

## **GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY**

Valk Solar Systems Nordics AB (Orgnummer 559265-3926)  
Norrkatan 16 lgh 306  
432 41 Varberg  
Sweden

### **Article 1: Applicability**

1.1 These General Terms and Conditions of sale and delivery shall apply to all offers, quotations and contracts made by Valk Solar Systems Nordics AB (hereinafter 'Van der Valk') in which Van der Valk undertakes to deliver products to the Client.

1.2 The applicability of general conditions of the Client or any other general conditions is expressly rejected.

1.3 Departures from these General Terms and Conditions will only be valid if expressly agreed to in writing by Van der Valk.

1.4 In the event of any conflicts between the substance of the agreement concluded between the Client and Van der Valk on the one hand and these General Terms and Conditions on the other, the provisions set out in the agreement have precedence.

1.5 Wherever these General Terms and Conditions use the term in writing, this shall mean by document signed by parties, or by letter, fax, electronic mail and by such other means as are agreed by the parties.

1.6 Insofar as these General Terms and Conditions are also drawn up in a language other than English, in the event of any conflict the English text shall always prevail.

### **Article 2: Offers and conclusion of agreement**

2.1 No obligations are attached to any offers, even if they contain an acceptance period.

2.2 If the Client supplies Van der Valk with data, drawings etc., Van der Valk may rely on their accuracy and shall base the offer on that information.

2.3 An agreement shall come into effect once Van der Valk has confirmed the order in writing.

2.4 Any offer made or undertaking given by a representative of Van der Valk shall only be binding insofar as the latter confirms this in writing.

2.5 In the event that agreement is reached to effect payment by means of a letter of credit, the agreement concerned shall only come into effect once Van der Valk accepts the relevant irrevocable (confirmed) letter of credit in writing according to UCP 600. This letter of credit will be opened by a bank subject to the acceptance in advance by Van der Valk.

### **Article 3: Prices**

3.1 Unless otherwise agreed in writing, prices shall be stated in Euro, exclusive of VAT and are based on 'free carrier', Ljungby, Sweden (FCA, Incoterms 2010).

3.2 Any price cited by Van der Valk shall be based on the existing monetary conditions, labour costs, procurement prices, duties, taxes and other levies, subsidies and the like prevailing at the time the agreement concerned is concluded. In the event that one or more of these cost price components increase after conclusion of the agreement but before the relevant product(s) have been delivered, Van der Valk shall be entitled to pass on any reasonable price increase to the Client.

3.3. If the Client provides goods and Van der Valk is prepared to use those goods, Van der Valk may charge up to 20% of the market price of the goods provided.

#### **Article 4: Intellectual property rights**

- 4.1. Unless agreed otherwise in writing, Van der Valk retains all intellectual property rights to all offers, designs submitted, illustrations, drawings, trial models, programs, etc.
- 4.2. The rights listed in Article 4.1 remain the property of Van der Valk, regardless of whether costs have been charged to the Client for their production. The relevant information may not be copied, used or shown to third parties without Van der Valk's explicit prior consent. The Client will be liable to pay Van der Valk a penalty for each instance of violation of this provision, to the amount of € 25.000,-. This penalty may be demanded in addition to any compensation damages awarded by law.
- 4.3. The Client must return all data provided as meant in Article 4.1 on demand, within the period specified by Van der Valk. If this provision is violated, the Client is liable to pay Van der Valk a penalty of € 1.000,- per day. This penalty may be demanded in addition to any compensation damages awarded by law.
- 4.4 Van der Valk reserves all of its intellectual property rights in connection with the products which it supplies. The Client shall not be permitted to modify all or part of any product supplied, or to affix any other trademark to it, to use the relevant mark in any other way, or to register it in his own name.

#### **Article 5: Advice, designs and materials**

- 5.1 The Client cannot derive any rights from advice or information provided by Van der Valk that has no direct bearing on the engagement.
- 5.2 The Client is responsible for all drawings, calculations and designs made by or on behalf of the Client, for the functional suitability of all materials prescribed by or on behalf of the Client, for all technical information and all relevant other information supplied by or on behalf of the Client.
- 5.3 The Client indemnifies Van der Valk for any claims from third parties arising in connection with the use of the drawings, calculations, designs, materials, samples, models, technical information and all relevant other information etc. provided by or on behalf of the Client.
- 5.4 At all times the Client is responsible for a final check of all material specifications provided by or on behalf of Van der Valk.
- 5.5 The Client may examine (or arrange for the examination of) the materials that Van der Valk intends to use before they are processed, at the Client's own expense. Any damages incurred by Van der Valk as a result are for the Client's expense.

#### **Article 6: Delivery**

- 6.1 The delivery time stated by Van der Valk shall under no circumstances be deemed to constitute a fatal date. Van der Valk shall not be in default in respect of such delivery time until the Client notifies it in writing that it is in default, in doing so stipulates a reasonable period of time within which Van der Valk has the opportunity to effect delivery, and the latter still fails to do so.
- 6.2 In determining delivery times, Van der Valk assumes that the engagement can be carried out under the circumstances as they are known to Van der Valk at that moment.
- 6.3 Delivery times do not commence until the relevant agreement is concluded in accordance with the provisions of Article 2, the Parties have agreed on all commercial and technical details, all necessary data, final and approved drawings, etc. are in Van der Valk's possession, the (pre)payment or instalment agreed has been received, any security for payment has been accepted and the conditions necessary for the performance of the engagement have been met.
- 6.4 a. In the event of circumstances that are different to those known to Van der Valk when the delivery times were determined, Van der Valk may extend the delivery times by the time that is required in order to perform the engagement under those circumstances.
- b. In the event of contract extras, the delivery time will be extended by the time required to supply (or arrange for the supply of) the materials and parts necessary for those contract extras and to carry out the

contract extras.

c. In the event that Van der Valk's obligations are suspended, the delivery times will be extended by the duration that the obligations are suspended.

6.5 If the time for delivery is exceeded, the Client shall not be entitled to cancel or terminate the agreement, unless the time for delivery is exceeded with more than eight weeks, without the Client being entitled to any compensation.

6.6 Van der Valk reserves the right to effect a delivery in parts. Each partial delivery shall be deemed to represent a separate agreement. Van der Valk shall be entitled to demand payment for each partial delivery before proceeding with any other.

6.7 The Client's failure to comply with his duty to effect payment (or to do so on time), shall have the effect of suspending Van der Valk's duty to effect a delivery.

6.8 Unless otherwise agreed in writing, delivery will take place 'free carrier', Ljungby, Sweden (FCA, Incoterms 2010).

### **Article 7: Force Majeure**

7.1 Van der Valk is entitled to suspend the fulfilment of any obligations if any circumstances that could not be foreseen when the agreement was concluded and that are beyond Van der Valk's influence temporarily prevent the fulfilment of those obligations.

7.2 Circumstances that Van der Valk could not foresee and that are beyond Van der Valk's influence are understood to include (but are not limited to) the circumstance that Van der Valk's own suppliers and/or subcontractors fail to meet their obligations, or fail to do so in time, the weather, earthquakes, fire, loss or theft of tools, the destruction of materials to be processed, road blocks, strikes or work stoppages and restrictions on import or trade.

7.3 Where Van der Valk has already executed part of an agreement, the Client shall pay the purchase price for any products that have been delivered.

7.4 Either party shall be entitled to terminate the agreement by notice in writing to the other party if performance of the agreement is suspended for more than six months without the Client being entitled to any compensation.

### **Article 8: Liability**

8.1 Van der Valk is liable for all damages that the Client incurs that stem directly and exclusively from a shortcoming attributable to Van der Valk. However, only those damages for which Van der Valk is insured, or should within reason have been insured, qualify for compensation.

8.2 If, when the agreement is concluded, it is impossible for Van der Valk to take out insurance as meant in Article 8.1 or impossible to do so at reasonable conditions, or if it is subsequently impossible to renew the insurance policy at reasonable conditions, the maximum compensation payable for damages is the amount that Van der Valk charged for the agreement in question (exclusive of VAT).

8.3 The following damages do not qualify for compensation:

- a. trading losses, including losses caused by delays and loss of profits. The Client should take out insurance to cover such damages, if such is deemed desirable;
- b. supervision damages, which are understood to include damages caused, during or as a result of the performance of the work, to objects on which work is being carried out to objects situated in the vicinity of the work site. The Client should take out insurance to cover such damages, if such is deemed desirable;
- c. damages caused by intent or gross negligence on the part of helpers or non-management employees of Van der Valk.
- d. unusual chemical effects on materials, including but not confined to weed control or fertilizing agents etc.;

8.4 Van der Valk is not liable for damages to materials provided by or on behalf of the Client that result from improper processing. At the Client's request, Van der Valk will repeat the process, using materials provided by the Client, at the Client's expense.

8.5 The Client indemnifies Van der Valk against all claims from third parties for product liability stemming from defects in products provided by the Client to third parties that consisted of or included products and/or materials provided by Van der Valk.

### **Article 9: Guarantee**

9.1 Van der Valk guarantees the products to be free from any construction errors or construction defects for the following periods after delivery by Van der Valk:

- Van der Valk Pitched Roof System; 10 years
- Van der Valk Flat Roof System: 10 years
- Van der Valk Field System: 10 years

9.2 If the delivery proves to have been defective, the object must be returned to Van der Valk Delivered Duty Paid, Ljungby, Sweden (DDP, Incoterms 2010). Van der Valk will then elect either:

- to repair the object;
- to replace the object;
- to credit the Client for a proportionate part of the invoice.

9.3 In all situations, the Client must allow Van der Valk the opportunity to repair any shortcomings.

9.4 The Client may only invoke guarantees after all obligations in respect of Van der Valk have been fulfilled.

9.5 a. No guarantee is given when defects are the result of:

- Van der Valk being provided by the Client with incorrect and /or incomplete information, including but not confined to information relating to the weather conditions, the stability of the base, external influences etc.;
- failure to follow the assembly and service manual correctly and/or completely and, if applicable, failing to follow the advice that Van der Valk has given regarding securing the system to constructions and/or the base;
- unusual chemical effects on materials, including but not confined to; weed control or fertilizing agents etc.;
- the use of damaged and/or defective components in the final installation;
- normal wear and tear;
- improper use;
- lack of proper maintenance;
- fitting, assembly, alterations or repairs by the Client or by third parties.

b. No guarantee is given for delivered objects that were not new when they were delivered or for objects whose use the Client prescribed or that were provided by or on behalf of the Client;

c. No guarantee is given on inspections of and/or repairs to objects belonging to the Client.

### **Article 10: Complaints**

The Client may not invoke defects in the product or service unless a written complaint has been submitted to Van der Valk within fourteen days after the defect was detected or should, within reason, have been detected.

### **Article 11: Failure to take delivery**

In the event that the Client has not taken delivery of any object after the delivery deadline has passed, those objects will remain available to the Client. Any objects of which the Client has not taken delivery will be stored for the Client's account (including costs of handling and insurance) and risk. Van der



Valk may at any time invoke the powers granted by Article 6:90 of the Dutch Civil Code.

### **Article 12: Payment**

12.1 Van der Valk shall at all times have the right to demand full or partial payment in advance. As to all other sales, payment must be made by the Client within 30 days after the relevant invoice date, unless otherwise agreed in writing.

12.2 The payment conditions specified notwithstanding, the Client is obliged, at Van der Valk's request, to provide security for payment, to the Client's satisfaction upon or after entering into the agreement and before its implementation. Failure on the Client's part to provide such security for payment within the period specified will immediately constitute default. In that event, Van der Valk is entitled to suspend or dissolve the agreement and recover any damages from the Client.

12.3 The Client's right to offset any claims on Van der Valk is excluded.

12.4 The full claim for payment is payable on demand in the following instances:

- a. if any payment deadline has been exceeded;
- b. if the Client has been declared bankrupt or requests suspension of payments;
- c. if any of the Client's assets or claims are seized;
- d. if the Client (if a company) is dissolved or wound up;
- e. if the Client (if a natural person) makes a request for judicial debt rescheduling, is placed under guardianship or dies.

12.5 If payment has not been made by the payment deadline specified, the Client shall be deemed to be in default without the need for any notice of default or judicial intervention and the Client is immediately liable to pay Van der Valk interest. That interest is payable at a rate of 12% per year, or at the statutory rate if that is higher. For the purposes of calculating the interest, partial months are counted as full months.

12.6 If payment has not been made by the payment deadline specified, the Client is immediately liable to pay Van der Valk all extrajudicial costs, to a minimum of € 75,-

The costs are calculated in accordance with the following table:

- over the first € 3.000,- 15%
- over the excess up to € 6.000,- 10%
- over the excess up to € 15.000,- 8%
- over the excess up to € 60.000,- 5%
- over the excess from € 60.000,- 3%

If the actual extrajudicial costs exceed those based on this formula, the Client is liable to pay the actual costs.

12.7 If judicial proceedings are decided in Van der Valk's favour, all costs incurred by Van der Valk in connection with those proceedings are for the Client's account.

### **Article 13: Retention of ownership and pledging**

13.1 After delivery, Van der Valk remains the owner of the objects delivered for as long as:

- a. the Client fails or will fail in the fulfilment of the (payment)obligations stemming from this agreement or any similar agreements;
- b. the Client fails or will fail to pay for any work performed or to be performed under such agreements;
- c. the Client has not paid any claims arising from non-fulfilment of those agreements, such as compensation for damages, penalties, interest and costs.

13.2 As long as any objects are subject to retention of ownership, the Client may not encumber those objects in any way that exceeds the scope of the Client's ordinary activities.



13.3 Having invoked retention of ownership, Van der Valk may retrieve the objects delivered. The Client must allow Van der Valk to enter the place where those objects are located.

13.4 If Van der Valk cannot invoke retention of ownership because the objects delivered have been subject to confusion, deformation or accession, the Client is obliged to give the newly formed objects in pledge to Van der Valk.

#### **Article 14: Cancellation**

If the Client wishes to cancel the agreement without Van der Valk having failed in the performance thereof and if Van der Valk so agrees, Van der Valk is entitled to charge the expenses, damages and lost profit.

#### **Article 15: Suspension and termination**

15.1 In the event that the Client fails to comply with his obligations pursuant to an agreement into which he has entered, or fails to do so properly or on time, if there are grounds to fear that this will occur, or in the event that the Client applies for a suspension of payments, files for bankruptcy or liquidates his business, Van der Valk shall be entitled to suspend or terminate the agreement concerned without the need to give notice of default or for judicial intervention, and it shall not have a duty to provide any form of compensation.

15.2 Any claim on the part of Van der Valk pertaining to a part of the agreement which has already been executed, or harm suffered as a result of its suspension or termination, which shall be deemed to include loss of profit, shall fall due with immediate effect.

#### **Article 16: Applicable law and competent court**

16.1 These General Terms and Conditions and any agreements entered into by Van der Valk shall be solely governed by and construed in accordance with the laws of the Netherlands.

16.2 The Vienna Sales Convention (C.I.S.G.) does not apply to these General Terms and Conditions, nor do any other international regulations whose exclusion is permitted.

16.3 Only the Dutch civil court within whose jurisdiction Van der Valk's place of business is situated is competent to pass judgment on disputes, unless Van der Valk would elect to submit the dispute to competent courts elsewhere.

16.4 The provisions of article 16.3 leave intact the right of Van der Valk to obtain a settlement by means of arbitration of the International Chamber of Commerce under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrator(s). The place of arbitration will be Amsterdam, the Netherlands. The arbitral procedure shall be conducted in the Dutch or English language.