

# GENERAL TERMS AND CONDITIONS OF SOLEOS SOLAR GMBH

This is a translation of the German AGB. The German version is legally valid.

## 1. Scope

Within the framework of the entrepreneurial business transaction, supplies and services of the company Soleos shall be exclusively rendered subject to the following Terms and Conditions. We shall not acknowledge conflicting or deviating terms and conditions of the Customer.

## 2. Deliveries and Services

- 2.1 Offers submitted by Soleos shall always be subject to confirmation and notbinding. A contract shall only be concluded upon Soleos's written confirmation of the order.
- 2.2 We reserve reasonable technical and creative deviations from the data given in brochures, catalogues and written documents, as well as alterations to models, constructions and material within the course of technical progress and further development; no rights vis-à-vis Soleos may be derived from such deviations and/or alterations. Such reservation of right of modification shall also refer to customary deviations with respect to the amount and quality of contractual items.
- 2.3 Soleos expressly reserves the right to partial deliveries and their respective invoicing.
- 2.4 Agreed delivery dates shall be deemed as complied with as soon as the contractual item was handed over to the person or institution charged with the dispatch on the agreed date. Delivery dates shall always be agreed upon subject to the timely and correct deliveries by Soleos's specific supplier.
- 2.5 Should the dispatch of goods ready for shipping be delayed due to reasons for which Soleos is not responsible, the contractual items may be stored at the Customer's risk and expense.
- 2.6 The Customer shall be obliged to immediately inspect the contractual items. Should no notice of defect be submitted within three working days, the goods shall be deemed as correctly and completely delivered, unless a defect is concerned, which was not recognizable upon inspection. Irrelevant defects that do not interfere with the proper functioning of the supplied items shall not entitle the Customer to refuse acceptance of the goods.

## 3. Passing of Risk and Place of Performance

Delivery shall be carriage forward ex works Kerpen.

## 4. Prices and Terms of Payment

- 4.1 The current price list shall be applicable to all deliveries plus any additional costs specified by the price list, especially the value added tax valid on the date of delivery.
- 4.2 If a delivery date was agreed upon which is 1 month after concluding the Contract or if, due to reasons for which the Customer is responsible, delivery is only made 1 months after concluding the Contract, we reserve the right to change prices due to changes in material prices or collective agreements.
- 4.3 Payments shall fall due within 14 days of the invoice date without any deduction. The invoice shall be submitted upon delivery, unless advance payment was agreed upon. Cheques will only be accepted on account of performance.
- 4.4 The Customer's right to determine payment in compliance with Article 366, Paragraph I of the German Civil Code (German abbr. BGB) shall be contracted out. Exclusively Articles 366, Paragraph II, 367 of the German Civil Code shall be applicable.

- 4.5 Compensation or assertion of a right of retention with respect to claims that were not recognized by Soleos or were not legally recognized shall be excluded.
- 4.6 Each delay in payment on behalf of the Customer shall entitle Soleos to make or render any not-yet made or rendered, however, confirmed deliveries and services against advance payment or to cancel the order.

## **5. Retention of Title**

- 5.1 Soleos shall retain title to supplies until full payment of all claims from the business relationship. Goods, the title of which appertains to Soleos, shall be referred to as goods subject to retention of title. The Customer shall be obliged to adequately insure goods subject to retention of title at the Customer's expense against all usual risks, in particular fire and theft and, upon request, submit adequate proof. In case of access of third parties to the goods subject to retention of title, in particular in case of seizure, the Customer shall point out Soleos's proprietorship, as well as immediately inform Soleos accordingly. Any cost involved shall be borne by the Customer.
- 5.2 Subparagraph 5.1 shall also apply if, within the meaning of Article 95 of the German Civil Code, the supplied item was connected to the Customer's properties, buildings or moveable properties as equipment.
- 5.3 The Customer shall have the right to resell the supplied item within the framework of the ordinary course of business. The Customer shall assign all claims vis-à-vis third parties to Soleos arising from such resale. However, the Customer shall be authorized to collect these claims. Soleos's authority to collect the claims shall remain unaffected, however, Soleos shall undertake not to collect any claims as long as the Customer meets his obligations to pay in due time. Soleos may require that the Customer discloses the assigned claims and their debtors, furnishes Soleos with all necessary data and documents and informs the debtors about the assignment of the claim.
- 5.4 Should the Customer process the supplied goods and should thus the retained title be lost or should the Customer process the goods which were only processed by us, processing for us shall be effected in that manner that we acquire co-ownership in the new good in the amount corresponding to the purchase value of the supplied good or the production value of our processing work on the supplied good in proportion to the total sales value of the new good. This processing clause shall refer to all claims acquired by the Customer by the resale of goods subject to the processing clause. The Customer shall assign the claims arising from the resale of such goods in the amount arising from the processing clause. We assume such assignment.
- 5.5 Should the Customer connect the supplied item to real estate, buildings or movables he shall, without requiring further explanation, as a precaution, assign the claim he is entitled to as remuneration for the connection including all ancillary rights in the amount of the proportion of the value of the supplied good to the other connected goods at the time of the connection.
- 5.6 Soleos shall undertake to release previous securities as far as their value exceeds the claims to be secured by more than 10%.
- 5.7 In case of the Customer's conduct in violation of the Contract, especially in case of delays in payment, Soleos shall have the right to take back the goods subject to retention of title at the Customer's expense or require assignment of the Customer's claim for return vis-à-vis third parties. Soleos's retraction, as well as seizure of the goods subject to retention of title shall not constitute termination of the Contract, unless compulsory by law.

## **6. Duty to Cooperate**

Upon Soleos's request, the Customer shall be obliged to submit information about the bearing load of the roof, as well as the roof construction, as well as about the exact installation location of the inverter.

## **7. Liability for Material Defects**

- 7.1 Soleos shall warrant that, upon passing of the risk, the supplied products or rendered services are free from defects which insignificantly decrease or reverse the value or the goods' suitability with regard to their usual or contractually stipulated use. Liability for material defects shall amount to 12 months and shall commence upon passing of the risk.
- 7.2 Initially, with respect to the entire delivery or service or individual parts subject to Soleos's choice, the liability shall be limited to rectification or replacement of the faulty goods. As long as the liability to rectify defects is complied with, the Customer shall not have the right to claim reduction of payment, rescission of the Contract (termination) or compensation, unless the rectification has definitely failed. That rectification or replacement failed may only be assumed after Soleos was given sufficient opportunity to rectify or replace the defective goods, if rectification or replacement of the goods is impossible, refused or unsuitably delayed, if there are justified doubts regarding the chances for success or if unacceptable for other reasons. As long as Soleos is not in delay with rectifying the defect and rectification has not definitely failed, the Customer shall not have the right to have the defects remedied by third parties.
- 7.3 No liability for defects shall be assumed if:
- a) The defects on the supplied goods are due to inappropriate transportation, incorrect packaging or inappropriate processing by the Customer or third parties engaged by the Customer;
  - b) wear and tear parts or wear and tear materials are concerned;
  - c) the defects occurred due to wrong storage or inappropriate use;
  - d) the supplied goods were processed or connected with third party products without being covered by the designated use specified by the respective specifications;
  - e) the serial numbers or details regarding the date of production were removed from the supplied goods;
  - f) the defects are due to the Customer's lack of cooperation;
  - g) the goods were sent back without authorization.
- The quality warranty claim shall not cease to apply if the Customer submits proof that there is no causal connection between the defects and the specified conditions.
- 7.4 If inspection of a notice of defects on behalf of the Customer results in the fact that there is no case of material defects liability, Soleos may charge the costs for the inspection and repair to the Customer.

## **8. Industrial Property Rights and Copyrights of Third Parties**

- 8.1 Soleos checked carefully that no contractual products violate any third-party industrial property rights or copyrights. Soleos is not acquainted with adverse rights of third parties. Further liability shall be excluded. The Customer must immediately inform Soleos about all claims made against him on this account.
- 8.2 Provided that the supplied products were produced according to the Customer's designs and instructions, the Customer must indemnify Soleos against all claims. Possible legal costs must be advanced accordingly.
- 8.3 Designs prepared by Soleos shall remain Soleos's property and must not be made available to third parties without Soleos's prior consent. Offer documents must be returned upon request if the Customer was not awarded the contract.

## **9. Liability**

- 9.1 Soleos shall be liable for personal injuries, as well as for claims from the Product Liability Act within the framework of the legal provisions.

- 9.2 Otherwise, Soleos shall only be liable for other damages if Soleos, its legal representatives or vicarious agents are liable for intent or gross negligence. Furthermore, Soleos shall also be liable in cases of slight negligence if warranty was explicitly assumed and in the case of the violation of substantial contractual obligations the fulfilment of which the Customer may especially rely on.
- 9.3 In case of slightly negligent violation of substantial contractual obligations, as well as gross negligence of vicarious agents who are no executives, Soleos shall only be liable in the amount of the typically predictable damage.
- 9.4 Otherwise, Soleos shall not be liable for cases of slight negligence, irrespective of the legal ground.
- 9.5 Preceding limitation of liability shall also cover Soleos's employees.

## **10. Impediments to Performance without Fault**

Should, due to force majeure, e.g. war or upheaval, natural disasters or fire, epidemics or quarantine, strike or lock-out, measures of the government or other events for which Soleos is not responsible, contractual obligations not be fulfilled, not be fulfilled in time or otherwise not be fulfilled in compliance with the Contract, Soleos shall be exempted from the obligation to comply with such obligation and the Customer shall be exempted from the respective counter-performance. This shall also apply if the events happen during a delay that has already occurred.

## **11. General Provisions**

- 11.1 The Customer shall not have the right to assign his claims from the Contract unless approved in writing by Soleos.
- 11.2 Returns shall not be permitted. Returned goods shall be returned at the Customer's expense.
- 11.3 Place of jurisdiction shall be Bornheim. The law of the Federal Republic of Germany shall be applicable to the exclusion of the UN-Convention on Contracts for the International Sale of Goods (CISG) and the Introductory Act to the German Civil Code (German abbr. EGBGB).
- 11.4 Should a provision of this Contract be or become invalid or disputable the validity of the remaining provisions shall remain unaffected. As far as legally possible, such provisions shall be interpreted or amended to approximate most closely their intended economic purpose. This shall also apply to possible gaps in the Contract. The validity of the remaining provisions shall remain unaffected.