

GENERAL CONDITIONS OF SALE

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1. Applicability

(1) These General Conditions of Sale shall apply to all sales of Goods by AVANCIS GmbH to entrepreneurs ("Kaufleute") inside and outside of Germany unless otherwise stipulated in writing. Buyer's general conditions of purchase or other general conditions shall not apply, irrespective of whether or not AVANCIS GmbH has explicitly objected to these.

(2) For the avoidance of doubt, any rights and obligations under AVANCIS GmbH "AVANCIS Limited Warranty for PV-Module(s)" (relating to any customer of Modules to which that "AVANCIS Limited Warranty for PV-Module(s)" applies) are additional to and not to the exclusion of any rights and obligations under this document (relating to Buyer's contracting directly with AVANCIS GmbH).

2. Definitions

In these General Conditions of Sale

- "the Seller" shall mean AVANCIS GmbH;
- "the Buyer" shall mean the person/legal entity that AVANCIS GmbH concludes the Contract for the sale of Goods with;
- "the Parties" shall mean the Buyer and the Seller; "a Party" shall mean the Buyer or the Seller;
- "the Goods" shall mean the materials and/or equipment and/or services to be sold and delivered by the Seller to the Buyer under the Contract;
- "the Contract" shall mean the agreement under which the Seller sells and delivers the Goods to the Buyer.

3. Contract

The Contract shall only be concluded in writing, usually by written order of Buyer and subsequent corresponding written order confirmation of Seller. The order of Buyer may also refer to an earlier proposal of Seller.

4. Delivery

Delivery shall be on the basis of Incoterms (edition current at the time of conclusion of the Contract), except in case of conflict with these General Conditions of Sale or unless otherwise agreed in writing.

5. Price and payment

(1) Upon delivery of the Goods Seller will issue an invoice to Buyer. Buyer shall make a payment without any deduction or discount into the bank account designated by Seller within 30 days after invoice issuance date if not agreed otherwise in writing between the Parties.

(2) Against his payment obligation Buyer may only set-off such claims he may have against the Seller provided that these are either undisputed or finally and non-appealably determined by a court.

(3) To the extent Buyer fails to make a full payment in due time, the outstanding amount shall bear an interest of 8 percent per year above the current base interest rate as regularly published by the German Federal Bank "Bundesbank" until the date payment is fully made. Seller is not obliged to serve a dunning notice to Buyer, Seller's other legal rights resulting from the Buyer's default shall remain unaffected.

6. Ownership/retention of title

(1) Notwithstanding delivery, the ownership of the Goods shall remain vested in the Seller until the Buyer has paid for them in full. In the period from the date of delivery of the Goods up to the date of full payment Buyer holds the Goods only as bailee for the Seller.

(2) Seller permits Buyer to resell the Goods already prior to full payment in the ordinary course of his business however under retention of title until Buyer's customers have paid for the purchased Goods in full. Seller reserves the right to immediately withdraw this permission when Buyer is in default with any of his obligations.

7. Deviations from agreed quality or quantities of Goods

(1) The Buyer must in due course inspect incoming Goods for completeness, quantity and defects of quality, and raise his respective complaints with the Seller in writing without undue delay. To the extent the Buyer fails to comply with his duties as per the previous sentence, he will be excluded with any complaints about completeness, quantity and quality of the Goods, unless the Seller has known or maliciously concealed the incompleteness, faulty quantity or defect in question.

(2) With regards to other defects which were not detectable within the scope of the inspection as per subsection (1) above, the Buyer can claim remedy of such defects within one year after the date of delivery, provided these defects were already existent at the moment when the risk of loss and damage transferred from Seller to Buyer. The Seller has the right to remedy the defects by supplying new Goods, matching return of the initially delivered Goods. This return shall remain free of cost for Buyer. If the Seller refuses or is in default with delivering new Goods, the Buyer may claim adequate reduction of the purchase price or rescission of the Contract.

(3) Remedies other than the aforementioned shall be excluded.

8. Liability/Damage compensation claims

Seller shall on no legal grounds and under no cause of action be liable vis-à-vis the Buyer for the compensation of damages, particularly with regards to the law of breach of contract or the law of torts. This shall not apply where damage compensation claims of Buyer are mandatorily provided for by German law, in particular:

- under the German Product Liability Code (Produkthaftungsgesetz),
- Seller's own gross negligence or willful misconduct or gross negligence or willful misconduct of Seller's auxiliary persons or agents,
- in cases of injury to life, body or health,

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- in case of infringement of cardinal contractual obligations, very severe infringement of other contractual obligations and in case contractual performance becomes impossible due to Seller's fault.

9. Force Majeure

(1) Neither Party shall be liable for its failure to fulfill any term of the Contract, other than the obligation to pay any sums due, if such fulfillment has been delayed, hindered or prevented by any circumstance or event outside its reasonable control (a "Force Majeure Event").

(2) When a Force Majeure Event at one or more of Seller's supply sources results in a shortfall of Goods available to meet all supply obligations of Seller, such reduced quantity of Goods shall be apportioned to all supply obligations of Seller on a pro-rata basis (at Seller's discretion). Seller shall not be required to explore alternative supply sources and acquire supplies from there to make good any shortfall in Goods arising as a result of such a Force Majeure Event, unless the Buyer commits to bearing the additional cost associated with Seller's use of the alternative supply source.

10. Assignment

(1) Seller shall at all times be entitled to assign Seller's rights and obligations under the Contract to a company with which the Seller is associated as per the definition of the German Stock Corporation Act (Aktiengesetz).

(2) Seller shall also at all times be entitled to assign Seller's rights and obligations under the Contract to a third party, provided such party is equally capable of the respective specific performance.

(3) Without Seller's explicit written consent Buyer is not entitled to assign its rights and obligations under the Contract to a third party.

11. Applicable law and dispute Resolution

(1) The Contract shall be exclusively governed by German law but excluding its conflict of law rules and excluding the United Nations Convention on Contracts for the International Sale of Goods.

(2) All disputes arising in connection with the Contract shall be exclusively submitted to the ordinary civil courts in Leipzig, Germany.