

## 1. General

- 1.1 These General Terms and Conditions apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of section 310 (1) *Bürgerliches Gesetzbuch* (BGB - German Civil Code) for all our offers, contracts, deliveries and other services (hereinafter referred to as "Delivery"), including for all future business relationships, even if they are not expressly agreed in the specific case.  
The General Terms and Conditions shall be deemed to have been recognised once the Customer places the order, at the latest, when the goods are accepted. We hereby expressly object to any other or supplementary terms and conditions of our Customer; they shall apply only if we have expressly acknowledged them in writing.
- 1.2 These General Terms and Conditions are issued in German and English. Should the English version differ from the German version, the German version shall always be considered the binding authoritative version.
- 1.3 The valid General Terms and Conditions can be retrieved, saved and downloaded from our website <https://www.abc-solar.de/impressum/>.

## 2. Subject of the contract and conclusion of the contract

- 2.1 All offers, whether made orally or in writing, are always subject to change and are non-binding, unless they have been expressly indicated as binding or contain a certain period for acceptance.
- 2.2 Orders and assignments shall become legally binding only when we have confirmed the order in writing or in text form. If we do not confirm the order in writing or in text form, the contract shall be concluded at the latest when the order is executed in accordance with our General Terms and Conditions of Delivery and Payment. Declarations made by our representatives by telephone or verbally have legal effect only when confirmed in writing or text form.
- 2.3 The time, type and scope of our Delivery shall be determined exclusively by our order confirmation provided in written or text form.
- 2.4 Any additions and amendments to the agreements made, including to these General Terms and Conditions, are legally valid only when in writing.
- 2.5 The quality of the goods and services is described conclusively by expressly agreed performance characteristics (e.g. specifications, labelling, approval, other information).. We are under no obligation to provide any quality or characteristics of the goods and services other than those that have been expressly agreed. We provide warranty for a specific purpose or a specific suitability, service life or durability after the transfer of risk that goes beyond the warranty for this agreed quality and characteristics only if this has been expressly agreed in writing; otherwise the risk of suitability and use shall be borne exclusively by the Customer.

We reserve the right to make customary, legally required or technically necessary deviations from physical and chemical parameters and to replace components with equivalent parts (for example, but not exclusively, in the case of further development of products or products of a subsequent generation), provided that they do not impair usability of the product for the contractually intended purpose.

- 2.6 Any guaranteed characteristics or guarantees of durability or quality must be agreed separately in writing.

### 3. Prices

- 3.1 Unless otherwise indicated in the order confirmation, prices are quoted in EURO and cover delivery FCA (agreed place of delivery) plus packaging, freight, customs, insurance, assembly, other ancillary costs and statutory VAT applicable on the day of delivery; these items are shown separately on the invoice; these items shall be listed separately in the invoice.
- 3.2 Up to a net order value of EUR 500.00, we are entitled to charge a surcharge of EUR 15.00 as a flat-rate fee for additional expenses.
- 3.3 The prices are fixed for a period of eight weeks, calculated from the time the contract is concluded until the agreed delivery date. If the Customer chooses a later delivery date and this period is exceeded as a result, IBC SOLAR AG is entitled to increase the price agreed with the Customer if in the period between the conclusion of the purchase agreement and the delivery date IBC incurs increases in its purchase prices and increases the price of one or more of the items purchased by the Customer accordingly.

In this case, IBC is entitled to increase the price agreed with the Customer for the item(s) affected by the general price increase according to the following formula:

$$P_{\text{new}} = P_{\text{old}} \times [L_{\text{new}}/L_{\text{old}}]$$

Key:

P<sub>new</sub>, new price of the item after price increase

P<sub>old</sub> agreed price for the item according to the purchase contract

L<sub>new</sub> price of the item according to the IBC website  
<https://www.ibt-solar.de/installateure/ibt-solar-shop/>  
at the time of delivery

L<sub>old</sub> price of the item according to the IBC website  
<https://www.ibt-solar.de/installateure/ibt-solar-shop/>  
at the time the purchase agreement is concluded.

In the event that IBC decided to avail of this possibility of increasing its price, IBC shall inform the Customer of the new price in text form no later than 5 working days before the agreed delivery date.

#### **4. Terms of payment**

- 4.1 Unless otherwise agreed in writing, payments shall be made net immediately after the invoice date. We reserve the right to deliver only against advance payment or cash on delivery; in the case of deliveries abroad against irrevocable letter of credit or advance payment or similar valuable means of security (such as a bank guarantee).
- 4.2 Bills of exchange and cheques shall not be regarded as payments in lieu of remittance. Bills of exchange, cheques and securities are accepted subject to the reservation of all rights and without guarantee of timely presentation. Any discount and ancillary charges arising in this regard shall be borne by the Customer.
- 4.3 Notwithstanding any specification to the contrary by the Customer, payments shall be credited first against older debts, namely first against costs, interest and finally against the principal claim.
- 4.4 The Customer is entitled to set off counterclaims or to withhold due payments in relation to such claims only if the Customer's counterclaim is undisputed or has been established in law.
- 4.5 The timeliness of payment is determined according to the date the payment is received by us. If the Customer is in default of payment, we shall – without prejudice to further claims – charge default interest at an amount equivalent to nine (9) percentage points above the base interest rate, plus a EUR 40.00 lump sum for the default. This shall not prejudice our right to assert further claims for compensation.
- 4.6 We are entitled to perform outstanding deliveries or render services only against advance payment or a security if we become aware after concluding the contract of certain circumstances that could significantly reduce the Customer's creditworthiness and that put at risk the Customer's payment of our outstanding claims from the contractual relationship in question (including from other individual orders for which the same framework agreement applies).
- 4.7 Our invoices are due for payment immediately and payable without deduction. The deduction of a discount is permitted only if agreed separately in writing.
- 4.8 If the Customer is in default of payment, we may furthermore, at our own discretion, declare outstanding purchase price instalments or other existing claims against the Customer to be due and payable and make further deliveries under this contract or other contracts dependent on the prior provision of security or payment step-by-step with delivery.

4.9 The Customer shall, when requested, provide us with any tax-related (documentary) evidence (including confirmation of arrival) that we consider necessary in accordance with the applicable statutory provisions to prove VAT exemption for cross-border deliveries of goods. In the event of non-compliance, the Customer shall owe the amount of VAT and interest charged against us after we have issued a corrected invoice indicating VAT. The Customer shall inform us immediately of any invalidity of or change to his VAT identification number.

4.10 In the event of invoicing using the VAT credit note procedure, the Customer must comply with the invoicing regulations under VAT law. We shall not be liable for damages resulting from use of the credit note procedure, e.g. for repayment of input tax and payment of interest by the Customer to his tax authority.

## **5. Delivery, delivery time**

5.1 Delivery is ex works or ex warehouse.

5.2 Delivery times are non-binding, unless the delivery date has been expressly agreed as fixed, i.e. it has been determined in writing that the Customer has no further interest in the Delivery after the deadline has passed. A confirmed delivery date can be fulfilled only if IBC has received correct, complete and timely delivery from its suppliers. The delivery deadline shall be deemed to have been met if the delivery item has left our factory or warehouse by the time it expires or if we have notified the Customer that the goods are ready for dispatch within this time. The delivery period shall not commence as long as the Customer has not properly fulfilled its respective obligations or duties, such as the supply of technical data and documents, component approvals in accordance with agreed processes for initial sampling, any necessary authorisations and a down payment or the provision of a payment guarantee.

5.3 If a delivery time agreed in writing is exceeded, the Customer must first set us a reasonable grace period for fulfilment. If Delivery has still not been effected by the time the grace period expires, the Customer shall be entitled to withdraw from the contract by written declaration, to the exclusion of other rights, provided that we are responsible for the reasons for non-delivery.

5.4 If we are unable to fulfil our delivery obligations due to force majeure or other unforeseeable events beyond our control and for which we are not responsible (hereinafter referred to as "Force Majeure"), we shall be released from the fulfilment of this obligation for the time the Force Majeure continues.

Force majeure includes, but is not limited to, wars (including terrorist and warlike acts, even if no formal state of war has been declared), insurrections, popular uprisings, rebellions, civil wars, sabotage, fires, floods, droughts, monsoons, hurricanes, tornadoes, typhoons, cyclones, lightning, thunderstorms, landslides, land erosion, earthquakes, volcanic activities, famines, explosions, scientifically unexplained phenomena or other natural disasters, epidemic, pandemics, quarantine measures due to epidemic or pandemics, state decrees or measures taken by a public authority/a state or any prohibitions, operational disruptions of any kind, disruptions in the supply from normally reliable sources (e.g. electricity, water, fuel and the like), energy and raw material shortages, transport delays, strikes, lockouts or labour

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shortages. We accordingly do not assume any procurement risk. We are entitled to withdraw from the contract if, despite having concluded a prior corresponding purchase contract with a supplier, we do not receive the delivery item on our part; the above does not prejudice our liability for intent or negligence in accordance with clause 8. We shall inform the Customer immediately of any failure to receive the delivery item from a supplier on our part and, in the event of our cancellation of the contract, we shall reimburse any consideration received without delay.

In the case of hindrances of a temporary nature, the delivery or service periods shall be extended or the delivery or service deadlines shall be postponed by the period of the hindrance plus a suitable starting period.

- 5.5 If the hindrance or the resulting delay in delivery lasts longer than three (3) months, the Customer shall also be entitled, after setting a reasonable deadline, to withdraw from the contract with regard to the part not yet fulfilled in that regard and to demand repayment of any advance payments made, to the exclusion of any further rights.
- 5.6 In the case of partial Delivery or performance, the Customer may withdraw only from the entire contract if he cannot reasonably be expected to have interest in fulfilment of the remainder of the contract.
- 5.7 If the goods are not accepted by the Customer in whole or in part ten (10) days after the confirmed delivery date or, in the case of delivery on call, including the call-off of partial quantities, are not called off within ten (10) days of the date of the confirmed availability date, we shall be entitled, at our discretion, to postpone the Customer's order until the next availability, i.e. to dispose of the delivery item in whole or in part after setting and fruitless expiry of a reasonable deadline for acceptance and to supply the Customer within a reasonable, extended deadline or to store the goods and to demand a storage fee of 0.5% of the order value for each week or part thereof or to cancel the order in whole or in part after setting and fruitless expiry of a reasonable deadline and to demand a cancellation fee of 5% of the cancelled order value. We reserve the right to claim and furnish proof of further or lower storage costs and/or shipping costs.
- 5.8 We are entitled to charge the Customer a processing fee of EUR 50.00 in each case from the second postponement of a confirmed delivery date that is due to the Customer. If postponements of a confirmed delivery date attributable to the Customer lead to a postponement of at least 28 calendar days, we shall be entitled to make use of the options specified in clause 5.7. accordingly.
- 5.9 Unless expressly agreed otherwise, all Incoterms used by us relate to the INCOTERMS 2020 published by the International Chamber of Commerce (ICC).

## 6. Place of performance, shipping, packing, transfer of risk, acceptance

- 6.1 Place of performance for all obligations from the contractual relationship is Bad Staffelstein, Germany, unless otherwise agreed. If we are also obliged to provide installation, the place of performance shall be the location at which installation is to be carried out.

6.2 We insure the consignment only at the express request of the Customer and at the Customer's cost against theft, breakage, transport, fire and water damages or other insurable risks.

6.3 If acceptance of delivery is to be declared, the goods shall be considered accepted when

- the delivery and, if we are also to provide installation, the installation have been concluded;
- we have notified the Customer thereof, indicating the assumed acceptance according to this Article 6 (2) and called upon the Customer to perform acceptance;
- twelve (12) working days have elapsed since the delivery or installation or the Customer has started using the purchased item or the work (e.g. has started operation of a delivered machine) and in this case when six (6) working days have elapsed since delivery or installation, and
- the Customer has within this period failed to complete acceptance for some reason other than a defect reported to us that renders impossible or significantly impairs normal use of the purchased item or the work.

## **7. Claims for defects, limitation of liability and duty to inspect**

7.1 We shall be liable only for defects in the goods delivered by us (as defined in clauses 3.1 to 3.4) in accordance with the following provisions.

7.2 The Customer shall duly fulfil its obligations to inspect and give notice of defects in accordance with section 377 HGB (German Commercial Code), i.e. to inspect the goods immediately and to notify us of defects without delay and, if a defect becomes apparent later in the ordinary course of business, to notify us of this defect immediately after discovery.

7.3 In the case of deliveries of defective goods, we must first be given the opportunity, before production is commenced, to clarify and rectify the defect or make a subsequent delivery (processing or installation), unless such a measure is unreasonable for the Customer. If we are unable to do perform this remedial measure or if we fail to do so immediately, the Customer may withdraw from the contract and return the goods to us at our risk. In urgent cases, the Customer may, after consultation with us, remedy the defect himself or have it remedied by a third party. We shall bear any resulting expenses in accordance with clause 8.

7.4 If the defect is not discovered until after the start of production or commissioning despite compliance with the obligation under clause 7.2, the Customer may demand subsequent fulfilment (at our discretion either by rectification of the defect or by replacement delivery). In the event of defects being ascertained, the Customer shall be entitled to a right of retention only insofar as this is in reasonable proportion to the defects and the anticipated costs of subsequent fulfilment and only if the Customer's counterclaim is based on the same contractual relationship.

- 7.5 Claims for defects shall not arise in the event of only insignificant deviation of the goods from the agreed quality, in the event of only insignificant impairment of usability, or if the defect is attributable to the violation of operating, maintenance or installation instructions or unsuitable or improper use or storage. This also applies in the event of incorrect or negligent handling or assembly, normal wear and tear or any tampering with the delivery item by the Customer or third parties.
- 7.6 The Customer may not claim for costs arising in the context of subsequent performance, reversal of a contract or settlement of damage claims, in particular installation and removal costs, testing, validation, transport, travel, labour and material costs: (a) insofar as these have arisen because the goods delivered by us have been taken to a place other than the agreed place of performance after the transfer of risk, or (b) the defect was known to or recognisable by the Customer when the costs were incurred, i.e. as a rule upon delivery, but at the latest upon installation, processing or modification of the goods. This shall not apply if the shipment of the goods corresponds to their intended use and this is known to us.
- 7.7 Compensation for damages and reimbursement of expenses can be demanded only in accordance with clause 8.
- 7.8 The limitation period for claims for defects in the delivered goods, including all claims for damages in connection with a defect - irrespective of the legal grounds - is (24) months for IBC SOLAR brand products and twelve (12) months for all other products, with this period commencing on delivery of the goods or, if acceptance is required, on acceptance. This shall not apply to goods that have been used for a building structure in accordance with their normal use and which use caused its defectiveness; in this case, the limitation period shall not commence until five (5) years after delivery.
- 7.9 The Customer shall not be entitled to the aforementioned claims in relation to goods which we have agreed not to deliver as new goods.

## **8. Liability for damage due to fault**

- 8.1 Costs arising within the scope of subsequent performance, reversal, reimbursement of expenses or other claims for reimbursement of warranty costs, in particular installation and removal costs, test, validation, transport, travel, labour and material costs shall be reimbursed up to a maximum of the total value of the respective underlying order. We shall be liable for claims for damages of any kind, in particular also from *culpa in contrahendo*, breach of duty and unauthorised action (sections 823 ff. BGB), only insofar as we, our employees or vicarious agents are guilty of intent or gross negligence.
- 8.2 In the event of damages arising from injury to life, limb or health or the breach of material contractual obligations, we shall also be liable for slight negligence. A contractual obligation shall be considered material if its fulfilment is essential for the proper performance of the contract and the Customer regularly relies on, and is entitled to rely on, this obligation being fulfilled. In the event of a breach of material contractual obligations, our liability shall be limited to the foreseeable, direct damage that is average and typical for the type of goods.

The above provision also applies to breaches of duty by our executive bodies, employees and vicarious agents.

- 8.3 We shall be liable for infringements of industrial property rights occurring in connection with the sale of our goods in accordance with the above provisions, insofar as such industrial property rights, which are valid in the Federal Republic of Germany and are published at the time of our delivery, are infringed when our goods are used in accordance with the contract. This shall not apply if we have manufactured the goods according to drawings, models or other descriptions or information provided by the Customer and did not know or, in connection with the goods developed by us, were not obliged to know that the industrial property rights of third parties would thereby be infringed. In this case, our Customer shall be liable for any infringements of industrial property rights that have already occurred or will occur. He is obliged to inform us immediately of any possible or alleged infringements of industrial property rights of which he becomes aware and to indemnify us against third-party claims and all costs and expenses arising therefrom.
- 8.4 Liability in accordance with the provisions of the Product Liability Act and under sections 478, 478a, 479 BGB (last seller recourse) shall remain unaffected by the above provisions.
- 8.5 The Customer can have recourse claims against us only if the Customer has not made any agreements with its customer that go beyond the legally mandatory defect claims and liability standards. Unless otherwise agreed in writing, clauses 7 and 8 shall apply accordingly to the scope of a potential right of recourse on the part of the Customer against us.
- 8.6 All further liability for indirect damages, consequential damages, contractual penalties, punitive damages or other immaterial damages arising from the fulfilment of this contract or in connection with this contract is excluded. The exclusion of liability for indirect damages and consequential damages includes, among other things, additional costs arising due to the lack of usability of the delivery and service item, loss of earnings and loss of profit and compensation for pain and suffering. With the exception of wilful or grossly negligent liability in connection with this contract (including claims), liability is limited: (a), in the totality of all claims, to the amount paid to us in the 12 months preceding the conduct or omission giving rise to the damage ('maximum claim'), and (b) to 10% of this maximum claim for each individual case of damage. There can be no claim to any further liability.

## **9. Securities**

- 9.1 We reserve ownership of all goods delivered by us until all claims, also including conditional claims and including ancillary claims, which we have against the Customer arising from our business relationship have been fulfilled; in this respect, all deliveries shall be deemed to be one related delivery transaction. In the case of a current account, the reserved ownership shall serve as security for our outstanding claim. The above provisions shall also apply to claims arising in the future. We shall be entitled to collect the goods without setting a further deadline if the Customer is in breach of material contractual obligations, whereby the legitimate interests of the Customer shall be duly taken into account. In this case, the Customer here and now agrees to the return of the goods. Collection shall constitute a complete or partial cancellation of the contract only if we expressly declare this.



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- The costs incurred by us as a result of the collection (in particular transport costs) shall be borne by the Customer.
- 9.2 The Customer shall store the items remaining in our (partial) ownership on our behalf free of charge with the due care of a prudent businessman and insure them against fire, burglary and other customary risks. If maintenance and inspection work has to be carried out, the Customer shall ensure that this work is carried out in good time at its own expense.
- 9.3 The Customer is entitled to resell, process or mix the goods in the course of ordinary business; however, the Customer hereby assigns to us all claims arising from the resale, processing, mixing or on some other legal basis in connection with the goods (in particular from insurance contracts or unauthorised acts) in the amount of the final invoice sum agreed with us (including VAT). Use by the Customer in its fulfilment of contracts for work and services shall be deemed equivalent to sale.
- 9.4 The retention of ownership shall also extend to the full value of the products resulting from the processing, mixing or combining of our goods; these processes shall be considered performed on our behalf, so that we are accordingly deemed to be the manufacturer of the resulting product. If our ownership expires as a result of processing, combining or mixing, the Customer hereby assigns to us the ownership or expectant rights to which it is entitled in relation to the new product to the extent of the invoice value of the goods delivered by us.
- 9.5 The Customer is authorised to collect the claims from the resale assigned in accordance with clause 9.3 above as long as we do not revoke this authorisation. Upon first written request, the Customer shall be obliged to inform us of the debtors of the assigned claims and to notify the debtors of the assignment.
- 9.6 The Customer's authorisation to resell and collect the claims assigned to us shall automatically expire if an application is filed for insolvency proceedings or comparable proceedings under foreign law against the Customer's assets, or if all payment is suspended, if a statement of assets pursuant to section 807 of the German Code of Civil Procedure (ZPO) is issued or if a change in the ownership of the Customer's company occurs in connection with payment difficulties.
- 9.7 If the realisable value of the securities exceeds the nominal value of our claims by more than 10%, we shall release securities of our choice at the Customer's request.
- 9.8 If the Customer acts in breach of contract, in particular in the event of default in payment, we may take back the goods subject to retention of title at the Customer's expense or, if applicable, demand assignment of the Customer's claim for restitution against third parties. Our repossession or pledge of the reserved goods shall not constitute a cancellation of the contract.

## 10. Provisions on return of goods

10.1 We accept return of goods only in exceptional cases and as a voluntary concession. We accept return only of goods

- which were delivered and invoiced by us;
- which are in their original packaging and in perfect and resalable condition; and which we have agreed to take back in writing or in text form.

10.2 Return is excluded if

- the net value of the goods is less than EUR 100;
- the Customer did not purchase the goods directly from us;
- a period of three (3) months or longer (calculated from the date specified in clause 3.1 of these Terms and Conditions) has passed since the date of delivery of the goods;
- the goods are not fit for sale (e.g. goods that are no longer listed in our official price list, parts that have been customised or adapted for use by the Customer or products that have undergone technical modifications in the meantime); or
- the item in question is explicitly labelled as non-returnable.

A return is also excluded if the processing procedure described under 10.3 of these General Terms and Conditions is not complied with.

10.3 If a Customer wishes to return goods, he must first request the possibility of return in writing, stating the article number, the order quantity, the delivery note and the invoice number in our order processing procedure. We will then check the possibility of the return and subsequently declare in writing either our approval or rejection of the request for return. The goods must then be returned within two (2) weeks. The period shall commence on the date of our written consent. This requirement shall be deemed to have been observed only if the goods are received by us within this period. Goods received outside the said period will not be accepted and will be returned to the Customer at the Customer's expense and risk. The return of the goods is under the sole responsibility and expense of the Customer. In particular, the Customer shall bear the risk of proper transport (including correct pallet size), deterioration, damage and loss until we have received the goods at our premises. Goods that are sent to us freight collect or without our prior consent will not be accepted and will be returned to the Customer at the Customer's expense and risk. The same shall apply if, after we have received return of the goods, the incorrectness and/or incompleteness of the information required under clauses 10.1 and 10.2 becomes apparent.

10.4 We record all returns on a credit note. Returned goods will be reimbursed at the net value of the goods less a processing fee of 10% of the net value of the goods. The credit note will be offset against the next invoice to the Customer. On principle, there shall be no payment of the credit note amount.

10.5 Only complaints regarding credit notes relating to the current month and the previous month can be accepted.

10.6 These conditions regarding the return of goods may be amended or changed at any time.

## 11. Confidentiality

- 11.1 The Customer shall maintain secrecy in relation to third parties regarding all knowledge and information of a technical and commercial nature (hereinafter "Confidential Information") that the Customer receives from us within the framework of the supply relationship, even after the supply relationship has ended, unless the Customer can prove that this Confidential Information (a) was already known or in the public domain at the time it was obtained by the Customer or became public knowledge later through no fault of the Customer or (b) was demonstrably developed completely independently by the Customer or (c) was obtained from a third party without breach of confidentiality obligations.
- 11.2 Documents relating to Confidential Information, in particular drawings, that we disclosed to the Customer in the course of our business co-operation shall remain our property and must be returned to us upon request, at the latest upon termination of the supply relationship. The Customer shall have no right of retention in respect of Confidential Information or documents or materials containing Confidential Information.
- 11.3 The disclosure of Confidential Information to the Customer shall not create any rights on the Customer's part to industrial property rights, know-how or copyrights and shall not constitute a right of prior use within the meaning of the applicable patent, design and utility model laws. Any type of licence requires a written agreement++.

## 12. Export control, compliance

- 12.1 The Customer is obliged to comply with all applicable regulations regarding foreign trade, in particular the applicable German, European and US export control regulations. The Customer shall refrain from doing business in connection with NBC weapons or military end-use, shall maintain neither direct nor indirect business relations or other connections with terrorists, terrorist organisations or other criminal or anti-constitutional organisations. In particular, the Customer shall take appropriate organisational measures to ensure the implementation of applicable embargoes, the European regulations on combating terrorism and crime applicable in the context of the supply relationship and the corresponding US or other applicable provisions in the course of its business operations, in particular by providing appropriate software systems. The Customer may not directly or indirectly sell, export or re-export goods that it purchases from us and that fall within the scope of Article 12g of Council Regulation (EU) No. 833/2014 to the Russian Federation or for use in the Russian Federation ("No-Russia Clause"). The same applies to goods that fall within the scope of Article 8g of Council Regulation (EU) No 765/2006 and that may not be sold, exported, or re-exported directly or indirectly to Belarus or for use in Belarus ('No-Belarus Clause'). The Customer shall make every effort to ensure that the purpose of the two "Embargo Clauses" is not frustrated by third parties in the wider trade chain, including potential resellers, and shall put in place and maintain an appropriate monitoring mechanism in order to detect behaviour by third parties in the wider trade chain, including potential resellers, that would frustrate the purpose of the "Embargo Clause". Once goods have left one of our facilities, the Customer shall be solely responsible for compliance with the above provisions and shall indemnify us against all claims and costs – including reasonable attorneys' and consultants' fees or administrative fees or fines – arising from any such breach of the regulations in question by the Customer, its affiliates or employees, representatives or agents. The Customer shall

notify us immediately of any problems in the application of this provision, including regarding any relevant third party activities that could frustrate the purpose of the said regulations. The Customer shall provide us with information on compliance with the obligations under this paragraph within two weeks of us making a simple request for such information. Violations by the Customer of export control or embargo regulations shall entitle us to rescind or terminate the contract for good cause.

- 12.2 We shall adequately comply with the provisions of the European Chemicals Regulation No. 1907/2006 ("REACH") that directly affect us and shall be liable for this in accordance with clause 8. The Customer shall be solely responsible for any negative consequences resulting from the Customer's failure to provide adequate information, in particular incorrect or incomplete instructions for application of the relevant regulations within the supply chain.
- 12.3 If a party is reasonably of the opinion that a mandatory or tacit recall on a voluntary basis, a large-scale voluntary exchange of delivered products or a withdrawal of significant stocks from the Customer and/or intermediaries or some comparable measure (hereinafter "Recall") relating to the goods or services that we deliver becomes necessary, the Customer shall immediately consult with us, whereby the final decision on a Recall shall lie with us if no agreement can be reached. The Customer shall inform us immediately (i.e. after 24 hours at the latest) if a potential recall relates to our goods and services and if it involves any fatalities or significant health impairments and injuries. In all other cases, the Customer shall inform us no later than two (2) days after receipt of some complaint relating to a potential recall.

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The Customer shall assist us in any reasonable and necessary manner in conducting a recall in accordance with our requirements. The Customer shall in particular: (a) provide us with all test results, accident and injury reports, internal evaluations of the development department and other documents relevant to the recall, (b) involve us to an appropriate degree in negotiations and correspondence with end customers, dealers and authorities, for example regarding the necessity and extent of the recall, and (c) analyse together with us which is the most cost-effective way of modifying or improving the delivery and service item and/or the Customer's products containing it in accordance with the applicable legal requirements. Unless otherwise agreed in the individual case, we alone shall be responsible for official communications relating to our goods and services, and the Customer shall provide us with reasonable support in this respect and in relevant follow-up measures (such as a plan to rectify any product defects).

Each party will designate a contact person for communications related to the recall. Customer will not issue a press release or other public or governmental communication regarding a recall without our prior consent. To the extent that a recall is based on an act or omission on the part of the Customer, i.e. in particular on the fact that the design, information, data, specifications, processes and techniques have been provided by the Customer, or on an act and/or omission in the area of marketing, distribution, storage or end use of the delivery or service item or the Customer product containing it, the Customer shall be solely responsible for the respective recall obligations and costs. The parties shall retain all information and documents relating to sold and delivered goods and services or Customer products containing them for the legally prescribed period in order to be able to carry out any necessary recall appropriately.

### **13. Concluding provisions**

- 13.1 The exclusive legal venue for all claims arising from the business relationship, in particular from our deliveries, is Coburg, Germany. This legal venue shall also apply in the case of any disputes concerning the formation and validity of the contractual relationship. We are, however, also entitled, at our discretion, to take legal action against the Customer at the courts responsible for its registered domicile. The above provision shall not prejudice mandatory statutory provisions on exclusive places of jurisdiction.
- 13.2 The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of its private international law and the UN Convention on Contracts for the International Sale of Goods (C.I.S.G.) and other bilateral and multilateral agreements serving to standardise international sales.
- 13.3 If the Customer has its registered domicile outside the Federal Republic of Germany, we shall also be entitled to have all disputes arising from or in connection with our business relationship with the Customer, including disputes concerning the validity of contracts, conclusively settled in accordance with the arbitration rules issued by the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS)), to the exclusion of recourse to the ordinary courts of law. At the Customer's request, we shall exercise this option before legal proceedings commence. The arbitration court shall sit in Frankfurt am Main, Germany. The arbitration proceedings shall be held in German, unless the Customer requests English as the language of the proceedings.
- 13.4 Should one or more clauses in these Terms and Conditions or a provision within the framework of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements. The Parties shall rather recognise the relevant statutory regulation as applicable for this effective provision. The same shall apply accordingly in the event of a loophole emerging in the provisions.

**Supplementary provisions for individual advertising measures from the IBC SOLAR AG advertising shop:**

**1. Scope of application**

The following provisions shall apply to all advertising measures that we individually create, such as brochures and poster advertising. In all other respects, our above General Terms and Conditions shall apply without restriction.

**2. Approval of advertising measure**

We shall forward to the Customer a draft of the commissioned advertising measure before the final completion of the advertising measure, i.e. as a rule before printing. The Customer must check the draft to verify accuracy and declare its approval to us in writing. Any changes or additions requested by the Customer shall lead to a reasonable extension of the agreed completion dates.

**3. Colour deviations**

Minor colour deviations arising in printing work shall not constitute a defect.

**4. Copyright, other industrial property rights**

4.1 The measures created by us are subject to copyright protection.

4.2 The Customer shall ensure that it holds the necessary rights, in particular copyrights and trade mark rights, in respect of all data and documents that the Customer provides for the creation of the advertising measures, such as images and texts. The Customer shall indemnify us against all claims that may be asserted against us by third parties in this respect.

**NOTE:**

The Customer is aware that IBC stores data from the contractual relationship in accordance with section 28 BDSG for the purpose of data processing and reserves the right to forward the data to third parties when this is necessary for execution of the contract.