

GENERAL CONDITIONS ZEP BV

ARTICLE 1. | DEFINITIONS

In these general conditions, the following terms are used in the meaning as described below, to the extent it does not flow differently from the nature or tenor of the provisions.

1. ZEP BV: the user of these general conditions, established in Urk, listed in the Trade Register under Chamber of Commerce number 59175141.
2. Counterparty: the natural or legal person with whom ZEP BV has concluded or intends to conclude an agreement.
3. Consumer: the counterparty as intended in the preceding section, not acting from the exercise of a profession or business.
4. Agreement: each agreement concluded between ZEP BV and the counterparty, whereby ZEP BV has committed itself to sell and deliver products and/or to carry out activities.
5. Activities: all activities to be carried out in the context of the agreement by or on behalf of ZEP BV, such as installation activities.
6. Products: all matters to be delivered to the counterparty in the context of the agreement, including "Solar Energy Pans" and/or other matters.
7. Written: both traditional written communications and communications by e-mail.

ARTICLE 2. | GENERAL PROVISIONS

1. These general conditions are applicable to every offer of ZEP BV and to each concluded agreement.
2. These general conditions are also applicable to agreements for the implementation of which third parties are engaged.
3. The applicability of any possible general or differently called conditions of the counterparty is emphatically rejected.
4. From what is stipulated in these general conditions can only be deviated in writing. If and to the extent what parties have emphatically stipulated in writing deviates from the provisions in these general conditions, what parties have emphatically established in writing is effective.
5. The annulment or nullity of one or more of the underlying provisions does not affect the validity of the other provisions. In such case as may occur, parties are obligated to enter into mutual consultation to make an alternative arrangement regarding the impaired provision. The purpose and tenor of the original provision is thereby observed as much as possible.

ARTICLE 3. | OFFER AND ADOPTION OF THE AGREEMENT

1. Unless a term for acceptance is therein stipulated, every offer of ZEP BV is non-committal.
2. The counterparty cannot derive any rights from an offer which is based on incorrect or incomplete information provided by the counterparty.
3. The counterparty cannot derive any rights from an offer of ZEP BV which contains an apparent error or mistake.
4. The agreement is adopted through offer and acceptance. If the acceptance by the counterparty deviates from the offer of ZEP BV, the agreement is not concluded in conformity with this deviating acceptance, unless ZEP BV indicates otherwise.
5. A compound price quotation does not oblige ZEP BV to carry out a part of the offer against a corresponding part of the quoted price.
6. If the counterparty concludes the agreement (also) on behalf of another natural or legal person, he declares by entering into the agreement to be authorised to do so. Besides this (legal) person, the counterparty is severally and jointly liable for compliance with the obligations from that agreement.

ARTICLE 4. | TERMS AND THIRD PARTIES

1. ZEP BV exerts itself to timely comply with the implementation and/or delivery terms concluded between parties. All terms listed by ZEP BV, however, can only be considered indicative, non-fatal terms. The counterparty is no sooner eligible for the rights falling to him pursuant to legislation than after he has declared the default of ZEP BV in writing, whereby he gives a reasonable term to ZEP BV to still comply with the agreement and compliance has still failed to transpire after expiry of the latter term.
2. ZEP BV is authorised at all times to leave the implementation of the agreement, under his responsibility, to third parties completely or partially.

ARTICLE 5. | SALE OF PRODUCTS

1. Unless the products are taken along by or on behalf of ZEP BV upon the carrying out of activities or it is emphatically established otherwise, the delivery of the products takes place through their delivery to the delivery address indicated by the counterparty. In the absence of a delivery address, the invoice address is considered delivery address in the event of the delivery of the products.
2. Unless emphatically established otherwise, ZEP BV determines the mode of transport and the packaging of the products.
3. The risk of loss and damaging of the products passes to the counterparty at the moment that the products have been received by the counterparty or a third party indicated by the latter.
4. The counterparty is obligated to take the purchased products at the moment they are made available to them or are delivered to them. If the counterparty refuses to take them for whatever reason or is negligent in the provision of information or instructions which are necessary for delivery, the products will be stored at the expense of the counterparty after ZEP BV has warned it concerning. In such case, the counterparty owes, besides the purchase price, reasonable costs for the storage of the products.
5. It is permitted to ZEP BV to deliver orders in batches. If orders are delivered in batches, ZEP BV has the right to invoice each part separately.

ARTICLE 6. | OBLIGATIONS OF THE COUNTERPARTY UPON IMPLEMENTATION OF ACTIVITIES

1. In case the agreement (also) provides for execution of activities, what is stipulated in this article applies.
2. The counterparty must provide all information which is relevant for the organisation and execution of the activities timely, correctly, and completely to ZEP BV.
3. The counterparty must take care of the correct and timely execution of all systems, facilities, and other conditions which are required for the adequate execution of the activities. Furthermore, the counterparty must make sure at own expense and risk, that:
 - The persons employed by ZEP BV obtain access to the place of execution at the established time and that they can carry out the activities during regular working hours. If ZEP BV deems such necessary, the counterparty must enable the carrying out of activities outside regular working hours. ZEP BV will announce these matters timely as much as it can;
 - The access routes to the system location are suitable for the transport of the products, auxiliary means, and other matters which are required for the execution of activities;
 - The location designated for the system is suitable for the storage of the products and matters intended in the preceding;
 - All reasonable safety and precautionary measures have been taken and are maintained during execution of the activities, and that all measures have been taken and maintained for compliance with the applicable government regulations;
 - To the extent applicable: that ZEP BV has at its disposal the permits and approvals from third parties required for the activities, as well as of the other information which is to be provided by the counterparty in the context of the implementation of the activities.
4. ZEP BV must be able to make use of the power grid free of charges and of other facilities at the location of the counterparty which are reasonably necessary for the execution of the activities.
5. The counterparty guarantees that there are parking facilities free of charges in the immediate vicinity of the implementation location. If the parking facility is not free, these costs will be passed on to the counterparty.
6. If it has been established that the counterparty is responsible for the supply of material, ancillary means or other matters, the counterparty must make sure these are made available to ZEP BV timely at the location of the activities.

ARTICLE 7. | MODIFICATION OF THE AGREEMENT AND ADDITIONAL WORK

1. If it turns out during implementation of the agreement that it is necessary for an adequate execution to modify or supplement the agreement, then parties will timely and through mutual consultation proceed towards the modification of the agreement. If the nature, extent, or content of the agreement is altered qualitatively and/or quantitatively, this may have consequences for what was established originally. As a consequence, the price originally established may be increased or lowered. ZEP BV will communicate price indications beforehand as much as possible.
2. In the event of additions or modifications to what was established desired by the counterparty, the additional costs which are related are borne by the counterparty. ZEP BV will timely inform the counterparty about the necessity to pass on the costs intended here, unless the counterparty should have understood this necessity of its own accord.
3. The implementation term originally indicated can be modified by changing the agreement. The counterparty accepts the possibility of changing the agreement, also including modifications to price and implementation term. If the agreement is modified or supplemented, then ZEP BV has the right to only start with implementation after the counterparty has approved the modified price and other conditions, including the timing to be determined for the execution of the activities. Not or not immediately implementing the modified agreement does not constitute a shortcoming of ZEP BV either and does not constitute grounds for the counterparty to rescind the agreement.
4. If after conclusion of the agreement cost-increasing circumstances arise or come to light which, on grounds of incorrect information provided by him, can be attributed to the counterparty, the additional costs are borne by him, unless ZEP BV should have discovered the inaccuracy of the information provided by the counterparty prior to the establishment of the price. ZEP BV will timely inform the counterparty on the necessity to pass on the costs referred to here.
5. Without falling into default as a result, ZEP BV can refuse a request for the modification of the agreement if compliance with the modified agreement cannot reasonably be demanded of them.
6. Agreements which entail additional work take place, without prejudice to what is otherwise stipulated in this article, through mutual consultation and are established in writing as much as possible.

ARTICLE 8. | INVESTIGATION AND COMPLAINTS

1. The counterparty is obligated upon the delivery of products and the activities to control directly whether the nature and quantity of the products and/or what is completed corresponds with the agreement. Any possible minor deviations in form, colour, and weight do not constitute grounds for complaint.
2. If what is delivered/completed is the opinion of the counterparty is not compliant with the agreement, he must communicate such forthwith to ZEP BV.

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3. If a defect at the time of delivery/completion was reasonably impossible to detect, the counterparty must report it within 14 days after delivery/completion to ZEP BV.
4. If the counterparty does not complain in time, from such complaint by the counterparty, no obligation for ZEP BV entails.
5. Also in case the counterparty files a complaint in time, the obligation of the counterparty of payment and further compliance with the agreement remains effective.
6. Products can only be returned to ZEP BV after prior written permission. The returning of products takes place at the expense of the counterparty, unless the grounds for returning regard a shortcoming which is attributable to ZEP BV.
7. What is stipulated in this article leaves unaffected the mandatory statutory rights of consumers as intended in article 13.8 of these general conditions.

ARTICLE 9. | WARRANTY

1. Guarantees are limited to what is stipulated regarding emphatically. If and to the extent no guarantees have been stipulated, the counterparty is solely eligible for such warranty as is provided by the manufacturer's warranty of the manufacturer of the delivered products.
2. A warranty provided by ZEP BV, the manufacturer or importer, does not diminish the mandatory statutory rights and claims which consumers may exercise towards ZEP BV.
3. Without prejudice to the emphatically stipulated warranty conditions, the warranty provided lapses in any case if a defect is the consequence of an outside cause or it cannot otherwise be attributed to ZEP BV or its suppliers. This includes though it is not limited to defects resulting from damaging, incorrect or inexperienced use or usage in violation of the instructions for use or other instructions of or on behalf of ZEP BV.
4. To validate his right to warranty, the counterparty must, without prejudice to the mandatory statutory rights of consumers, timely file complaint with ZEP BV, in conformity with what is stipulated in article 8.
5. Section 6 of the preceding article is correspondingly applicable in connection with warranty rights of the counterparty.

ARTICLE 10. | FORCE MAJEURE

1. ZEP BV is not bound to comply with any obligation from the agreement if and to the extent he is impeded by a circumstance which cannot be attributed to him on grounds of the law, a legal action, or commonly held opinion.
2. If the situation of force majeure renders compliance with the agreement permanently impossible, parties have the right to rescind the agreement with immediate effect.
3. If ZEP BV upon the entry into effect of the situation of force majeure has already partially complied with their obligations or is only able to partially comply with their obligations, it has the right to separately invoice the part already executed or the part still to be executed respectively as if it pertained to an independent agreement.
4. Damage as a consequence of force majeure is never eligible for compensation.

ARTICLE 11. | SUSPENSION AND RESCISSION

1. If circumstances justify such, ZEP BV is authorised to suspend the implementation of the agreement or to rescind the agreement with immediate effect, if the counterparty does not, does not timely, or does not completely comply with the obligations from the agreement, or if circumstances which have come to the cognisance of ZEP BV after conclusion of the agreement constitute valid grounds to fear that the counterparty will not fulfil its obligations.
2. If the counterparty is in a state of bankruptcy, the law for debt restructuring 'Wet Schuldsanering Natuurlijke Personen' is declared applicable to it, any attachment has been placed on its assets or in cases in which the counterparty is otherwise unable to freely dispose of its assets, ZEP BV has the right to rescind the agreement with immediate effect, unless the counterparty has already lodged sufficient security for the payment(s).
3. ZEP BV furthermore has the right to rescind the agreement if circumstances occur which are of such a nature that compliance with the agreement is impossible or maintaining it in unaltered form cannot reasonably be demanded of them.
4. The counterparty is never eligible for any form of compensation in connection with the right to suspension and rescission exercised by ZEP BV pursuant to this article.
5. To the extent it can be attributed to him, the counterparty is obliged to compensate ZEP BV for the damage they have incurred as a result of the suspension or rescission of the agreement.
6. If ZEP BV rescinds the agreement on grounds of this article, all claims on the counterparty become instantly payable.

ARTICLE 12. | PRICES AND PAYMENTS

1. The offer gives a description with the greatest possible detail of the pricing factors, including though not limited to a contracting sum, an hourly rate, product prices, and the cost of material.
2. Unless emphatically indicated otherwise, the delivery costs are borne by the counterparty if the agreement exclusively provides for the delivery of products.
3. Unless emphatically stated otherwise, all prices listed by ZEP BV are exclusive of VAT.

4. ZEP BV has the right to pass on price increases of cost-decisive factors which become apparent after conclusion of the agreement, to the counterparty. In derogation to the preceding sentence, the consumer has the right to rescind the agreement if the passing on of cost increases takes place within three months after adoption of the agreement and ZEP BV still expressly refuses to fulfil the agreement in conformity with the original conditions.
5. ZEP BV has the right at all times to demand that the established price is settled partially or fully in advance. In case the agreement regards the execution of activities, the counterparty is obliged to settle at least 50% of the established price upon assignment, 30% upon delivery of the products, and the balance upon completion of the activities.
6. Payments must take place within the term indicated on the invoice, in the manner prescribed by ZEP BV.
7. ZEP BV is not obliged to (further) implement agreements for as long as the counterparty falls short in the settlement of the advance and/or intermediate payments as intended in section 5 of this article.
8. In case of liquidation, bankruptcy, applicability of debt restructuring legislation or suspension of payment on the part of the counterparty, the claims on the counterparty become immediately payable.
9. If timely payment fails to occur, the legal default of the counterparty enters into effect. From the day that the default becomes effective, the counterparty owes over the outstanding amount an interest of 1% per month, whereby a part of a month is designated as an entire month. In derogation to the preceding section, instead of the contractual interest intended there, the statutory interest applies in the event the counterparty acts in the capacity of consumer.
10. All reasonable costs, such as judicial, extrajudicial, and enforcement costs, incurred to obtain the settlement of the sums owed by the counterparty, are borne by the counterparty.

ARTICLE 13. | LIABILITY

1. Barring the intent or gross negligence of ZEP BV, and without prejudice to what is stipulated in article 8 and 9, ZEP BV is no longer liable for defects to what is delivered/completed after delivery/completion.
2. ZEP BV does not bear any liability for damage caused by incorrect or inexperienced use or the incorrect or inexperienced processing by the counterparty or third parties of the products supplied by ZEP BV.
3. Advice, proposals made or indications by or on behalf of ZEP BV regarding material, constructions, executions and applications are always non-committal. ZEP BV is never liable for whatever damage which may occur as a result of this advice, proposals, or indications.
4. The counterparty bears the damage caused by:
 - an inaccuracy in the information provided by the counterparty; ZEP BV is never obliged to control this information;
 - defect to a matter of the counterparty on which the activities are carried out;
 - any other shortcoming in compliance with the obligations resulting from the law or the agreement;
 - another circumstance which cannot be attributed to ZEP BV.
5. ZEP BV is never liable for consequential damage, including loss of profit, losses incurred, and damage due to operational stagnation. If despite what is stipulated in these general conditions the liability of ZEP BV nevertheless pertains, direct damage is exclusively eligible for compensation. Intended by direct damage is exclusively:
 - the reasonable costs to determine the cause and extent of the damage, to the extent the determination regards the damage which is eligible for compensation in the sense of these conditions;
 - any possible reasonable costs incurred to render the defective performance of ZEP BV compliant with the agreement, to the extent such can be attributed to ZEP BV;
 - reasonable costs incurred to prevent or limit damage, to the extent the counterparty proves that these costs have led to the limitation of the damage which is eligible for compensation in the sense of these general conditions.
6. If pursuant to the circumstances of the case any further liability of ZEP BV were to exist, such liability is limited to no more than the invoice value of the agreement, or at most of that part of the agreement which the liability of ZEP BV is in regard to.
7. Never will the liability exceed the amount which is disbursed regarding the relevant case under the liability insurance taken out by ZEP BV.
8. The limitation period of all claims and rebuttals vis-a-vis ZEP BV amounts to one year. In derogation to the preceding sentence, claims and rebuttals falling to consumers which are based on facts which would justify the contention that the delivered products are not compliant with the agreement, lapse through the expiry of two years. The right to file a claim or rebuttal in connection with the existence of a defect of a delivered product lapses if complaint has not been filed within two months after discovery of the defect by the consumer to ZEP BV concerning.
9. Barring in the event of intent or gross negligence of ZEP BV, the counterparty will safeguard ZEP BV against all third-party claims, on whatever account, in the matter of the compensation of damage, costs, or interest, related to the implementation of the agreement by ZEP BV.
10. In case of a consumer purchase, the limitations from this article do not reach beyond what is permitted pursuant to article 7:24 section 2 Burgerlijk Wetboek (Netherlands Civil Code).

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ARTICLE 14. | RETENTION OF PROPERTY

1. All products delivered by ZEP BV remain their property until the counterparty has adequately complied with all obligations from the agreement.
2. To the extent this must be considered reasonably inadmissible in the context of their regular operations, it is prohibited to the counterparty to sell, pawn, or in any other manner encumber the products which are subject to the retention of property.
3. If third parties seize the products which are subject to the retention of property or wish to establish or exercise rights on them, the counterparty is obligated to inform ZEP BV as soon as possible accordingly.
4. The counterparty is obligated to insure and keep insured the products subject to the retention of property against fire and water damage, as well as against theft. The policy of this insurance will be presented for perusal to ZEP BV upon first request.
5. The counterparty grants unconditional permission to ZEP BV or to third parties indicated by ZEP BV to enter all those areas where the products subject to the retention of property are located. In case of negligence on the part of the counterparty, ZEP BV has the right to recover the products intended here. All related reasonable costs are borne by the counterparty.

ARTICLE 15. | FINAL PROVISIONS

1. To each agreement and all resulting legal relationships Netherlands legislation is exclusively applicable.
2. Parties will only appeal to the court of law after they have exerted themselves optimally to resolve the dispute through mutual consultation.
3. Unless the law deviates here in a compelling manner, only the competent court in the district of the place of establishment of ZEP BV is designated to hear disputes.
4. The Dutch version of the underlying conditions is always decisive for its interpretation.