

General terms and conditions for deliveries of Sunbeam BV

Article 1. General

1. These terms and conditions apply to every offer and agreement between Sunbeam BV and the other Party, insofar as parties have not expressly and in writing derogated from these terms and conditions.
2. In these terms and conditions the following definitions are applied:
 - Product: the entirety of components that form the support construction for solar panels.
 - The other Party: any natural person or legal entity that purchases products and/or services from Sunbeam BV.
3. The applicability of any purchase or other terms and conditions of the other Party is expressly rejected.
4. If Sunbeam BV does not always require strict compliance with these terms and conditions, this does not mean that the provisions thereof are not applicable, or that Sunbeam BV to any extent would lose the right in other cases to require strict compliance with the provisions of these terms and conditions.

Article 2. Offers and tenders

1. All offers and tenders from Sunbeam BV are without obligation, unless a period for acceptance is set out in the offer. An offer will lapse if the Product, which the offer relates to, has become unavailable in the interim.

Article 3. Agreement and termination

1. An agreement will come into effect at the time at which the other Party places an order/assignment in writing with Sunbeam BV and Sunbeam BV confirms the order/assignment in writing. In writing also includes by electronic means.
2. Sunbeam BV will be entitled to suspend the fulfilment of the obligations or to terminate the agreement, if the other Party does not or does not completely, or does not fulfil in a timely manner the obligations under the agreement.
3. If the agreement is terminated, the claims of Sunbeam BV against the other Party will be immediately due and payable. If Sunbeam BV suspends the fulfilment of the obligations, it will retain its claims by law and agreement.
4. If Sunbeam BV proceeds with suspension or termination, it will in no way whatsoever be obliged to payment of damage and costs arisen through this in whatsoever manner.
5. If the other Party cancels, wholly or partly, a placed order, the goods ordered or prepared for this, plus any supply, removal and delivery costs thereof and the working hours reserved for the performance of the agreement will be charged in full to the other Party.

Article 4. Price

1. If, at the concluding of the agreement, Sunbeam BV agrees to a specific price, Sunbeam BV nevertheless will be entitled in the following circumstances to increase the price, even if the price was originally stated without proviso:
 - If the price increase is the result of an amendment to the agreement;
 - If the price increase is the result of price increases in the raw materials markets;
 - If the price increase ensues from an entitlement accruing to Sunbeam BV or an obligation vested in Sunbeam BV pursuant to the law.

Article 5. Payment

1. Payment must always take place within 14 days after the invoice date. Sunbeam BV will be entitled to periodically invoice.
2. If the other Party remains in default of the payment of an invoice in a timely manner, the other Party will be in default by operation of law. In that case, the other Party will owe interest of 1% per month, unless the statutory interest is higher, in which case the statutory interest will be owed. The interest over the due and payable amount will be calculated from the time at which the other Party is in default until the time of payment in full of the amounts owed. Any collection costs will be at the other Party's expense.

Article 6. Delivery and transfer of ownership

1. The delivery of the Product will never take place any earlier than after payment by the other Party of the down payment invoice of 30% of the principal sum.
2. Sunbeam BV has the right to have specific work executed by third parties.
3. If the agreement is executed in stages, Sunbeam BV can suspend the execution of those parts that belong to a following stage until the other Party has approved in writing the results of the prior stage.
4. The (delivery) periods stated by Sunbeam are indicative. The stated (delivery) periods are never to be regarded as final deadlines. If a change of circumstances, regardless of the foreseeability thereof, results in delay, the delivery date will be delayed accordingly, without prejudice to the provisions with regard to force majeure below. In the event of late delivery, Sunbeam BV must be given notice of default, whereby a reasonable period for delivery must be offered to Sunbeam BV.
5. The transfer of ownership of the Product will take place at the payment by the other Party of the last instalment of the principal sum.

Article 7. Force majeure

1. Sunbeam BV will not be obliged to the fulfilment of any obligation vis-à-vis the other Party, if Sunbeam BV is prevented for this purpose as the result of a circumstance not attributable to fault, or for which it is not accountable pursuant to the law or according to generally accepted standards.
2. Force majeure includes in these general terms and conditions, in addition to that included in the law and case law, all external causes, foreseen or unforeseen, beyond the control of Sunbeam BV, but as a result of which Sunbeam BV is unable to fulfil its obligations.
3. Sunbeam BV can suspend the obligations under the agreement for the period during which the force majeure continues.
4. Insofar as Sunbeam BV, at the time of the occurrence of the force majeure, has meanwhile partially fulfilled its obligations under the agreement or will be able to fulfil these, and the fulfilled, or to be fulfilled, part has an independent value, Sunbeam BV will be entitled to invoice separately for the part already fulfilled or to be fulfilled. The other Party will be obliged to pay this invoice as if it were a separate agreement.

Article 8. Retention of title

1. All goods delivered by Sunbeam BV in the context of the agreement remain the property of Sunbeam BV until the other Party has properly fulfilled all obligations under the agreement(s) concluded with Sunbeam BV.
2. The goods delivered by Sunbeam which, pursuant to subclause 1., are subject to retention of title, may not be sold on and may never be used as a means of payment. The other Party will not be entitled to pledge the goods subject to retention of title or to encumber these goods in any other manner.
3. The other Party must always do all that which can reasonably be expected of the other Party to secure the ownership rights of Sunbeam BV.
4. If third parties levy attachment on the goods delivered subject to retention of title, or wish to establish or enforce rights thereto, the other Party will be obliged to immediately inform Sunbeam BV of this.
5. In the event that Sunbeam BV wishes to exercise its ownership rights, referred to as in this article, the other Party hereby provides in advance unconditional and irrevocable permission to Sunbeam BV and to third parties to be designated by Sunbeam BV, to enter all places where the property of Sunbeam BV is located and to take these goods back.

Article 9. Guarantee

1. Unless stated otherwise, the guarantee period of the Product amounts to 15 years after the delivery of the Product. Any liability is expressly excluded after the guarantee period.
2. If, despite correct installation in accordance with the Installation Manual, damage has been caused to components of the Product within the guarantee period, Sunbeam BV will make replacement components available. The guarantee is limited to the delivery of replacement of defective components or the repair thereof (which will be at the discretion of Sunbeam BV), after a complaint in writing from the other Party within the guarantee period. If identical components are no longer available, comparable components will be delivered or the replacement value will be paid. The total amount of the replacement value can never be more than the original invoice amount. At the delivery under guarantee of replacement products or the repair thereof, the original guarantee period will continue to apply, being that of the original delivery.
3. Any form of guarantee will lapse if the conditions stated in the letter of guarantee, forming part of the Product, are not fulfilled, but in any case if a defect is caused as a result of or ensuing from spurious or improper use, incorrect storage or maintenance thereof by the other Party and/or by third parties if, without permission in writing from Sunbeam BV, the other Party or third parties has/have made changes or has/have tried to make changes to the goods, or if other items are attached thereto which should not have been attached thereto, or if the goods were processed or treated in a manner other than the prescribed manner. The other Party is also not entitled to claim the guarantee if the defect has been caused by or is the result of, circumstances beyond the control of Sunbeam BV, including weather conditions (such as for example, but not exclusively, extreme weather such as severe storms or temperatures).
4. The other Party will be obliged to inspect (have inspected) the delivered goods, immediately at the time at which the Product is made available to the other Party. The other Party should thereby inspect if the quality and/or quantity of the delivered goods corresponds with that which was agreed and complies with the requirements parties have agreed in this respect. Any defects must be reported in writing to Sunbeam BV within two weeks after discovery. The report must contain a description as detailed as possible of the defect, so that Sunbeam BV will be able to respond adequately. The other Party must provide Sunbeam BV with the opportunity to inspect (have inspected) any complaint.
5. If the other Party complains in a timely manner, this will not suspend the payment obligation of the other Party. In that case the other Party also remains obliged to purchase and payment of the other ordered goods.
6. In that case the guarantee will only be valid if the components are used in such a manner and installed as described in the Sunbeam BV Installation Manual and/or the additional instructions provided with the delivery.

Article 10. Liability

1. If Sunbeam were to be liable, this liability will be limited to that which is arranged in this provision.
2. Sunbeam BV will not be liable for damage of whatsoever nature, arisen because Sunbeam BV has proceeded from incorrect and/or incomplete data provided by or on behalf of the other Party.
3. Sunbeam BV will be exclusively liable for direct damage.
4. Sunbeam BV will never be liable for indirect damage, including consequential loss, lost profit, lost savings and loss due to business interruption or another kind of interruption.
5. If Sunbeam BV were to be liable for any damage whatsoever, the liability of Sunbeam BV will be limited to a maximum of the invoice amount of the delivery, or at least to that part of the order, which the liability relates to.
6. The liability of Sunbeam BV is in any event always limited to the amount of the payment from its insurer in any particular case.
7. The other Party indemnifies Sunbeam BV against any claims by third parties, including the owner of the premises, related to the installation of the Product, the functioning and the presence of the Product.
8. The limitations included in this article do not apply if the damage can be attributed to an intentional act or gross negligence on the part of Sunbeam BV or its managerial staff.

Article 11. Applicable law and disputes

1. The law of the Netherlands exclusively applies to all legal relationships, which Sunbeam BV is party to, also if an obligation is wholly or partly fulfilled abroad, or if the party involved in the legal relationship has its residence or place of business abroad. The applicability of the Vienna Sales Convention is excluded. Nor will any existing or future international regulations concerning the purchase of movable tangible property apply, regarding which the effect can be excluded by parties.
2. Parties will only apply to the court after parties have made the utmost efforts to resolve the dispute in mutual consultation. All disputes that might arise between parties, will be adjudicated by the court with competent jurisdiction in the Netherlands, within whose territorial jurisdiction the place of business of Sunbeam BV is situated.