

# General Terms and Conditions of MaxSolar GmbH for the Sale and Installation of Photovoltaic Systems, Energy Storage Systems and Charging Columns

## 1. General, scope of application

- 1.1. These General Terms and Conditions (hereinafter referred to as "GTC") apply to all business relationships of MaxSolar GmbH, Traunstein, (hereinafter referred to as "MaxSolar") with contractual partners (hereinafter referred to as "Customer" or "Customers") if the Customer is an entrepreneur within the meaning of section 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law.
- 1.2. These GTC apply exclusively to contracts for the sale, delivery and installation of photovoltaic systems together with accessories, energy storage systems, charging columns and other movable items (hereinafter referred to as "Products").
- 1.3. These GTC in their respective version shall also apply as a framework agreement for all future contracts for the supply of Products with the same Customer without MaxSolar having to refer to them again in each individual case; amendments to these GTC shall be notified to the Customer in writing and shall be deemed to have been approved if the Customer does not object to the amendment in text form within the meaning of section 126b BGB. The Customer shall be informed of this consequence when the changes are announced. The Customer must object to the changes in writing within six weeks of notification.
- 1.4. These GTC apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer shall not become part of the contract, even if MaxSolar is aware of them and does not separately object to their validity in individual cases, unless their validity is expressly agreed in writing. Silence shall not be deemed to be consent. MaxSolar's objection to the Customer's terms and conditions also applies in cases in which MaxSolar's own terms and conditions do not contain any provisions in this respect. The objection shall also apply if MaxSolar carries out the delivery and assembly or other service without reservation in the knowledge of deviating terms and conditions of the Customer.
- 1.5. Individual agreements made with the Customer in individual cases (including ancillary agreements, supplements and amendments) always take precedence over these GTC. The content of such agreements shall be governed by a written contract or confirmation from MaxSolar in text form within the meaning of section 126b of the German Civil Code (BGB).
- 1.6. Legally relevant declarations and notifications to be made by the Customer to MaxSolar after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction) must be made in writing to be effective.
- 1.7. References to the applicability of statutory provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.

## 2. Offer, conclusion of contract, price, documents

- 2.1. MaxSolar's offers are subject to change unless they are expressly marked as binding.
- 2.2. With the order, the Customer bindingly declares that he wishes to purchase the ordered Products. MaxSolar is entitled to accept the contractual offer contained in the order within two (2) weeks of receipt. Acceptance can be declared in writing, in text form, in electronic form or by delivery of the Products to the Customer. MaxSolar is entitled to demand that the Customer submit proof of capital or financing confirmations from banks to finance the purchase price of the Product.
- 2.3. The scope of the contractually owed service is determined by the order confirmation of MaxSolar, if made, including these GTC. Oral promises or agreements prior to order confirmation are not binding and are replaced by the order confirmation unless it is expressly stated from them that they are binding. Clause 1.5 of the GTC remains unaffected by this.
- 2.4. Information, drawings, illustrations, technical data, descriptions of weights, dimensions and services contained in brochures, catalogues, circulars, advertisements, price lists or documents belonging to the offer are non-binding and are of a purely informative nature unless they are expressly designated as binding. They do not constitute a guarantee of the quality or durability of the Products to be supplied or services to be rendered by MaxSolar. Samples and specimens accordingly serve only as visual objects with average quality characteristics, dimensions and colours. Deviations customary in the trade, in particular deviations within the tolerances of the EN or DIN standards, and deviations that occur due to legal regulations or represent technical improvements are permissible within the bounds of what is reasonable, insofar as they do not impair the usability for the contractually intended purpose.
- 2.5. MaxSolar reserves the right to make changes to the design, the choice of materials, the specification, the system performance and the type of construction without prior notice even after the order confirmation has been sent, provided that these changes do not contradict either the order confirmation or the Customer's specification, or provided that the subject matter of the contract and its external appearance does not suffer any loss of quality or other unreasonable changes for the Customer as a result.
- 2.6. All cost estimates, illustrations, drawings, designs, constructions, tools as well as other documents (hereinafter referred to as "Documents"), MaxSolar reserves its property rights, copyrights and industrial property rights without restriction. The Customer is only permitted to use them within the scope of the purpose of the contract. The Customer is not permitted to make any other use, in particular copying, distribution, publication, reproduction, processing, redesign, transfer to third parties or other commercial use. If the order is not placed, the documents must be returned to MaxSolar immediately on request.
- 2.7. If illustrations, calculations, drawings, drafts, designs, static calculations or other documents are supplied by the Customer, the Customer shall be liable to MaxSolar for the correctness and completeness of the Documents provided and that the use of the Documents does not infringe any industrial property rights, in particular patents, registered designs, copyrights or other third-party rights. The Customer shall indemnify MaxSolar against all claims asserted against MaxSolar on the basis of a breach of the aforementioned obligations.

## 3. Scope of services

- 3.1. The scope of the services results from the order confirmation of MaxSolar as well as any agreed ancillary services. This also includes, among other things, the assignment of manufacturer's warranties from MaxSolar to the accepting Customer, insofar as MaxSolar itself is entitled under the respective manufacturer's warranty for the product sold.
- 3.2. MaxSolar is entitled to have the services required for the performance of the contract carried out by third parties.
- 3.3. MaxSolar is entitled to invoice separately as ancillary services, by agreement with the Customer, all additional services that were not originally listed in the order confirmation and only become evidently necessary during the installation of the product. This includes in particular the lack of cable routes, cable trenches, empty conduits and an empty space/measuring transformer for the feed-in. The same shall apply in the event of a change in the scope of services requested by the Customer.

## 4. Prices, terms of payment

- 4.1. All fees are subject to the applicable statutory value added tax.
- 4.2. Subject to a change in the scope of delivery and assembly after dispatch of the order confirmation, the total sum stated in the order confirmation is to be paid by the Customer as the purchase price if a delivery and assembly date of a maximum of 4 months, starting from the dispatch of the order confirmation, has been agreed. Otherwise the purchase price shall change in the same proportion as the purchase prices of MaxSolar for the components of the product according to the order confirmation plus VAT change up to the date of delivery. MaxSolar must notify the Customer of the changed purchase price in writing (hereinafter "Purchase Price Notification"). Withdrawal from the contract is excluded here in accordance with section 309 No.1 BGB and section 310 BGB.
- 4.3. Unless expressly agreed otherwise in the order confirmation, the entire purchase price is to be paid within fourteen (14) days from the date of the invoice and delivery or provision of the service, without any deductions. The date of receipt of payment by MaxSolar is decisive for the date of payment. Upon expiry of the above payment deadline, the Customer shall be in default; this shall also apply if he is not responsible for the delayed receipt of payment.
- 4.4. If the Customer is in default, MaxSolar is entitled to charge the Customer a reasonable fee of EUR 5.00 for each reminder, unless the Customer proves that the costs actually incurred are lower. If the due dates are exceeded or in the case of deferral, MaxSolar is entitled to demand interest on the due date or deferral at the rate of 9 percentage points per annum above the respective base interest rate, but at least 9 percent, as well as the flat rate in accordance with section 288 (5) BGB of EUR 40.00. MaxSolar expressly reserves the right to prove and assert higher damages caused by default. In relation to merchants, the claim to the commercial due date interest rate (section 353 of the German Commercial Code [HGB]) remains unaffected. If partial payment has been agreed and the Customer is in arrears with a partial payment, MaxSolar is also entitled to suspend further performance of the service

until the partial amount outstanding for payment has been paid in full.

- 4.5. If the Customer is in default of payment, MaxSolar is entitled, without prejudice to further claims and rights, to extraordinarily terminate any existing deferral agreement and to make all claims due immediately.
- 4.6. The Customer may only offset a counterclaim that is undisputed, expressly recognised by MaxSolar or has been established by a court of law. The Customer is only entitled to assert a right of retention if the Customer's counterclaim originates from the same contractual relationship and is undisputed, recognised by MaxSolar or legally established.
- 4.7. If circumstances exist which prove an impairment of the Customer's creditworthiness or the Customer's inability to pay and therefore jeopardise MaxSolar's claim to payment, MaxSolar may make outstanding services or deliveries dependent on an advance payment or provision of security by the Customer. If the Customer refuses to make the advance payment or provide security or fails to do so despite a deadline being set, MaxSolar is entitled to withdraw from the contract and to claim damages. If an application for insolvency has been filed against the Customer's assets or if insolvency proceedings have been opened, there is also a right to withdraw from the contract and to claim damages.

#### **5. Prerequisites for delivery and delivery services, Customer's duty to cooperate**

- 5.1. The Customer shall ensure at its own expense that the delivery, assembly and commissioning of the product can be commenced as agreed and carried out without interruption.
- 5.2. It is the Customer's duty to ensure that the structural requirements for the installation of the product are met at his own expense before the installation work begins. In the case of the delivery of a rooftop photovoltaic system, this includes in particular checking the static suitability of the entire roof structure as well as the building itself. In the case of the delivery of ground-mounted photovoltaic systems, energy storage systems or charging infrastructure, this shall include in particular the examination of the soil conditions, grid compatibility, environmental guidelines, sector information, freedom from contaminated sites and explosive ordnance. Clause 2.7 above shall apply mutatis mutandis.
- 5.3. The Customer shall allow MaxSolar and the third parties commissioned by it unrestricted access to the installation site insofar as this is necessary for the provision of the contractually owed services. Any delay in the installation of the Product resulting from the restriction of unrestricted access shall be borne by the Customer.

#### **6. Delivery periods, delay in delivery, transfer of risk, default of acceptance**

- 6.1. Dates or deadlines are only binding if they are agreed in writing.
- 6.2. If, in order to meet deadlines or dates, the Customer fails to cooperate in good time, the deadlines and dates shall be extended / postponed by the period of the hindrance. This does not apply if MaxSolar is responsible for the delay. Delays due to force majeure and events - such as traffic disruptions including those in the international shipment of goods, namely in the case of imports, strikes, lock-outs, official orders etc. - for which MaxSolar is not responsible. MaxSolar is not responsible for events - such as traffic disruptions, including those in international goods traffic, in particular in the case of imports, strikes, lockouts, official orders, etc. - which make it more than temporarily difficult or impossible for MaxSolar to provide the agreed services, even in the case of bindingly agreed dates and deadlines; such events entitle MaxSolar to postpone the delivery for the duration of the hindrance or to withdraw from the contract in whole or in part on account of the unfulfilled part if the hindrance exists for a period of more than 4 months. This also applies if the aforementioned events occur at third parties commissioned by MaxSolar or their contractors/supplier.
- 6.3. All delivery obligations of MaxSolar are subject to timely and complete self-delivery. The reservation of self-supply applies with the provision that MaxSolar has concluded a corresponding covering transaction in good time and/or MaxSolar is not itself responsible for the delayed supply by its supplier.
- 6.4. The risk of accidental loss and accidental deterioration of the Products shall pass to the Customer upon delivery of the Product at the assembly location, or in the case of a mail-order purchase, upon delivery of the Products to the forwarding agent, carrier or other person or entity designated to carry out the shipment. This shall also apply if partial performance takes place, freight-free delivery has been agreed or we provide additional services, such as e.g. transport, have taken over.
- 6.5. The statutory provisions shall apply to the Customer's default in acceptance. If the Customer is in default of acceptance or if it breaches its other duties to cooperate vis-à-vis MaxSolar, MaxSolar shall be entitled, without prejudice to its other rights, to store the Products appropriately at the risk and expense of the Customer or to withdraw from the contract or to claim damages in accordance with the statutory provisions, in particular after the unsuccessful expiry of a grace period set by MaxSolar. Further claims or rights remain reserved.

#### **7. Retention of title**

- 7.1. MaxSolar retains title to the Products sold until full payment of all - including future - claims arising from the business relationship with the Customer. This also applies if payments have been made for specific Products designated by the Customer.
- 7.2. The Products subject to our retention of title (hereinafter referred to as "**Retained Products**") may not be pledged to third parties, assigned as security or otherwise encumbered with third party rights before full payment of the secured claims.
- 7.3. The Customer is obliged to notify MaxSolar immediately in writing of any access by third parties to the Products subject to retention of title, in particular a seizure, or any other impairment of the security rights by third parties as well as any damage to or destruction of the Products. It must provide MaxSolar with all information necessary for an intervention and hand over the necessary documents. Irrespective of this, the Customer must point out MaxSolar's ownership to third parties and enforcement bodies in advance. Insofar as the third party is not in a position to reimburse MaxSolar for the extrajudicial and judicial costs of an intervention, the Customer shall be liable to MaxSolar for the loss incurred.
- 7.4. MaxSolar is entitled to withdraw from the contract and take back the Products in the event of behaviour by the Customer in breach of the contract, in particular in the event of default in payment or in the event of a breach of an obligation in accordance with clauses 7.2. and 7.3. above. If MaxSolar asserts its claim for return after withdrawal from the contract, the Customer hereby irrevocably permits MaxSolar to take possession of the Products subject to retention of title which are its property and to enter the place where the Products subject to retention of title are located for this purpose. The taking back of the Products subject to retention of title by MaxSolar constitutes - without prejudice to the assertion of claims for damages - a withdrawal from the contract. After taking back the Products subject to retention of title, MaxSolar is entitled to realise them; the realisation proceeds are to be set off against the Customer's liabilities - less reasonable realisation costs.
- 7.5. If the Customer obtains a claim under the law of obligations from a security mortgage as a result of the installation of the product on a building or property, it shall assign this claim in the value of the Products subject to retention of title (final invoice amount, including VAT) to MaxSolar as security for the payment of the purchase price.
- 7.6. MaxSolar undertakes to release the securities to which it is entitled at the Customer's request insofar as the realisable value of the securities exceeds the claims to be secured by more than 10%. MaxSolar shall be responsible for selecting the securities to be released.

#### **8. Warranty**

- 8.1. The Customer's claims for defects presuppose that it has complied with its statutory obligations to inspect and give notice of defects (sections 353, 377, 381 HGB). MaxSolar must be notified in text form of recognisable defects (including incorrect and short deliveries) without delay, but no later than seven (7) days after commissioning of the Products, giving a sufficiently specific description of the defect. Concealed defects shall be notified to MaxSolar without delay, but no later than seven (7) days after their discovery in text form, describing the defect sufficiently specifically. If the Customer fails to carry out the proper inspection, MaxSolar's liability for the non-notified defect is excluded.
- 8.2. Insofar as the delivered Product does not comply with the subjective requirements listed below, the objective requirements or the assembly requirements, MaxSolar reserves the right, at its own discretion, to provide subsequent performance in the form of rectification of the defect or delivery of a new component of the Product that is free of defects. MaxSolar is entitled to make the subsequent performance owed dependent on the Customer not being in default of payment. This does not apply if MaxSolar is entitled to refuse subsequent performance on the basis of statutory regulations. The delivered Product does not meet the subjective requirements if
  - a) it does not have the quality agreed between the Customer and MaxSolar or
  - b) it is not suitable for the use required under the contract, or
  - c) it is not handed over with the agreed accessories and instructions, including assembly and installation instructions.Unless otherwise agreed between the Customer and MaxSolar in compliance with the applicable information and form regulations, the product does not meet the objective requirements if
  - a) it is not suitable for ordinary use, or
  - b) it does not have the quality which is usual for items of the same kind and which the Customer can expect, taking into account the nature of the item

and the public statements made by MaxSolar or another link in the contractual chain or on their behalf, in particular in advertising or on the label, or  
c) if it does not correspond to the quality of a sample or specimen which MaxSolar made available to the Customer prior to the conclusion of the contract, or  
d) if it is not handed over with the accessories including the packaging, the assembly or installation instructions and other instructions which the Customer can expect to receive.

An effective agreement to the contrary between the Customer and MaxSolar on the objective requirements of the product presupposes that the Customer was specifically informed before submitting his contractual declaration that a certain feature of the product deviated from the objective requirements and that the deviation in this sense was expressly and separately agreed in the contract.

- 8.3. The Customer must give MaxSolar the time and opportunity required for the subsequent performance owed, in particular to hand over the component of the product that is the subject of the complaint for inspection purposes. In the event of a replacement delivery, the Customer shall surrender the defective Product component to MaxSolar in accordance with the statutory provisions.
- 8.4. If a request by the Customer to rectify a defect turns out to be unjustified, MaxSolar may demand reimbursement from the Customer of the costs incurred as a result.
- 8.5. The subsequent performance owed by MaxSolar is deemed to have failed after the third attempt. If the subsequent performance fails, is unreasonable for the Customer or has been refused by MaxSolar in accordance with the statutory provisions, the Customer's rights shall be governed by the statutory provisions, taking into account clause 11 (Limitation of liability, damages).
- 8.6. Claims for defects shall not exist in the case of insignificant deviation from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear or damage occurring after the transfer of risk as a result of incorrect or negligent handling, excessive stress, unsuitable mounting surfaces or due to special external influences not assumed under the contract, as well as in the case of non-reproducible software errors.
- 8.7. MaxSolar accepts no responsibility for the natural ageing of the roof covering. In accordance with the technical rules for hazardous materials (TRGS), installation on corrugated eternit roofs or hazardous materials containing asbestos is not permitted. Excluded from the warranty are natural wear and tear and ageing, damage as a result of improper or negligent handling, excessive stress, unsuitable operating materials and non-compliance with operating instructions. The same applies to damage caused by modifications or repair work carried out by Customer or third parties not engaged by MaxSolar. It is recommended that the product is only serviced and maintained by MaxSolar or a qualified specialist company during the warranty period.

#### **9. Contract withdrawal**

In the event of non-delivery, incorrect delivery, incomplete delivery or late delivery to MaxSolar itself, MaxSolar shall be entitled to withdraw from the contract. MaxSolar is also entitled to withdraw from the contract if an application for the opening of insolvency proceedings has been made against the Customer's assets, an affidavit has been submitted in accordance with section 802c paragraph 2 of the German Code of Civil Procedure (ZPO) or insolvency proceedings have been opened against the Customer's assets or the opening has been rejected for lack of assets.

#### **10. Limitation of liability, damages**

- 10.1. Claims for damages and reimbursement of expenses by the Customer, irrespective of the legal grounds, are excluded. In all cases, the special statutory provisions in the case of final delivery of the Products to a consumer (supplier recourse according to sections 478, 479 BGB) shall remain unaffected.
- 10.2. The exclusion of liability pursuant to section 10.1 above shall not apply (i) in the case of liability under the Product Liability Act; (ii) in cases of intent or gross negligence; (iii) in the case of culpable injury to life, limb or health; (iv) in the case of breach of material contractual obligations, i.e. obligations the fulfilment of which is a prerequisite for the proper performance of the contract and on the fulfilment of which the Customer regularly relies and may rely. However, liability for breach of material contractual obligations is limited to compensation for the foreseeable damage typical for the contract, unless MaxSolar is liable on the basis of intent or gross negligence, injury to life, limb or health or under the Product Liability Act.
- 10.3. In the event of liability for simple negligence, MaxSolar's liability to pay compensation for damage to property and further financial losses resulting therefrom shall be limited to the amounts covered by its respective liability insurance, even if this involves the breach of material contractual obligations. The sum insured per damaging event is EUR 1,000,000 (one million) as a lump sum for personal injury and other damage (property damage and financial loss).
- 10.4. The Customer is obliged to take appropriate measures to avert and minimise damage.

#### **11. Advertising, Reference**

The Customer agrees that MaxSolar may name the installed Product as a reference, publish it and advertise it with photos of the installed Product. MaxSolar is obliged, when naming the installed Product as a reference system, not to name and publish any personal data or detailed location data that would allow conclusions to be drawn about the Customer and the location of the Product.

#### **12. Limitation**

- 12.1. The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions, unless these GTC provide otherwise.
- 12.2. Notwithstanding section 438 (1) no. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery or transfer of risk. Insofar as acceptance has been agreed, the limitation period shall begin with acceptance.
- 12.3. Statutory limitation provisions for claims in rem for the surrender of goods by third parties (section 438 (1) no. 1 BGB), in the event of fraudulent intent on the part of MaxSolar (section 438 (3) BGB), for claims in supplier recourse (section 479 BGB), from the Product Liability Act (ProdHaftG) as well as for the claims for damages referred to in sections 11.2. and 11.3. shall remain unaffected. In these cases, the statutory limitation provisions shall apply exclusively.
- 12.4. Insofar as MaxSolar owes the Customer damages in accordance with clause 11 due to or as a result of a defect, the limitation periods regulated in this clause 12 shall also apply to competing non-contractual claims for damages, unless the application of the regular statutory limitation period (sections 195, 199 BGB) leads to a shorter limitation period in individual cases. The limitation periods of the Product Liability Act remain unaffected in any case.

#### **13. Final conditions**

- 13.1. The law of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 13.2. The exclusive place of jurisdiction for all disputes arising from our business relationship with the Customer, including these General Terms and Conditions, is the place of business of MaxSolar in Traunstein (Local Court of Traunstein, Regional Court of Traunstein), insofar as the Customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law. The same applies if the Customer does not have a general place of jurisdiction in Germany or his registered office, place of residence or habitual abode is unknown at the time the action is brought. However, MaxSolar is also entitled to bring an action at the Customer's general place of jurisdiction.
- 13.3. Should individual provisions of this contract be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of this contract. The wholly or partially invalid provision shall be replaced by a provision whose economic effect comes as close as possible to that of the invalid provision.
- 13.4. There are no verbal ancillary agreements.