY ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE WEBSITE.

#### **10. Indemnity**

You agree at all times to indemnify, defend and hold harmless ERCO Worldwide and its affiliates, subsidiaries, agents, licensors, suppliers, and their respective directors and employees against all actions, claims proceedings, costs, demands, damages and liabilities whatsoever sustained, incurred or paid by ERCO Worldwide directly or indirectly in respect of:

- a. any information, materials or other content you provide on or through the Website; or
- b. your, or any party that you are responsible for or who accesses or uses the Website as a result of you, use or misuse of the Materials or the Website, including, without limitation, infringement claims.

## 11. Termination

These Terms of Use are effective until terminated by Superior Plus, at any time, with or without notice, in Superior Plus' sole discretion. Any such termination shall be in addition to and without prejudice to such rights and remedies as may be available to Superior Plus.

## 12. General

- a. The Terms of Use contain the entire agreement and understanding between ERCO Worldwide and you with respect to the Website and supersede any and all written and oral agreements previously existing between ERCO Worldwide and you with respect to the Website.
- b. The Website is controlled, operated and administered by ERCO Worldwide from within the Province of Ontario, Canada. The Website can be accessed from all provinces and territories of Canada, as well as from other countries around the world. As each of these jurisdictions has laws that may differ from those of the Province of Ontario, by accessing the Website, you acknowledge and agree that all matters relating to access to, or use of the Website shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. You also agree and hereby submit to the exclusive jurisdiction and venue of the courts of the Province of Ontario and acknowledge that you do so voluntarily and are responsible for complying with local laws excluding conflicts of laws principles therein.
- c. Superior Plus' failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right.
- d. Should any part of the Terms of Use be declared invalid or unenforceable by a court of competent jurisdiction, this shall not affect the validity of any remaining portion and such remaining portion shall remain in full force and effect as if the invalid portion of the Terms of Use had been eliminated.
- e. The Terms of Use shall inure to the benefit of and be binding on ERCO Worldwide and you, and ERCO Worldwide and your permitted successors and assigns.
- f. The parties have requested that these Terms of Use and all documents relating thereto be drawn up in English. Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.
- g. **All rights not expressly granted herein are reserved.**