

hb Solar International Inc. Standard Terms and Conditions

This order and acknowledgement, and future orders from hb Solar International Inc., (hb Solar) are subject to the following terms and conditions (the "Agreement"). By accepting this Agreement the customer agrees to be bound thereby. If the terms of this Agreement contradict the terms of any purchase order or order acknowledgement, the terms of this Agreement will take precedence.

1. Pricing. Prices subject to change based on material cost at time of order. Unless otherwise stated in this Agreement, pricing will be as stated on the Sales order form. All sales are final. Special order, custom built and non-stock items are noncancelable and nonrefundable.
2. Payment Terms. Customer will pay hb Solar per the invoice terms, unless otherwise agreed to in writing signed by hb Solar
3. Past Due Accounts. Past Due Accounts are subject to a monthly interest charge of 1.5% (18% annual interest rate) for the invoice amount (subject to applicable law). All finance charges for overdue payments will be assessed on Customer's monthly statements and shall be due upon receipt. In no event shall the terms of this order/acknowledgement require payment in excess of the maximum amount permitted by law.
4. Orders. All orders must be in a writing which includes a purchase order number and must be received by Seller by mail, courier, or email. Seller reserves the right to refuse any order based on an error in price or quotation. Modification of any order must be confirmed in writing. Seller takes exception to and hereby objects to all hold harmless and indemnity provisions, either express or implied, set forth in Buyer's order that seek to impose liability on Seller.
- 5a. Taxes. Prices do not include tax. Taxes will be added, in all cases, unless an exemption certificate is on file with the Seller. Customer agrees to pay any taxes which are paid or payable, or assessed in connection with this order.
- 5b. Shipment Terms. Delivery or ship dates are not guaranteed and delinquency in delivery will not constitute grounds for charge back, setoff, or other damages or claims of damages against Seller unless specified delivery or ship dates are requested by Buyer and expressly agreed to in writing by Seller. Unless otherwise stated in this Agreement or as agreed upon in writing by hb Solar, all shipments are F.O.B. from hb Solar or plants, warehouses from which material is shipped unless arranged in writing in the purchase order.
6. Packing and Shipping. hb Solar will pack and ship products delivered hereunder in accordance with its general practice unless specific instructions are supplied by Customer. Any additional costs incurred by hb Solar as a result of special packaging and/or shipping requests will be paid by entirely by Customer.
7. Shortages. All claims for shortage or allowances must be made in writing on date of delivery.
8. Purchase Money Security Interest. hb Solar or its assigns shall have purchase money security interest in the products purchased hereunder until all charges including installation and/or service charges, if any, are paid in full. Customer agrees to convey power of attorney to hb Solar for the sole purpose of execution of documents necessary to perfect the Purchase Money Security Interest. Further, Customer agrees to execute and deliver, so that hb Solar may file or record any documents reasonably requested by hb Solar for the purpose of protecting and/or perfecting said security interest.
9. Title and risk of loss shall pass to Customer upon delivery by freight carrier.
10. Warranty. Warranty details and documents available upon request from hb Solar International.
11. Restocking. For any returned, undamaged products or cancelled purchase orders on standard parts there will be a 20% restocking charge. Damaged product may not be returned. Specialized Product Orders. If hb Solar quotation is premised on products to be custom designed and produced for special application, the quoted price is applicable unless the specifications are changed by the Customer. Such changes in specifications must be agreed to in writing by hb Solar prior to acceptance. If changes in fabrication or design are required by reason of incorrect information furnished, or deviation from prints or other information submitted by Customer, its representatives or agents, the cost of such changes shall be at Customer's expense and shall be added to the quoted price. If the specification, as modified, cannot be met by hb Solar, hb Solar may, at its option, terminate the order subject only to Customer's obligation to reimburse hb Solar for its list price plus 20%.
12. Remedies for Breach of Payment Terms. In the event Customer fails to fulfill the terms of payment or if hb Solar shall have any doubt at any time as to Customer's financial responsibility, hb Solar may decline to make any further deliveries except upon receipt of payment in cash or other security satisfactory to hb Solar. In addition, hb Solar shall have all rights and remedies at law or equity available under Canadian law to collect any unpaid amounts owed by Customer. Customer hereby agrees to indemnify and hold harmless hb Solar and its affiliated companies against any claims, losses, damages, or expenses arising from a refusal to make deliveries resulting from Customer's failure to pay described herein.
13. Advertising Policy. Customer is authorized to advertise its relationship with hb Solar and Customer is encouraged to use hb Solar's products in its advertising. However, hb Solar retains the right to revoke the consent granted in this section at its sole discretion with or without cause.
14. Force Majeure. Neither hb Solar nor its affiliates shall be liable in any way for delays, failures in performance, loss or damages due to any of the following force majeure conditions: fire, strike, embargo, explosion, power blackout, earthquake, volcanic action, flood, war, water, the elements, labor disputes, civil disturbance, government requirement, civil or military authority, acts of God, public enemy, inability to secure products, transportation, facilities, acts of omission of carriers or other causes beyond its reasonable control whether or not similar to the foregoing.
13. Confidential Information. The parties may obtain information about each other that is considered confidential. "Confidential Information" includes all non-public information regarding hb Solar or Customer, such as technical data, product design and development, sales information, quantity and kind of products sold, prices and methods of pricing, marketing techniques and plans, product returns, unannounced products, product and process information, and any other information that, if disclosed to others, might be competitively detrimental to the disclosing party. Confidential Information does not include any information that has been publicly disseminated in writing by the disclosing party, any information that the other party can show it knew before the disclosing party's disclosure, or any information that was rightfully received by the other party from a third party without restriction.
14. Non-Disclosure. Each party will maintain the other party's Confidential Information in strictest confidence, may not disclose it to any third party, and may use it only as necessary to perform under this Agreement. The parties will cause their officers, directors, employees, and agents to abide by the terms of this Section, and will be responsible for any wrongful disclosure and use by any of them.
15. General Indemnification. Customer will defend and indemnify hb Solar, directors, employees and contractors (collectively "Indemnitees") against any claim or action brought by a third party against an Indemnitee arising from (a) an allegation of Customer's negligence or willful misconduct, or (b) Customer's failure to comply with the requirements of this Agreement.
16. Good Faith Negotiation. The parties will first attempt to resolve any dispute relating to this Agreement through good faith informal negotiation.
17. Arbitration. Any action to enforce or interpret this Agreement shall be settled by arbitration in accordance with the rules of JAMS. Any party may commence arbitration by sending a written demand for arbitration to the other party. Such demand shall set forth the nature of the matter to be resolved by arbitration. The parties shall share equally in the initial costs of arbitration. The prevailing party shall be entitled to reimbursement of attorney's fees, costs, and reasonable expenses incurred in connection with the arbitration. All decisions of the arbitrator shall be final, binding, and conclusive on all parties. Judgment may be entered upon any such decision in accordance with applicable law in any court having jurisdiction thereof.
18. Governing Law. Any dispute arising out of this Agreement shall be subject to the laws of the Province of Ontario. Venue for any action filed to enforce this Agreement shall be Concord, Ontario
19. No Assignment. Neither party may assign this order, or any portion thereof, without the written consent of the other.
20. Entire Understanding of the Parties. This Agreement, together with the Exhibits and the Documents incorporated by reference, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous agreements, representations, promises or inducements, written or oral, regarding its subject matter. No failure or delay in exercising any right is a waiver of that right. All notices and other communications must be delivered to the addresses designated on the first page of this Agreement.