

General Terms and Conditions



Sunenergy Boehne UK Limited
Bottom Cottage - Maddle Farm
Upper Lambourn, Hungerford RG17 8 RA

1. General

- a) All contracts with Sunenergy Boehne UK Limited (further called: « Sunenergy ») with the Client are exclusively concluded under the following terms and conditions (« Terms »). All prior agreements, including the Client's own terms and conditions, whether in writing or oral, are superceded and replaced by these Terms. They become legally binding, on the signature of the Client or Sunenergy of an agreed purchase order or where the Client directs Sunenergy to begin work, having agreed Sunenergy's invoice (« Purchase Order »), or at the latest, at the time the Client accepts delivery of the products. The Client is deemed to have notice of and accept these Terms which are accessible online at Sunenergy's website <http://www.sunenergy-boehne.co.uk>.
- b) Pictures and drawings included in a quotation are not to be considered as legally binding in terms of quality, accuracy or otherwise.
- c) Specifically any design advice requested by Client from Sunenergy, is for information purposes only and while Sunenergy will give as much help as it can to the Client based on its know-how and past experience, it is acknowledged by the parties that the Client forms its own final judgment relying on the expertise of its own professionals (including without limitation, architects, roof installers etc) and subcontractors.

2. Prices

Quotations are subject to change. At delivery without installation all prices are ex factory and exclusive of applicable VAT and sales taxes. The Client is responsible for the disposal of packing material.

3. Delivery, Usage, Changes

- a) Partial deliveries to a reasonable scale are allowed. There is a 10% variation allowed to the agreed delivery amount.
- b) Where a Purchase Order has been agreed, Sunenergy is entitled to buy the material and produce the total quantity of goods immediately. Without prejudice to Clause 4 (c), Purchase Order changes cannot be made after the beginning of order processing, unless agreed in writing by both parties.
- c) Sunenergy is allowed to reject delivery to a Client who is behind schedule with paying invoices from the present or a previous Purchase Order. If after the Purchase Order is placed there appears to be reasonable doubt concerning the creditworthiness of the Client, or at Sunenergy discretion, Sunenergy is allowed to demand payment in advance or to withdraw from the contract. The claim for payment for already delivered goods remains valid and the Client is required to pay for such goods in accordance with these Terms.
- d) The Client is allowed to use the products in a reasonable way. He is allowed to sell the products through internet shops, auction platforms (whether online or offline) or on a similar commercial basis only at the prior written confirmation of Sunenergy. Otherwise, in case of such activities by Client, Sunenergy is entitled to file for injunctive relief and to stop further deliveries or to condition them on the Client's undertaking to cease and desist.
- (e) Purchase Orders or changes to Purchase Orders (a »Change «) are only considered accepted, if they have been confirmed by Sunenergy in writing. A Change may impact time delivery dates and/or impose additional charges which the Client undertakes to pay. Sunenergy also reserves the right to charge additionally for any work not within the scope of the original Purchase Order. Such additional work will be regarded as a Change and will be subject to written agreement by Sunenergy in relation to timelines, process and cost.
- (f) Sunenergy takes no responsibility for any delays or performance issues caused by the acts and/or omissions of the Client, its affiliates, their respective employees, directors, subcontractors, co-contractors or agents. Where the Client requests Sunenergy to work with a third party, whether or not as its subcontractor, Sunenergy will accept no liability for any loss or damage arising out of or in connection with goods or services provided by such third party and the Client will indemnify Sunenergy against such loss or damage incurred by Sunenergy.

4. Delivery Time

- a) Delivery times are obligatory when they are explicitly stated in writing. The delivery time begins on the date of order confirmation, but not before the Client has supplied all documents required. In case a prepayment is agreed the delivery time begins on the day of receiving the prepayment by Sunenergy.
- b) The observance of a delivery date is fulfilled if the goods have left the stock of Sunenergy or the Client has got the notice about the goods ready to ship, by the stated day. If the Client does not collect the goods within one week after this notice, Sunenergy

will invoice the costs of storage, being at least 1% of the Purchase Order amount per week. After a reasonable time, Sunenergy is allowed to dispose of the goods otherwise.

c) If Sunenergy is unable to deliver in time due to force majeure, technical disturbance, delivery disturbance, non-delivery of essential raw materials or components, deficit of workforce, strike or consequence of such, the delivery time will be correspondingly prolonged by an appropriate number of days, corresponding at least to the same duration of the disturbance. In case of unreasonably long disturbances, Sunenergy is allowed to terminate in whole or in part the Contract without penalty or fault.

d) If the Client can verify direct damages caused through the late delivery he can claim but not for more than five percent (5%) of the late delivered goods' value.

5. Passing of Risk and overtaking of Costs

a) The delivery of ordered goods through Sunenergy is always for the account and risk of the Client.

The risk for accidental perishing and accidental deterioration of the goods is always on the side of the Client from the point when the onward carrier takes over the goods, latest at the point of leaving the premises of Sunenergy. It is not conditioned on Sunenergy's overtaking the freight costs. If collecting of the goods by the forwarder is delayed for reasons which the Client is responsible for, the risk passes to the Client after one week after notice about the goods being ready to ship.

b) Sunenergy is not obliged to insure the goods. On a Client's written request, Sunenergy may insure the goods against storage and transit damages as well as against damage caused by fire. The Client however bears the full insurance costs.

c) The choice of forwarding method is up to Sunenergy. Special wishes of the Client may be considered only if they were expressed at the time of order placing and confirmed by Sunenergy in writing. The Client bears the additional costs for special forwarding and delivery wishes. An additional order cannot be regarded as completing the original Purchase Order but as a new Purchase Order which is to be confirmed by Sunenergy separately. The freight cost for the new Purchase Order will be calculated separately.

6. Terms of Payment

a) The Client agrees to pay Sunenergy for all services rendered in accordance with Sunenergy's invoice including all pre-authorised expenses and reasonably incurred disbursements (e.g. travel, meals, lodging) in order to fulfill its obligations under a Purchase Order. Any assistance given to the Client in terms of general advice regarding the product usage and specifications, including attendance at meetings or interfacing with third parties at Client's request, is chargeable at Sunenergy's applicable hourly consulting rates, available on request. Payment must be transferred by the Client by electronic transfer to the bank account stated by Sunenergy on its invoice without any costs for Sunenergy. Bank charges and commissions, if applicable, for processing such payment will be charged by Sunenergy back to the Client. No offsetting is allowed.

b) The Client must pay Sunenergy's invoices within two weeks from the date of the invoice. Prices are exclusive of applicable VAT and other sales taxes as applicable. Late payment will result in the Client being in default and having to pay interest of 5% above Lloyds bank base rate. Sunenergy reserves the right to immediately suspend work on a project and demand full payment of its fees and outstanding disbursements to date, if there is non-payment or continued late payment by the Client or failure to pay for the products in advance if so requested by Sunenergy.

7. Reservation of Proprietary Rights

a) The delivered goods remain the property of Sunenergy until they have been fully paid for by the Client. In case of a long-lasting business relationship the reservation of property is valid for all deliveries until open positions on the current account are paid. Different companies belonging to the Client's corporate group are regarded as being the Client.

b) The Client is explicitly not allowed to pledge or take a mortgage on the reserved property. He may sell the non-paid goods only in the ordinary course of business in which case, the Client is obliged to stipulate a further reservation of property with his customer and assign all claims against his customer to Sunenergy until the fulfilment of his own obligations to Sunenergy. The Client transfers to Sunenergy all information and documents necessary to enforce the claims against the Client's customer.

c) Sunenergy will return a certain amount of the securities to the Client if their value exceeds the claims to be assured by more than twenty percent (20%). Sunenergy defines which securities are to be returned.

d) The Client must inform Sunenergy immediately about any interference into the reservation of property by third parties, for example, (but without limitation) by confiscation. All costs which occur through the intervention of Sunenergy are to be compensated by the Client.

e) If Sunenergy withdraws the goods in the context of the above security agreement, the amount of the nominal value of Sunenergy's sale invoices will be deducted from the Client's account. Sunenergy though reserves the right to claim for compensation separately, in particular for compensation for lost profit.

8. Limitation of Liability

a) Sunenergy is not liable for damages which result from improper usage of the products. Improper usage may be, without limitation, a usage which has been explicitly prohibited in the product or a failure to follow the product instructions. The Client is responsible for the further processing or selling on of the products. He has in turn to inform his customer about the correct usage of the products and provide instructions.

b) To the fullest extent permitted at law, Sunenergy accepts no liability for loss or damage incurred by the Client or its group affiliates or any of their customers, as a result of third party claims or for loss of profit or revenue or any consequential loss, indirect or special damages including without limitation loss of opportunity and it is expressly agreed that the entire liability of Sunenergy for all loss, costs, damages or expenses (regardless of whether the cause of action is in contract, tort, statute or otherwise) arising out of any incident or series of incidents, regarding the applicable Purchase Order, shall be limited to one hundred and twenty five percent (125%) of the fees payable to Sunenergy in respect of the project to which the claim relates.

- c) Nothing in this Agreement shall exclude or in any way limit Sunenergy's liability for fraud, death or personal injury caused by its sole negligence, or any breach of the obligation implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Goods and Services Act 1982, or any other liability to the extent the same may not be excluded or limited as a matter of law.
- d) All other conditions, warranties, representations or terms which might otherwise be implied into this Contract, whether by law, statute or otherwise, are hereby expressly excluded insofar as far as legally permissible.

9. Product Warranty

- a) The Client obtains the benefit of Sunenergy Böhne GmbH's product warranty which applies to all Sunenergy products and which is downloadable from Sunenergy's website <http://www.sunenergy-boehne.co.uk>. Client must inspect the goods on receipt immediately and give written notice of any incorrect quantity or material defects to Sunenergy in writing, and at the latest within one week of receiving the goods.
- b) Hidden faults must be given notice of in writing directly upon detection, latest one year after receiving the goods. The legal limitation period applies. The onus of proof is on the Client.
- c) In case of validated complaints, Sunenergy is obliged to either remedy or replace the affected spare part(s) complained of. If the Client is a private consumer acting in a private non-corporate capacity, he can choose between the above alternatives, otherwise the choice is at the discretion of Sunenergy. If Sunenergy cannot remedy or replace the spare part(s) due to reasons caused by Sunenergy, the Client can cancel the contract or claim for an appropriate reduction of price.
- d) The Client cannot claim any form indemnity against Sunenergy if he has made with his customer an agreement that exceeds the legal claim for compensation as provided for in this Clause 9 (Product Warranty).
- e) Where the Client acts as a private individual consumer in a non-corporate capacity, then it benefits from a twenty four (24) month product warranty period, otherwise where the Client is a company acting on its own behalf the relevant period will be one (1) year warranty period.
- f) In case of damages occurring within the framework of the warranty due to violation of secondary obligations, wrong counselling, unlawful act, culpable violation of the liability to repair or replace or for other legal reasons, – and above all, if these damages have not occurred on the delivered item itself – Sunenergy and Sunenergy Böhne GmbH do not assume responsibility unless in the case of intent or if an exclusion of liability is legally inadmissible for other legal reasons. To the fullest extent legally permissible, Sunenergy and Sunenergy Böhne GmbH exclude any liability for consequential damages and indirect losses. With assured characteristics missing, claims for damages are excluded as well, if it was not the purpose of the assurance to avoid consequential damage.
- g) Sunenergy will not accept returned goods and will send them back at the Client's expense unless the return is based on the Client's right of withdrawal within the warranty period and Sunenergy has confirmed the return. If the Client returns – confirmed by Sunenergy – faultless goods and Sunenergy is not responsible for this return, a repayment to the sum of the sale invoice will be done, less incurred shipping and refurbishment costs.

10. Data Protection & General Matters

- a) Price lists, quotations, pictures, drawings and other documents are protected by Sunenergy copyright and design rights and may not be reproduced or forwarded to a third party, in electronic or other format, without the prior written approval of Sunenergy. Drawings and other documents must be returned to Sunenergy immediately upon request, particularly if the quotation did not lead to the conclusion of a contract. Sunenergy is entitled to present data received from the Client to third parties whose deliveries or services are to be transferred. Sunenergy retains all intellectual property rights in all its materials, documents and drawings in whatever format supplied, developed prior to and during the project (« Materials »), which remain vested in it. Client is required to return all Materials on request of Sunenergy on termination of the project howsoever occurring.
- b) Sunenergy undertakes to process personal data received from the Client for the purposes of performing the requested services under a Purchase Order in accordance with this Contract, in accordance with applicable data protection law.
- c) If any term of this Contract is found to be invalid or unenforceable, this shall in no way affect the validity or enforceability of the remaining terms. The Client may not assign this Contract without the prior express permission of Sunenergy.
- d) The relationship of the Parties is that of independent contractors dealing at arm's length, and nothing in this Agreement shall render either Party an employee, agent or partner of the other or capable of incurring any liability or obligation on the other's behalf, and neither Party shall hold itself out as such. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract, except as regards the Product Warranty above.

11. Termination

11.1 Either party may terminate this Contract on fourteen (14) days written notice to the other party (the "defaulting party") if:

- a) the defaulting party breaches a material obligation under this Contract and where such breach is capable of being remedied, does not remedy it within 30 days after notice of breach is given to it;
- b) the defaulting party is dissolved or liquidated or involved in a statutory merger or de-merger; or threatens to cease trading or is unable to meet its debts as they fall due or an order is made declaring the defaulting party bankrupt or insolvent, or granting a moratorium over repayment of the defaulting party's debts (in all such cases, where relevant, the receiver is deemed to have notice of this clause 11.1 b).

11.2 The parties may terminate this Contract on a non-contentious basis subject to one month's prior written notice to the other party.

11.3 Consequences of Termination

The Client must pay Sunenergy for all services provided up to and including the date of termination, including payment of any products delivered or ordered by Sunenergy on the Client's instructions including any unpaid third party disbursements pre-

authorised by the Client.

11.4 Additionally, the parties agree to negotiate a fair fee to be paid for any partially completed services which have not yet been delivered to the Client, but where a substantive amount of time and effort have been expended on the Client's behalf.

12. Court of Jurisdiction and Place of Fulfilment

English law and the non-exclusive jurisdiction of the English courts will apply to this Contract, save that any issue arising out of the Product Warranty supplied by Sunenergy Böhne Germany GmbH, will be subject to German law, and the court of exclusive jurisdiction is Minden, Germany. The Agreement of the United Nations on Contracts for the International Sale of Goods (CISG) and to the international private law is expressly excluded.

