

GENERAL TERMS AND CONDITIONS

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

ESDEC B.V., filed with the East Netherlands Chamber of Commerce under number: 08127728 on 8 September 2004.

Article 1. General

- 1.1 These terms and conditions apply to every offer, quotation and agreement between Esdec B.V. and the other party, insofar as the parties do not explicitly deviate from these terms and conditions in writing.
- 1.2 In these general terms and conditions, products are understood to mean: fasteners or complete fastening systems for solar panels.
- 1.3 Applicability of any purchase terms or other terms and conditions is expressly excluded.
- 1.4 If Esdec does not demand strict compliance with these terms and conditions, this shall not mean that said provisions do not apply, or that Esdec would lose the right to demand strict compliance with the provisions of these terms and conditions in other cases.
- 1.5 As far as these terms and conditions are also drawn up in another language, the Dutch text shall prevail in case of conflict.

Article 2. Offers and quotations

- 2.1 All offers and quotations of Esdec are without obligation. Including if they contain an acceptance period. An offer expires if the product to which the offer relates is no longer available.
- 2.2 Esdec cannot be bound to its offers or quotations if the other party can reasonably understand or should understand that the offer or quotation, or a part thereof, contains an obvious mistake or error in writing.

Article 3. Agreement

- 3.1 An agreement is concluded once the other party has placed a written order with Esdec and Esdec has confirmed the order in writing. The term 'in writing' shall mean any document, letter, fax, email or other electronic form signed/approved by the parties.
- 3.2 All data, assumptions, estimates and all other factors underlying the decision of the other party to conclude the agreement, whether known to Esdec or not, shall be and continue to be at the risk of the other party. If the other party supplies Esdec with data, drawings, etc., Esdec may assume the accuracy of the data in question and base the offer on the information provided.
- 3.3 Any offer or promise made by a representative of Esdec shall only be binding when it has been confirmed in writing by the authorised persons within Esdec.

Article 4. Prices

- 4.1 Unless otherwise agreed in writing, prices are stated in euros, excluding VAT and 'ex works' (EXW; Incoterms 2010).
- 4.2 The price agreed by Esdec is based on the situation existing on the date of signing the agreement. If any factor that determines the price subsequently changes, Esdec shall be entitled to increase the price. These factors include (but are not limited to) the following.
 - If the price increase is the result of a change in the agreement;
 - If the price increase is due to adjustments in labour costs, purchase prices, excise duties, taxes and other levies or other obligations imposed on Esdec by law.

Article 5. Intellectual property

- 5.1 Unless otherwise agreed in writing Esdec shall retain all intellectual property rights to all offers, models, designs, drawings, programmes, etc.
- 5.2 Including when client costs are charged for the development of products with intellectual property rights, these rights shall remain the property of Esdec. Without the express prior consent of Esdec, the other party may not use the information in question or disclose it to third parties. For every violation of this provision, the other party shall be obliged to pay Esdec a fine of € 25,000, irrespective of Esdec's right to compensation.

- 5.3 At Esdec's first request the other party must return all data as referred to in paragraph 1 of this article within the term set by Esdec. In case of violation of this provision the other party shall forfeit to Esdec a fine of € 1,000 per day, irrespective of the right to further compensation.
- 5.4 Esdec shall retain all its intellectual property rights on the products it has delivered. The other party is not allowed to modify any delivered product in whole or in part, to apply any trademark to it, or to use the trademark in any other way or to register it under its own name.

Article 6. Advice, designs and materials

- 6.1 The other party may not derive any rights from any advice, proposals made or any information provided by Esdec, including (but not limited to) calculations performed by Esdec.
- 6.2 The other party shall be responsible for all drawings, calculations and designs made by or on behalf of the other party, for the functional usability of all materials prescribed by or on behalf of the other party, as well as for all technical information and all other relevant information supplied by or on behalf of the other party.
- 6.3 The other party shall at all times be responsible for performing checks and for the approval of all material specifications, drawings, advice, designs, etc. supplied by Esdec.
- 6.4 The other party shall be entitled to check or cause to check, at its own expense, the material Esdec wishes to use before it is processed. All costs incurred by Esdec in this context shall be for the account of the other party.
- 6.5 The other party indemnifies Esdec against all claims made by third parties regarding the use of the drawings, calculations, designs, materials, samples, further technical or other relevant information delivered by or on behalf of the other party.

Article 7. Delivery

- 7.1 The agreed delivery times shall always be considered approximations and subject to unforeseen circumstances. The delivery period shall never be considered a strict deadline. If any term is exceeded, the other party shall give Esdec written notice of default. Esdec shall be offered a reasonable term in order to be able to perform the agreement as yet.
- 7.2 When determining the delivery time, Esdec assumes that the order can be executed under the circumstances as they are known to Esdec at that moment.
- 7.3 The term of delivery starts only once the provisions of article 3 of these terms and conditions have been met. This means that the parties have reached final agreement on all business and technical details and Esdec has all necessary data, approved drawings, etc. in its possession and any agreed advances or partial payments have been received by Esdec.
- 7.4 (A) The delivery time shall be extended if circumstances arise that were not known to Esdec at the time of determining the term and with the time necessary for the execution of the order under those circumstances.
- (B) In the event of additional work, the delivery time shall be extended by the time required for the delivery of materials and parts relating to the additional work in question. (C) If Esdec's obligations are suspended for any reason, the delivery period shall be extended for the period that the suspension continues.
- 7.5 Exceeding the delivery time shall not entitle the other party to dissolution of the agreement and/or compensation, unless the other party proves intent or gross negligence on the part of Esdec.
- 7.6 Esdec reserves the right to deliver in parts. In that case, each partial delivery shall be considered a separate agreement. Esdec shall be entitled to demand payment for each partial delivery before proceeding to further delivery.
- 7.7 Esdec's delivery obligation is suspended if the other party fails to meet its payment obligation or fails to do so on time.

Article 8. Force Majeure

- 8.1 If after the conclusion of the agreement circumstances arise or become known that Esdec did not know, nor should have known, when entering into the agreement, as a result of which Esdec cannot fulfil its obligations towards the other party on time, Esdec will not be in default and shall be entitled to suspend its obligations.
- 8.2 The aforementioned circumstances include any circumstance independent of Esdec's will that permanently or temporarily prevents the performance of the agreement as well as - where not already included - war or risk of war, riots, strikes, weather conditions, earthquakes, failure of deliveries from suppliers (including waste processors, suppliers of fuel, energy and water, etc.),

transport difficulties in the company of Esdec or its suppliers, revocation of permits from Esdec and/or its suppliers.

- 8.3 If Esdec has already executed part of the order, the other party shall pay the price for the products already delivered.
- 8.4 Each of the parties shall be entitled to terminate the agreement by written notification to the other party if the suspension of the agreement has lasted longer than 6 months. In that case, the other party cannot claim any compensation.

Article 9. Liability

- 9.1 Esdec shall only be liable for direct damage to the ClickFit/FlatFix system delivered.
- 9.2 Esdec shall not be liable for damage, of whatever nature, caused by Esdec making decisions based on incorrect and/or incomplete information provided by the other party. Esdec shall be exclusively liable for a defect in the product delivered by Esdec. In this context a defect shall be understood to mean the fact that the product or system no longer meets the function for which it was delivered (mounting of solar panels). Any difference in colour of a delivered product or slight damages (such as scratches, stains, surface corrosion, colour fastness, etc.) shall not be considered a defect as long as the functionality remains.
- 9.3 Esdec shall never be liable for the building, the roof, roofing, substructure, contents, or substrate on which the (final) system is placed. It is the client's responsibility to check whether the roof load and/or point pressure can actually be applied to the actual situation on site. By installing a PV system on or to a building, previously applicable construction loads (snow/wind) or building constructions are subject to change. Such shall be entirely at the expense and risk of the other party. The other party shall be responsible for making or causing to make the (static) calculations. Esdec is not involved whatsoever in the installation of the solar panels. Esdec only supplies mounting material. However, Esdec strongly advises against installing solar panels at the edge or within a corner zone of the building. This shall also be at the expense and risk of the other party.
- 9.4 Esdec shall not be liable for the inspection with respect to occurring loads as a result of among other things:
- Changing geometry of the building
 - Additional weight of the complete PV system on the building
 - Static load of the PV system on the building
 - Dynamic wind pressure; accumulation of precipitation on the building
 - Installation; roof construction; roofing and insulation
 - Compatibility of roofing in combination with the PV system at contact points
 - Long-term compatibility of the insulation and roofing at the contact points of the supporting structure of the PV system due to point pressure.
 - Thermal performance of the building in relation to the PV system and vice versa
 - Any vibrations and movement of the roof and the PV system on top of each other.
- 9.5 Esdec shall never be liable for indirect damage, including consequential damage, lost profits, lost savings and damage due to business or other type of interruption.
- 9.6 In any case, the liability of Esdec shall always be limited to the amount of the payment of its insurer, if appropriate.
- 9.7 The other party indemnifies Esdec against claims of third parties due to product liability as a result of a defect in a product that has been delivered by the other party to a third party and that partly consisted of products and/or materials delivered by Esdec.
- 9.8 If Esdec is liable for any damages, the liability of Esdec shall be limited to the value of the invoice of the order, or at least that part of the order to which the liability relates.

Article 10. Refusal to purchase

- 10.1 Insofar as the other party has not purchased any product after the expiry of the delivery period, Esdec shall keep this product at the disposal of the other party for a maximum period of 3 months. All related costs (storage costs, handling and insurance costs) shall be for the account of the other party. The risk of storage lies with the other party. If the period of 3 months has expired, Esdec shall be entitled, without further notice of default, to remove and/or sell the products.

Article 11. Payment

- 11.1 Esdec shall at all times be entitled to demand full or partial payment in advance, or to demand security for payment.
- 11.2 Unless agreed otherwise in writing, the payment term is 14 days after the date of the relevant invoice.
- 11.3 The right of the other party to set off outstanding claims against invoices still to be paid is explicitly excluded.
- 11.4 Upon expiry of the payment term, the other party shall be legally in default without further notice of default and shall owe Esdec interest of 1% per month, whereby a part of a month is considered a whole month.
- 11.5 The judicial and extrajudicial costs of collection of all amounts owed to Esdec shall be at the expense of the other party. The extrajudicial costs shall be fixed at 15% of the amount owed by the other party, with a minimum of € 500 per collection claim.
- 11.6 Payments shall always first be deducted from the extrajudicial costs, next from the interest and then from the oldest invoice.
- 11.7 The claim for payment of all amounts due to Esdec will become immediately due and payable in full if and as soon as the other party has failed to perform one or more of its obligations towards Esdec, is declared bankrupt, applies for a moratorium, (part of) the goods of the other party are seized.

Article 12. Retention of title and pledge

- 12.1 All goods delivered by Esdec within the framework of the agreement shall remain the property of Esdec until the other party has properly fulfilled all obligations from the agreement(s) concluded with Esdec.
- 12.2 As long as goods delivered by Esdec are under ownership pursuant to paragraph 1, these goods may not be sold on and may never be used as a means of payment. Other party shall not be authorised to pledge or otherwise encumber the goods subject to retention of title.
- 12.3 If third parties seize goods delivered under retention of title or wish to establish or assert rights to these goods, the other party shall be obliged to immediately notify Esdec thereof.
- 12.4 If Esdec cannot claim retention of title, because the delivered goods have been destroyed by confusion, specification or accession, the other party shall be obliged to pledge the newly formed objects to Esdec.
- 12.5 In the event of Esdec exercises its property rights as provided for in this article, the other party hereby gives unconditional and irrevocable permission for Esdec and third parties to be appointed by Esdec, to enter those places where the property of Esdec B.V. is located and to recover said goods.

Article 13. Cancellation

- 13.1 If Esdec has not been negligent in the performance of the agreement, the agreement may only be cancelled if Esdec agrees. In that case Esdec shall be entitled to charge all costs incurred, damages suffered and lost profit.

Article 14. Claim and Termination

- 14.1 If the other party fails to fulfil any of its obligations under the agreement concluded with Esdec, fails to fulfil them correctly or on time, or if there are good reasons to suspect this, Esdec shall have the right to suspend or terminate the agreement without notice of default or legal intervention and shall be under no obligation to pay any damages.
- 14.2 Any claim of Esdec with respect to that part of the agreement that has already been performed shall become immediately due and payable. The same applies to damages suffered by Esdec as a result of the suspension or termination.

Article 15. General

- 15.1 This document replaces all previous general terms and conditions and warranty documents or other documents relating thereto. The contents of this document may not be amended by any party other than Esdec B.V.

Article 16. Governing law and disputes

- 16.1 All legal relationships to which Esdec is a party shall be exclusively governed by the laws of the Netherlands, also if an agreement is entirely or partially performed outside the Netherlands or if the party involved in such legal relationship has its residence outside the Netherlands. The applicability of the Vienna Sales Convention is excluded. Nor shall any existing or future international regulation concerning the purchase of movable tangible property whose effect can be excluded by the parties apply.
- 16.2 The parties shall not appeal to the Courts until they have made every effort to resolve such dispute amicably. All disputes that may arise between parties shall be adjudicated by the competent Court in the Netherlands within whose jurisdiction the registered office of Esdec is located.