



# GENERAL TERM & CONDITIONS

Version **2023**

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## 1 Resale of Product and Warranties for payment's delays

1.1. Under any of the following circumstances, Seller may, at Seller' s sole discretion, postpone delivery of the Goods, or resale the Goods to any third Party or terminate this Contract without prior notice to Buyer and shall not be liable for any damages or losses of whatever kind thus caused to Buyer:

- a) Buyer fails to make full payment as agreed herein; or
- b) Buyer falls into arrears of any payables to Seller under any previous contract between the Parties hereto and such payables have not been fully paid to Seller at the time when the Goods under this Contract arrives at the destination; or
- c) Buyer fails to take delivery when Seller transfers goods at destination place agreed by contract.

1.2. In case of payment' s delay by the Buyer, the Seller retains the right to modify the terms of other supplies and or suspend their execution until obtainment of adequate guarantees by the Buyer.

## 2 Retention of title and transfer of risk

2.1. Unless otherwise agreed by both Parties, Seller shall be entitled to retain the title to the Goods until Buyer has fully fulfilled its obligation of any and all payments under this Contract. Transfer of risk will take place according to the Trade Term (Incoterms 2010) as stipulated in this Contract. Until ownership of the Goods passes to the Buyer, the Buyer must: (1) store them at its own cost on its premises separately from any other goods and in a manner which makes them readily identifiable as the goods of the Seller; (2) not destroy, deface or obscure any identifying mark or packaging of the Goods; (3) maintain the Goods in a satisfactory condition insured on the Seller' s behalf for their full price against all risks; and (4) hold the proceeds of any insurance received related to the goods in trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn account.

## 3 Force Majeure

3.1. "Force Majeure" means all events that can' t be foreseen at the time of the execution hereof, whose occurrence and consequence can' t be avoided or, that take place after the effective date hereof and affects any Party' s full or partial performance hereof, including earthquake, typhoon, flood, fire, war, hostilities (whether war be declared or not), invasion, incursion by armed force, terrorism, riot, rebellion, act of hostile army, nation or

enemy, arson, epidemic, disease, strike, lockout, slowdown, labor disturbance, nuclear radiation, and/or accident, hazardous unsafe substance or material or property which renders liable or endangers the health and safety of either party or the general public, acts of governments or other administrative measures, trade dispute, embargo, or import tariffs, difficulty in obtaining necessary labor or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, as well as any other unforeseeable, unavoidable or unconquerable event.

3.2. If due to any force majeure event, one Party is unable to perform its contractual obligations (except for payment obligation of the Buyer), the affected Party shall notify the other Party within 5 working days upon the occurrence thereof. If the force majeure event lasts for over 3 months, both Parties shall have the right to terminate this Contract upon written notice to other Party without bearing liabilities hereunder.

## **4** Inspection and Claim

4.1. In case of quality discrepancy, claim should be filed by Buyer within 30 days after the arrival of the Goods at destination, while claim for quantity discrepancy should be filed by Buyer within 7 days after the arrival of the Goods at destination. Buyer shall be obligated to notify Seller of its claim, if any, together with evidentiary supporting documents within foregoing time limits; otherwise it shall be deemed that the goods delivered to Buyer under this contract conform in all respects to the specifications and quality standards set forth under this contract. Reasonable deviations in measurement, weight, and quality shall not constitute non-conformity of goods for breach of contract by the Seller. Buyer is responsible for determining and carries full burden of proof for the complete the prerequisites of proving any claims, and particularly for the defects themselves, for the determining the existence of the defects, the exact time of the appearance of the defects, and for the timeliness of the report of the defects. Seller shall be obligated, within 20 business days upon receipt of the claim together with evidentiary documents from Buyer, to double check and respond to in writing if it accepts such a claim. In cases where both Parties fail to settle the dispute over such claims, then the claims shall be referred to arbitration in pursuance of arbitration clause set forth herein. It is understood that Seller shall not be liable for any discrepancy of the Goods shipped due to causes for which the Insurance Company, Shipping Company, other Transportation Organization or Post Office are liable. Notwithstanding the forgoing, Seller' s liabilities will not exceed the scope of liabilities as stipulated in the Limited Warranty for PV Modules hereattached under Annex 2 and an for and amount not exceeding the Contract Amount.

## 5 Confidentiality

5.1. Each Party undertakes that it and its employees shall keep confidential and protect from disclosure all confidential information obtained from the other Party in connection with this Contract or any purchase order unless otherwise expressly authorized by the other Party in written or unless otherwise required by applicable law or regulation. Each Party shall use such confidential information only for its performance under this Contract. Upon a Party's written request, the other Party shall return all such confidential information to the requesting Party or make such other disposition thereof as is directed by the requesting Party. This clause survives after the termination of this Contract.

## 6 Liquidated Damages (Overdue Payment)

6.1. Time of payment shall be of the essence. In the event of delay on payment by Buyer beyond the agreed payment schedule, Buyer shall pay to Seller liquidated damages, and not as penalty, at rate of 0.5% of the delinquent amount for per day of delay.

6.2. The foregoing liquidated damages address late payment only and are independent of and in addition to Seller corresponding ability to recover damages, for Buyer's failure to satisfy its obligations under this Contract.

6.3. Any liability on the part of the Seller shall be limited to a maximum amount equal the Total Amount of the Goods as indicated in Clause 1 above.

## 7 Termination

7.1. Unless otherwise provided herein, neither Party is entitled to terminate this Contract unilaterally. The Party that terminates this Contract without obtaining prior written consent of the other Party shall be fully liable for all damages thus caused to the other party.

7.2. If Buyer fails to pay to Seller any payment as required hereunder and such failure continues for ten (10) days after written notice thereof has been given to Buyer by Seller, Seller may terminate this Contract.

7.3. If Seller fails to supply the Goods as required hereunder and fails to remedy the breach within a period of 30 days upon receipt of written notice from Buyer, Buyer may terminate this Contract.

7.4. In case either Party hereto becomes insolvent, or petitions for bankruptcy, or undergoes corporate reorganization, or files any application of similar nature, or comes into the process of liquidation, the other Party shall be entitled to terminate this Contract upon notifying the Party in question.

7.5. In case this Contract is terminated in accordance with Clause 13.4 hereof, both Parties shall settle the part of this Contract that has already been performed in a timely fashion, the rest of this Contract shall be relieved.

## **8 Intellectual Property**

8.1. All intellectual property rights subsisting in or used in connection with the Goods, including all documents and manuals relating thereto, are and shall remain the sole property of Seller and/or its possible licensor(s). Buyer shall not, during the term of, or at any time after the expiry or termination of this Contract, in any way question or dispute the ownership of such intellectual property rights of Seller or its licensor(s).

8.2. Under no circumstances shall Seller assume any liability or responsibility for:

- a) any extraordinary use of Seller' s delivered Goods by Buyer which may infringe intellectual or proprietary rights of a third party; or
- b) a violation of an intellectual property right of a third party which is caused by Buyer' s modification of Goods provided by Seller; or
- c) Buyer' s use of Goods in combination with any other goods, products or materials which, when used in that way, infringes any intellectual or proprietary right of a third party.

## **9 Disclaimer and Limitation**

9.1. In no event shall Seller be liable for any consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, loss of profits and opportunity costs). Both parties agree that Seller shall not be liable to Buyer for any actions, damages, claims, liabilities, cost expenses, or losses in any way arising out of or relating to the Goods provided hereunder for an aggregate amount in excess of the Contract Amount paid by Buyer for the Goods provided hereunder.

## **10** Amendment and Waiver

10.1. The Parties hereof may amend or waive any provision of this Contract through mutual negotiation at any time. No amendment to or waiver of any provision or any right of this Contract shall be valid unless the same shall be in writing and signed by all of the Parties.

## **11** Transfer of Contract

11.1. Neither Party may assign any of its rights or obligations hereunder to any third party without the prior written consent of the other Party. Otherwise, such default Party shall be responsible for any and all unfavorable consequences caused thereby.

## **12** Severability

12.1. Should any provision in this Contract become invalid, illegal or unenforceable, the Parties agree to amend such provision in order that it may restore its validity, legality and enforceability. The validity and enforceability of the remaining provisions of this Contract shall not be affected thereby.

## **13** Contractual Lien

13.1. The Seller is entitled to a contractual lien on the objects which entered into his possession due to the contractual relationship. This lien can also be asserted for receivables from former works, replacement deliveries and other performances, so long as these are relevant to the object of the contract.

13.2. The Seller is entitled to repossess, or otherwise dispose of, the Goods within 7 business days if Buyer fails to accept them in accordance with the Contract. Any demurrage arising out of such failure shall be borne by the Buyer.

13.3. The Seller is entitled to repossess, or otherwise dispose of, the Goods in the event of Buyer's default in payment, provided that the Buyer has not previously disposed of the Goods in accordance with the terms herein.

## 14 Applicable Law and Settlement of Dispute

14.1. Execution, effect, interpretation, performance hereof and dispute settlement in connection hereof shall be governed by the United Nations Convention on Contracts for the International Sale of Goods and Incoterms 2020 of the International Chamber of Commerce. If any specific matter is not covered by the law above-mentioned, the laws of the People's Republic of China shall apply.

14.2. Any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof shall be resolved by both parties through friendly negotiation, failing which within 30 days either party may submit this case to [the Shanghai International Arbitration Center ( "SHIAC" ) for arbitration in accordance with the SHIAC Rules for the time being in force. The arbitration tribunal shall consist of one arbitrator and the seat of arbitration shall be Shanghai. The award rendered by the arbitration tribunal shall be final and binding upon both Parties.



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