

General Terms and Conditions of Business and Delivery

IKS Photovoltaik GmbH - An der Kurhessenhalle 16 b - 34134 Kassel

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1 Offer and conclusion of contract

- 1.1 All offers, supplies and services of IKS Photovoltaik GmbH are exclusively subject to the Terms and Conditions of Business and Delivery below. Any different terms and conditions, particularly terms and conditions of purchase of the customer, only become part of the contract if they have expressly been agreed upon in writing. Any ineffectiveness of individual provisions of our Terms and Conditions of Business and Delivery as a result of such different agreement does not affect the exclusive applicability of the rest of our Terms and Conditions of Business and Delivery. Any previous or customary agreements have no continuing applicability.
- 1.2 Offers are non-binding unless they have expressly been designated as binding. Drawings, samples, price lists and all other documents and descriptions remain our property, for which we reserve all copyrights; they must not be reproduced or otherwise made accessible to third parties.
- 1.3 Sales agreements will not be deemed entered into unless
 - a) an according written confirmation is given on the basis of our offer,
 - b) we send an order confirmation after having received an order in writing,
 - c) a written contract is signed by both parties, or at the latest
 - d) by performance of the delivery of the ordered goods.
- 1.4 We are entitled to partially or entirely devolve confirmed orders to third parties.

2 Scope of delivery

- 2.1 Any information about quality-related and technical properties as well as drawings and other product descriptions are non-binding unless they have expressly been designated as binding by us in writing. We particularly reserve the right to change offered materials and designs in individual cases or with the objective of enhancing the products.
- 2.2 Our deliveries are made ex works (Incoterm: EXW), carriage forward and uninsured. The type of shipment and packaging can be chosen at our discretion unless specified by the customer. Any customs costs, duties, fees, taxes and similar charges at the place of destination must be paid by the customer. The goods to be delivered are only insured by us if and to the extent that the customer requests. The associated costs must be borne by the customer. Packaging will be invoiced and not be taken back. Any increase in the carriage costs due to a subsequent change of the type of packaging, the transportation route, the place of delivery or similar circumstances affecting the carriage costs must be borne by the customers.
- 2.3 Any missing or absent goods or damage which has occurred during transportation must be notified by the customer to the responsible shipping company within 24 hours. This also applies even if any event of damage has occurred despite proper packaging. A replacement delivery can only be made if the record of notification drawn up is presented.
- 2.4 Partial deliveries can be made provided that according partial invoices are issued.

3 Delivery period

- 3.1 The agreed delivery periods and dates always apply approximately unless a fixed date has expressly been agreed upon. All non-binding and binding delivery obligations are suspended for the duration of delivery restraints at our own works or those of a sub-supplier that are due to events such as strike, operational disruptions and breakdowns, material shortages, interventions by authorities, acts of God and other circumstances for which we are not responsible. In such events, we are also entitled to rescind the contract with immediate effect. Any claims for damage by the customer for late delivery, on any grounds whatsoever, will be excluded.
- 3.2 The delivery period starts with the sending of the order confirmation, however not before the customer has furnished all documents, permits, approvals which need to be obtained and before any agreed down-payment has been received.
- 3.3 The delivery period will be deemed met if, before its expiry, the item to be supplied has left the works or its readiness for shipment has been notified.
- 3.4 If shipment is delayed at the customer's request, the costs incurred due to storage, however a minimum of 1/2 of the invoice amount in the case of storage at the supplier's works, will be invoiced to the customer for each started month, starting one month after notification of the readiness for shipment. However, the supplier is entitled to use the item to be supplied for other purposes and to supply the customer after a reasonably extended period, after the supplier has set a reasonable period and such has expired fruitlessly.
- 3.5 Compliance with the delivery period is subject to the condition precedent that the customer has fulfilled their duties under the contract.

4 Passage of risk and acceptance

- 4.1 In all events, the risk passes to the customer as soon as the goods to be delivered leave our premises/warehouse; this also applies to partial deliveries and deliveries free customer's address.
- 4.2 If the shipment of the goods to be delivered is delayed due to reasons for which we are not responsible or if delivery on call has been agreed, the risk already passes to the customer upon notification of the readiness for shipment. This also applies if we make use of any right of retention. All costs of the acceptance and storage of the goods to be delivered which are ready for shipment are borne by the customer. Delivered items must be accepted by the customer even if they have minor defects.
- 4.3 If the customer delays or refuses acceptance of the delivery, the customer must bear any and all resulting costs and risks and is obligated to pay damages to the minimum amount of 10% of the total purchase price for failure to perform even if we do not provide evidence of the damage actually incurred by us. Furthermore, we are entitled to rescind the contract for the same reason.

5 Warranty and liability

- 5.1 The goods delivered must be inspected by the customer after their arrival at the place of delivery without delay. Any complaints for incomplete or incorrect deliveries must be notified to us, providing justifying information, within a maximum of 8 working days after arrival of the delivery at the place of delivery. Following expiration of this period, the delivery will be deemed performed as agreed.
- 5.2 We are liable for hidden defects that could not be detected at the immediate point in time of the inspection for a period of 24 months from the day of shipment in a way that we will either repair or replace the defective material at our discretion. If this is impossible, has failed or is unreasonable, the customer will only be entitled to demand a reduction of the purchase price or rescind the defective part of the contract. The defective part must in any case be returned to our address by the customer to enable us to repair it or make a substitute delivery and upon rescission of the contract. The supplier's liability for material third-party products is limited to the assignment of the liability claims the supplier has towards the supplier of the third-party product.
- 5.3 The customer's right to assert any claims for defects will become statute-barred within 12 months from the timely notification of defects, however not before the expiration of the warranty period.
- 5.4 Natural wear, improper treatment, negligence, damaging influences by unauthorised persons, unattended use and modifications of the goods supplied by the customer or by third parties without our written consent are excluded from our liability for defects and our warranty obligation without limitations.
- 5.5 The customer must grant us the necessary time and opportunity to remedy any defects. If the customer fails to do so or only does so subject to unreasonable conditions, we are released from any warranty obligations. This also applies in the case of notifications of defects in accordance with section 5.1.
- 5.6 The warranty period for the substitute item and the repair is three months; however, it does not end before the expiry of the original warranty period for the item supplied. The warranty period for defects on the item supplies is extended by the duration of the interruption of operations caused by the repair works. Any additional warranty and damage claims by the Customer in any form are excluded; in particular, any claim for compensation of damage that has not oc-

curred directly on the item supplied and claims of the customer for tortious acts by the supplier are excluded as far as this is legally permissible. To the extent the above exclusion of liability is not legally permissible, our liability is limited to a maximum of 5% of the purchase price of the material that has caused the damage or is the object of the claim or directly related to the claim, regardless of the legal grounds of the claim.

- 5.7 We are not liable for any damage that is caused by the fact that any purchase offers made by the customer are not received or processed by us due to technical defects (e.g. Internet, fax machine, etc.). This does not apply in case of wilful intent on our part. The scope of our liability under the German Product Liability Act remains unaffected.

6 Data privacy

- 6.1 We warrant that we only collect, process, store and use customer data obtained in connection with inquiries / orders for processing product information / orders and for our own sales activities. We will only disclose the customer data to affiliated companies (e.g. authorised dealers in the relevant countries) in order to facilitate the answering of customer inquiries / processing orders.

7 Price and payment

- 7.1 The prices indicated by us are net prices and do not include shipping and packaging charges. Invoices are issued on the basis of the list prices that are applicable on the date of our order confirmation. If fixed prices are agreed and expressly indicated as such in our order confirmation, they only apply to the duration of the period for which our prices are binding according to such order confirmation. Subsequently our applicable list prices apply as a general rule.
- 7.2 100% of any bank charges are paid by the buyer, including any bank charges accrued in Germany. Any foreign taxes, customs duties and other levies and charges must also be paid by the customer and the related formal obligations must be fulfilled by the customer. In the Federal Republic of Germany, the statutory VAT that is applicable at the time of delivery is added to the prices.
- 7.3 Payment must be made in accordance with our offer, the order confirmation and invoice (pro forma invoice) even if other terms and conditions are stated in the order.
- 7.4 If payments are deferred or made later than agreed, interest to the amount of 4 base points above the applicable discount rate of the German Central Bank will be charged without any notice of default being required.
- 7.5 It is not permissible to retain payments or to offset them against any counterclaims of the customer disputed by the supplier.
- 7.6 Unless expressly otherwise agreed, our invoices become payable within 10 days without deductions in Germany and by advance payment (including all bank charges, including those in Germany) in euro without deductions in other countries. In relation with customised developments, we are entitled to charge 50% of the total order value as an advance payment upon conclusion of the contract unless any other payment terms are agreed. Furthermore, we are entitled to make the performance of the order or the supplies and services subject to the condition precedent that the customer has made advance or partial payments in the meantime. Orders for EUR50,000.00 or more are generally deemed placed and accepted subject to the condition precedent that the customer makes a down-payment of 1/3 of the order value immediately upon placement of the order. The remaining 2/3 will be invoiced as described above. All costs for the transmission to us of the invoice amount due are borne by the customer. The risk associated with the transfer of the invoice amount to us or the paying agents indicated by us lies with the customer. The customer's obligation to pay the purchase price will not be deemed fulfilled until the invoice amount has been received by us, our paying agents or has been paid into our bank account.
- 7.7 If the solvency of the customer deteriorates during the period between the receipt of the order confirmation and the delivery or if we learn subsequently that there are concerns regarding the customer's solvency, we are entitled to demand payment before the agreed payment date, retain outstanding services or rescind the contract. If payment is discontinued or an application for the institution of bankruptcy or composition proceedings is filed by the customer, we are entitled to demand advance payments or securities.
- 7.8 The agreed payment dates must also be met if warranty claims are raised.
- 7.9 The customer waives any assertion of rights of retention. The customer may only offset any amounts against counterclaims if such counterclaims have expressly been acknowledged by us in writing.

8 Retention of title

- 8.1 The goods supplied remain our property until all of our receivables under the business relationship with the customer regarding main and minor matters have been fully paid.
- 8.2 The retention of title and the securities to which we are entitled apply up to full indemnification from contingent liabilities into which we entered in the interest of the customer.
- 8.3 If the customer is in breach of the contract, in particular in the case of a delay in payment, the supplier is entitled to take back the goods and the customer is obligated to surrender the goods after a dunning letter has been sent.
- 8.4 If the validity of such property is subject to the condition precedent that special prerequisites or formal requirements in the country of the customer have been fulfilled, the customer is obligated to ensure that such are fulfilled at their own expense.
- 8.5 The technology underlying the goods supplied and any accompanying materials and software are our property. The customer is not entitled to use, reproduce or reverse engineer (including to build similar products) the goods beyond the purpose of the contract.
- 8.6 If goods are made on the basis of customer specifications, we are generally entitled to also offer third parties the same works unless the works are based on registered property rights of the customer. The customer must expressly advise us of such property rights in writing. This also applies to accompanying materials, sketches, drafts or similar documents that are made or drawn up for the customer in the course of service provision.

9 Contract rescission

- 9.1 If the customer entirely or partially cancels an order confirmed by us for reasons for which we are not responsible, the customer is obligated to reimburse us for the total costs of order processing including all purchase obligations and all other services as well as a reasonable loss of profit. This obligation of reimbursement also covers any orders placed by us with third parties.

10 Binding effect and place of jurisdiction

- 10.1 If any of the above clauses are or become ineffective, this will not affect the effectiveness of the other clauses or the Terms and Conditions as a whole. The parties undertake to replace any such ineffective provision with an effective one that comes closest to the intended economic purpose of the ineffective provision, as far as this is legally possible, taking into account the interests of the parties reflected by this contract. This also applies if a gap not anticipated by the parties is found in the contract.
- 10.2 The legal relationships between the customer and us and the applicable General Terms and Conditions are governed by German law. The UN Sales Convention (CISG) does not apply. The sole place of jurisdiction is our commercial address (Kassel).