

GENERAL TERMS AND CONDITIONS OF ACES ENERGY

Article 1 – Definitions

Terms and Conditions: These general terms and conditions.

ACES: The private company with limited liability ACES Energy BV, established and having its registered office at 7622AP Borne on the Ambachtstraat 36, registered with the Chamber of Commerce under number 62404547, as well as its affiliated parties including the private company with limited liability Novastar Electronics BV and ACES Energy SP, established and domiciled at ACES.

Customer: The natural person or legal entity to whom ACES makes an offer, makes an offer or with which ACES concludes an agreement or otherwise enters into a cooperation in the broadest sense of the word.

Agreement: The agreement between ACES and the Client for the delivery of goods and / or the provision of services, including advice and sale of batteries, chargers and other forms of electricity storage.

Article 2 – Applicability

1. The General Terms and Conditions apply to all offers and quotations from ACES and to every Agreement between ACES and Customer.
2. ACES expressly stipulates the applicability of the General Terms and Conditions for the third parties it engages in the context of the Agreement. These third parties accede to the Client independent rights under the General Terms and Conditions and they can invoke the General Terms and Conditions independently.
3. The applicability of general terms and conditions of the Customer, however named, is explicitly rejected. The General Terms and Conditions apply exclusively.
4. If one or more provisions of the General Terms and Conditions or the Agreement proves to be non-binding, for example due to cancellation or proven invalidity, the other provisions will remain in full force. In that case, the Parties will formulate a new provision or stipulations in joint consultation that, in terms of content, nature and scope, are as far as possible in line with the non-binding provision or provisions.
5. The fact that the Agreement and the General Terms and Conditions have been drawn up by or on behalf of ACES does not mean that they should be interpreted to the detriment of ACES. The contra proferentem rule explicitly does not apply.
6. ACES may decide for leniency or for the maintenance of a cooperation, in cases of (strict) enforcement of the General Terms and Conditions towards the Client. However, ACES reserves the right at any time to apply the General Terms and Conditions at any time. The leniency shown in the past with respect to the General Terms and Conditions will never be interpreted as a waiver of rights on ACES nor will such a situation of legal processing occur or will this situation in any other way interfere with the application of the General Terms and Conditions. stand.
7. Where in the General Terms and Conditions or the Agreement 'in writing' is spoken, electronic communication, such as e-mail, is also meant.

Article 3 – Validity of Quotation

1. Offers and quotations from ACES are without obligation. ACES is free to revoke or change an offer or quotation, unless it has been explicitly stipulated in writing that an offer or quotation is irrevocable for a certain period.
2. An Agreement is only concluded after it has been confirmed by ACES, or ACES has begun to execute the Agreement. Such a start of execution will also be understood to mean the situation in which ACES has already incurred costs in preparation for the execution of the Agreement.
3. Any delivery obligations on ACES are always subject to the condition precedent of the supply of the product to be delivered on the part of ACES.
4. The prices stated in an offer or quotation are, except in the case explicitly stated otherwise in writing, exclusive of shipping costs, VAT or other government levies.
5. Customer agrees that the Agreement can be concluded electronically and that the General Terms and Conditions can be made available digitally. Furthermore, the Customer agrees that any communication can take place via electronic means of communication.
6. If after the conclusion of an Agreement an increase occurs in wages, raw material prices, transport costs, exchange rates, insurance premiums, government levies or other cost-determining factors, ACES is entitled to pass on this cost price increase to the Client.
7. If an Agreement is concluded with more than one Customer, all parties to the Agreement shall be jointly and severally liable for the fulfillment of all obligations as arising from the Agreement.

Article 4 – Execution of the Agreement

1. ACES endeavors to execute the Agreement to the best of its ability and ability. Insofar as a (delivery) term is agreed within the framework of the Agreement, the parties are aware that ACES is partly dependent on its suppliers for this period. Agreed delivery terms therefore apply - except if expressly agreed otherwise in writing - by approximation.
2. Minor deviations in quality, quantity, weight, dimensions, color, design, texture or other characteristics of the delivered goods are accepted by the Customer. The Customer can not invoke such minor deviations towards ACES.
3. Examples, samples, samples, brochures, catalogs or other (product) information provided by or on behalf of ACES are provided for illustration and, with due observance of the previous paragraph, offer no guarantee with regard to the exact characteristics of the product delivered by ACES.
4. Insofar as ACES takes care of shipping or transport of goods under the Agreement, the transfer of risk will take place at the moment that the goods are actually transferred to the carrier. Delivery shall be made in so far as 'Ex Works' within the meaning of the Incoterms 2010. All this except where the parties expressly agree otherwise in writing.
5. ACES is free to use third parties in the execution of the Agreement.
6. Insofar as Customer is of the opinion that ACES fails to comply with any obligation arising from the Agreement, Customer shall give ACES timely notice by registered letter. In the notice of default, the Customer will explain in a motivated manner the alleged shortcoming on ACES and the desired recovery. In addition, the Customer will provide ACES with a reasonable term, but never less than 14 days, in the notice of default to proceed with the repair.
7. The Client will - on request and on its own initiative - timely provide ACES with all necessary information that it can reasonably foresee that this information is required for the proper performance of the Agreement.

Article 5 – Reservation of ownership

1. Goods delivered by ACES remain the property of ACES until the moment that the Client has fully complied with its (payment) obligations towards ACES under an Agreement, including any claims on ACES arising from an attributable shortcoming in the fulfillment by Customer .
2. The Customer undertakes to properly take out and keep insured the goods delivered in accordance with the retention of title or otherwise to ACES against fire, explosion and water damage as well as against theft and vandalism. At the first request, the customer will send ACES in copy the relevant policy conditions. In addition, the Client guarantees that the goods delivered by ACES will be stored and stored individually for as long as there is a retention of title.
3. If the Client is in any way in default with regard to its obligations towards ACES, ACES is entitled to immediately claim the goods delivered under retention of title. In that case, the Customer will fully cooperate and allow ACES to (re) receive the items delivered under retention of title in (immediate) possession. In that case, ACES will provide ACES with access to the premises, rooms or areas where the goods delivered under retention of title are stored.
4. Customer is not entitled to alienate, pledge or otherwise encumber the goods delivered under retention of title with limited rights or claims by third parties as long as the retention of title rests on those goods. Nor is the Client entitled as long as the retention of title on the goods delivered rests or processes the goods in such a way that a new item must be deemed to have arisen. If the Customer (partly) forms a case from goods that are subject to a retention of title by ACES, the Customer will be deemed to have formed the business for ACES, after which it will have held the case for ACES.
5. The Customer shall immediately inform ACES orally or by telephone of any circumstance which may be relevant to ACES 'appeal to the retention of title as determined in the present article. Customer will subsequently confirm this report in writing. Under relevant circumstances will in any case be understood a bankruptcy, suspension of payment or ground seizures at the expense of the Customer or of the person on whose property the goods delivered under retention of title are stored.

Article 6 – Complaints

1. Customer will check goods delivered by ACES including packaging as soon as possible for visible defects, damage or other imperfections. Customer will make an adequate research effort within a week after delivery to ensure that the delivered goods have no defects that are visible or that would have been known with reasonable research effort.
2. The Client shall notify ACES in writing within no more than a week after it detects a defect, damage or other defects in the delivered goods and at all times within two weeks of delivery, in writing, on penalty of lapse of any right on performance, compensation or other claims.
3. ACES will deal with timely submitted advertising. If there is a significant defect, damage or other defect that can be attributed to ACES and the Client is also successful in the remainder, ACES will arrange for free repair.

Article 7 – Chargeability and Payment

1. The customer must have fully paid ACES's invoice within seven days of the invoice date. This payment term expressly counts as a deadline, as a result of which the Customer is in default by operation of law - and thus without further notice of default. From the date of commencement of default, the customer owes a contractual interest of 1.2% per month - including a part of a month - over the amount owed.
2. Only payments to ACES on the bank account number indicated by ACES will have a liberating effect.

3. Payments by or on behalf of the Customer shall first serve to settle the interest owed, then to pay the additional costs due, including extrajudicial (collection) costs and finally to settle the principal sum.
4. If the Client fails to fulfill its (payment) obligations towards ACES, ACES is entitled to charge the extrajudicial collection costs. In that case, the parties will determine the extrajudicial (collection) costs owed by the Customer at 15% of the principal sum with a minimum of € 500.00, without prejudice to the right of ACES to claim the actual costs instead.
5. If the Client is in default regarding the fulfillment of one or more obligations towards ACES, all claims of ACES on the Customer will become immediately due and payable.
6. If the Client becomes in default, or threatens to get ACES ready grounds for the Customer's compliance with its obligations, ACES is entitled to suspend its obligations towards the Customer pending further security by or on behalf of the Client. .
7. The Client is not entitled to set off any performance owed by ACES (alleged) with a performance owed by the Customer. Nor is the Client entitled to suspend any obligation on its part towards ACES pending ACES (alleged) due performance.

Article 8 – Liability

1. ACES will exert itself to the best of its knowledge and ability to properly execute its obligations. The customer accepts in accordance with art. 4 paragraphs 2 and 3 minor deviations from the goods delivered by ACES.
2. ACES is not liable for damage resulting from or related to the injudicious use of goods delivered by or on behalf of ACES, nor is ACES liable for damage resulting from or related to the incorrect, incomplete or otherwise improper follow-up or application of advice provided by or on behalf of ACES. Neither is ACES liable for damage arising from or related to incorrect, incomplete, not timely or otherwise improper provision of information as referred to in art. 4 paragraph 7.
3. ACES is only liable for the direct damage suffered by the Client or a third party associated with it as a result of an attributable shortcoming in the performance, an unlawful act or other liability basis on ACES. ACES is therefore never liable for indirect damage, including trading loss, lost income or other consequential damages. The foregoing is only different if the damage is the result of intent or gross negligence on the part of ACES.
4. Without prejudice to the previous paragraph, the liability of ACES is at all times limited to the amount that is actually paid out under an insurance policy. In the absence of such insurance or payment, the liability of ACES will at all times be limited to a maximum of the invoice amount excluding VAT and other government levies.
5. Without prejudice to the provisions in art. 6 Customer must inform ACES of this at the latest within four weeks after it became known or reasonably should have known about the damage for which it considers ACES liable, on the penalty of lapse of any right to compensation, performance. , recovery or other claims.
6. Claim rights and other powers on the part of ACES towards ACES, for whatever reason, will in any case lapse, insofar as this was not already the case, by one year after the conclusion of the Agreement.

Article 9 – Force Majeure

1. ACES is not liable for damage resulting from force majeure.
2. Force majeure also means, in addition to the meaning attached to it by law and jurisprudence, the situation in which ACES is confronted with a cancellation, non-timely performance or other failure of a third party or supplier / supplier engaged with the Agreement. regarding the goods or services to be delivered by or on behalf of that third party for the purpose of the execution of the Agreement.

In particular, there will be a situation of force majeure if ACES is confronted with unexpectedly longer delivery times for raw materials, products or other material for the implementation of the Agreement.

3. ACES will inform the Client as soon as possible of a force majeure situation, after which a new date for the execution of the Agreement will be determined in mutual consultation as soon as possible.
4. If the situation of force majeure that prevents fulfillment by ACES is likely to last longer than three months, ACES shall be entitled to terminate the agreement prematurely, without the damage resulting from this interim termination being eligible for reimbursement by ACES. In that case, the Customer will only be obliged to pay the already performed performances as well as the reasonably incurred costs.

Article 10 – Intellectual and industrial property

1. ACES expressly reserves the intellectual and industrial property on the products, designs, sketches, motifs, (color) schemes, themes or any other product produced by or on behalf of it that is (partly) the consequence of creative choices by or on behalf of ACES.
2. Goods delivered by or on behalf of ACES within the framework of the Agreement are exclusively intended to be used by the Customer and may not be reproduced, made public or otherwise made available to third parties by the Customer in any way other than in the manner as the contract is foreseen.
3. Insofar as Customer makes goods available within the framework of the Agreement, Customer guarantees that no rights of third parties are thus violated. The Customer shall indemnify ACES against claims by third parties due to an (alleged) infringement of their rights as a result of the goods made available.

Article 11 – Confidentiality

1. The parties shall observe strict confidentiality with regard to confidential data. Information is considered to be confidential if this is indicated or can reasonably be expected to result from the nature or content of the data.
2. The parties undertake mutually to comply with the relevant data protection laws and regulations, including in any case the General Data Protection Regulation. In particular, the parties will base the processing of personal data on legitimate bases, limit to what is necessary in view of the purpose for which the personal data are processed and the parties will take technical and organizational measures to ensure an adequate level of security with regard to the personal data. .
3. Insofar as Customer provides Personal data to ACES within the framework of the Agreement, Customer guarantees that ACES can lawfully process this personal data in the context of the execution of the Agreement and any other purposes for which this personal data is provided. The Client indemnifies ACES against any claims relating to the processing of their personal data by or on behalf of ACES insofar as this information has been provided to ACES by or on behalf of the Client.

Article 12 – Penalty clause

In the event of violation or non-fulfillment by Customer of one or more obligations arising from or related to the General Terms and Conditions or the Agreement, including in particular, but not exclusively, the obligations in Art. 4, 10 and 11 of the General Terms and Conditions, the Customer shall forfeit an immediately due and payable fine for each violation or non-compliance amounting to € 5,000.00 with an amount of € 500.00 per day, including a part of a day, that the violation or non-compliance continues. The above is without prejudice to the power on ACES to claim compensation for the damage actually suffered.

Article 13 – Applicable law and choice of forum

1. Only Dutch law applies to the legal relationship between ACES and Customer. The Overijssel District Court, location Almelo is exclusively authorized to take cognizance of any dispute arising or arising from the legal relationship between ACES and Customer.
2. If a provision of the General Terms and Conditions is in direct conflict with an express provision in the Agreement, that which is explicitly stipulated in the Agreement shall take precedence.
3. The title above the individual articles in the General Terms and Conditions only serves the ease of reading and the clarity. The parties can derive no rights or legitimate expectations from these titles.