

HN Sunlight GmbH – General Terms of Delivery 1/2008

- for Commercial Transactions with Business Enterprises -

1 Important Information

1.1 All deliveries of HN Sunlight GmbH in commercial transactions with business enterprises are subject to the following terms of delivery only. In as much as there are gaps in these terms of delivery, the provisions of law shall apply. Customers' general terms and conditions of business which deviate from the following terms of delivery or the provisions of law will not be accepted, and they will also not be accepted by HN Sunlight GmbH in the execution of a contract, in particular by the delivery of goods.

1.2 HN Sunlight GmbH shall only be bound to an offer through a written acceptance, which may take the form of an invoice accompanying the goods. HN Sunlight GmbH shall not check the correctness of the information provided by the customer upon which the offer or order confirmation is based and HN Sunlight GmbH shall also not check if the execution of the customer's order based on such information infringes and third party property rights. Unless the customer informs HN Sunlight GmbH in writing that only a specific make and design of a product is desired, HN Sunlight GmbH will be free to deliver make and design of that product which is technologically most advanced.

1.3 Unless otherwise previously agreed in writing, HN Sunlight GmbH will deliver products within the tolerances admissible under the relevant German or European technical standards, in particular DIN, VDE, EN ISO, etc. Engineering changes which become necessary as a result of changes in the production, for reasons of product management, or by virtue of the law shall be permissible.

2 Delivery

2.1 Unless otherwise agreed upon in writing, deliveries are effected 'ex factory'/'ex works' pursuant to the Incoterms 2000. Only the confirmed time of delivery by HN Sunlight GmbH is binding upon the parties.

2.2 The commencement of a delivery period requires timely receipt of all documents, material and information from the customer necessary for the execution of the contract, as well as all authorizations and permits which may be required and which are to be submitted by the customer to HN Sunlight GmbH with the necessary contents and/or of the quality agreed upon.

2.3 In case HN Sunlight GmbH is unable to perform its delivery obligations due to belated self-supply or forces beyond its control (force majeure), the contract is not terminated but merely suspended until the removal of such impossibilities has made it possible to deliver. This applies also in the case HN Sunlight GmbH has been in default at the time these impossibilities arose. All claims for damages against HN Sunlight GmbH in connection with the aforesaid impossibilities are excluded.

3 Default

3.1 The customer's possible claims for delay or default of contract are excluded in cases of slight negligence by HN Sunlight GmbH' legal representatives, agents or employees.

3.2 The customer's possible claims for delay or default of contract are also excluded if the delay or default of contract is based on the delivery of a defective product and HN Sunlight GmbH performs its contractual duties by subsequent delivery of a faultfree product within a reasonable period of time.

4 Passing of the Risk

4.1 If the product is to be shipped, the risk shall pass at that point of time at which HN Sunlight GmbH has delivered the product to the person in charge of shipping it. In case the delivery is delayed for reasons within the customer's responsibility, the risk shall pass to the customer upon receipt of the notification that the product is ready for shipment.

4.2 Unless otherwise agreed upon in writing, HN Sunlight GmbH shall insure a shipment for its own benefit at the expense of the customer, since under German law title to the goods does not vest in the buyer until he has received and paid for them. No forwarding agent's transport, logistics and storage insurance shall be taken out at the expense of HN Sunlight GmbH.

5 Inspection and Rejection of Goods

5.1 Upon receipt, each shipment shall be inspected for defects, damages and completeness. All complaints shall be promptly reported to HN Sunlight GmbH in writing.

5.2 In case of damage to the goods while in transit, a purchasing merchant must obtain a written damage report from the carrier, and, after immediate consultation with HN Sunlight GmbH, have an insurance adjuster issue a certificate of damage, if HN Sunlight GmbH requires it.

6 Claims for Defects

6.1 For defects in a product delivered HN Sunlight GmbH' obligation to perform the contract shall, at its choice, consist of subsequent performance by remedy of the defect or delivery of a faultfree product. The customer has no right to remedy a defect himself and claim reimbursement of the costs thereby incurred by him. If the subsequent performance by HN Sunlight GmbH should still fail in the second attempt, the customer may reduce the purchase price or, upon the existence of the statutory prerequisites, rescind the contract.

6.2 HN Sunlight GmbH may reclaim from the customer a product complained of as defective for investigation of the defect. If HN Sunlight GmbH delivers a

faultfree product within the scope of subsequent performance, or if the customer rescinds the contract with HN Sunlight GmbH with legal effect, HN Sunlight GmbH may claim restitution and return of the product complained of as defective subject to the provisions of Sections 346 thru 348 of the German Civil Code (BGB). If HN Sunlight GmbH is liable to pay damages on account of a defect by virtue of the law, HN Sunlight GmbH' liability for such damages shall be limited to the extent stipulated in clause 7 hereof.

6.2 The customer's claims for defects become statute-barred after 1 year from the date of delivery/acceptance of the product. The foregoing time limit does not apply to defects which are based on intent, to defects which are fraudulently concealed, to defects which are based on a deviation or divergence from a guaranty/warranty which HN Sunlight GmbH may have given as well as to defects in fixed constructions or any items delivered which, in accordance with their intended purpose, are customarily used for a fixed construction and which have caused its defectiveness. In all these cases the statutory periods shall be controlling. The foregoing shall be without prejudice to the legal regulations on suspension of the statute of limitations, suspension, and re-commencement of the time limits.

6.3 The products delivered by HN Sunlight GmbH will be free from defects of quality if they are of the condition as agreed in writing between HN Sunlight GmbH and the customer in a specification or in a shipping instruction.

In the absence of such written agreement with the customer, the products delivered by HN Sunlight GmbH will be free from defects of quality if they are of the condition as finally described in the technical data sheets, specifications, or drawings of HN Sunlight GmbH, or if they are of a condition which diverges only insignificantly from the agreed/described condition.

The customer's information on the use of a product shall only be authoritative if HN Sunlight GmbH has expressly confirmed to the customer in writing at the time of conclusion of the contract that the product delivered is fit for the customer's intended purpose of use. General information on the use of a product or examples for the application of a product given by HN Sunlight GmbH in product brochures or other advertising media do not release the customer from a careful inspection of the product delivered for its fitness for the customer's concrete purpose of use.

7 Compensatory Damages

HN Sunlight GmbH will assume liability within the legal limits for damages which are based on a willful act or omission or gross negligence by its legal representatives or senior executives or on a willful act or omission by its agents or other employees as well as for damages from bodily injury. In the case of gross negligence by agents or other employees of HN Sunlight GmbH or in the case of a slightly negligent breach of essential contractual duties which are indispensable for the attainment of the contract purpose and which the customer must therefore be able to rely upon, the liability of HN Sunlight GmbH within the legal limits is limited to such damages the nature and extent of which were foreseeable to HN Sunlight GmbH at the time of the conclusion of the contract. Above and beyond the foregoing, all claims of the customer for compensation of any direct or indirect damage - irrespective of the cause in law and including possible claims for damages from the breach of pre-contractual duties and damages in tort - are excluded.

Contractual penalties or liquidated damages the customer may have to pay to third parties will only be compensated by HN Sunlight GmbH if this has been agreed with the customer in writing beforehand.

The legal liability of HN Sunlight GmbH for the absence of a guaranteed/warranted quality or condition of the product and the liability of HN Sunlight GmbH under the German Product Liability Act of 15 December 1989 remain unaffected.

8 Default in Payment

8.1 Subject to evidence of a higher damage, HN Sunlight GmbH may charge 5.00 € each for the second and each further reasonable reminder. The production of evidence of an absent or minor damage shall be reserved to the customer.

8.2 HN Sunlight GmbH shall be entitled to charge interest for default at the statutory rate, but no less than 10%. The production of evidence of an absent or minor loss of interest shall be reserved to the customer, that of a higher loss of interest shall be reserved to HN Sunlight GmbH.

9 Reservation of Title

9.1 HN Sunlight GmbH retains title to all products delivered until all previous and present contract obligations, negotiable instrument claims, as well as all past and present debts have been satisfied in full. If, in connection with a payment, a liability for HN Sunlight GmbH arises due to any negotiable instrument transaction, then the reservation of title stands until HN Sunlight GmbH is absolved or excluded from all obligations.

9.2 The customer may use the products delivered within the scope of his ordinary and proper course of business prior to full payment of the aforementioned obligations, claims and debts (9.1), unless a prohibition of assignment

exists with third parties for the future claims already assigned to HN Sunlight GmbH as set forth in clause 9.3. Pledging of security interests or liens, in as much as HN Sunlight GmbH' rights are affected, are subject to HN Sunlight GmbH' prior written consent.

9.3 As further security for HN Sunlight GmbH' claims described in clause 9.1, the customer will assign immediately to HN Sunlight GmbH those claims - including claims from open bills or current account - which may arise against his contracting partners or third parties from the resale of the original or modified products. HN Sunlight GmbH accepts this assignment of claims, which consists of its interest in the products sold by its customer to third parties. HN Sunlight GmbH' interest is the invoice amount (including VAT) of its products sold to the customer.

9.4 The customer may collect the assigned future claims outlined in clause 9.3 within the scope of his ordinary and proper course of business. This authorization of collecting assigned future claims includes the direct debiting of claims, always provided, however, that the customer ensures by prior agreement with his bank that the amounts received are exempt from the bank's lien and that the customer is thus able to meet his obligation to transfer his proceeds to HN Sunlight GmbH at any time. This authorization of collecting assigned future claims expires as soon as the customer defaults in the payment of his liabilities to HN Sunlight GmbH. Upon the expiration of such authorization, HN Sunlight GmbH is entitled to disclose the assigned claims and demand any and all information and documentation from the customer required for the assertion of these claims.

9.5 As long as the title to the property delivered has not passed from HN Sunlight GmbH (9.1), any improvement of or additions to these products will be considered to be in part those of HN Sunlight GmbH, without, however, obligating it in any way or manner. HN Sunlight GmbH thus acquires by accession a co-ownership in the property. The amount of this co-ownership is determined by the ratio between the value of the products subject to the reservation of title used for the additions to the property and the value of the property at the time of accession. The value added due to the accession remains untouched and shall be due to the customer. The customer's purchase lien to the products subject to the reservation of title extends to the co-ownership of HN Sunlight GmbH. The customer shall be free to dispose of HN Sunlight GmbH' co-ownership subject to the foregoing stipulations.

9.6 Should the actual value of the securities existing for HN Sunlight GmbH exceed the secured claims of HN Sunlight GmbH by more than 10% - be it solely on the basis of this reservation-of-title stipulation or together with other securities - HN Sunlight GmbH shall be obliged to release additional securities of its own choice upon the customer's request.

10 Setoff - Retention

10.1 The customer's right of setoff is limited to uncontested or non-appealable claims only.

10.2 The rights of retention pursuant to Section 273 of the German Civil Code (BGB) and Sections 369 et seq. of the German Commercial Code (HGB) shall be due to the customer only in as much as the claim substantiating these rights is based on the same legal relationship as the claim of HN Sunlight GmbH. This limitation does not apply if the customer's counterclaims are uncontested or non-appealable. The customer shall not be entitled to satisfy his claim pursuant to Section 371 of the German Commercial Code (HGB).

11 Competent Courts

11.1 The parties hereto will first attempt to settle all their legal and technical disputes through negotiation. If no compromise can be reached, then the Frankfurt courts, in the State of Hessen, Germany, shall be the competent courts for all legal actions that may arise between the parties.

11.2 However, HN Sunlight GmbH shall be entitled to recourse in any court having jurisdiction as to the respective legal action under the law of the Federal Republic of Germany or the law of the country in which the customer has his registered place of business.

12 Miscellaneous

12.1 Place of performance for the customer's payments shall be HN Sunlight GmbH' registered place of business.

12.2 Should any clause, paragraph, sub-paragraph, sentence or phrase of these General Terms of Delivery be or become invalid or unenforceable, then such clause, paragraph, sub-paragraph, sentence or phrase shall be deemed separated from the rest of these General Terms of Delivery, which shall remain in full force and effect.

12.3 These General Terms of Delivery and any agreement between the parties shall be governed by and construed in accordance with the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) and the Law of Conflict of Laws. Any reference to other legal systems is excluded.