

GENERAL TERMS AND CONDITIONS OF SUNSHOWER B.V. (NL KvK 27243362)

Article 1

- 1.1 These terms and conditions apply to all offers and all agreements of whatever nature between Sunshower B.V. and its contracting party, in so far as the parties do not make explicit alternative provisions to these conditions.
- 1.2 The applicability of the general terms and conditions invoked by the contracting party is explicitly rejected.
- 1.3 If any provision of these terms and conditions are invalid or invalidated, the other provisions of these general terms and conditions will remain in full force and Sunshower B.V. and its contracting party will enter into consultation for the purpose of agreeing on new provisions to replace the invalid or invalidated provisions, where the objective and meaning of the invalid or invalidated provision are considered as much as possible.

Article 2

- 2.1 Any offer of Sunshower B.V. is without obligation.
- 2.2 The prices stated in the offer only relate to the products and/or work that are explicitly described in the offer and are excluding VAT and transport costs, unless otherwise indicated.

Article 3

- 3.1 An agreement, including any change or supplementation hereto, takes first binding effect for Sunshower B.V. after this has been established in writing in a contract signed by the parties or in an order confirmation signed by Sunshower B.V..
- 3.2 A written order confirmation of Sunshower B.V. counts as full and true establishment of the content of the agreement entered into, unless the contracting party objects to Sunshower B.V. in writing within two calendar days of the date of dispatch of this confirmation.

Article 4

- 4.1 The agreed prices are based on the price basis of materials, wages and suchlike, which apply at the moment that the agreement is entered into. If not otherwise explicitly agreed in writing, the delivery is ex factory which is understood to mean the products that are ready for dispatch from the factory premises of the manufacturer of the products that are to be sent by Sunshower B.V.. The costs of loading and unloading and the transport of the goods are not included in the price and are charged to the customer separately if Sunshower B.V. is obliged to load and unload and transport the goods.
- 4.2 The price for the delivery of the goods, which have to be delivered by Sunshower B.V. pursuant to the agreement between the parties, is also excluding the costs or payment for any additional work that has to be performed by Sunshower B.V..
- 4.3 Sunshower B.V. has the right to increase its prices mutatis mutandis, even when a fixed price is agreed if there is an increase, after the date of the offer or the agreement and before the time when the agreement has been entirely fulfilled, in the prices of (auxiliary) materials, components and raw materials, wages, social security costs, (semi-)government costs, transport, insurance premiums or other cost price components, or if there are price increases flowing from a decline in the value of the Dutch currency, even if this occurs as a result of unforeseen circumstances.

Article 5

- 5.1 The delivery time is the latest of the following times:
 - a. the day that the agreement was entered into;

- b. the day that Sunshower B.V. receives the documents required for the execution of the agreement;
 - c. the day that Sunshower B.V. receives that which must, pursuant to the agreement, be received from the contracting party for periodic payment before Sunshower B.V. initiates the execution of the agreement.
- 5.2 An agreed delivery time is always indicative and not a deadline.
- 5.3 Sunshower B.V. is authorised to suspend the execution of the agreement as a result of a delay in manufacture or dispatch or other delivery-delaying circumstances, which temporarily hinder or delay delivery, without Sunshower B.V. being liable for damages caused as a result of this suspension.
- 5.4 Unless otherwise agreed, delivery is effected ex factory from the factory of the manufacturer of the product employed by Sunshower B.V..
- 5.5 Exceeding the term of delivery – for whatever reason – does not give the contracting party any rights relating to non-fulfilment of any obligation entered into with respect to Sunshower B.V..

Article 6

- 6.1 Immediately after the goods have been delivered in the sense of article 5.4, the contracting party bears the risk for all direct and indirect damage that maybe caused to or by these goods or components.
- 6.2 The ownership of the goods, whether handled or unhandled, is transferred to the contracting party at the moment that the contracting party pays Sunshower B.V. the full amounts payable pursuant to the agreement, including interest, costs and damages. The contracting party is not withstanding this title retention authorised to deliver the products supplied by Sunshower B.V. to its customers as part of its normal business, if the contracting party has fulfilled its payment obligations flowing from article 8.1, i.e. if the contracting party has paid 50% of the price payable. In the event that the contracting party does not fulfil its obligations towards Sunshower B.V. or in the event that the contracting party does not fulfil its obligations towards Sunshower B.V. on time, Sunshower B.V. has the right and is where necessary irrevocably authorised by the contracting party to dismantle and seize the goods it delivered without any prior notice, in which case the agreement will be dissolved without judicial intervention and without prejudicing the right of Sunshower B.V. to claim payment for damage and costs.
- 6.3 For as long as this title retention applies, the contracting party is obligated to fully insure the products against theft, damage and loss.
- 6.4 For as long as the contracting party has not fully paid for the product, the contracting party pledges the debt, which it is owed by the party to whom it has resold the product, to Sunshower B.V..

Article 7

- 7.1 The installation of the goods is effected at the expense and risk of the contracting party. The electrical installation may only be carried out by a certified specialist observing the statutory guidelines as well as the national installation regulations as most recently issued. Moreover, the contracting party is obliged to follow the installation instructions supplied by Sunshower B.V..

Article 8

- 8.1 If not otherwise explicitly agreed in writing, the payment of the agreed price will be effected as follows:
The full and complete payment to be received by Sunshower prior to delivery.
- 8.2 All payments must be effected without any discount, reduction or postponement.

- 8.3 If the contracting party does not pay within the agreed period, the contracting party is, without any prior notice being required, in default by operation of the law and Sunshower B.V. has the right to charge the contracting party interest at an interest rate of 3% above the statutory interest rate from the day on which the payment should have been received, without prejudicing the rights belonging to it.
- 8.4 In the event of winding-up, bankruptcy or suspension of payment of the contracting party, its obligations will be payable on demand.
- 8.5 The costs, both in and out of court, caused by non-fulfilment, late fulfilment or improper fulfilment of the obligations of the contracting party, are payable by the contracting party. In the event that the contracting party does not pay an amount owed to Sunshower B.V. or does not pay an amount owed to Sunshower B.V. on time, the extrajudicial costs between the parties are set in advance at an amount equal to 15% of the amount payable or at least € 500.

Article 9

- 9.1 After the delivery of the goods, Sunshower B.V. is no longer responsible for defects in the goods, unless the contracting party makes a claim on the basis of the guarantee conditions below.
- 9.2 Subject to the hereinafter stipulated limitations and other limitations and exclusions flowing from these terms and conditions, Sunshower B.V. guarantees the soundness of the goods delivered and the extra work performed by it during a period of 24 months, calculated from the day that the goods are delivered. Sunshower B.V. does not guarantee the results to be obtained with the goods or the effectiveness of the goods.
- 9.3 All defects, which the contracting party proves occurred within the aforementioned guarantee period, which are only and predominantly a direct result of an error in the construction designed by Sunshower B.V., or which are a result of a defective finishing or use of poor material, will be rectified by Sunshower B.V. without charge. The contracting party must at all times give Sunshower B.V. the opportunity to rectify any defect. For the materials and/or objects obtained by Sunshower B.V. from third parties, Sunshower B.V. provides, without prejudicing that determined in the first paragraph of this article, no more guarantee than is given to Sunshower B.V. by the supplier or manufacturer concerned.
- 9.4 The obligations, which by virtue of these guarantee provisions come to rest with Sunshower B.V., will at all times be limited to replacement or repair of the product concerned or to the payment of the costs incurred with respect to repair. The choice between the various options will be made by Sunshower B.V.. The contracting party is obliged to ensure that Sunshower B.V. is given the opportunity to fulfil these obligations.
- 9.5 The product for which the guarantee is invoked may only be returned by the contracting party after obtaining prior permission from Sunshower B.V.. A product that is returned, but not found defect, will be sent back to the contracting party at the expense of the contracting party. Moreover, the contracting party must in this case also pay the costs of the examination performed by Sunshower B.V. as a result of the complaint.
- 9.6 The guarantee of Sunshower B.V. does not apply to defects that are (partly) the result of normal wear, injudicious or incorrect installation, injudicious or incorrect handling or use, injudicious or incorrect maintenance or if the product is employed for purposes other than normal purposes or used incorrectly or if the contracting party or the customer of the contracting party, or successive customers, or the end user do not strictly observe the operating instructions provided by Sunshower B.V.. The contracting party therefore bears the responsibility of ensuring that successive links in the delivery chain observe the operating instructions.

- 9.7 If Sunshower B.V. is for whatever reason unable to supply components of the goods to replace the components of the delivered goods by virtue of the guarantee, in the event that it may reasonably be assumed that the impediment is of a temporary nature, the guarantee obligations will be suspended until the impediment is removed, while, in the event that it may reasonably be assumed that the impediment is of a permanent nature, Sunshower B.V. will pay the cash value of the components, i.e. the original cost price paid by Sunshower B.V. for these or similar components of the goods.
- 9.8 Claims by the contracting party for visible defects must be effected in writing within 24 hours of the delivery of the goods, failing which a claim under the guarantee regarding these defects lapses. Claims by the contracting party regarding non-visible defects must be effected within two days of detecting it by registered post stating the reasons, failing which a claim under the guarantee regarding these defects also lapses.
- 9.9 Moreover, every claim under the guarantee lapses:
- a. if the installation of the product is not effected at the end user by a certified specialist;
 - b. if the contracting party does not immediately give Sunshower B.V. the opportunity to investigate the claims and rectify any defects;
 - c. if the contracting party does not fulfil, improperly fulfils or fulfils late any obligation that flows from the agreement entered into with Sunshower B.V. or from other agreements entered into with Sunshower B.V.;
 - d. if the end user of the goods does not comply with the user manual supplied by Sunshower B.V. with the goods.
- 9.10 After repair or replacement in the scope of this guarantee scheme, the term of the guarantee is not extended and the guarantee expires at the moment when the original term would have ended.

Article 10

- 10.1 The liability of Sunshower B.V. in respect of the agreement is explicitly limited to the fulfilment of the guarantee obligations described in the preceding article of these terms and conditions. Any claim for damages, except a claim for alternative compensation with respect to non-fulfilment of these guarantee obligations, is excluded. Any claim regarding trading loss or other indirect damage is likewise excluded.
- 10.2 If Sunshower B.V. provides advice, it is liable for damages that are the direct result of a demonstrable attributable shortcoming on its part regarding this advice if and in so far as the shortcoming, under the given circumstances and subject to normal professional knowledge and attention, could have been avoided and not exceeding the amount of the separately stipulated payment for the advice. Sunshower B.V. is not liable in other cases and for other damage resulting from the advice that it provided.
- 10.3 In the case of an unlawful act by Sunshower B.V. or by staff of Sunshower B.V. or by subordinates for whom Sunshower B.V. can be held liable by law, Sunshower B.V. is only liable for compensation for damages caused by death or physical injury and for other damage that was caused intentionally or by gross negligence.
- 10.4 In so far as Sunshower B.V. may be liable to pay an amount by virtue of liability, this amount will always be limited to the amount that is paid out in the case concerned pursuant to the business liability insurance.
- 10.5 Liability of Sunshower B.V. owing to an unlawful act other than that referred to in article 10.3 and article 10.4 is explicitly excluded.

Article 11

- 11.1 All intellectual or industrial property rights relating to the products to be delivered pursuant to the agreement and or associated designs, documentation, reports, offers and associated preparatory material lie exclusively with Sunshower B.V..
- 11.2 All items to be supplied by Sunshower B.V. to the contracting party, such as reports, agreements and the like, are meant for exclusive use by the contracting party and may not be reproduced, made public or brought to the notice of third parties by the contracting party without obtaining prior written permission from Sunshower B.V..
- 11.3 The contracting party may not remove any notice regarding intellectual property rights from the products or packaging of the products.
- 11.4 The contracting party will confidentially handle and keep secret all information received from Sunshower B.V., unless the acquired information is by its nature meant to be made public.
- 11.5 Sunshower B.V. guarantees that the goods that it manufactures and delivers do not as such infringe the intellectual property rights of third parties. If it is indisputably established that a product delivered by Sunshower B.V. conflicts with the intellectual property rights of a third party, Sunshower B.V. will at its option replace the product concerned after consulting with the contracting party with a product that does not infringe the rights concerned, or acquire a right of use from the aforementioned third party, or return the purchase amount to the contracting party. Beyond the application of one of the three options, Sunshower B.V. is not liable to the contracting party.

Article 12

- 12.1 In these terms and conditions, force majeure is understood to mean any circumstance that is independent of the will of Sunshower B.V., even if this could have been foreseen when the agreement was entered into, which temporarily or permanently hinders the fulfilment of the agreement, including but not limited to war, a threat of war, civil war, riots, industrial actions, work member exclusion, transport difficulties, fire, days not worked because of unsuitable weather and other disruptions to the business of Sunshower B.V. or its suppliers.

Article 13

- 13.1 If the contracting party does not fulfil, improperly fulfils or fulfils late any obligation to Sunshower B.V., arranges a debt settlement with its creditors, applies for suspension of payment, is declared bankrupt, its business is wound up or disposed of or (in the case that is a company) dissolved, dies, is placed under guardianship or administration, its movable or immovable property are seized or the contracting party actually and legally moves its domicile abroad, or if other circumstances come to light after entering into the agreement with Sunshower B.V. that give it good reason to fear that the contracting party will not fulfil its obligations, the contracting party is considered to be in default by operation of the law and Sunshower B.V. is authorised to suspend the further implementation of the agreement and/or totally or partially dissolve the agreement without requiring any notice of default or judicial intervention, all this without prejudice to the right of Sunshower B.V. to claim damages.

Article 14

- 14.1 Dutch law applies to the offers/agreement and further agreements.
- 14.2 All disputes, of whatever nature – including those that are only considered by one of the parties as such – which occur with reference to the offer/agreement and further agreements between the parties, are settled by a competent court in the district of The Hague.