

General Terms and Conditions of JA Solar GmbH

Clause 1 – General, validity

(1) This part of the General Terms and Conditions (hereinafter referred to as the “**General Terms and Conditions**”) applies to all business relations between JA Solar GmbH, Lyonel-Feininger-Str. 28, 80807 Munich, Germany, Commercial Register: Munich Local Court, HRB 190378, Unique Identification Number (UIN) for France EN022652_05NSIY (hereinafter referred to as “**us**” or “**we**”)

and

our contractual partners (hereinafter referred to as “**Customers**”) if the customer is a business entity as defined in Section 14 of the German Civil Code (BGB), a legal entity under public law or a special fund under public law.

(2) These General Terms and Conditions shall especially but not only apply to the sale and/or supply of photovoltaic installation-modules and other movable items (hereinafter referred to as “**Products**”).

(3) Our General Terms and Conditions, as amended, shall also apply as a framework agreement for all future contracts for the supply of products with the same customer, without any need for us to point this out again in every individual case; Any amendments to these General Terms and Conditions shall be notified to the customer in writing and shall be deemed to have been accepted if the customer does not object to the amendment in writing. The customer shall be informed about this consequence when the amendment is notified. The customer must file any objection to the amendment in writing within six weeks after the notification of the amendment.

(4) Our General Terms and Conditions shall apply exclusively. Any deviating, conflicting or supplementary general terms and conditions of the customer shall not become an element of the contract, even if we are aware of them and do not explicitly object to their validity in individual cases, unless their validity is explicitly agreed in writing. Silence shall not be construed as approval. This shall also apply even if we carry out the delivery or other performance without reservation in the knowledge of the customer's different terms and conditions.

(5) Individual agreements made with the customer in individual cases (including but not limited to supplementary agreements, additions and changes) shall always take priority over these General Terms and Conditions. The content of any such agreements shall be determined by a written contract or our written confirmation.

(6) Legally significant declarations and notifications which must be made to us by the customer after the conclusion of the contract (e.g. setting of deadlines, notification of defects, declarations of revocation or price reduction) must be made in writing in order to be effective.

(7) Statements about the validity of statutory provisions are only included for the

sake of clarification. Therefore, the statutory provisions apply even without such clarification unless they are directly changed or explicitly excluded in these General Terms and Conditions.

Clause 2 – Offers and conclusion of contract, confidentiality

(1) All of our offers are subject to change and non-binding unless they are explicitly stated to be binding.

(2) By placing orders, the customer makes a binding declaration that it wishes to purchase the products ordered. We shall be entitled to accept the offer of contract which is contained in the order within two (2) weeks after we receive it. Acceptance may be declared in writing, in text format, in electronic form or by the delivery of the products to the customer.

(3) The scope of the contractually required performance shall be defined by our order confirmation, if one is issued, including but not limited to these General Terms and Conditions. Commitments by word of mouth or agreements before the order confirmation are not binding and shall be replaced by the order confirmation unless they explicitly indicate that they are binding. This shall not prejudice the provisions of Clause 1 (5) of the General Terms and Conditions.

(4) Any details, drawings, illustrations, technical data and descriptions of weight, dimensions and performance which are contained in brochures, catalogues, circular letters, advertisements, price lists or documents which belong to the offer shall be deemed to be non-binding and purely informative in character unless they are explicitly declared to be binding. They do not constitute any guarantee of special characteristics or durability of the products supplied by us or the services rendered by us. Samples and prototypes therefore only serve as objects for illustration with average quality features, dimensions and colours. Normal commercial variances, especially but not only variances which are within the tolerance limits of the EN or DIN standards, and also variances which arise from legal provisions or which represent technical improvements, are permissible to a reasonable extent insofar as they do not impair the usability of the product for the contractually intended purpose.

(5) We reserve the right to make changes in the design, the choice of materials, the specifications and the construction type, even after sending the order confirmation and without prior announcement, if these changes do not contradict the order confirmation or the customer's specifications or if the subject of the contract and its exterior appearance do not suffer any loss of quality or any other unreasonable alteration as a result of the changes.

(6) We reserve our unlimited ownership, copyright and industrial property rights in all cost quotations, illustrations, drawings, designs, structural plans, tools and other documents (“**Documents**”). The customer is only permitted to use them within the

framework of the contractual purpose. Every use for other purposes, especially but not limited to reproduction, distribution, publication, imitation, processing, alteration, transmission to third parties or any other commercial use by the customer is not permitted. If the order is not awarded, the documents must be returned to us without delay on demand.

(7) If any illustrations, calculations, drawings, designs, structural plans, samples, prototypes or other documents and items are supplied by the customer, the customer shall be liable to us for ensuring that the use of these documents and items does not violate any industrial property rights, especially but not limited to patents, designs, copyright or other rights of third parties. The customer shall indemnify us against any claims of third parties for such violations of rights.

Clause 3 – Delivery periods and deadlines, delay

(1) The delivery periods and deadlines shall be individually agreed or stated by us when we accept the order. If this is not the case, the period for our performance shall be approx. twelve (12) weeks from the conclusion of contract. If dispatch has been agreed, the delivery periods and deadlines shall apply to the time when the consignment is handed over to the haulage contractor, carrier or other third party commissioned with the transport.

(2) Delivery periods and deadlines shall only be binding if they have been explicitly agreed as binding in the contract. In the event of later additional or supplementary agreements, the delivery periods and deadlines shall be extended or moved accordingly.

(3) Unless there is any agreement to the contrary, the customer shall call for the delivery of the ordered products at the latest five (5) days after the order. If the delivery is not called for in time and an extension period set by us is also not met, we shall be entitled to revoke the contract and demand compensation.

(4) We shall not be responsible for delays in supply and performance resulting from force majeure or other unforeseen events for which we are not to blame (e.g. operational breakdowns, strikes, defects in transport resources, action by public authorities or difficulties in procuring materials or the energy supply), even if these difficulties affect our suppliers and even if there is an agreed binding delivery date. In such cases we shall be entitled either to extend the delivery date or the fulfilment of the performance by the duration of the hindrance or to revoke the contract. Claims for compensation are excluded in cases of force majeure and other unavoidable events for which we are not to blame.

(5) If we are in default with a delivery, the customer shall set a reasonable extension period of at least 20 working days. Otherwise, the customer may demand flat rate compensation for the damage or loss caused by the delay. The flat rate

compensation amounts to 0.5% of the net delivery value for each full calendar week of the delay, but not exceeding a maximum of 5% of the net delivery value of the products delivered late. We reserve the right to prove that the customer has not suffered any damage or loss, or that any damage or loss suffered was significantly lower than the above flat rate.

(6) Over and above Clause 3 (5) we shall only be liable for delayed delivery as follows:

a) Under the statutory provisions insofar as the underlying purchase contract is a firm deal within the meaning of Section 286 (2) 2 No. 4 of the German Civil Code (BGB) or Section 376 of the German Commercial Code (HGB). We shall be liable under the statutory provisions insofar as the customer is entitled to claim that it has lost interest in the agreed fulfilment of the contract as a result of a delay in delivery for which we are responsible.

b) We shall also be liable under the statutory provisions insofar as the delayed delivery results from any wilful or grossly negligent violation of the contract for which we are responsible; in this respect, we shall be deemed responsible for any fault by our representatives or vicarious agents. If the delayed delivery results from any grossly negligent violation of the contract for which we are responsible, our compensation liability shall be limited to the foreseeable damage which typically occurs.

c) Insofar as the delayed delivery for which we are responsible results from a culpable violation of a major contractual obligation; in this case, however, the liability for compensation shall be limited to the foreseeable damage which typically occurs.

(7) If our delivery is delayed, the customer shall only be entitled to revoke the contract if we are responsible for the delay and if a reasonable extension period for the delivery which is set by the customer has expired without any delivery being made.

Clause 4 – Partial performance

We shall be entitled to render and invoice partial deliveries and partial performance insofar as the customer can reasonably be expected to accept this.

Clause 5 – Prices, payment terms

(1) If no other arrangement is explicitly agreed in individual cases, our current prices according to our price list as applicable at the time of the conclusion of contract shall apply.

(2) The prices for deliveries of our products are understood to be ex warehouse in euros, subject to the applicable statutory VAT. The actually incurred packaging, shipping and transport costs of the delivery shall be invoiced separately and paid by the customer. Any customs duties, fees, taxes and other public charges, shall be paid by the customer.

(3) Invoice amounts must be paid without any deduction within fourteen (14) days from the date of the invoice and the delivery or performance unless any other arrangement is agreed in writing. The date of the payment shall be deemed to be the date when the amount is received by us. When the above payment period expires, the customer shall be deemed to be in arrears.

(4) If the customer is in arrears with a payment, we shall be entitled to charge the customer a reasonable fee of EUR 5.00 for every payment reminder unless the customer proves that the actual costs incurred are lower. If the payment date is not met or if payment is deferred, we shall be entitled to demand default interest or deferral interest of 8 percentage points per year above the applicable base rate, but no less than 8 per cent. We explicitly reserve the right to prove and claim any higher damage or loss as a result of the delay. In dealings with business enterprises, this shall not prejudice our entitlement to commercial default interest (Section 353 of the German Commercial Code/HGB).

(5) If the customer falls into arrears of payment we shall be entitled, without prejudice to further claims and rights, to terminate any existing payment deferral agreement without notice and to declare that all outstanding amounts are due for immediate payment.

(6) The customer shall only be entitled to claim a set-off if its counter-claim is undisputed, has been awarded by an unappealable ruling or has been accepted by us.

(7) The customer shall only be entitled to assert a right of retention if the customer's counter-claim is based on the same contract and is undisputed, has been awarded by an unappealable ruling or has been accepted by us.

(8) If it becomes apparent to us after the conclusion of the contract that our entitlement to the purchase price or remuneration is endangered by the customer's lack of solvency, we shall be entitled to insist that any outstanding performance can only be provided in return for prepayment or security. If the prepayments or security have not been provided even after the expiry of an appropriate extension period set by us, we shall be entitled to revoke individual contracts or all affected contracts in whole or in part. This shall not prejudice our entitlement to assert further rights.

(9) We shall be entitled to assign our claims under the business relationship to third parties.

Clause 6 - Delivery, transfer of risk, default in acceptance

(1) Unless any contrary arrangement is agreed in individual cases, deliveries shall be ex warehouse, which shall also be deemed to be the place of fulfilment. If the delivery is made at a different place on demand by the customer, this shall be at the risk and cost of the customer. The customer must inform us in good time and in writing

of any instructions about the method of shipment. These instructions shall only be binding for us if we confirm them in text format.

(2) In delivery ex warehouse, the risk of accidental destruction and deterioration of the products shall be transferred to the customer as soon as the product is placed at the disposal of the customer. Otherwise, the risk of accidental destruction and deterioration of the goods product shall be transferred to the customer when the product is handed over, or in the event of purchase by dispatch, when the products are handed over to the haulage contractor, carrier or other person or institution commissioned with the dispatch. This shall also apply if partial performance is rendered, if freight free delivery is agreed or if we have undertaken additional services, such as the transport. Unless any contrary provision is agreed, we shall be entitled to decide on the shipment method (especially but not only the transport company, forwarding route, packaging).

(3) Any default in acceptance by the customer shall be subject to the statutory provisions. If the customer is in default in acceptance or violates its other obligations to cooperate with us, we shall be entitled without prejudice to our other rights to store the products appropriately at the risk and cost of the customer, or to revoke the contract or demand compensation under the statutory provisions, especially but not only after an extension period set by us has expired without the violation being remedied. We reserve the right to assert further claims or rights.

Clause 7 - Limitation of liability, compensation

(1) Claims of the customer for compensation and reimbursement, on whatever legal grounds, are excluded. In all cases this shall not prejudice the special statutory provisions for a delivery of products to a private consumer as the end customer (recourse against suppliers under Sections 478 and 479 of the German Civil Code/BGB).

(2) The exclusion of liability under the above Clause 7 (1) shall not apply in the following cases:

- a) Liability under the Product Liability Act;
- b) Wilful intent or gross negligence;
- c) Wrongful loss of life, physical injury or harm to health;
- d) Breach of major contractual obligations, i.e. obligations which are essential for the proper implementation of the contract and for which the client always trusts and is entitled to trust that they will be fulfilled. However, liability for a breach of major contractual obligations shall be limited providing compensation for typical foreseeable damage or loss, unless we are liable on the basis of wilful action, gross negligence, loss of life, physical injury, harm to health or under the Product Liability Act.

(3) Insofar as our liability is excluded or limited under the above provisions, this shall also apply to any applicable personal liability of our staff, our vicarious agents and our legal representatives.

(4) In the event of any liability for simple negligence, our compensation obligation for property damage and any resulting additional financial loss shall be limited to the cover provided by our applicable liability insurance, even if the liability involves a breach of major contractual obligations. The insured sum per damaging event amounts to EUR 1,000,000 (one million) as lump sum cover for harm to persons and other damage or loss (property damage and consequential loss).

(5) The customer shall be obliged to take appropriate measures to prevent and reduce any damage or loss.

Clause 8 - Characteristics, claims as to defects, duty of examination and notification of complaints

(1) We guarantee that the characteristics of our products correspond to the enclosed product information. Insofar as no other arrangement is contractually agreed, we are only obliged to provide products which are suitable for normal use, have characteristics which are customary in products of the same type and which the customer is entitled to expect in view of the type of product.

(2) Any agreement on characteristics which deviates from these terms and conditions, or the provision of any guarantee, shall require a written confirmation by JA Solar in order to be effective.

(3) Any claims of the customer arising from defects are on the assumption that the customer has met its statutory inspection and complaint obligations (Sections 377 and 381 of the German Commercial Code/HGB). Any visible defects (including but not limited to wrong delivery or a shortfall in the delivered quantity) shall be notified to us in writing without delay, at the latest seven days after the delivery of the products. Hidden defects shall be notified to us in writing without delay, at the latest seven days after they are discovered. If the customer neglects to carry out a proper inspection, our liability for the defect which has not been notified is excluded.

(4) In every complaint for defects, we shall be entitled to inspect and test the product which the complaint applies to.

(5) If there is a defect in the supplied product, we shall be entitled at our own discretion to provide subsequent fulfilment by remediating the defect or supplying a new defect-free product. We shall be entitled to make the required subsequent fulfilment dependent on whether the customer is in arrears of payment.

(6) The customer shall give us the necessary time and opportunity for the required subsequent fulfilment, and especially but not only hand over the defective product to us for testing. In the event of a replacement delivery, the customer must hand over

the defective product to us in accordance with the statutory provisions. Subsequent fulfilment shall include neither the removal of the defective product nor its reinstallation if we were not originally obliged to install it.

(7) Any claims of the customer in relation to the necessary expenditure for the subsequent fulfilment, especially costs of transport, travel, labour and materials, shall be excluded insofar as the expenditure increases because the product has subsequently been moved to a place other than the customer's premises, unless the movement corresponds to the designated use of the product. However, if the customer's demand for remediation of defects is found to be unjustified, we shall be entitled to demand reimbursement of the resulting costs from the customer.

(8) The subsequent fulfilment which we are obliged to carry out shall be deemed to have failed after the third unsuccessful attempt. If the subsequent fulfilment fails, if the customer cannot be reasonably expected to accept it or if we have refused it according to the statutory provisions, the rights of the customer shall be based on the statutory provisions taking into account Clause 7 (limitation of liability, compensation).

(9) Claims for defects shall not apply in the event of merely minor deviations from the agreed characteristics, minor impairment of usability, natural wear and tear or any damage which arises after the transfer of risk as a result of incorrect or negligent treatment, excessive strain, unsuitable subsoil, special exterior factors not foreseen under the contract or any software errors which cannot be reproduced. If any incorrect changes or maintenance work are carried out by the customer or any third parties, there shall also not be any entitlement to claims for defects for this work or the resulting consequences.

(10) Any rights of recourse of the purchaser against us pursuant to Section 478 of the German Civil Code (BGB) shall only exist insofar as the customer has not made any agreements with its end customer which go beyond the statutory claims for defects.

Clause 9 – Limited warranty

The performance of the JA Solar photovoltaic solar modules is warranted under the terms of our limited warranty for the products and their peak performance. Exact details can be seen in the enclosed Limited Warranty statement.

Clause 10 – Retention of title

(1) We reserve ownership of the products sold until all outstanding amounts arising from the business relationship with the customer - even amounts which arise in the future - have been paid in full. This shall also apply even if payments for specific products designated by the customer have been made.

(2) The products which are subject to our reservation of ownership (**“Reserved**

Products”) may not be pledged to third parties, assigned as security or encumbered with rights of third parties in any other way before the secured outstanding amounts have been paid in full.

(3) The customer shall be obliged to notify us without delay in writing of any third party action against the reserved products, especially but not only seizure, any other impairment of our security rights by third parties and any damage or destruction of the products. It shall provide us with all necessary information to enable us to intervene, and to provide us with the necessary documents. Irrespective of this obligation, the customer shall be obliged to inform the third parties and any enforcement bodies in advance about our ownership. If the third party is not able to reimburse us for the resulting court and out-of-court costs of any action, the customer shall be liable for any loss which we incur.

(4) In the event of any breach of contract by the customer, especially but not only arrears of payment or any violation of an obligation under sub-sections 2 and 3 of this provision, we shall be entitled to revoke the contract and take back the products. We shall be entitled to inspect the reserved products which are under our ownership at any time in the place where they are located. If we exercise our right to claim the surrender of the products after revoking the contract, the customer herewith irrevocably permits us in advance to take possession of the reserved products which are subject to our ownership, and to this end to enter the place where the reserved products are located. If we take back the reserved goods, this shall constitute a revocation of the contract - without prejudice to the enforcement of any claims for compensation. After taking back the reserved products we shall be entitled to resell them; the revenue from the resale shall be offset against the amounts owed by the customer - after the deduction of the reasonable costs of the resale.

(5) The customer shall be entitled to resell the reserved products in the framework of its normal business operations; however, this entitlement shall lapse if the customer falls into arrears of payment. The customer assigns to us in advance any accounts receivable from its customers, up to the amount of our outstanding claims. The customer shall be entitled to collect these accounts receivable even after the assignment. However, we undertake not to collect the accounts receivable as long as the customer meets its payment obligations from the revenue received, does not fall into arrears with payments, and especially as long as no application has been made for the institution of insolvency proceedings or comparable domestic or foreign (debt clearing) proceedings, and no cessation of payments has taken place. But if this is the case, we shall be entitled to demand that the customer discloses the assigned claims and debtors to us, provides all information necessary for collection, hands over the necessary documents and informs the debtors (third parties) of the assignment. The customer shall be obliged to reserve ownership in relation to its end customers until full payment has been made. The customer undertakes not to assign

to any third parties its accounts receivable from the resale of the reserved products, not to assert any objections arising from any existing prohibition of assignment in relation to us and not to agree any prohibition of assignment with the third party debtor.

(6) Any processing or alteration of the reserved products by the customer shall be deemed to be on our behalf as the manufacturer. If the reserved products are processed together with other products which do not belong to us, we shall acquire co-ownership of the new goods in proportion to the value of the reserved products (final invoice amount, including VAT) in relation to the other processed items at the time of the processing. The resulting co-ownership rights shall be subject to sub-sections 1, 4 and 5 accordingly.

(7) If the reserved products are inseparably mingled with other products which do not belong to us, we shall acquire co-ownership of the new goods in proportion to the value of the reserved products (final invoice amount, including VAT) in relation to the other mingled objects at the time of the mingling. If the mingling is carried out in such a way that the goods of the customer or a third party must be regarded as the main element, it is deemed to be agreed that the customer shall transfer proportional co-ownership to us. The customer shall store the resulting sole property or co-owned property on our behalf.

(8) The customer also assigns to us, as security for the amounts which the customer owes to us, its accounts receivable from a third party which result from the mingling of the reserved products with a land parcel or property.

(9) For reserved products which the customer must install in a building owned by a third party on the basis of a contract for work, the customer assigns to us its contractual entitlement to the creation of a claim-securing mortgage for the value of the reserved products (final invoice amount, including VAT).

(10) We undertake to release the securities to which we are entitled, if the customer so demands, insofar as their realisable value exceeds the secured accounts receivable by more than 10 per cent. The selection of the securities to be released shall be at our discretion.

(11) The customer shall be obliged to treat the reserved products with care; in particular but without limitation, the customer shall be obliged to insure them against theft, fire and water damage with sufficient cover at reinstatement value. If any maintenance and inspection work is necessary, the customer must carry out such work in good time at its own expense.

Clause 11 – Contractual lien

In the framework of the business relationship, we shall acquire a right of lien to all objects of the customer which fall into our possession as a result of the contract. The right of lien shall also extend to objects arising from earlier business relations with the

customer, replacement deliveries and any otherservices which are definitive for the content of the contract.

Clause 12 – Expiry by limitation

(1) The mutual claims of the parties to the contract shall expire by limitation according to the statutory provisions unless these General Terms of Business stipulate any other arrangement.

(2) In a deviation from Section 438 (1) No. 3 of the German Civil Code (BGB), the general period of limitation for claims arising from material and legal deficiencies shall be one year from the date of delivery or the transfer of risk. If acceptance is agreed, the period of limitation shall begin with the acceptance.

(3) This shall not affect the statutory limitation provisions for third party restitution claims based on property rights (Section 438 (1) No. 1 of the German Civil Code/BGB), malicious deceit by us (Section 438 (3) of the German Civil Code/BGB), claims for recourse against suppliers (Section 479 of the German Civil Code/BGB), under the Product Liability Act and for the compensation claims stipulated in Clause 7 (2) and (3). In these cases, the statutory limitation provisions shall apply exclusively.

(4) If we are obliged to pay compensation to the customer under Clause 7 because of or as a result of a defect, the periods of limitation defined in this Clause shall also apply to conflicting out-of-court compensation claims unless the application of the regular statutory limitation provisions (Sections 195 and 199 of the German Civil Code/BGB) lead to a shorter period of limitation in individual cases. The periods of limitation under the Product Liability Act shall remain unaffected in any case.

Clause 13 – Sanctioned persons and entities

The Customer represents and warrants that neither the Customer, nor its affiliates and subsidiaries, nor any of their respective agents, employees or officers, are designated under any trade controls and/or sanctions imposed by the United Nations (“UN”), China, the European Union (“EU”) and/or its Member States, the United States (“US”), the United Kingdom, and/or any applicable sanctions from any other jurisdiction (“Trade Restrictions”). The Customer further represents, warrants, and guarantees to ensure compliance with all Trade Restrictions.

The Customer also represents, warrants, and guarantees not to sell, supply, transfer or export, directly or indirectly, any Products supplied by us or bearing the JA Solar brand to any natural or legal person, entity or body designated under any Trade Restrictions, nor to any destination or for any use that is restricted under the Trade Restrictions.

The Customer will impose similar commitments as those outlined above on anyone to whom the Products supplied by us may be, directly or indirectly, supplied. The

Customer irrevocably undertakes to indemnify and hold us, our affiliates and subsidiaries and our agents, employees, officers and subcontractors harmless in respect of any loss, damage, claim, fine and expense whatsoever, including legal costs and attorney’s fees, which may result from any breach by the Customer of the Trade Restrictions and/ or non-compliance with the terms of this clause.

Should any government agencies at any time enact any law or regulations, impose any requirements or restrictions, or take any actions, which, in our sole opinion, have a material and adverse effect on the performance of any agreements with the Customer for the sale or supply of the Products, or impose undesired compliance exposure on us, then, at our request, we shall enter into good faith negotiations with the Customer with the objective of restructuring our relationship with the Customer to minimize the adverse effect of said actions. If we cannot reach a reasonably acceptable modification hereto within one (1) month, either we or the Customer may unilaterally terminate these General Terms and Conditions and any outstanding individual agreement of sale, forthwith by giving written notice to the other party.

Clause 14 – Concluding provisions

(1) The law of the Federal Republic of Germany shall apply. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

(2) Unless any other arrangement is defined in the provisions of this contract, the business premises of JA Solar shall be the place of fulfilment.

(3) The sole place of jurisdiction for any disputes arising from our business relationship with the customer, including these General Terms of Business, shall be our registered place of business in Munich (Local Court of Munich, District Court of Munich I) insofar as the customer is a business enterprise as defined in the German Commercial Code (HGB), a legal entity under public law or a special fund under public law. The same shall apply if the customer does not have a general place of jurisdiction in Germany or if its place of business, place of residence or normal place of abode are not known at the time when the court action is filed. However, we shall also be entitled to file court action at the customer’s general place of jurisdiction.

(3) If any individual provisions of the contract, including these General Terms and Conditions, should be or become legally invalid in whole or in part, this shall not affect the validity of the other provisions. The provision that is invalid in whole or in part shall be replaced by a provision which comes as close as possible to the economic effect of the invalid provision.

(4) All alterations and/or additions to the contract must be agreed in writing, which shall also apply to any cancellation of this requirement of written form.