

## **General Terms and Conditions of TRIMAX Solar GmbH (hereinafter also referred to as "TRIMAX")**

### **§ 1 Scope, Form**

- (1) Our General Terms and Conditions ("GTC") shall only apply to entrepreneurs within the meaning of § 14 BGB (German Civil Code) as well as to legal entities under public law (also referred to as "Customer" or "Supplier"). They shall not apply to consumers within the meaning of § 13 BGB.
- (2) The GTC shall apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed in writing or in text form, the GTC in the version valid at the time of the customer's order or, in any case, in the version last notified to the customer in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.
- (3) Our orders shall be placed exclusively on the basis of these GTC. Any conflicting terms and conditions of the customer or any terms and conditions of the customer not contained in these GTC shall not apply unless we expressly acknowledge them, even if we accept deliveries or services of the customer without reservation in the knowledge of such terms and conditions. This shall also apply to the inclusion of general terms and conditions of the customer or a third party by means of commercial letters of confirmation.
- (4) Individual agreements made with the customer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTC. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.
- (5) Legally relevant declarations and notifications by the customer with regard to the contract (e.g. setting of deadlines, notification of defects, withdrawal or reduction) shall be made in writing or text form (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in the case of doubts about the legitimacy of the person making the declaration, shall remain unaffected.
- (6) References to the applicability of statutory provisions shall only have a clarifying significance. Even without such clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in these GTC.

### **§ 2 Offer, Conclusion of Contract**

- (1) Our offers are subject to change without notice until they are accepted, unless expressly stated otherwise. This shall also apply if we have provided the customer with catalogs, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents - also in electronic form - to which we reserve ownership rights and copyrights.
- (2) We may accept orders or purchase orders within 14 days of receipt, unless a different acceptance period has been expressly agreed. The contract shall only be concluded by TRIMAX's order confirmation in text form (also by e-mail) to the Customer. Acceptance can also be made within this period by unconditional delivery of the ordered product.
- (3) Our quotations refer to the requirements known to us with regard to the specified quantities at the time the quotation is submitted or the confirmation regarding the material properties, measurement tolerances and manufacturer conditions. Subsequent changes require our express consent and shall be deemed a new offer.
- (4) The illustrations, drawings, product descriptions, dimensions, weights, performance data and other specifications contained in our brochures, advertisements and other offer documents are only approximate

unless the information contained therein has been expressly confirmed by us as binding; in no case do they constitute warranty declarations. Deviations customary in the trade, which occur due to legal regulations or in the course of continuous product development or improvement, as well as the replacement of components by equivalent parts are permissible, provided that they do not impair the usability for the contractually intended purpose.

- (5) The contract shall be concluded subject to correct and timely delivery by TRIMAX's suppliers. This shall apply in particular in the event of the conclusion of a congruent covering transaction with the supplier, if neither we nor our supplier are at fault or we are not obliged to procure in the individual case. The customer will be informed immediately about the unavailability of the service. Any consideration already paid shall be refunded without delay.
- (6) By signing the contract, the customer undertakes to use the products only for the purposes intended by the manufacturer or otherwise for their normal use.
- (7) Should the Customer withdraw from the contract after TRIMAX has confirmed the order, TRIMAX reserves the right to charge the Customer for any costs already incurred which were incurred in reliance on the proper performance of the contract or which were caused by such cancellation.

### **§ 3 Prices and Terms of Payment**

- (1) The price stated in the order or order confirmation is binding. All prices are exclusive of the respective statutory value added tax, unless this is already shown separately. Additional deliveries and services shall be charged separately.
- (2) TRIMAX always delivers against advance payment. If no advance payment is requested, the payment claim shall become due in accordance with paragraph 4. Partial deliveries shall be paid for to the extent of the individual delivery. Payment dates shall also be observed if delivery or acceptance of the goods is delayed for reasons for which TRIMAX is not responsible. Payments may not be reduced or refused on the basis of complaints or unaccepted claims. The deduction of cash discount on the part of the customer requires special written agreement. If we make payments within 14 calendar days, the customer shall grant us a 3% discount on the net amount of the invoice.
- (3) Unless expressly agreed otherwise, prices shall be ex TRIMAX warehouse, plus costs for packaging, insurance and shipping; these shall be invoiced separately. The supplier shall take back packaging material upon our request.
- (4) The agreed price shall be due for payment by the Customer within 14 calendar days from the date of invoice. All payments shall be made cashless to the bank account specified in each case. The decisive point in time for the fulfillment of payment deadlines is the receipt of the amount of money on our bank account. In commercial transactions, we are entitled in accordance with § 353 HGB (German Commercial Code) to demand interest on arrears from the due date in accordance with § 288 Paragraph 2 BGB (German Civil Code). Invoices of the Customer shall be due for payment by us within 30 calendar days from complete delivery and performance as well as receipt of a proper invoice.
- (5) TRIMAX shall be entitled to change prices accordingly if, after conclusion of the contract, cost reductions or cost increases occur, in particular due to collective wage agreements or material price changes, for which TRIMAX is not responsible. This shall be proven to the Customer upon request.
- (6) We do not owe any interest on arrears. The Customer's claim to payment of interest on arrears shall remain unaffected. The statutory provisions shall apply to the occurrence of our default. In any case, however, a reminder by the supplier shall be required. In the event that the customer defaults after the due date, the statutory default interest shall be charged without the need for a reminder.
- (7) We shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent provided by law. In particular, we shall be entitled to withhold payments due as long as we are still entitled to claims against the supplier arising from incomplete or defective deliveries/services.
- (8) The Supplier shall have a right of set-off and retention only in respect of counterclaims which have been established by declaratory judgment or are undisputed.
- (9) In the case of certain product groups, a minimum quantity surcharge may be levied.

#### **§ 4 Delivery and performance time, default in acceptance, force majeure**

- (1) Delivery shall be made ex warehouse, which is also the place of performance for the delivery and any subsequent performance, unless the parties have expressly agreed otherwise. At the customer's request and expense, the goods shall be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
- (2) The expected delivery period shall be agreed individually or stated by us upon acceptance of the order. If a delivery date or a delivery period is stated or agreed by TRIMAX, this shall be exclusively as an orientation value. It shall only be a binding agreed date of performance if the date is expressly confirmed by TRIMAX as a "binding delivery date" in text form. TRIMAX's compliance with its delivery and performance obligations shall be subject to the timely and proper fulfillment of the Customer's obligations. TRIMAX shall be entitled to make partial deliveries and render partial services at any time, unless the partial delivery or partial service is unusable for the Customer.
- (3) Delivery shall be made for the account and at the risk of the Customer. Packaging and pallets shall be charged at the customary rate. Pallets shall only be taken back by the Supplier if they are free of defects.
- (4) Delivery shall be made for the account and at the risk of the Purchaser. Packaging and pallets shall be charged at the customary rate. Pallets shall only be taken back by the supplier if they are in a defect-free condition and after deduction of reasonable handling and wear and tear costs. Transport losses or damage must be claimed immediately by the customer from the transport company or carrier and, in the case of obvious damage, must be certified in writing before the goods are accepted. Fulfillment of the contractual delivery obligation shall occur upon handover of the goods to the customer or his vicarious agent.
- (5) If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the customer of this without delay and at the same time notify the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the customer. In this case, the customer cannot derive any claims for damages. A case of non-availability of the service in this sense shall in particular also be deemed to be a case of non-timely self-delivery by our supplier if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case.
- (6) TRIMAX shall not be responsible for delays in delivery and performance due to force majeure and events which make delivery considerably more difficult or impossible for TRIMAX, not only temporarily, even in the case of bindingly agreed deadlines and dates in accordance with this section. This includes in particular strikes, lockouts, labor disputes, official orders as well as all other unforeseeable events and those for which we are not responsible, even if they occur at our suppliers or their sub-suppliers. This shall only apply insofar as these are vicarious agents. They entitle TRIMAX to postpone the delivery or service for the duration of the hindrance plus a reasonable start-up period or to withdraw from the contract in whole or in part due to the part not yet fulfilled, provided that the circumstances are not only of a temporary nature.
- (7) If TRIMAX is responsible for non-compliance with bindingly agreed deadlines and dates or is in default, the Customer shall be entitled to compensation for default in the amount of 0.5 percent of the net price for each full week of default, but in total not more than 5 percent of the invoice value of the deliveries and services affected by the default. We reserve the right to prove that the customer has not suffered any damage at all or that the damage is significantly less than the aforementioned lump sum. Any further claims shall be excluded.
- (8) The rights of the customer pursuant to § 7 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

## **§ 5 Transfer of risk, default of acceptance**

- (1) The risk of accidental loss and accidental deterioration of the goods shall pass to the customer at the latest upon handover. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods and the risk of delay shall pass to the customer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Insofar as an acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply mutatis mutandis to an agreed acceptance. The handover or acceptance shall be deemed equivalent if the customer is in default of acceptance.
- (2) If the customer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). The proof of a higher damage and our legal claims (in particular compensation of additional expenses, reasonable compensation, termination) remain unaffected.

## **§ 6 Inspection obligation of the customer, notice of defects, warranty**

- (1) The statutory provisions shall apply to the Customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly or defective assembly instructions), unless otherwise provided below. In all cases, the special statutory provisions shall remain unaffected in the case of final delivery of the unprocessed goods to a consumer, even if the consumer has processed them further (supplier recourse pursuant to §§ 478 BGB). Claims from supplier recourse are excluded if the defective goods have been further processed by the customer or another entrepreneur, e.g. by incorporation into another product.
- (2) The basis of our liability for defects is above all the agreement made on the quality of the goods. All product descriptions and manufacturer's specifications which are the subject of the individual contract or which were publicly announced by us (in particular in catalogs or on our Internet homepage) at the time of the conclusion of the contract shall be deemed to be an agreement on the quality of the goods. Guarantees in the legal sense are only given by TRIMAX if they are expressly included in the order confirmation and clearly designated as a guarantee of durability or quality.
- (3) Insofar as the quality has not been agreed upon, it is to be judged according to the legal regulation whether a defect exists or not (§ 434 paragraph 1 sentence 2 and 3 BGB). However, we shall not be liable for public statements made by the manufacturer or other third parties (e.g. advertising statements) to which the customer has not drawn our attention as being decisive for his purchase. In the event of the sale of used goods to entrepreneurs or legal entities under public law, claims based on defects shall be excluded to the extent permitted by law.
- (4) As a matter of principle, we shall not be liable for defects of which the customer is aware at the time of conclusion of the contract or is not aware due to gross negligence (§ 442 BGB). Furthermore, the customer's claims for defects presuppose that he has complied with his statutory duties of inspection and notification of defects (§§ 377, 381 HGB). In the case of building materials and other goods intended for installation or other further processing, a proper inspection must in any case be carried out immediately before processing. If a defect becomes apparent upon delivery or inspection or at any later time, we must be notified thereof in text form without delay. In any case, obvious defects shall be notified to us in writing or in text form within two working days from delivery and hidden defects within the same period from discovery and, in the case of turnkey plants, within the same period after first commissioning. If the customer fails to carry out the proper inspection and/or to give notice of defects, our liability for the defect not reported or not reported in time or not reported properly shall be excluded.
- (5) Quality and quantity deviations shall in any case be notified in due time if we notify the supplier thereof within five working days of receipt of the goods by us. Hidden material defects shall be deemed to have been notified in good time if the notification is made within five working days of discovery.

- (6) If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (subsequent improvement) or by delivering an item free of defects (replacement delivery). Our right to refuse subsequent performance under the statutory conditions shall remain unaffected.
- (7) We shall be entitled to make the subsequent performance owed dependent on the customer paying the purchase price due. However, the customer shall be entitled to retain a part of the purchase price that is reasonable in relation to the defect.
- (8) The customer shall give us the time and opportunity required for the subsequent performance owed, in particular to hand over the goods complained about for inspection purposes. In the event of a replacement delivery, the customer shall return the defective item to us in accordance with the statutory provisions. Subsequent performance shall not include either the removal of the defective item or its re-installation if we were not originally obliged to install it.
- (9) We shall bear or reimburse the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs and, if applicable, removal and installation costs, in accordance with the statutory provisions if there is actually a defect. Otherwise, we may demand reimbursement from the customer of the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs), unless the lack of defectiveness was not apparent to the customer.
- (10) In urgent cases, e.g. if operational safety is at risk or to prevent disproportionate damage, the customer shall have the right to remedy the defect itself and to demand reimbursement from us of the expenses objectively necessary for this purpose. We are to be notified immediately of any such self-execution, if possible in advance. The right of self-execution shall not apply if we would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions.
- (11) If the supplementary performance has failed or if a reasonable deadline to be set by the customer for the supplementary performance has expired unsuccessfully or is dispensable according to the statutory provisions, the customer may withdraw from the purchase contract or reduce the purchase price. In the case of an insignificant defect, however, there shall be no right of withdrawal.
- (12) A warranty expressly agreed in accordance with § 6 (2) shall expire if the customer or a third party commissioned by the customer has carried out improper work on the delivery item. This shall also apply if the Customer or a third party attaches unauthorized additional devices or carries out unauthorized interventions and/or repairs on delivery items without express agreement with TRIMAX itself.
- (13) Claims of the Customer for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with § 7 and are otherwise excluded.

## **§ 7 General Liability, Limitation of Liability, Producer's Liability**

- (1) We shall be liable in accordance with the provisions of the Product Liability Act and in cases of culpable inability and culpable impossibility. Furthermore, we shall be liable for damages in accordance with the statutory provisions in cases of intent, gross negligence, assumption of a guarantee and culpable injury to life, limb or health.
- (2) If, in other respects, we violate a material contractual obligation (so-called cardinal obligation) with simple negligence, i.e. an obligation the fulfillment of which makes the proper execution of the contract possible in the first place and on the observance of which the Customer may regularly rely, our obligation to pay compensation shall be limited to the foreseeable damage typical for the contract.
- (3) In all other cases of liability, claims for damages due to the breach of an obligation arising from the contractual obligation as well as due to tort are excluded, so that we are not liable in this respect for loss of profit or other financial losses of the purchaser.
- (4) Insofar as our liability is excluded or limited on the basis of the above provisions, this shall also apply to the personal liability of our employees, representatives and vicarious agents.
- (5) If the supplier is responsible for product damage, he shall indemnify us against claims of third parties to the extent that the cause lies within his sphere of control and organization and he himself is liable in relation to third parties.

- (6) Within the scope of its indemnification obligation, the Supplier shall reimburse any expenses arising from or in connection with any third party claim, including any recall action carried out by us. We shall inform the supplier about the content and scope of recall measures - insofar as this is possible and reasonable - and give him the opportunity to comment. Further legal claims shall remain unaffected.
- (7) The supplier shall be obliged to maintain at its own expense an appropriate product liability insurance with an insured sum of at least EUR 1,000,000.00 per personal injury/property damage. The supplier shall send us proof of the existence of this liability policy at any time upon request.

## **§ 8 Limitation**

- (1) In deviation from § 438 para. 1 no. 3 BGB (German Civil Code), the general limitation period for claims of the customer arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- (2) If the goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provision (§ 438 para. 1 no. 2 BGB). Other special statutory provisions on the limitation period (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 445b BGB) shall also remain unaffected.
- (3) The above limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages of the customer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. Claims for damages of the customer according to § 8 paragraph 2 sentence 1 and sentence 2(a) as well as according to the Product Liability Act shall become time-barred exclusively according to the statutory limitation periods.

## **§ 9 Retention of title**

- (1) Until full payment of all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims), we retain title to the goods sold. The transfer of ownership of the goods to us shall be unconditional and without regard to the payment of the price. If, however, in individual cases we accept an offer by the supplier to transfer title conditional on payment of the purchase price, the supplier's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. We shall remain authorized to resell the goods in the ordinary course of business even before payment of the purchase price, if necessary with advance assignment of the claim arising therefrom. This excludes in any case all other forms of retention of title, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.
- (2) The customer is obliged to handle the goods with care; in particular, he is obliged to sufficiently insure them at his own expense against fire, water and theft at replacement value. If maintenance and inspection work is required, the customer must carry this out in good time at its own expense.
- (3) The goods subject to retention of title may not be pledged to third parties or assigned as security before full payment of the secured claims. The customer must notify us immediately in writing if an application is made to open insolvency proceedings or if third parties (e.g. seizures) have access to the goods belonging to us.
- (4) In the event of conduct by the customer in breach of contract, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand return of the goods on the basis of the retention of title. If the customer does not pay the purchase price due, we may only assert these rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable under the statutory provisions.
- (5) Until revocation pursuant to lit. c), the customer shall be authorized to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.

- a) The retention of title shall extend to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. Otherwise, the same shall apply to the resulting product as to the goods delivered under retention of title.
- b) The customer hereby assigns to us by way of security all claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, in accordance with the preceding paragraph. We accept the assignment. The obligations of the customer stated in paragraph 2 shall also apply in respect of the assigned claims.
- c) The customer shall remain authorized to collect the claim in addition to us. We undertake not to collect the claim as long as the customer meets his payment obligations towards us, there is no deficiency in his ability to pay and we do not assert the retention of title by exercising a right pursuant to paragraph 3. If this is the case, however, we may demand that the customer inform us of the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. Furthermore, in this case we shall be entitled to revoke the customer's authorization to further sell and process the goods subject to retention of title.
- d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the customer's request.

## **§ 10 Design changes**

We reserve the right to make design changes at any time if these have become necessary due to subsequently occurring circumstances; however, we shall not be obliged to make such changes even to products already delivered.

## **§ 11 Rights of Use and Copyrights, Secrecy**

- (1) We reserve the property rights and copyrights as well as other intellectual property rights to the illustrations, drawings, calculations, catalogs, price lists and similar information of a tangible or intangible nature - also in electronic form - belonging to orders. This also applies to such written documents that are designated as "confidential". Duplication and/or disclosure to third parties, in particular competitors, is not permitted without our express written consent. Such documents are to be used exclusively for the contractual performance and are to be returned to us after completion of the contract - as far as possible.
- (2) The above provision shall apply mutatis mutandis to substances and materials (e.g. software, finished or semi-finished products) as well as to tools, templates, samples and other items which we provide to the Supplier for production. Such items - as long as they are not processed - shall be stored separately at the Supplier's expense and insured against destruction and loss to the usual extent.
- (3) Our know-how as well as all our other business and trade secrets including the content of the contractual relationship with the customer shall be treated by the customer as strictly confidential. The customer shall take all reasonable and necessary precautions to protect the aforementioned information from unauthorized access, disclosure, copying, disclosure and other unauthorized use. The obligations set forth in this Article shall survive the termination of this Agreement. The obligation to maintain secrecy shall expire only if and to the extent that the knowledge contained in the documents provided has become generally known. Unless expressly agreed otherwise in writing, information submitted to us in connection with orders shall not be deemed confidential.

## **§ 12 Export**

The re-export of the delivered goods from the territory of the European Union is subject to the country-specific export regulations and, if applicable, is not permitted without official approval. The export of the delivered goods

from the territory of the European Union requires our written consent; irrespective of this, the customer shall be responsible for obtaining any official import and export permits.

### **§ 13 Final Provisions, Place of Jurisdiction, Choice of Law**

- (1) All legal provisions between us and the customer shall be governed exclusively by the laws of the Federal Republic of Germany, excluding the application of the provisions on the international sale of goods (CISG, UN Convention on Contracts for the International Sale of Goods).
- (2) If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in Stuttgart, Germany. The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, we shall also be entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a prior individual agreement or at the general place of jurisdiction of the customer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.
- (3) Should any of the above provisions be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. In this case, the invalid or unenforceable provision shall be replaced by a valid and enforceable provision which comes as close as possible to the regulatory objectives pursued by the invalid or unenforceable provision. The same shall apply to the filling of any gaps in the contract.
- (4) In the event of contradictions or in case of doubt, the German version shall prevail, if necessary.

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