

General Terms and Conditions of KACO Solar Inc.

1. Scope of our General Terms & Conditions

a) Our business relationships with our customers, including any future business, shall be based exclusively on our General Terms and Conditions of Sale. Any contradictory Terms and Conditions of our customers shall be denied unless their effectiveness is expressly agreed by us. Our General Terms and Conditions shall also be valid where deliveries are made by us unconditionally, even in the knowledge of the customer's contradictory or different Terms and Conditions.

b) All agreements between us and our customers shall be made in writing. If verbal agreements are made in exceptional cases, these agreements shall immediately be confirmed to the other party in writing.

2. Binding quotations

Our quotations are non-binding unless expressly declared to be binding by us.

3. Prices, Terms of Payment, Invoicing

a) Unless stated to the contrary in the order confirmation, our prices shall be "ex works" KACO warehouses. Unless otherwise indicated, no taxes are included in KACO prices. Customer agrees to pay any taxes which are paid or payable, or assessed in connection with this order.

b) We reserve the right to change our prices after conclusion of the contract, where plus or minus variations in costs arise, especially if due to changes in the price of materials or wages. KACO will provide details to the customer if requested to do so.

c) The deduction of cash discounts shall require a separate written agreement.

d) Unless stated to the contrary in the order confirmation, the purchase price shall be payable, without any deductions, within 30 days from the date of invoice. The consequences of any default in payment shall be subject to a monthly interest charge of 1.5 (18 % annual interest rate) for the invoice amount (subject to applicable law). All finance charges for overdue payments will be assessed on the Customer's monthly statements, and shall be due upon receipt. In no event shall the terms of this order/acknowledgement require payment in excess of the maximum amount permitted by law. Any such excess which may be collected from Customer shall at final payment of all amounts owed be applied as a credit against future invoices of Customer or returned by KACO to Customer.

e) Customer shall only be entitled to setting-off its claims if these are legally binding, undisputed and agreed by us. Moreover, the customer shall be entitled to retention of payment only in relation to the original contract.

f) Internet customer shall make visible the published retail pricing to the public. Current retail pricing is only available through KACO Solar Inc.

4. Delivery dates and deadlines

a) The starting date of the delivery time stated by us shall be subject to clarification of all technical details.

b) Moreover, our obligation to meet delivery deadlines shall be based on the punctual and proper fulfillment of the customer's obligations. The right of defense of non-performance of the contract shall be reserved.

c) In the event of strikes, lockouts, Force Majeure, delayed shipments by subcontractors or other causes hindering punctual delivery for reasons that we are not accountable for, we shall be entitled to extend the delivery date by a reasonable amount of time.

d) We shall be liable according to the legal provisions insofar as the respective contract is a fixed-date purchase. In exceptional cases, we shall also be liable according to the legal provisions if customer is entitled to claim that its interest in the further performance of the contract has ceased to exist due to a delay in delivery that we are accountable for.

e) In addition, we shall assume legal liability if the delay in delivery is based on a breach of contract by willful or gross negligence on our side; any fault by our representatives or vicarious agents shall be attributable to us. If the delay in delivery is not based on any willful violation of the contract that we are accountable for, our liability for damages shall be restricted to the replacement of items that have incurred typical and foreseeable damage.

f) We shall assume legal liability if the delay in delivery caused by us is based on culpable violation of a material contractual obligation; in this case, however, our liability for damages shall be restricted to the typical and foreseeable damage.

g) Moreover, our liability in the event of delayed deliveries shall be within a flat-rate compensation amounting to 0.5 % of the value of the shipment and restricted to a maximum of 5 % of the value of the shipment.

h) The customer's legal right of rescission shall remain unaffected. In the case of c), however, the customer shall only be entitled to rescind the contract if delivery is delayed by more than 2 months as compared to the original delivery date.

5. Transfer of the risk – Delayed performance by Customer

a) Unless stated to the contrary in the order confirmation, deliveries shall be agreed to be "ex works" KACO



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warehouses.

b) Where the customer is in default in accepting the delivery of goods (default in acceptance) or violates any other duties to cooperate, KACO shall be entitled to request compensation for the damage thus incurred, including any additional expenses. The right to any further claims shall be reserved.

c) Insofar as the conditions pursuant to sub-clause are met, the risk of accidental loss or deterioration of the subject matter of the agreement shall pass over to the customer at the time of entering into default in acceptance or debtor's delay.

d) If so requested by customer, KACO shall take out transport insurance for its shipments; the cost incurred by such insurance shall be borne by the customer.

6. Liability for Defects

a) In the case of deficiency claims the customer shall be required to have properly fulfilled its duties to perform inspection and give any notice of defects

b) Should there be any deficiencies stated in the purchased goods subject to the Agreement, KACO shall be entitled, at its discretion, to request subsequent performance through the correction of faults or through delivery of replacement free from defects. In the case of the correction of faults KACO shall be obligated to bear the expenses related to the correction of faults, in particular, transport costs, travel expenses, labor and material costs, provided that these costs are not increased by the transfer of the purchased goods to any place other than the place of fulfillment.

c) If subsequent performance is unsuccessful the customer shall be entitled, at its option, to rescind the contract or request a reduction in remuneration.

d) We shall be liable according to the legal provisions in so far as the customer claims for damages which are based on willful or gross negligence. Any fault by our representatives or vicarious agents shall be attributable to us. Except in cases of willful violation of contract our liability for damages shall be restricted to the replacement of items that have incurred typical and foreseeable damage.

e) We shall be liable within the scope of legal provisions in the event that a material contractual obligation was violated by us in a culpable manner; in this case, however, liability for damages shall be restricted to the replacement of items that have incurred typical and foreseeable damage.

f) Liability for culpable personal injury to life or health shall remain unaffected; compulsory legal Product Liability shall similarly remain unaffected.

g) Unless specifically stated to the contrary in the sections above, liability shall be excluded.

h) The limitation period for deficiency claims shall be 12 months, dated from the transfer of the risk.

7. Aggregate Liability

a) Notwithstanding the nature of any valid claim, a more extensive liability than that set out in Section 6 shall be excluded. This shall be applicable, in particular, to compensation claims arising from faults present at contract conclusion, for other breaches in contract, or for claims for tortious liability.

b) The restriction pursuant to sub-clause a) above shall also be valid if customer requests compensation of unavailing expenses instead of replacement delivery to compensate for its claims.

c) Insofar as liability for compensation versus KACO is excluded or limited, this shall also be valid with regard to any vicarious liability claims against our employees, representatives, and agents.

8. Intellectual Property/Copyright

a) All tools, samples, drafts/designs, drawings, and similar documents prepared by us shall remain our sole property, even if they were partly charged to our customer; our rights of usage shall remain unaffected. The items mentioned above must not be made available to any Third Parties without our prior consent. Any drawings that form part of our quotations shall be returned to us on request if the order has not been placed with us.

b) Each party will maintain the other party's Confidential Information in strictest confidence, may not disclose it to any third party, and may use it only as necessary to perform under this Agreement. The parties will cause their officers, directors, employees, and agents to abide by the terms of this Section 8, and will be responsible for any wrongful disclosure and use by any of them.

c) If KACO has manufactured and shipped products according to the drawings, models, samples or other documents submitted by customer, customer shall warrant that such documents do not infringe the commercial rights and copyrights of any Third Parties. If a Third Party asserts a claim against us based on the infringement of an Intellectual Property Right with respect to the manufacture or delivery, we shall be entitled to cease all our activities if customer should fail to provide evidence that the claims asserted by such Third Party are justified. Customer shall be obligated to hold us harmless against any claims by Third Parties in connection with the infringement of Intellectual Property Rights.



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d) Customer will defend and indemnify KACO and KACO affiliates, directors, employees and contractors (collectively “Indemnitees”) against any claim or action brought by a third party against an Indemnitee arising from (a) an allegation of Customer’s negligence or willful misconduct, or (b) Customers failure to comply with the requirements of this Agreement.

9. Retention of Ownership

a) KACO reserves ownership of all delivered goods until all amounts owing against this contract have been settled by customer and the contract is completed, including all amounts owing from subsequent orders, replenishment orders or spare parts orders. Where the customer’s actions are in breach of the contract, especially involving delay in payment, KACO shall be entitled to recover the purchased goods subject to the Agreement, which shall constitute our rescission of contract. On recovering the goods we shall be entitled to dispose of said goods. Any proceeds from the disposal, less the costs of disposal to a reasonable amount, shall be offset against the customer’s claims.

b) The customer shall be obligated to ensure careful handling of any product that is part of the contract; in particular, it shall be obligated to take out adequate insurance coverage against damage caused by fire, flood or theft. The insurance coverage shall be adequate to cover the value of the new goods. Should any maintenance or inspection work be required, customer shall be obligated to conduct such work in due time and at its own expenses.

c) Should any goods be taken in execution or be subject to any other interference by Third Parties, customer shall be obligated to inform us immediately in writing, thus enabling us to file a lawsuit. Where the Third Party is not in a position to reimburse the legal costs of such lawsuit (judicial and extrajudicial) customer shall be liable for the loss incurred to us.

d) Customer shall be entitled to the further selling of the purchased goods in the course of its normal business; and already at this time, customer shall assign to us all the claims towards its buyers or other Third Parties (amounting to the end amount of invoice) resulting from the further selling of these goods, regardless of whether such goods were sold without or after further processing. Customer shall remain entitled to collect these receivables even after assigning the rights stated above. Our right to collect these receivables on our own account shall be unaffected thereby. However, we undertake not to collect these receivables as long as the customer fulfils its obligation to pay the proceeds from the collected sums, and as long as it does not delay any payments, and, in particular, as long as there are no bankruptcy proceedings filed against customer or customer ceases to settle its payments. If this should be the case we shall be entitled to request that the customer advise us of the receivables assigned and the respective debtors, provide all the information required for collection, submit the pertaining documents and notify the debtors accordingly.

e) Any processing or alteration of the purchased goods shall always be effected by the customer on our behalf. If the purchased goods should be processed together with other objects or items that are not owned by us, we shall acquire co-ownership of the new product at the ratio of the value of the purchased goods (end value of invoice) to the value of the other processed objects valid at the time of processing. The new products resulting from the processing shall be subject to the same provisions that are applicable to the (conditional) purchased goods.

f) If the purchased goods should be mixed or merged inseparably with other objects that are not owned by us, we shall acquire co-ownership of the new product at the ratio of the value of the purchased goods (end value of invoice) to the value of the other merged products valid at the time of merging. If the merging is effected in such a manner that the customer’s part of the product is deemed to be the main part of the product it is understood that the customer transfers the right of co-ownership to us on a prorata basis. Customer shall maintain/hold in custody on our behalf the exclusive or co-owned property thus produced.

g) To secure our claims, customer shall also transfer to us all its claims towards any Third Parties, which result from merging the purchased goods subject to the Agreement with real property/real estate.

h) We undertake to release the claims owed to us on the customer’s request insofar as the achievable value of our claims should exceed the claims to be secured by more than 10 %; the selection of the claims to be released by us shall be at our discretion.

10. Dispute Resolution

a) The parties will first attempt to resolve any dispute relating to this Agreement through good faith informal negotiation.

b) Any action to enforce or interpret this Agreement shall be settled by arbitration in accordance with the rules of JAMS. Any party may commence arbitration by sending a written demand for arbitration to the other party. Such demand shall set forth the nature of the matter to be resolved by arbitration. Arbitration shall be conducted at the JAMS facility in San Francisco, California. The substantive law of the State of California shall be applied by the arbitrator of the dispute. The parties shall share equally in the initial costs of arbitration. The prevailing party shall be entitled to reimbursement of attorney’s fees, costs, and reasonable expenses incurred in connection with the arbitration. All decisions of the arbitrator



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shall be final, binding, and conclusive on all parties. Judgment may be entered upon any such decision in accordance with applicable law in any court having jurisdiction thereof.

c) Any dispute arising out of this Agreement shall be subject to the laws of the State of California. Venue for any action filed to enforce this Agreement shall be San Francisco County, California.

supplied, ordinary wear and tear is accepted. Customer will pay for restoration of the product to such condition.

11. WARRANTIES

a) The warranty period for KACO products is 24 months from the date of delivery of all KACO equipment, excluding Photovoltaic Inverters, unless a different period is agreed to in writing by KACO. All Photovoltaic Inverters shall have a warranty period of 123 months from the date of delivery. KACO warrants to Customer that the products sold hereunder will be in good working order in accordance with KACO standard specifications upon delivery to Customer. The warranty belongs to the unique serial number of the inverter and not any particular person; therefore, KACO inverters are sold with a 10 year transferable warranty. KACO will at its sole option either repair, replace, or refund the purchase price of the non-conforming product (or component thereof) if the product or component becomes inoperable due to a defect in materials or workmanship during the specified warranty period.

b) Customers shall contact KACO to obtain a Return Merchandise Authorization (RMA) number before returning products. KACO Solar, Inc. accepts no responsibility or liability for products returned without prior authorization. KACO at its sole determination will repair or replace product returned by customers. Product must be returned with a copy of the original dealer invoice or written proof of installation if the product has not been already registered by fax or mail. Product must include a legible data label showing the serial number and the type of product. The Product must be returned to KACO in the original packaging materials or packaging providing equal protection during shipment. KACO is not responsible for damage occurring during shipment. To satisfy the claims of our easy swap warranty; KACO will ship any replacement product within 24 hours after a claim has been issued and approved. If the product fails out of the box or within a 6 month period of operation a new replacement shall be issued. After 6 months of installation, a factory reconditioned product of newer or similar age shall be issued.

c) KACO disclaims any liability for direct or indirect damages due to improper installation or commissioning, modifications, alterations or repair attempts, inappropriate use or operation, insufficient ventilation of the device, non-compliance with relevant safety standards or regulations, flood, lightning, over voltage, storm, fire (acts of nature).

We do not guarantee that the software is completely free of faults. In most cases technical alerts will be posted on the KACO website describing how to avoid the effects of the fault. If the concern is greater, written explanation will be mailed to registered installers. The solar system installer is responsible for the correct selection, proper use, supervision and consequences of the use of software. We reserve the right to make alterations that will improve the functioning of the device. KACO will not be liable for any direct, indirect or consequential damages, losses, costs or expenses however arising in contract or tort, including without restriction any economic losses of any kind, any loss or damage to property, any personal injury, any damage or injury arising from or as a result of misuse or abuse, or the incorrect installation, integration or operation of the product. In some rare cases inverter errors may occur. KACO will offer a maximum of assistance if one of these cases should arise. KACO will take every effort to remedy any defects fast and without unnecessary bureaucracy. Please contact our technical department directly for fast and efficient support.

12. Service Reimbursements

KACO Solar will pay \$100 for each inverter replacement and \$25 per additional inverter at the site when a true inverter failure is determined. KACO Solar shall review each inverter failure in its testing lab before issuing a service reimbursement to the customer. If an inverter has been modified reimbursement shall be decided by the KACO factory service representative and may be denied.

13. Cancellations & Returns

a) Upon termination or cancellation of any order, the product will be returned to KACO in the same condition as originally supplied, ordinary wear and tear is accepted. Customer will pay for restoration of the product to such condition.

b) Customer agrees to pay KACO a 15% restocking fee on all products shipped from stock, if they are returned by Customer to KACO.

I have read and agree to the above General Terms and Conditions.

Signature _____ Date _____