

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

ESDEC B.V., registered with the Chamber of Commerce for the Eastern Netherlands under number 08127728 op 8-9-2004.

### Article 1. General

- 1.1 These terms and conditions govern every quotation, offer and agreement between Esdec B.V. and the other party, insofar as the parties have not deviated explicitly from these terms and conditions in writing.
- 1.2 For the purposes of these standard terms and conditions, products refers to mounting materials or complete mounting systems for solar panels.
- 1.3 The applicability of any terms and conditions of purchase or any other terms and conditions is excluded explicitly.
- 1.4 In cases where Esdec does not require strict compliance with these terms and conditions, this should not be taken to mean that the provisions do not apply or that Esdec relinquishes in any way the right to require strict compliance with the provisions of these terms and conditions in other cases.
- 1.5 Insofar as these terms and conditions have been prepared in another language, the Dutch version prevails in the event of conflicts.

### Article 2. Quotations and offers

- 2.1 All Esdec's quotations and offers are without obligation, even if they contain an acceptance period. A quotation shall be null and void if the product to which the quotation pertains is no longer available in the meantime.
- 2.2 Esdec cannot be bound by its quotations or offers if the other party can reasonably be expected to understand that the quotations or offers or a component thereof contain an evident mistake or clerical error.

### Article 3. Contract

- 3.1 A contract is formed at the time the other party has placed a written order with Esdec and Esdec confirmed the order in writing. The term "in writing" includes a document, letter, e-mail or other electronic format signed/approved by the parties.
- 3.2 All the details, assumptions, estimates and all other factors that form the basis for the other party's decision to conclude a contract, whether they are known to Esdec or not, are and remain at the risk of the other party. If the other party provides Esdec with details, drawings, etc., Esdec may assume the accuracy of the relevant details and bases its proposal on the information provided.
- 3.3 Any offer or promise made by a representative of Esdec only becomes binding when it has been confirmed in writing by the person authorised to do so within Esdec.

### Article 4. Prices

- 4.1 Unless explicitly agreed otherwise, prices are quoted in Euro, exclusive of VAT and "ex works" (EXW; Incoterms 2010).
- 4.2 The price agreed by Esdec is based on the situation as existing on the date of signing the contract. If any factor that affects the price changes subsequently, Esdec is entitled to increase the price. These factors include, but are not limited to, the following: If the price increase is the result of amending the contract; If the price increase is the result of changes in the area of labour costs, purchase prices, excise, taxes and other levies or any other statutory obligation of Esdec.

### Article 5 Intellectual property

- 5.1 Unless explicitly agreed otherwise in writing, Esdec retains all intellectual property rights on all offers, models, designs, drawings, programmes, etc.
- 5.2 Even when the client has been charged costs for developing products with intellectual property rights, those rights remain the property of Esdec. Without prior explicit permission of Esdec, the relevant information may not be used by the other party or shown to third parties. For every breach of this provision, the other party is bound to pay Esdec a fine of € 25,000, irrespective of Esdec's right to damages.
- 5.3 At Esdec's first request, the other party must return all the details, as referred to in paragraph 1 of this Article, within the period set by Esdec. On breaching this provision, the other party forfeits a fine of € 1,000 per day in favour of Esdec, without prejudice to the right to any other damages.
- 5.4 Esdec retains all the intellectual property rights on all the products it delivers. The other party is not permitted to amend any delivered product in full or in part, to affix any trademark to it, or to use the relevant mark in any other way or register it under its own name.

### Article 6. Advice, designs, and materials

- 6.1 The other party cannot derive any rights from any advice, proposals made or information provided by Esdec, including, but not limited to, calculations prepared by Esdec.
- 6.2 The other party is responsible for all drawings, calculations and designs made by or on behalf of the other party, for the functional use of all materials required by or on behalf of the other party, and for all the technical information and other relevant information provided by or on behalf of the other party.
- 6.3 The other party has final responsibility at all times for implementing checks and approving all material specifications, drawings, advice, designs, etc supplied by Esdec.
- 6.4 The other party is entitled to have the material that Esdec wishes to use checked, before it is processed, at its own expense. All the costs incurred by Esdec in this context shall be borne by the other party.
- 6.5 The other party indemnifies Esdec against all claims made by third parties regarding the use of drawings, calculations, designs, materials, samples, other technical or relevant information made available by or on behalf of the other party.

### Article 7. Delivery

- 7.1 The agreed delivery times are always an approximation and subject to unforeseen circumstances. The delivery periods can never be deemed a strict deadline. In the event any period is exceeded, the other party must issue Esdec with a written notice of default.

Esdec shall be offered a reasonable period of time in which to implement the contract.

- 7.2 In determining the delivery period, Esdec assumes that the order may be implemented under the conditions as they are known to Esdec at that time.
- 7.3 The delivery period only commences when the provisions of Article 3 of these terms and conditions have been met. That means that the parties have reached final agreement on all the business and technical details and that Esdec has all the required details, approved drawings, etc in its possession and that any agreed deposits or part-payments have been received by Esdec.
- 7.4 (A) The delivery period is extended, if circumstances occur that were not known to Esdec on determining the period, by the time required to implement the order in those circumstances. (B) In the event of additional work, the delivery period is extended by the time required to deliver material and parts pertaining to the relevant additional work. (C) If the obligations of Esdec are suspended by virtue of any reason, the delivery period is extended for the period of that suspension.
- 7.5 Exceeding the delivery period does not entitle the other party to dissolve the contract and/or to damages, unless the other party proves gross negligence or intent on the part of Esdec.
- 7.6 Esdec reserves the right to make part-deliveries. In that case, a separate contract applies to every part-delivery. Esdec is entitled to claim payment for every part-delivery before proceeding with further deliveries.
- 7.7 The delivery obligation of Esdec is suspended when the other party does not meet its payment obligation in time or not at all.

### Article 8. Guarantee

- 8.1 Guarantee period: Esdec BV only supplies professional and high-quality mounting systems and subjects its products to comprehensive quality tests. All mounting systems are made in accordance with the most stringent quality standard. Therefore Esdec BV guarantees the functionality of the ClickFit/FlatFix mounting system and that it is free from defects and construction defects for a period of 20 years from the time of delivery by Esdec BV.
- 8.2 Content of the guarantee: After proven defects of the applied ClickFit/FlatFix mounting system, Esdec BV commits to the following: Free-of-charge repair of the ClickFit/FlatFix mounting system/component, replacement of the defective ClickFit/FlatFix mounting system/component, or to credit the complainant for a pro-rata part; at Esdec BV's discretion. The value of the compensation in the event of an awarded guarantee claim can never exceed the initial purchase value of the ClickFit/FlatFix mounting system/component. The guarantee period of the relevant ClickFit/FlatFix mounting system/component does not restart, but continues until the end of the original guarantee period.

The guarantee does not pertain to minor defects:  
- e.g. visual defects (scratches, stains, surface corrosion, colour-fastness, etc) that are insignificant to the fitness of the material.  
- Damage, consequential damage that is associated directly or indirectly with the ClickFit/FlatFix mounting system. This applies in particular to physical injury and costs of damage to property of third parties, loss of earnings and revenue caused by the relevant solar-energy system that was mounted with the ClickFit/FlatFix mounting system not operating, damage, consequential damage to the building, the roof, the roofing (roof membrane, tiles, sheets, etc.), the contents of the building in question etc due to any defects of the ClickFit/FlatFix mounting system or the applied materials and components.

- Work that must be performed or costs that must be incurred to inspect the damage or to replace or repair the defective product by third parties or the client. The guarantee becomes null and void if a defect was caused by:
  - A lack of thorough professional maintenance, breaching the relevant installation or mounting instructions, overload, incorrect storage, unprofessional, inexperienced or improper use, normal wear and tear, normal aging, poor mounting, damage due to chemical, electrical, electrolytic, corrosive or environmental influences.
  - If components of the ClickFit/FlatFix mounting system are changed and/or modified or repaired in any way without written permission from Esdec BV.
  - If components were used in combination with the ClickFit/FlatFix mounting system that are not part of the ClickFit/FlatFix mounting system or did not originate from Esdec BV.
  - When the correct numbers or components have not been used as required in the mounting instructions and by the calculators.
  - When systems are positioned in edge or corner areas.
  - When the building, roof, roofing or the construction is not suitable for installing solar panels with the ClickFit/FlatFix mounting system.
  - Repairs were carried out by third parties without written permission from Esdec BV.
  - When the client has not complied with all his obligations in respect of Esdec BV.
- Extreme conditions force majeure (such as, but not limited to, hail, lightning strikes, fire, vandalism, extreme wind speeds or temperatures) et cetera.
- Not complying with the guarantee procedure

The guarantee is valid for the first original installation and for the original client of the ClickFit/FlatFix mounting system, whose name is noted on the original invoice of Esdec BV.

- 8.3 Guarantee procedure: Any damage must be reported in writing within 48 hours of establishing to Esdec BV. The report must contain the most detailed possible description of the defect in order to enable Esdec BV to respond adequately. The Client shall give Esdec BV the opportunity to investigate a complaint (or have this done by others). Transport damage must be identified and reported within 48 hours. In such cases photographs of the damaged goods must be submitted. Esdec BV is not responsible for damage caused after the delivery, either by local transport, faulty storage, yard damage or incorrect treatment or handling of the goods. During complaints and the complaints procedure, other obligations in respect of Esdec BV are not suspended. Esdec BV reserves the right at all times and without prior notification to make changes to products, print work, calculators, terms and conditions, and documents.

**Article 9. Force majeure**

9.1 If, after forming the contract, circumstances arise or become known that Esdec was not aware of, nor should have been aware of, on entering into the contract, with the consequence that Esdec is unable to meet its obligations in respect of the other party in time, Esdec is not in default and entitled to suspend its obligations.

9.2 The aforementioned circumstances include any circumstance beyond Esdec's control that impeded compliance with the contract permanently or temporarily – insofar as not included already – war (threat), riots, work strikes, weather conditions, earthquakes, lack of deliveries by suppliers (including waste-processing companies, suppliers of fuel, energy and water, etc.), transport difficulties within the business of Esdec or its suppliers, withdrawals of permits of Esdec and/or its suppliers.

9.3 If Esdec already carried out part of the order, the other party shall proceed to pay the price for all the delivered products.

9.4 Each of the parties is entitled to terminate the contract by means of written notification to the other party if suspension of the contract continues for more than 6 months. In that case the other party cannot make any claims for damages.

**Article 10. Liability**

10.1 Esdec is only liable for direct damage to the supplied ClickFit/FlatFix system.

10.2 Esdec is not liable for damage of any nature whatsoever caused by Esdec working on the basis of incorrect and/or incomplete information provided by or on behalf of the other party. Esdec is solely liable for a defect in the product it supplied. In this context defect refers to the fact that the product or the system no longer complies with the function for which it was supplied, i.e. mounting solar panels. Any colour difference to the supplied product or minor damage, such as scratches, stains, surface corrosion, colour-fastness etc, are not considered a defect for as long as functionality remains intact.

10.3 Esdec is never liable for the building, the roof, roofing, substructure, content or surface on which the eventual system is positioned. The client is bound to check that the roof load and/or point load can actually be applied to the actual situation in situ.

The installation of a PV system on or to the roof means the construction loads (snow/wind) or building construction, applicable up to that time, are subject to change.

This is fully at the other party's expense and risk. It will have to ensure that static and other calculations are carried out.

Esdec does not have any involvement with installing the solar panels. Esdec only supplies mounting materials.

However, Esdec advises against installing solar panels at the edge or within a corner zone of the building in the strongest possible terms. Again this is at the other party's expense and risk.

10.4 Esdec is not liable for checking any occurring loads as a result of:

-Changing geometry of the building

-Additional weight of the complete PV system on the building

-Static load of the complete PV system on the building

-Dynamic wind pressure; accumulation of precipitation on the building

-Installation; roof construction; roofing and insulation

-Compatibility of roofing with the PV system near the contact points

-Compatibility of insulation and roofing near the contact points of the support structure of the PV system due to point load in the long term

-Thermal effect of the building in respect of the PV system and vice versa

-Any vibrations and movement of the roof and the PV system on each other.

10.5 Esdec can never be held liable for indirect damage, including consequential damage, loss of income, missed savings or losses caused by business or other stagnation.

10.6 Should Esdec be liable for any form of damage, the liability of Esdec shall be limited to a maximum of the invoice value or to the part of the order to which the liability pertains.

10.7 The liability of Esdec is always limited to the amount paid out by its insurance company.

10.8 The other party indemnifies Esdec against all claims of third parties concerning product liability resulting from a defect in a product that was delivered by the other party to a third party and that (also) comprised products and/or materials delivered by Esdec.

**Article 11. Purchase refusal**

11.1 Insofar as the other party has not purchased any product in accordance with the delivery period, Esdec shall keep this product available for the other party for a maximum period of 3 months. Any associated costs - storage costs, handling and insurance costs - shall be borne by the other party. The risk of storage rests with the other party.

After the period of 3 months has expired, Esdec is entitled, without notice of default, to remove and/or sell the products.

**Article 12. Payment**

12.1 Esdec is entitled at all times to claim full or partial payment in advance, or to claim security for payment.

12.2 Unless agreed otherwise in writing, the payment term is 14 days from the date of the relevant invoice.

12.3 The right of the other party to offset outstanding claims with due and payable invoices is excluded explicitly.

12.4 When the payment term has expired, the other party is lawfully in default, without requiring a notice of default, and liable to pay Esdec interest of 1% per month, whereby part of a month is deemed a full month.

12.5 The judicial and extra-judicial collection costs for all amounts due to Esdec are at the expense of the other party. The extra-judicial costs in this matter are set at 15% of the amount not paid by the other party, with a minimum of € 500 per collection claim.

12.6 Payments always serve to settle extra-judicial costs first, then interest and then the oldest invoice.

12.7 The claim to pay all amounts payable to Esdec becomes due and payable immediately and in full if and as soon as the other party is in default of one or more of its obligations in respect of Esdec, declared bankrupt, applies for suspension of payments, or part of or all property of the other party has been attached.

**Article 13. Retention of title and pledge**

13.1 All goods delivered by Esdec in the context of the contract will remain Esdec's property until the other party has met all of its obligations under the contract (or contracts) with Esdec in full.

13.2 As long as goods delivered by Esdec come under retention of title by virtue of paragraph 1, these goods may not be sold and may never be used as a means of payment. The other party is not authorised to pledge or encumber in any other way the goods covered by retention of title.

13.3 In the event of third parties attaching the goods delivered under retention of title or setting out to establish or invoke any rights to or on them, the other party is obliged to notify Esdec without delay.

13.4 If Esdec cannot claim retention of title, because the delivered goods have become lost due to confusion, specification or accession, the other party is bound to pledge the new objects to Esdec.

13.5 In the event Esdec wishes to exercise its property rights as provided for in this Article, the other party herewith grants unconditional and irrevocable permission in advance for Esdec or third parties engaged by Esdec to enter the places where the property of Esdec is located and to repossess that property.

**Article 14. Cancellation**

14.1 If Esdec did not fail in implementing the contract, the contract can only be cancelled with Esdec's consent. In that case Esdec is entitled to pass on all costs, damaged suffered and loss of earnings.

**Article 15. Claim and termination**

15.1 If the other party does not comply with one of its obligations resulting from the contract concluded with Esdec or complies late or incorrectly, or when there are valid reasons for suspecting this, Esdec is entitled, without a notice of default or judicial intervention, to suspend or terminate the contract and it is not liable to pay any damages.

15.2 Every claim of Esdec in respect of that part of the contract that has been implemented already is due and payable immediately. The same applies to damage Esdec suffered due to the suspension or termination.

**Article 16 General**

16.1 This document replaces all previous standard terms and conditions and guarantee documents or other associated documents. The content of this document cannot be changed by parties other than Esdec BV.

**Article 17. Applicable law and disputes**

17.1 All legal relationships to which Esdec is a party shall be governed exclusively by Dutch law, even if an obligation is implemented in full or in part abroad or if the other party to the legal relationship is domiciled abroad. The applicability of the Vienna Sales Convention is excluded specifically. Any existing or future international scheme regarding the purchase of movable physical goods whose operation can be excluded by the parties does not apply either.

17.2 The parties shall only refer a matter to court after they have endeavoured to resolve the dispute in mutual consultation. Any disputes that may arise between the parties shall be put before the competent court of the Netherlands in whose jurisdiction Esdec's place of business is situated.