

# General terms and conditions of the company Energy3000 solar GmbH

(Status: October 2024)

## 1. General

- 1.1 The following terms and conditions apply to the entire business relationship between our company, Energy3000 solar GmbH (as following "ENERGY3000") and our business partners for all deliveries, services and offers.
- 1.2 All ENERGY3000 deliveries, services and offers are made exclusively on the basis of these General Terms and Conditions. These are included in all contracts that ENERGY3000 agrees with its contractual partners (hereinafter referred to as "customers") about the supplies and services offered by ENERGY3000. They are agreed on the first order with the customer and apply to all future orders, even if their validity has not been explicitly stated at that time.
- 1.3 The general terms and conditions apply exclusively; Any deviating conditions of the customer are excluded if ENERGY3000 does not expressly and in writing confirm their validity. This also applies if the delivery is carried out without reservation in the knowledge of any deviating conditions of the customer.

## 2. Offer and subject matter of the contract

- 2.1 All offers made orally or in writing, are always non-binding, unless they are expressly marked as binding or contain a specific deadline for acceptance.
- 2.2 Orders and requests only become legally binding if they are accepted within a reasonable period of time with a written order confirmation or executed with the consent of the customer as agreed (= conclusion of the contract).
- 2.3 The scope, nature, extent and time of deliveries or services is dependent on the written order confirmation, including these general terms and conditions. The order confirmation fully reflects all agreements between ENERGY3000 and its customers regarding the subject matter of the contract. Verbal promises of ENERGY3000 made before the conclusion of the contract are legally non-binding and verbal agreements are replaced by the order confirmation, unless it is expressly clear to both parties that they continue to be binding.
- 2.4 Additions or changes to the agreements made, including to these general terms and conditions, must be made in writing in order to be valid. A transmission by fax or by e-mail is sufficient to comply as the written form, provided that it has been sent with a read receipt.
- 2.5 Details given by ENERGY3000 regarding the object of the delivery or service (eg dimensions, tolerances, technical data) as well as the presentation of the same by ENERGY3000 (eg drawings, illustrations) are only approximate, unless their usability for the contractually presupposed purpose requires an exact match. These are not guaranteed features, but descriptions or labels of the delivery or service. Customary deviations, which occur due to legal regulations or represent technical improvements, as well as the replacement of components by equivalent parts are permissible, as far as they do not affect the usability for the contractually intended purpose.
- 2.6 Guaranteed features or durability or quality guarantees must be agreed upon in writing.

## 3. Prices

- 3.1 Unless otherwise stated in the order confirmation, prices are quoted in EURO and include delivery ex-works or ex-warehouse plus packaging, freight, customs duty, insurance, assembly, other ancillary costs and VAT applicable on the day of delivery; these items shall be shown separately in the invoice.
- 3.2 ENERGY3000 is entitled to charge for orders up to a net value of EUR 500,00 a surcharge of EUR 15,00.
- 3.3 ENERGY3000 is entitled to charge a surcharge as a flat fee for handling and commissioning. For orders up to a net value of EUR 100,00 a surcharge of EUR 5,00 shall be levied, for orders more than a net value of EUR 100,00 a surcharge of EUR 15,00 shall be levied. In case of direct deliveries, no surcharges shall be levied.
- 3.4 If the agreed prices are based on ENERGY3000's list prices and the delivery is to be made more than two (2) months after the conclusion of the contract, ENERGY3000's list prices valid at the time of delivery shall apply (in each case less an agreed percentage or fixed discount). After those two (2) months prices changes are permitted. Prices changes regarding to changed external conditions at the time of the delivery (e.g. prices of suppliers of ENERGY3000, material and energy costs) are under any circumstances allowed.
- 3.5 In case of events of force majeure and any other events (e.g. exchange rate change, war, pandemic), that are not in the sphere of ENERGY3000, as changes in prices of suppliers, ENERGY3000 is entitled to change subsequently the prices agreed upon.

## 4. Terms of payment

- 4.1 Unless otherwise agreed in writing, payment must be made in advance.

- 4.2 Bills of exchange and checks are not considered as forms of payment. Bills of exchange, checks and securities are accepted subject to all rights and without guarantee for timely presentation. Any discounts and additional charges are charged to the business partner.
- 4.3 Irrespective of the customer's provision of services to the contrary, payments are first credited against older debts, then on costs, interest and lastly on the principal sum.
- 4.4 The offsetting against counterclaims of the customer or the retention of payments due to such claims is only permitted if the counterclaim of the customer is legally established or undisputed.
- 4.5 The timeline of the payment shall be determined by the date of receipt by ENERGY3000. If the customer is in default of payment, default interest to the amount of 8 percent above the respective base interest rate will be charged, without prejudice to further claims; the assertion of higher interest and further damages in case of default remains unaffected.
- 4.6 ENERGY3000 shall be entitled to execute or provide outstanding deliveries or services only against advance payment or provision of security if, after the conclusion of the contract, circumstances become known which significantly reduce the creditworthiness of the customer and through which the payment of ENERGY3000 outstanding claims from the contractual relationship are endangered, (including those arising from other individual contracts to which the same framework contract applies).

## **5. Delivery and delivery times**

- 5.1 Delivery is ex works.
- 5.2 Deadlines and time periods for deliveries and services provided by ENERGY3000 are always without obligation, unless a fixed delivery period or a fixed deadline has been expressly approved or agreed. If shipment has been agreed, delivery periods and delivery dates refer to the time of transfer to the freight forwarder, carrier or other third party responsible for transport.
- 5.3 If a delivery date agreed in writing is exceeded, the customer must first set an appropriate grace period for ENERGY3000. If the delivery is not made by the expiry of the period of grace, the customer is entitled, under exclusion of other rights, to withdraw from the contract by means of a written declaration.
- 5.4 If only part of the delivery is affected, the right of withdrawal is limited to this part, unless the delivery is no longer of interest to the customer. If the delay of the device from ENERGY3000 is for reasons for which it is responsible, the customer shall only be entitled to claim for damages if the cause of the delay is due to intent or gross negligence.
- 5.5 If there is a delay in delivery or performance due to force majeure or due to events that make delivery significantly more difficult or impossible, such as: subsequent material procurement difficulties, breakdowns, strikes, lockouts, staff shortages, shortages of means of transport, official orders, etc., even if they occur at suppliers or their subcontractors, the delivery or performance for the duration of the hindrance plus a reasonable delivery time is postponed, or because of the unfulfilled part, the contract can be wholly or partially rescinded.
- 5.6 If the hindrance lasts longer than three (3) months, the customer is entitled, after setting a reasonable deadline, to withdraw from the contract with regard to the part not yet fulfilled and to demand the repayment of any down payments made to the exclusion of further rights.
- 5.7 In the case of partial delivery, the customer can only withdraw from the entire contract if the remaining performance of the contract is of no interest to the customer.
- 5.8 If the goods are not accepted in whole or in part by the customer ten days after the confirmed delivery date or not retrieved on delivery on demand, including the retrieval of partial quantities, within ten days after the date of the confirmed availability date, then ENERGY3000 is entitled to delay the customer's order to the nearest available date. This means after the setting and fruitless expiry of a reasonable period of time, wholly or partly dispose of the object of delivery and to supply the customer with a reasonable extended time limit or, to store the goods and to demand a storage fee of 0.5% of the order value for each week commencing thereafter, or, following a settlement and fruitless expiry of a reasonable period of time, to cancel the order in whole or in part, and to demand a cancellation fee of 10% of the canceled order value. The assertion and proof of further or lower storage costs remain reserved.
- 5.9 Non-stock items or special orders can be withdrawn only after consultation and consent of the subcontractor and offsetting the handling fee charged by the subcontractor (at least 25%) plus transport costs.
- 5.10 ENERGY3000 is entitled to charge the client a processing fee of 50.00 EUR each from the second postponement of a confirmed delivery date attributable to the customer. If shifts of a confirmed delivery date, attributable to the customer, are postponed to at least 28 calendar days, ENERGY3000 shall be entitled to postpone the delivery of the goods in accordance with clause 5.8 to make use of certain options and rights.

## **6. Place of performance, shipping, packaging, transfer of risk, and acceptance**

- 6.1 Place of performance for all obligations arising from the contractual relationship is Müllendorf (Austria), unless otherwise specified. If ENERGY3000 is also responsible for the installation, the place of performance is the place where the installation is to be carried out.
- 6.2 The shipping method and the packaging are subject to the professional discretion of ENERGY3000.
- 6.3 At the latest the risk shall pass to the customer upon the handing over of the delivery item (whereby the beginning of the loading procedure is decisive) to the freight forwarder, carrier or other third party designated for the execution of the shipment. This also applies if partial deliveries are made, or if, ENERGY3000 has taken on other services (eg shipping or installation). If the shipment or delivery is delayed as a result of a circumstance caused by the customer, the risk passes on to the customer from the day when the delivery item is ready for dispatch and ENERGY3000 has indicated this to the customer.

- 6.4 The shipment will be insured by ENERGY3000 only at the express request of the customer and at his expense against theft, breakage, transport, fire and water damage or other insurable risks.
- 6.5 Insofar as acceptance has to take place, the purchased item shall be deemed accepted if:
- the delivery and, if ENERGY3000 is also indebted for the installation, the installation is completed,
  - ENERGY3000 has informed the customer of this fact in reference to the notification of acceptance under this clause 6.5 and has requested the customer to accept it,
  - since the delivery or installation, twelve (12) working days have past or the client has begun to use the purchased goods (eg commissioning of the equipment) and in this case six (6) working days have elapsed since delivery or installation; and,
  - the customer has failed to accept within this period for any reason other than a defect notified by ENERGY3000, which makes use of the purchased item impossible or it is substantially impaired.
- 6.6 In the event of the disposal of items that were purchased and obtained from ENERGY3000 in Austria based on these General Terms and Conditions, the customer is obligated to assume any disposal costs that ENERGY3000 is responsible for, and to make agreements with end consumers in accordance with § 10 para. 3 of the EAG-VO for waste electrical equipment and § 15 para. 2 of the Battery Regulation for batteries regarding the transfer of this obligation."

## **7. Claims for defects, limitation of liability and inspection requirements**

- 7.1 The delivered items must be inspected carefully immediately after delivery to the customer or to the third party designated by the customer and any complaints must be recorded immediately on the delivery bill. Even minor damage to the packaging or goods should be noted in writing on the delivery bill with the remark "goods accepted damaged"! This is the only way to make a timely and legally valid claim for any damage found and thus also to settle the claim. The actual and detailed damage must then be sent to ENERGY3000 within four (4) days with the corresponding photo documentation. Subsequent claims cannot be accepted by the shipping company or the transport insurance company for insurance reasons.
- Upon ENERGY3000's request, the delivery item shall be returned to ENERGY3000 freight prepaid. In case of a justified notice of defect, ENERGY3000 shall reimburse the costs of the most favorable shipping route; this shall not apply if (1) the costs increase because the delivery item is located at a place other than the place of intended use or (2) the delivery item is no longer located in Europe.
- 7.2 In the event that the complaint is timely and justified, the customer's claim for subsequent performance is limited, whereby ENERGY3000 can deliver a defect-free product as a replacement or eliminate the defect at the specific location or at the delivery plant. In the case that the subsequent performance fails twice, the business partner may reduce or withdraw from the contract.
- 7.3 In the event that the complaint is not been made timely to 7.1., the claims for damages expire. Further the client loses his right to claim for a mistake in relation to the product is free of faults.
- 7.4 These claims for defects do not exist if the customer or a third party carries out repairs, alterations or reinstatements on the delivered goods without the express consent of ENERGY3000, if improvement work by the customer or a third party is made difficult, commissioning is contrary to the instructions of ENERGY3000 or a defect is due to incorrect or negligent handling or to natural wear and tear. In any case, the customer has to bear the additional costs incurred by the changes to remedy the defect. In the event that the delivery item is located outside Europe, ENERGY3000 will not bear any transport costs and will not reimburse them.
- 7.5 The warranty period is twenty-four (24) months for ENERGY3000 products and twelve (12) months for all other products from delivery or, if acceptance is required, from acceptance.
- 7.6 Any delivery of used items agreed with the customer in individual cases shall be subject to the exclusion of any warranty for material defects.

## **8. Liability for damages due to culpability**

- 8.1 The liability of ENERGY3000 for damages, for whatever legal reason, in particular from impossible performance, delay, inadequate or incorrect delivery, breaches of contract, breach of obligations in contract negotiations and or illicit acts, as far as it is in each case a fault, is restricted in accordance with Clause 8, and also restricted for claims of damages because of an incorrectness regarding Clause 7.3.
- 8.2 ENERGY3000 is not liable in the case of simple negligence of its corporate bodies, legal representatives, employees or other vicarious agents as far as it is not a violation of essential contractual obligations. Essential to the contract are, the obligation of timely delivery of the essential defects with free delivery as well as advice, protection and custody obligations that allow the customer to use the contractual object or the protection of life and limb of the customer's staff or the protection of its property from considerable damage.
- 8.3 Insofar as ENERGY3000 is fundamentally liable for damages pursuant to clause 8.2, this liability is limited to damage which ENERGY3000 had foreseen at the time of conclusion of the contract as a possible consequence of a breach of contract or which ENERGY3000 should have foreseen using the usual care.
- Indirect damage and consequential damage, which are the result of defects in the delivery item, are also only substitutable insofar as such damage is typically expected from the intended use of the delivery item.
- 8.4 The above exclusions and limitations of liability apply to the same extent in favor of the bodies, legal representatives, employees and other vicarious agents of ENERGY3000.
- 8.5 Insofar as ENERGY3000 provides technical information or acts in an advisory capacity and this information or advice does not belong to the contractually agreed scope of services owed by it, this is performed free of charge and to the exclusion of any liability.

8.6 The limitations of clause 8 do not apply to the liability of ENERGY3000 for intentional behavior, for guaranteed characteristics, for injury to life, limb or health or covered by the Product Liability Act.

## 9. Retention of title

- 9.1 Until the fulfillment of all claims arising from the business relationship with the customer, a retention of title applies to all delivered goods (reserved goods). The goods, as well as the goods which take their place after this clause and which are subject to retention of title, are hereinafter referred to as reserved goods.
- 9.2 The customer stores the reserved goods free of charge for ENERGY3000. The customer undertakes to keep the reserved goods separately and to notify the place of installation upon request.
- 9.3 The customer may sell and process the goods subject to retention of title in the ordinary course of business (see Clause 9.4. and 9.5.), as long as the customer is not in arrears or has applied for insolvency proceedings against its assets. Pledges or collateral assignments are inadmissible.
- 9.4 If the reserved goods are processed by the customer, it is agreed that the processing takes place in the name and using the account of ENERGY3000 as the manufacturer and the customer directly the property or - if the processing takes place from substances of several owners or the value of the processed item is higher than the value of the reserved goods - the co-ownership (fractional ownership) in the newly created item in the ratio of the value of the reserved goods to the value of the newly created item acquires. In the event that no such acquisition of ownership by the seller should occur, the buyer already transfers his future property or - in the aforementioned relationship co-ownership of the newly created items for security purposes of ENERGY3000. If the goods subject to retention of title are combined with other items or combined inseparably and if another item is to be regarded as the main item, the customer, insofar as the main item belongs to the customer, transfers to ENERGY3000 a proportionate co-ownership of the unitary item in the ratio specified in sentence 1.
- 9.5 The resell is only allowed, if ENERGY3000 is informed previously in time and by mentioning the name or the name of the company and the address. The customer hereby assigns to ENERGY3000 the customer's claims against the purchaser resulting from the resale or for any other legal reason as a precautionary measure. We are entitled to inform the the garnishee about the cession. The same applies to other claims that take place regarding the reserved goods or otherwise that arise as such in respect of the reserved goods, eg. insurance claims or claims from illicit handling in the event of loss or destruction. The customer is irrevocably authorized to collect the claims in his own name. ENERGY3000 may only revoke this direct debit authorization in case of recovery.
- 9.6 If third parties access the goods subject to retention of title, in particular by seizure, the customer must point out the property of ENERGY3000 and inform ENERGY3000 immediately. If the third party is not in a position to reimburse ENERGY3000 for the extrajudicial and judicial costs incurred in this connection, the customer shall be liable for this.
- 9.7 ENERGY3000 will release the goods subject to retention of title as well as the items or claims which replace them upon request at its discretion, provided that the value exceeds the amount of the secured claim by more than 50%.
- 9.8 In the event of a breach of contract by the business partner, in particular default of payment, the company may take back the goods subject to retention of title at the expense of the business partner or, if necessary, demand assignment of the return claim of the business partner against third parties. In the withdrawal as well as in the seizure of the reserved goods by the company does not constitute a rescission of the contract.

## 10. Return and cancellation conditions

- 10.1 The return of goods is an exception and is a voluntary undertaking of ENERGY3000. Only goods are taken back:
- supplied and invoiced by ENERGY3000; and,
  - which are in their original packaging and are in perfect and resalable condition and
  - if ENERGY3000 has agreed in writing to their withdrawal.
- 10.2 A return is excluded if:
- the net value of the goods amounts to less than EUR 100 and/or
  - the goods have not been purchased by the customer directly from ENERGY3000 and/or
  - the delivery date of the goods is three (3) months ago or longer (calculated from the date of clause 3 (1) of these conditions) and/or
  - goods that are not salable (eg goods that are no longer included in the official price list of ENERGY3000, made to measure or for the customized manufactured parts or products that have since undergone technical changes) and/or
  - the article is explicitly marked as non-returnable.
- Also, a return is excluded if the handling described in 10.3 of these General Terms and Conditions is not respected.
- 10.3 If a customer wishes to return goods, there must first be a personal request in writing, specifying the article number, the order quantity, the delivery note and the invoice number in the order processing of ENERGY3000, to trigger the possibility of return. ENERGY3000 will then examine the possibility of withdrawal and subsequently declare in writing either its consent or rejection of the return. The return of the goods must be made within two (2) weeks. The period begins with the date of the written consent of ENERGY3000. It is only guaranteed if the goods arrive within the ENERGY3000 deadline. Goods received outside the deadline will not be accepted and will be returned to the customer at the expense and risk of the customer. The return of the goods takes place exclusively in the area of responsibility and at the expense of the customer. In particular, it bears the risk of proper transportation (including correct pallet size), deterioration, damage and destruction until the goods are received by ENERGY3000.

Goods that are shipped freight-free or without the prior consent of ENERGY3000 will not be accepted and returned to the customer at the cost and risk of the customer. The same applies if, after receipt of the goods in ENERGY3000, the incorrectness and/or incompleteness of the information required according to paragraphs 10.1 and 10.2 becomes apparent.

- 10.4 ENERGY3000 records all returns on a credit note. In this case, returned goods are remunerated with the net value of the goods minus a processing fee of 25% of the net value of the goods. The credit will be charged to the customer with the next invoice. No payment of the credit amount is made in any case.
- 10.5 Only claims concerning credits and relating to the current month and previous month can be accepted. These conditions of return can be supplemented or changed at any time.
- 10.6 The cancellation of binding orders and requests represents solely a concession from ENERGY3000 and is only possible under the prior approval of ENERGY3000. In case of cancellation a cancellation fee will be charged as follows:
- up to 4 weeks before the time of delivery in the amount of the advance payment or at least 10% of total order/request value
  - less than 4 weeks before the time of delivery 20% of total order/request value
  - less than 2 weeks before the time of delivery 30% of total order/request value
  - after the delivery 50% of total order/request value and return of all goods.

If any order or request consists of individualized products or goods being exclusively provided by ENERGY3000 (e.g. exclusively featured goods, uncommon products) the cancellation is not possible.

## 11. Force majeure

- 11.1 In case of events of force majeure and any other events, that are not in the sphere of ENERGY3000, particularly delays in delivery of suppliers of ENERGY3000 and strikes, lock-downs, closing of frontiers or any other events, that are blocking the shipment or making it impossible, ENERGY3000 is entitled to cancel open delivery agreements or postpone the delivery for that period.

## 12. Final provisions

- 12.1 Place of payment and performance is Müllendorf (Austria), jurisdiction is, as far as legally permissible, Eisenstadt (Austria).
- 12.2 The law of the Republic of Austria applies.
- 12.3 Should one or more clauses in these terms and conditions or a provision in the context of other agreements be or become ineffective, this shall not affect the validity of all other provisions or agreements. Rather, the relevant statutory provision for this effective provision applies. The same applies accordingly in the case of the existence of a regulatory gap.

### NOTE:

The customer understands that ENERGY3000 stores data from the contractual relationship for the purpose of data processing and reserves the right to transfer the data to third parties as far as necessary for the fulfillment of the contract.