

1.1. Scope of terms and conditions

- 1.1. These General Terms and Conditions shall apply exclusively to all our quotations, Supplies and services, including our installation works, repair works, maintenance works and consulting services, as well as any other contractual services where additionally agreed in individual cases.
- 1.2. The Purchaser's terms and conditions of purchase shall not be binding upon us unless expressly acknowledged by us in writing.
- 1.3. Any agreements deviating from the present terms and conditions or any ancillary agreements or any commitments or other undertakings made by our representatives or employees shall not be effective unless confirmed by us in writing.

2. Scope of contractual supply obligations

- 2.1. Our quotations are non-binding and subject to confirmation; purchase orders shall not be deemed accepted until confirmed by us in writing. Our written confirmation of order shall be authoritative for the contractual content.
- 2.2. Any supporting documents associated with our quotations, including e.g. diagrams, drawings, dimensions and weight information, may contain errors or inaccuracies due to technical reasons for which we will not be held liable.
- 2.3. Our performance is subject to us receiving correct and timely supplies.
- 2.4. Partial Supplies shall be permissible if not unreasonable for the Purchaser
- 2.5. If the agreed method of payment is advance payment, and if the Purchaser is in default of payment one (1) week following the Supplier's notice, Kösslinger Energy GmbH shall be entitled to withdraw from the contract.
- 2.6. Unjustified returns of Supplies will be accepted only if acknowledged in writing by Kösslinger Energy GmbH and if the net Supplies value exceeds 50 Euros. Kösslinger Energy GmbH will charge a restocking fee equalling 10% of the net Supplies value, but not less than 50 Euros. The shipping charges shall be borne by the Purchaser. The returned Supplies will be accepted only if undamaged, unused, and still in their original factory packaging.

3. Terms of payment

- 3.1. In the absence of any written agreements providing otherwise, all our invoices shall be due for payment promptly within eight (8) days of the invoice date, net.
- 3.2. In case of default in payment we are entitled to charge both traders and non-traders (consumers) with default interest at a rate of 5% above the prevailing base lending rate pursuant to Sec. 247 German Civil Code (BGB). The same shall apply in the event of a deferment of payment.
- 3.3. If the Purchaser is in default of payment, or if other circumstances become known which cast doubt on the Purchaser's credit-worthiness (e.g. application for deferral of payment, dishonour of a cheque, application for composition or insolvency proceedings, suspension of payments), all outstanding amounts shall immediately become due for payment. In that case, we shall be entitled to either defer and put on hold any contractual services not yet been completely executed until full and complete payment has been made and/or to execute such contractual services only against advance payment or against sustainable securities. We shall furthermore be entitled to recover the already delivered Supplies at the Purchaser's expense without automatically exercising the right of withdrawal from the contract. This will not affect any more far-reaching statutory claims.
- 3.4. An offsetting of accounts shall be permissible only for counterclaims which have been recognized by us or are held to be legally effective. Any rights of retention shall be ruled out for any counterclaims not acknowledged by us.

- 3.5. We reserve the right to advance payment for first-time Supplies.

4. Retention of title

- 4.1. The Supplies delivered shall remain our property until full payment of all outstanding accounts receivable – or until the cashing of cheques - under the business relationship.
- 4.2. If any of the Supplies delivered by us to which we have reserved title are processed or combined along with other Supplies which are the property of others, we shall acquire joint title to the resulting newly created item at the ratio of the invoiced value of our Supplies proportionate to the value of the newly created item at the time of processing or combination. If the Purchaser, by act of law, acquires sole ownership of the item newly created through processing or combination, it is understood that the Purchaser will transfer to us co-ownership of the newly created item at the ratio of the invoiced value of the Supplies subject to reservation of title proportionate to the value of the newly created item at the time of processing or combination, and to hold it in safe custody for us free of charge.
- 4.3. Resellers shall have the right to resell the reserved Supplies to third parties in the ordinary course of business and at their own behalf. Purchaser hereby assigns to us its claims receivable which have arisen or which may arise from the resale of the reserved Supplies; and we accept this assignment. In the event of a resale of the reserved Supplies after processing or combination, along with other Supplies which are not our property, any claims from such resale shall be assigned to us only in the amount of the invoice value of our reserved Supplies actually sold. Purchaser shall only be entitled to collect the assigned amounts receivable from the resale insofar as it duly meets its payment obligations towards us. Where Supplies are resold, Purchaser must reserve ownership of the reserved Supplies until such time as the purchase price is paid in full.
- 4.4. Any pledge or assignment as security by the Purchaser of Supplies delivered by us under reservation of ownership is forbidden. Purchaser agrees to immediately notify us of any access by third parties to the Supplies under reservation of title. Purchaser agrees to refrain from entering into agreements prohibiting assignments.
- 4.5. If the value of the securities granted to us exceeds the claims they secure by a total of more than 20%, then, we shall, at Purchaser's request, release securities up to the value of the excess amount.

5. Delivery times, Risk of damage or loss

- 5.1. If we are prevented from meeting our delivery obligations due to events of force majeure, strikes, lockouts or any other unforeseeable circumstance beyond our control which could not be prevented in spite of safety precautions which may reasonably be expected – regardless of whether they occur at our premises or at a supplier's premises – such as e.g., operation troubles, delays in transport, incorrect Supplies, or delays in the Supplies of sub-suppliers, the delivery deadline will be extended accordingly even within any existing delay in delivery. Should such events of force majeure render the execution of the delivery impossible or unreasonable for us, we shall be entitled to withdraw from the contract wholly or in part. This does not affect the validity of Section 2.3 above.
- 5.2. Times set for Supplies can only be observed if all Documents to be supplied by the Purchaser, necessary permits and releases, especially concerning plans, are received in time and if agreed terms of payment and other obligations of the Purchaser are fulfilled. Unless these conditions are fulfilled in time, times set shall be extended appropriately.
- 5.3. We shall not be liable for any bottlenecks or delays attributable to the manufacturer.
- 5.4. Shipping of the Supplies will be at the Purchaser's risk, even if delivery freight paid was agreed. We

shall not be held liable for any damages occurred during shipping except in cases where we expressly agreed to shipping at our own risk. Shipments will not be insured against breakage except at the Purchaser's express request and against invoicing of the relevant insurance fee. In such cases, sums damages will be credited only after receipt of the insurance coverage from the insurance company. We shall not assume any further liabilities in this respect. Unless specifically otherwise agreed, our Supplies will be shipped uninsured.

- 5.5. If we are in default of delivery the Purchaser shall nonetheless not be entitled to claim damages for the portion of the shipment it was unable to put to its intended use as a result of the delay, even if Purchaser can prove demonstrably that it has suffered damages as a result of such delay.
- 5.6. Both Purchaser's claims for damages due to delayed delivery as well as any other claims for damages shall be excluded in all cases of delayed delivery, even after a deadline for delivery set for the Supplier has expired. This shall not apply in cases of mandatory liability based on intent, gross negligence, or due to injury of life, limb or health. Cancellation of the contract by the Purchaser based on statute shall be limited to cases where the Supplier is responsible for the delay in delivery. The above provisions do not imply a change in the burden of proof to the detriment of the Purchaser.
- 5.7. At our request the Purchaser shall declare within a reasonable period of time whether the Purchaser cancels the contract due to the delayed delivery or insists on the delivery to be carried out.
- 5.8. If dispatch or shipment is delayed at the Purchaser's request by more than two (2) weeks after notice of the readiness for dispatch was given, the Purchaser may be charged, for every month commenced, storage costs of 0.5% of the price of the items of the Supplies, but in no case more than a total of 2.5%. The parties to the contract may prove that higher or, as the case may be, lower storage costs have been incurred.

6. Warranty

We accept liability for material defects to the following extent:

- 6.1. As far as the nature or quality of the Supplies is concerned, only the manufacturer's product description shall be deemed agreed. We do not grant any farther-reaching guarantee for the nature or quality of the Supplies or nor one relating to the Supplies retaining a specific characteristic for a specific period of time.
- 6.2. Defective deliveries or parts thereof will be either remedied or replaced at our own discretion if the material defect in question was notified to us within a period of twelve (12) months following delivery, and provided the cause for said material defect already existed at the moment of the passing of risk. Should the remedy fail, the Purchaser shall have the right to withdraw from the contract or diminish the remuneration, irrespective of any other claims for damages.
- 6.3. Claims based on material defects are subject to a statutory period of limitation of twelve (12) months. This provision shall not apply where longer statutory periods of limitation are prescribed by law according to Sec. 438 para. 1 No. 2 (buildings and things used for a building), Sec. 479 para. 1 (right of recourse), and Sec. 634a para. 1 No. 2 (defects of a building) German Civil Code (BGB), as well as in cases of injury of life, body or health, or where we intentionally or grossly negligently fail to fulfil our obligation or fraudulently conceal a material defect.
- 6.4. The Purchaser may not refuse to receive Supplies due to minor defects. The Purchaser shall inspect the Supplies immediately after receipt with regard to completeness and freedom from defects. Material defects shall be notified to us in writing immediately following detection, in case of business transactions within three (3) days following receipt of the Supplies.

Any notices of defects received after these deadlines will not be accepted. Moreover, the requirements pursuant to sec. 377 German Commercial Code (HGB) shall apply additionally to all transactions among traders.

- 6.5.** Claims on the grounds of defects shall be excluded in the case of only insignificant deviation from the agreed characteristics, or only insignificant impairment of the usability, or natural wear and tear, or for damage arising after the passage of risk caused by erroneous or careless handling, excessive stress, unsuitable operating substance, or which arise from exposure to exceptional external influences not presupposed according to the contract. Claims based on defects attributable to improper modifications or repair work carried out by the Purchaser or third parties and the consequences thereof shall be likewise excluded.
- 6.6.** In the case of notification of a defect, the Purchaser may withhold payments to a reasonable extent taking into account the defect occurred. The Purchaser, however, may withhold payments only if the subject-matter of the notification of the Defect occurred is justified beyond doubt. Unjustified notifications of defect shall entitle the Supplier to have its expenses reimbursed by the Purchaser.
- 6.7.** Any liability on our part for installation or repair works shall be excluded if the installation companies involved independently procure the Supplies directly from us and are therefore not deemed vicarious agents as contemplated by Sec. 434 para. 2 German Civil Code (BGB).
- 6.8.** Warranty information and warranty conditions received from third-party supplies shall be deemed mere information supplied by the manufacturer, for which we assume no liability. We assume no liability for expenses, notably for installation expenses, travel costs ff. in conjunction with the manufacturer's liability of third-party manufacturers.
- 6.9.** Neither we nor our legal representatives nor our vicarious agents shall be held liable for damages occurring within the scope of the warranty as a result of violation of contractual secondary obligations, or as a result of false consultation, or due to illegal action, or culpable breach of the replacement delivery obligation or subsequent delivery obligation, or due to any other claims based on whatever legal title; in particular, we therefore do not accept liability for damages other than to the supplied goods themselves, unless these damages result from wilful intent or gross negligence on the part of our management or executive employees, unless the exclusion of liability is legally inadmissible for other reasons. Claims for damages for the absence of guaranteed properties shall be equally excluded unless the specific purpose of the warranty was to avoid consequential harms caused by a defect.
- 6.10.** Further claims or claims other than the claims stipulated in Section 6 asserted by the Purchaser against us and our vicarious agents for material defects shall be barred.

7. General liability

- 7.1.** Our liability for claims for damages, no matter on what legal grounds, but especially due to impossibility, delay, deficient or wrong delivery, contract violation, violation of obligations in contract negotiations and liability in tort, and in matters of fault, shall be limited in accordance with this paragraph (7). We shall not be held liable in cases of simple negligence committed by our legal representatives, employees or other vicarious agents, and/or in cases of gross negligence committed by our non-executive employees or other vicarious agents, unless a violation of contractually relevant duties is involved. Our contractually relevant duties include the duty to punctual, defect-free delivery, and, where agreed, installation duties, consulting duties, protection duties and custodial care duties designed to enable the Purchaser's use of the Supplies in accordance

with the terms of the contract or to protect the Purchaser's or its staff's or third parties' life and limb or the Purchaser's property from severe damage.

- 7.2.** Insofar as we accept liability for damages on the merits of the above-cited provisions, such liability shall be limited to typical damages which we might have foreseen as a possible consequence of violation of contract at the time of conclusion of contract, or which we should have foreseen taking into account the circumstances which we knew or should have known or should have foreseen had we proceeded with the usual due care and diligence. Indirect damages or consequential damages which are the result of deficiencies in the Supply shall be reimbursable only insofar as such damages are to be typically expected during the specified normal use of the Supply.
- 7.3.** In case of liability for simple negligence our reimbursement obligation for material and personal damages for each case shall be limited to the aggregate amount of two (2) million Euros even if a violation of contract essential obligations is involved.
- 7.4.** The above exclusions and limitations of liability shall not apply in case of liability for wilful intent or premeditation, for guaranteed characteristics, for injury to life, limb or health, or for claims pursuant to the German Product Liability Act.
- 7.5.** Where unforeseeable events substantially change the economic importance or the contents of the Supplies or considerably affect the Supplier's business, the contract shall be adapted taking into account the principles of reasonableness and good faith. Where doing so is economically unreasonable, the Supplier shall have the right to cancel the contract. If the Supplier intends to exercise its right to cancel the contract, it shall notify the Purchaser thereof without undue delay after having realised the repercussions of the event; this shall also apply even where an extension of the delivery period had previously been agreed with the Purchaser.
- 7.6.** In cases where we act only as a retailer and not as a manufacturer, we have no obligations concerning packaging materials or disposal.

8. Quality Warranty granted on the „Sunposet“ Assembly System

- 8.1.** In cases where we have entered into a quality warranty agreement with a customer on the "Sunposet" assembly system supplied by us, the following provisions shall apply.
- 8.2.** The warranty period shall commence on delivery of the goods to the customer (date of delivery note).
- 8.3.** The warranty is granted for the quality of the components supplied and is limited exclusively to the claims set forth hereinafter.
- 8.4.** If, despite proper installation and maintenance, in the context of normal use, damage is caused to the „Sunposet“ assembly system supplied by us during the warranty period, we agree to immediate replacement of the component concerned within the warranty period. The warranty shall be expressly limited to additional delivery and installation of the defective components upon notification of the damage within the warranty period.
- 8.5.** Any statutory warranty or liability claims shall remain unaffected.
- 8.6.** The obligation to fulfill the warranty shall not apply if the damage has arisen in connection with defective installation or handling of the "Sunposet" assembly system. The same shall apply if the damage has arisen in connection with exceptional stress (e.g. storm damage, impact of instability of the sub-surface, particular chemical or biological effects), unless the damage is documented as not having been caused thereby but essentially due to a material or construction error.
- 8.7.** For installation and maintenance of the "Sunposet" assembly system, the technical product descriptions and assembly instructions supplied with the various

products and the statutory generally acknowledged standards and principles of architecture shall apply. Any customized designs, structural calculations or assembly instructions prepared by us for the customers shall take priority.

- 8.8.** No claims to warranty services will be accepted in cases where the contractual partner can claim compensation for damage by a third party e.g. for storms or similar events, i.e. where the damage is covered or can usually be covered by insurance (natural-hazard insurance). The same shall apply in cases where the customer has failed to take out appropriate insurance.
- 8.9.** The quality warranty shall be limited exclusively to claims between the parties hereto. Third-party warranty claims shall be subject to our express prior consent.

9. Prices

- 9.1.** All prices are quoted net without the statutory value added tax, which must be added.
- 9.2.** The shipping charges will be quoted separately.
- 9.3.** Payments shall be made free of charge to our payment office.
- 9.4.** Prices are subject to alteration until the quotation is effectively accepted by the Purchaser. In the event of errors we also reserve the right to correct price quotations.

10. Place of performance, Place of venue

- 10.1.** Place of performance for all duties and obligations under the contractual relationship shall be our registered place of business.
- 10.2.** If the Purchaser is a businessperson, sole venue for all disputes arising directly or indirectly out of the contract shall be our registered place of business. However, we may also bring an action at the Purchaser's place of business.
- 10.3.** If both parties to the contract are businesspersons, any legal relations existing in connection with this contract shall be governed exclusively by German substantive law, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 10.4.** Any amendments and/or supplements to these general terms and conditions must be made in writing to be effective. The same applies to the written form clause. Should one or more of the provisions of these general terms and conditions be or become ineffective, void or legally unenforceable, the legal validity of the remaining provisions shall remain unaffected. The ineffective, void or legally unenforceable provision shall be replaced by a provision which as closely as possible approximates the economic purpose of the invalid provision and which is legally sound and will withstand legal scrutiny. The same shall apply in the event of gap or loophole.