

## PURCHASING CONDITIONS

### ASOLA QUANTUM SOLAR POWER AG

#### § 1. General conditions

§ 1.1. For all orders for ASOLA Quantum Solar Power AG and all subsidiaries as well as Asola Advanced and Automotive Solar Systems GmbH - hereinafter called ASOLA the following conditions shall apply, except as otherwise expressly provided. We shall not acknowledge conditions contrary to our conditions of purchase or the supplier's conditions which are in derogation hereof. Our conditions of purchase shall apply also if we accept the goods without reservation in the knowledge of opposing conditions or the supplier's conditions of purchase, which are in derogation of our conditions.

§ 1.2. Our conditions of purchase shall apply to all future transactions with the supplier.

§ 1.3. With all offers, the supplier shall point out all deviations from the inquiry in question by ASOLA. The supplier shall submit free of charge offers upon ASOLA's request.

§ 1.4. Orders shall be placed exclusively in writing by ASOLA's purchasing department. Other orders shall be valid only if acknowledged in writing by ASOLA's purchasing department.

§ 1.5. Even after an order has been placed, ASOLA is authorized to make changes and amendments to the order. Unless the supplier objects to our order or potential amendments or changes immediately in writing or at the latest within ten days, the order and/or potential amendments or changes are considered to have been accepted.

#### § 2. Delivery and shipping

§ 2.1. The time for delivery specified in the order shall be binding. The supplier agrees to notify ASOLA immediately in writing should circumstances occur or become obvious so that the supplier is unable to keep the agreed upon time for delivery.

§ 2.2. The supplier shall comply with the shipping provisions of ASOLA and those of the forwarding company or carrier. In all shipping documents, correspondence and invoices, the order and article number of ASOLA must be specified. Should the supplier fail to do so, ASOLA shall not be responsible for any delays in processing.

§ 2.3. The costs for transportation, including packaging, insurance and other ancillary costs shall be borne by the supplier, unless otherwise expressly provided in the order.

#### § 3. Delivery times, delivery deadline

§ 3.1. The delivery times or deadlines mentioned in the orders are binding and subject to arrival at the place of performance. The statutory provisions shall apply to the requirements and legal consequences of delay, without requiring a formal notice of default (warning).

§ 3.2. ASOLA is authorized to refuse the delivery of goods that are not delivered on the delivery date specified in the order and return such goods at the supplier's cost and risk or store such goods with third parties.

§ 3.3. In the case of default, a contractual penalty in the amount of 0.2 % of the order value (net) per calendar day may be charged, limited to 10 % of the order value. The supplier is authorized to prove that as a result of the delay no damage was caused, or the damage was negligible. ASOLA is authorized to assert the contractual penalty until the final payment and to set off said penalty with the payment in question. This shall not affect any other legal claims.

#### § 4. Quality and taking delivery

§ 4.1. ASOLA reserves the right to inspect the goods immediately upon receipt for obvious and visible defects and only then take delivery. The supplier shall bear all costs for the inspection, if ASOLA discovers a defect. The complaint is considered to have been filed in due time, if it is submitted within a time limit of ten business days, calculated from the date of receipt or in the case of hidden defects, upon discovery by the client.

§ 4.2. If the supplier has issued a guarantee, the supplier shall waive the plea of late notice concerning hidden defects during the guarantee period.

§ 4.3. The values determined during the incoming goods inspection shall be binding for measures, weights and quantities of a delivery.

§ 4.4. Systems and machinery to be delivered in particular must be in keeping with the samples approved by us, relevant standards (DIN standards, EU standards) and all safety provisions.

§ 4.5. The claim to contractual penalty is sustained also if, upon taking delivery, said claims are not asserted expressly. Further claims shall continue to exist also without special reservation when taking delivery.

§ 4.6. ASOLA is authorized, in case of inspection of defects, to reduce the corresponding invoice of the effected delivery in the following range:

Affected amount		-> Decrease of invoice
• 0	- 500 ppm	= 0,0%
• 501	- 1.000 ppm	= - 0,5%
• 1.001	- 1.500 ppm	= - 1,0%
• 1.501	- 2.000 ppm	= - 1,5%
• 2.001	- 2.500 ppm	= - 2,0%
• > 2.500 ppm		= - 3,0% and its ASOLA obligation to refuse the goods to suppliers expense.

## **§ 5. Prices and terms of payment**

§ 5.1. The price shown in the order is binding. Price reductions in the period between ordering and payment of invoice shall be to the benefit of ASOLA.

§ 5.2. The statutory rate of value added tax is included in the price.

§ 5.3. Invoices with order and article number are to be prepared immediately after the shipping of goods. VAT is to be itemized separately.

§ 5.4. Payment is subject to reservation of proper delivery and correct pricing and calculations. In the case of a complaint, ASOLA is authorized to hold back due payments on invoices in a reasonable amount until the complete fulfillment of warranty obligations or proof of contractual performance is furnished by the supplier.

§ 5.5. We are entitled to additional set-off and retention rights as stipulated by law.

§ 5.6. Invoices are to be mailed in duplicate, unless otherwise negotiated. We shall pay within 30 days with 3% discount or within 60 days with 2% discount or 90 days net pay. The time limit for payments starts after complete, flawless delivery and receipt of the property invoice documents.

§ 5.7. For contractual deposit payments to ASOLA for the purpose of a potential reimbursement obligation, the supplier shall furnish an absolute guarantee from a German bank in the same amount, while the bank has waived the defenses according to Sections 768, 770, 771 and the rights from Section 776 German Civil Code. The deposit payment -apart from the prerequisites stipulated among other things -shall become due when the bank guarantee is on hand. If the guarantee was not utilized, ASOLA shall return the guarantee certificate to the supplier, following the payment of the purchase price.

§ 5.8. After securing all contractual warranty claims, ASOLA may request from the supplier a reasonable security payment until the expiration of the warranty period. Unless otherwise agreed, ASOLA may retain 5% of the contract value upon payment of the final account as an interest-bearing security. The retention of security is to be paid into a separate, interest-bearing account.

§ 5.9. The supplier may request payment in full of the agreed upon remuneration after acceptance, provided the supplier furnishes ASOLA conditionally upon counter performance a performance guarantee in the amount of 5 % of the contract value in keeping with the requirements of the down-payment guarantee according to the above paragraph. The repayment of this guarantee shall be effected immediately upon expiration of the warranty period, provided no defects have been reported.

## **§ 6. Set-off and assignment**

§ 6.1. The supplier shall only be authorized to set off claims, which are undisputed and recognized by a declaratory judgment.

§ 6.2. The assignment of claims against ASOLA shall be valid only with ASOLA written approval.

## **§ 7. Warranty, product liability**

§ 7.1. ASOLA shall be entitled to statutory warranty claims without deduction.

§ 7.2. Upon initial request, the supplier shall indemnify ASOLA against all third-party claims due to defects, violation of third-party protective rights or product damage of the supplier's delivery due to a share of causation.

§ 7.3. The supplier agrees to maintain reasonable business liability insurance.

§ 7.4. The warranty period is 10 years upon transfer of risk of the full delivery or performance, however, the warranty period of this contract does not end before the applicable statutory warranty period has lapsed.

§ 7.5. In the case of defective delivery, the supplier shall at ASOLA's option provide free of-charge replacement, offer a price reduction in accordance with the statutory provisions or remedy the defect free-of-charge.

§ 7.6. In urgent cases, ASOLA is authorized to assume the supplier's expense for remedying the defect or contract a third party to remedy said defect or obtain a replacement by other means. The same shall apply if the supplier is in default of its warranty obligation or a remedy remains unsuccessful.

§ 7.7. The supplier shall be liable for replacement deliveries and repairs to the same extent as for the original object of delivery, which shall also include transportation, traveling and work expenses without limitation. The warranty period for replacement deliveries shall start at the earliest on the day on which the replacement delivery is received.

§ 7.8. If the maximum number of defects is exceeded in the statistical test procedure specified in the order, the entire delivery shall be considered defective. In this case, ASOLA is authorized to assert claims arising from defects for the entire delivery or inspect the entire delivery at the supplier's expense.

§ 7.9. If we are entitled to damages or to withdraw from the contract, ASOLA may demand as a contractual penalty lump sum in damages in the amount of 5 % of the order value (net). This shall not exclude the assertion of other damage claims.

§ 7.10. If the supplier is responsible for product damage, the supplier is obligated to indemnify ASOLA against third-party damage claims upon first demand when the cause lies in the supplier's sphere of control and organization and if the supplier is liable in relation to third parties.

§ 7.11. Within the scope of its liability for damaging events within the meaning of § 6, the supplier is obligated to reimburse expenses according to Section 683, 670 German Civil Code or according to Sections 830, 840, 426 German Civil Code, which arise from or in connection with one of our recall actions. Concerning the content and scope of the recall actions, ASOLA shall contact the supplier -if possible and acceptable -and give the supplier the opportunity to comment. This shall not affect other legal claims.

§ 7.12. The supplier agrees to maintain product liability insurance with a flat rate global coverage amount of EUR 10 million per personal injury/property damage; this shall not affect any other damage claims to which ASOLA might be entitled.

## **§ 8. Confidentiality -information and data**

§ 8.1. Drawings, designs, samples, production regulations, internal data, tools, equipment, etc. we have provided to the supplier for tendering or for implementing an order, shall remain our property. Said items may not be used, duplicated for other purposes or made accessible to outsiders and shall be preserved with the due care of a responsible businessman.

§ 8.2. The confidentiality obligation shall apply also upon completion of this contract; it expires if and provided the know-how contained in the images, drawings, calculations and other documents has become general knowledge.

§ 8.3. The supplier is obligated to insure the tools, which are our property, at the new value at the supplier's own cost against damage due to fire, water and theft. Furthermore, at this time, the supplier already assigns an compensation claims from this insurance; ASOLA hereby accepts this assignment.

§ 8.4. The supplier agrees to perform any necessary maintenance and inspection work on our tools and perform all maintenance and repairs in due time at its own cost. The supplier shall report accidents immediately; should the supplier be negligent in reporting such accidents, the supplier shall not be entitled to damage claims.

§ 8.5. Should it be unavoidable to disseminate information/data to third parties, the supplier is obligated to ensure that said third parties shall be committed to secrecy in accordance with the standards that apply according to this paragraph to the supplier.

#### **§ 9. Protective rights of third parties/patent infringement**

§ 9.1. The supplier guarantees that the rights of third parties will not contradict the proper use of the purchase products, in particular, will not infringe the protective rights of third parties.

§ 9.2. However, should ASOLA still be held liable on account of potential infringement of a third-party right, such as copyrights, patent rights and other protective rights, the supplier shall indemnify ASOLA against such claims and any related performance upon initial written request.

§ 9.3. The supplier's indemnity obligation relates to all applications that arise necessarily In connection with the implementation by a third party.

§ 9.4. The period of limitation for the aforesaid claims (§ 9) is ten years, starting with the termination of the respective agreement.

§ 9.5. Should improvements occur with the supplier in connection with the order, ASOLA shall have a free-of-charge non-exclusive user right in the commercial utilization or improvement and any protective rights therein.

#### **§ 10. Data protection**

The supplier declares its irrevocable agreement that the submitted personal data will be handled or processed in compliance with the legal provisions.

#### **§ 11. Place of performance and jurisdictional venue, law**

§ 11.1. The place of performance is the receiving centre named by use if no receiving centre is named, the place of performance is the place of business of ASOLA. The exclusive jurisdictional venue for any litigation is Erfurt. ASOLA, however, is authorized to take action against the supplier at the supplier's local court.

§ 11.2. The applicable law shall be the law of the Federal Republic of Germany. The application of the UN Sales Convention regarding contracts of international purchase of goods shall be excluded.

#### **§ 12. The supplier's reservation of title**

§ 12.1. If the supplier delivers goods subject to the reservation of title, we shall be authorized to resell said goods without the supplier's retention of title.

§ 12.3. An extended, especially prolonged reservation of title on the part of the supplier shall not become part of the content of this contract.

#### **§ 13. Salvation clause**

Should individual provisions of these General Standard Terms and Conditions be or become invalid, this shall not affect the remaining conditions hereof. The invalid provision is to be replaced by a provision coming as close as possible to its legal and economic intent of the provision in question.

**The English version of the General Conditions is for the sake of information only, the German version is authoritative.**