

GENERAL TERMS AND CONDITIONS

of NICE Solar Energy GmbH

As of September 2016

1. SCOPE

- 1.1 All deliveries and services provided by NICE Solar Energy GmbH (hereinafter called "NICE") shall be based exclusively on the following General Terms and Conditions. Terms and conditions of the customer that supplement or deviate from these Terms and Conditions shall not become valid unless expressly agreed to by NICE in writing.
- 1.2 The terms and conditions laid down here shall apply to both consumers and entrepreneurs, unless stated otherwise further below.
- 1.3 All information provided on websites, in brochures, advertising and in nonbinding quotes constitute an offer to the customer to place a binding purchase order. The order shall be accepted by written order confirmation or by fax, electronically or by delivery or execution of the services.
- 1.4 NICE shall continue to retain all rights to the descriptions, plans, drawings, and other documents or materials provided to the customer in conjunction with submission of the offer, in particular property rights and copyrights as well as the right to exploitation, duplication and distribution.
- 1.5 The execution of orders according to customer specifications is subject to NICE's approval of such specifications, without any obligation for NICE to check the customer's specifications for feasibility (in terms of facts, content and technical implementation).

2. RIGHT OF WITHDRAWAL

Right of withdrawal for consumers:

If the customer is a consumer according to German law, section 13 of the German Civil Code (BGB), the following applies to distance selling contracts concluded exclusively by means of distance communication (e.g. orders placed via an online shop or via phone):

2.1 Right of withdrawal:

Customers may withdraw their declaration to enter into a contract within the revocation period without stating any reason in text form (e.g. letter, e-mail, fax). In the case of contracts concluded for the delivery of goods, they may do so also by returning the goods within the revocation period. The revocation period is two weeks. The revocation period begins on the day after the customer has received these instructions on legally recognized rights in text form, but not before receipt of the goods in the case of contracts for the delivery of goods. To comply with the revocation period, customers must merely send their declaration of withdrawal or, if applicable, the goods within the revocation period. The declaration of withdrawal or, if applicable, the return of the goods shall be addressed to

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The right of withdrawal from contracts for services expires prematurely, if NICE has started with the execution of the services before the expiry of the revocation period with the express consent of the customer or if the customer has initiated the services himself (e.g. by download etc.).

2.2 Consequences of withdrawal:

When a withdrawal becomes effective, the services received by both parties are to be returned and any benefits derived thereof (e.g. a fee for the use of an item, interest) surrendered. If the services received cannot be returned in whole or in part or can only be returned in a deteriorated condition, the respective party must pay compensation to the other party if necessary. This does not apply to the surrender of goods, if the deterioration of the goods is exclusively attributable to their appropriate and proper inspection. In all other respects, the customer may avoid the obligation to pay compensation by not using the goods as if they were his property and by refraining from doing anything that could impair their value. Goods that can be sent by parcel post are to be returned. The customer shall bear the costs of the return if the delivered goods correspond to the ordered goods and if the price of the goods to be returned does not exceed the amount of 40 euros. Otherwise, the return shipment shall be free of charge for the customer. Goods that cannot be sent by parcel post will be collected from the customer. Obligations to reimburse payments must be fulfilled within 30 days of sending the declaration of withdrawal.

2.3. Exclusion of right of withdrawal:

The above-stated right of withdrawal does not apply to distance contracts for the delivery of goods which are manufactured according to customer specifications or are clearly tailored to personal needs or which are not suitable for return due to their nature or for the delivery of audio or video recordings or software if the seal of delivered data carriers has been removed by the consumer.

End of the instructions on the right of withdrawal.

3. PRICES, PAYMENT, OFFSETTING PAYMENTS

3.1 The price agreed shall be applicable. Unless stated otherwise, the prices quoted to consumers in accordance with Section 13 of the German Civil Code (BGB) are gross prices (including statutory value-added tax). The prices quoted to entrepreneurs according to Section 14 of the German Civil Code (BGB) are net prices (excluding statutory value added tax). Packaging, transport and insurance costs as well as any other additional costs shall be paid for separately.

3.2 For deliveries or services that are not to be delivered or rendered within a period of four months after conclusion of the contract, NICE has the right to adjust the price to increases in wage and material costs that have occurred in the meantime.

3.3 Payments shall be made net within 10 days of the invoice date, unless the parties have arranged otherwise. NICE shall be entitled to arrange advance payment with the customer.

Payment shall be deemed effected on the date on which NICE can dispose of the amount owed. When checks are accepted, payment shall be deemed effected when the check has been honored and credited to NICE within a reasonable period of time after presentation.

3.4 In case of late payment, NICE shall be entitled to charge default interest to the extent specified by law. NICE reserves the right to claim higher interest on other legal grounds.

3.5 If a significant deterioration of the customer's financial circumstances occurs after conclusion of the contract or if such a deterioration of the financial circumstances becomes apparent after conclusion of the contract and if NICE's payment claims are thereby endangered, NICE shall be entitled to refuse further execution of the contract

until the customer performs the consideration or provides collateral for it. If the customer defaults on payments, all claims against him, regardless of whether they have already been invoiced or not, shall become due immediately, unless the default in payment was not the fault of the customer.

- 3.6 Unless specified otherwise by the customer, payments made shall always be offset against claims already due in accordance with Sec. 366 Para. 2, Sec. 367 of the German Civil Code (BGB).
- 3.7 The customer shall not have the right to offset claims other than those undisputed or legally established.

4. DEADLINES AND DATES

- 4.1 Unless agreed otherwise, deliveries by NICE must be performed at the debtor's place of business. This obligation is fulfilled by NICE with a timely handover to the carrier.
- 4.2 The adherence to agreed delivery periods or completion periods or deadline requires that all necessary technical questions have been clarified in advance. In the event of non-compliance with agreed deadlines, the customer must grant NICE, in writing, a reasonable extension of time to provide the contractual service owed.
- 4.3 In cases of force majeure, industrial disputes and similar events beyond NICE's control, NICE's performance period shall be extended by the duration of such events. If the events hindering performance last longer than 3 months, either contracting party may withdraw from the contract. Prior to a withdrawal from the contract, the parties shall attempt to adapt the contract to their economic interests. Any statutory rights of rescission that have already come into effect shall remain unaffected. NICE shall not be liable for delays in performance due to events for which NICE is not responsible and shall not compensate for any expenses or damages incurred as a result.
- 4.4 Subsequent requests by the client for changes or additions that have been agreed with NICE shall result in an appropriate extension of the agreed dates and deadlines.
- 4.5 NICE shall be entitled to make reasonable partial deliveries or partial performances. Early deliveries or services are permissible, unless expressly agreed otherwise.

- 4.6 If the customer is in default of acceptance, NICE may demand reimbursement of the usual storage costs as well as reimbursement of other additional expenses for storage and maintenance of the delivery item. Furthermore, the risk of accidental loss or accidental deterioration shall pass to the customer at the time the customer defaults in acceptance. Further legal claims of NICE shall remain unaffected thereof.
- 4.7 If NICE is responsible for debtor default, NICE shall be held liable for debtor default in accordance with Clause 7.

5. OBLIGATIONS OF THE CUSTOMER TO COOPERATE

- 5.1 If the provision of agreed services requires the customer's cooperation, the customer must ensure that NICE is provided with all necessary and appropriate information and data in good time and in the required quality. In the event of programming work, the customer shall provide NICE with the necessary computing power, test data and data acquisition capacities in good time and to a sufficient extent.
- 5.2 If the customer does not meet his obligations to cooperate in time or if he does not meet them completely, the performance period of NICE shall be extended accordingly until the customer fulfils his obligations to cooperate. Furthermore, the customer must compensate NICE for expenses and damages caused by the customer's breach of obligation, unless the customer is not responsible for it.

6. WARRANTY AND WARRANTY RIGHTS

- 6.1 NICE shall manufacture its products according to the state-of-the-art in technology applicable at the time of entering into the contract. Any intended usage that goes beyond the customary usage of the products or that requires a quality that deviates from the norm, in particular any usage that is relevant for safety purposes for example, aerospace or automobile usage, must be agreed in advance in writing.
- 6.2 Warranty claims of the customer against NICE shall be subject to the following provisions. In all other cases, the statutory provisions shall apply.
- 6.2.1 NICE may at its discretion and free of charge repair, replace or provide anew any deliveries or services that are defective due to a cause that already existed at the time of the transfer of risk.

6.2.2 The statute of limitations for warranty claims as of the transfer of risks is 24 months for deliveries to consumers and 12 months for deliveries to businesses. For works services/services, the statute of limitations for warranty claims is 24 months from acceptance for consumers and 12 months from acceptance for businesses.

The aforementioned statutes of limitations shall not apply to claims for recourse pursuant to Sections 478 and 479 of the German Civil Code (BGB), or to fraudulently concealed defects or claims for damages pursuant to Clauses 7.3 to 7.6. In these cases, the statutory statutes of limitation shall apply.

6.2.3 Product warranties, performance promises, performance guarantees and certificates of conformity or compliance given by the manufacturer, which are passed on with the delivery but of which NICE is not the author, do not constitute a separate guarantee or promise made by NICE.

6.2.4 The statutory provisions regarding suspension of expiration, suspension and re-commencement of the statutes of limitation shall remain unaffected.

6.2.5 In the event that NICE fails to carry out the subsequent performance, the customer may withdraw from the contract or reduce the remuneration.

6.2.6 The warranty claims of a business require that it has duly fulfilled its obligations to examine the goods/services and notified the supplier of any defects in accordance with Section 377 of the German Commercial Code (HGB).

Parts replaced within the scope of subsequent performance or subsequent delivery shall become the property of NICE and are to be returned to NICE upon request at NICE's expense.

6.2.7 The provisions of Clause 7 shall apply in addition to claims for damages under warranty.

6.2.8 In all other cases, the following Clause 7 shall apply to claims for damages. Further or other claims of the customer against NICE and its agents based on a material defect shall be excluded.

7. JOINT AND SEVERAL LIABILITY

- 7.1 NICE shall not be held liable for damages it is not responsible for, in particular for damages caused by improper use or handling of the products. The customer is obliged to follow the operating, storage and maintenance recommendations given by NICE or the manufacturer, to make only authorized modifications, to replace spare parts professionally and to use consumables that meet the required specifications. Before as well as after NICE has provided the deliveries and services, the customer shall be required to make data backups on his EDP systems on a sufficiently regular basis, if necessary. NICE shall not be liable for any damage caused by or attributable to a breach of the aforementioned obligations of the customer.
- 7.2 NICE shall not be held liable on any legal basis for direct or indirect damages caused by slight negligence on the part of NICE or its agents.
- 7.3 The limitation of Clause 7.2 shall not be applicable if NICE or its agents have violated an essential contractual obligation (so-called cardinal obligation). In this case, however, NICE's liability shall be limited to typical and foreseeable damages at the time of entering into the contract.
- 7.4 The limitation of Clause 7.2 shall not be applicable to breaches of obligation by NICE or its agents which result in injury to life, limb or health.
- 7.5 The limitation in Clause 7.2 shall not be applicable to legally binding liability regulations such as those of the German Product Liability Act.
- 7.6 NICE shall be fully liable for grossly negligent and intentional breaches of obligation.
- 7.7 The statutory statutes of limitation shall apply.
- 7.8 The above limitations of liability shall also apply for the benefit of NICE's bodies, employees and agents in terms of personal liability.

8. RETENTION OF TITLE

- 8.1 NICE shall retain title to the purchased item until it has received all payments arising from the supply contract. In case of breach of contract by the customer, in particular in case of default of payment, NICE shall be entitled to reclaim the purchased item.

Reclaiming of the purchased item by NICE represents a withdrawal from the contract. After reclaiming the item, NICE shall be entitled to sell it. The proceeds from the sale are to be offset against the customer's liabilities - minus reasonable costs of sale.

- 8.2 The customer shall be obliged to treat the object of purchase with care and in particular to insure it sufficiently at his own expense. If maintenance and inspection work is necessary, the customer shall be required to carry it out in good time at his own expense.
- 8.3 In the event of seizures or other interventions by third parties, the customer shall inform NICE immediately in writing, so that NICE may take legal action according to Section 771 of the German Civil Procedure Code (ZPO) if necessary. If the third party is not in a position to reimburse NICE for the judicial and extrajudicial costs of legal action according to Section 771 of the German Civil Procedure Code (ZPO), the customer shall be liable for the loss incurred by NICE.
- 8.4 In the event that NICE's ownership of the goods supplied with retention of title expires as a result of the goods being connected to equipment/devices (e.g. upon installation), (co-) ownership of the customer in the entire unit shall pass to NICE proportionally based on the invoice value of the goods subject to retention of title and shall be stored by the customer free of charge.
- 8.5 NICE shall release any collaterals upon request of the customer to the extent that their realizable value exceeds the claims to be secured by more than 10%.

9. RIGHTS OF USE TO SOFTWARE, INDUSTRIAL PROPERTY RIGHTS OF THIRD PARTIES

- 9.1 All rights to software supplied to or developed for the customer, in particular copyrights, ancillary copyrights and related rights, shall remain the property of NICE or the respective rights holders. This shall also apply if the software was developed according to specifications of or in cooperation with the customer.
- 9.2 If NICE uses the customer's software, all copyrights and other related rights shall remain the property of the customer. NICE shall use this software solely for the contractually agreed purposes. Should NICE require the source code of this

software to make changes or remedy defects, the customer shall make the software available to NICE free of charge.

- 9.3 The customer shall be prohibited from copying, distributing, passing on, changing, translating, extending and/or otherwise reworking the software provided by NICE as well as from decompiling and using the software as a basis for developing similar software, unless expressly permitted by contract or law. In all other respects, the respective software terms of license agreed on separately shall apply.
- 9.4 The customer shall merely receive a simple right of use to the software to the extent required for the purpose of the contract. Any use of the software that goes beyond the respective license terms of the manufacturer or NICE, the contractual agreements or the contractually required purposes, shall require the written consent of NICE.
- 9.5 The customer may make back-up copies, unless the respective license agreement provides otherwise. Back-up copies on movable data carriers must be marked as such and include the copyright notice of the original data carrier.
- 9.6 In any case of unlawful use exceeding the granted, simple right of use to the software, NICE, and if applicable, the manufacturer of the software, reserve the right to claim damages.
9. Should a third party assert claims that conflict with the simple right of use granted to the customer, the customer shall immediately notify NICE thereof in writing. The customer shall not acknowledge any claims of third parties without the consent of NICE. NICE will fend off any claims made by third parties.

10. DATA PRIVACY, CONFIDENTIALITY

- 10.1 NICE shall inform the customer that the data received during conclusion of a contract will be collected, processed and used in compliance with the regulations of the Federal Data Protection Act (BDSG) for the purpose of fulfilling NICE's obligations arising from contracts concluded with the customer. This data may also be transferred to NICE affiliates or agents for the purpose of contract performance and credit assessment.

10.2 The contracting parties undertake to treat all commercial and technical details received from or made known to them by the other contracting party during the execution of the contract as a trade secret, as long as the other contracting party has not made them publicly accessible.

11. FINAL PROVISIONS

11.1 If the customer is a businessperson, a legal entity or a special fund under public law, the following shall apply: The place of jurisdiction for all legal disputes shall be the court with jurisdiction at the registered office of NICE. However, NICE shall also be entitled to sue the customer at the customer's general jurisdiction.

11.2 The place of performance for deliveries and payments shall be the registered office of NICE.

11.3 The law of the Federal Republic of Germany shall apply. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention; CISG) shall be excluded.

11.4 Should individual clauses of these General Terms and Conditions be or become wholly or partially invalid or impracticable, or should they contain a gap, this shall not affect the validity of the remaining clauses or the remaining parts of such clauses. Ineffective or unenforceable provisions shall be deemed replaced by effective provisions that come closest to the economic purpose pursued by the parties.

Should the General Terms and Conditions contain a gap, the provision shall be deemed agreed that corresponds to what would have been agreed according to the purpose of these General Terms and Conditions if the parties had considered the matter from the outset.

ENVIRONMENTAL STATEMENT

NICE believes that people and the environment come first. We are therefore committed to saving resources during production and systematically identifying energy-saving potentials in our manufacturing and transport processes. We strive to find ecological alternatives for energy and raw material sources and consistent approaches to waste avoidance and product recycling. These General Terms and Conditions are valid for following works / areas:

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