

Standard Terms
of Solar Frontier Europe GmbH, Bavariafilmplatz 8, 82031 Grünwald
for the Sale and Delivery of Photovoltaic-Systems to Entrepreneurs
(Version: June 15, 2013)

I. General; Applicability

1. The sale and/or the delivery of Photovoltaic-Systems (hereinafter referred to as „Systems“) by Solar Frontier Europe GmbH (hereinafter referred to as „Seller“) to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB) (hereinafter referred to as „Buyer“) are always and exclusively subject to the following terms (hereinafter referred to as “Standard Terms of Sale”).

2. The Standard Terms of Sale shall apply exclusively. Any terms of the Buyer that deviate from the Seller’s Standard Terms or contradict them shall become part of a contract only if and as far as the Seller has approved them expressly in writing prior to signing the contract. The approval is required in any event. Therefore, the Standard Terms of Sale also apply if, e.g., the Seller is aware of any terms of the Buyer that contradict his Standard Terms of Sale or deviate from them and delivers to the Buyer without reservation. The previous sentence shall apply even if the Buyer’s order is based on his own Standard Terms.

II. Signing of the Contract; Terms of the Contract

1. The Seller’s proposals are not binding.

2. The Buyer’s order shall be considered to be a binding offer. Contracts become binding only if the order is confirmed in writing by the Seller or if the Systems are delivered to the Buyer by the Seller. The Seller shall be entitled to accept the offer within two weeks from the date on which he has received the order, subject to any stipulation to the contrary contained in the order.

3. The scope of the Seller’s contractual obligations shall be determined exclusively by the Seller’s order confirmation. Any side agreements, reservations, alterations or amendments shall require the Seller’s written approval.

4. Any information regarding qualities and performance features of the Systems in catalogues, technical documentation (e.g., drawings, plans, calculations, estimations, references to DIN norms), other product descriptions or documents – also in electronic form – shall not be binding unless the Parties agree otherwise in writing. Likewise, public statements, statements made for the purpose of sale promotion or advertising shall not determine the agreed quality owed under the contract. Any statements regarding size, weight, appearance and workmanship and quality shall be to a fair marketable extent only approximate unless identified expressly as binding and leaving the suitability for the contractually intended purpose unaffected.

5. The Seller reserves all property rights to and copyright in pictures, drawings, calculations and other documents - including but not limited to the electronic form – which were submitted in connection with the conclusion of the contract. The Buyer may provide third parties with access to them only with the Seller’s prior written approval.

6. **SYSTEMS ARE NOT DESIGNED AND MUST NOT BE USED FOR ANY INSTALLATION WHICH HUMAN SAFETY OR LIVES RELY ON,**

INCLUDING BUT NOT LIMITED TO AVIATION SAFETY INSTALLATIONS, MEDICAL EQUIPMENT, TRAFFIC CONTROL INSTALLATIONS, OR SIMILAR, AND SYSTEMS MAY ONLY BE INSTALLED BY AUTHORISED EXPERTS.

III. Deliveries

1. The Systems will be delivered according to the respective Incoterms 2010 delivery term, which will be individually agreed within each contract between the Seller and the Buyer.

2. The Seller must be notified in writing of any discrepancy of quantities discernible from the invoice or the bill of lading without undue delay, at the latest within 5 work days after the receipt of the Systems. Partial deliveries are permitted.

3. Section 377 of the German Commercial Code shall apply in full to the Buyer’s duty to timely inspect each delivery and object to any visible defects, even if there are several deliveries. The Buyer must examine the goods immediately after their delivery by the Seller, as far as this is practicable in the ordinary course of business, and upon the discovery of any defect must immediately give notice thereof to the Seller. If the Buyer fails to give such notice he shall be deemed to have accepted the goods, unless the defect in question is one not discernible by such examination. Upon the subsequent appearance of a defect not discoverable by such examination, notice thereof must be given immediately upon its being discovered, otherwise the goods will be held to have been accepted notwithstanding such defect. The Buyer’s rights shall remain unaffected if he has sent off the notice at the proper time. If the Seller intentionally conceals a defect he cannot rely upon the rules of this section with regard to the defect.

4. Except for the payment of the money hereunder, neither Party shall be responsible to the other Party for non-fulfilment or delays or additional costs in fulfilment of its obligations due to unforeseeable and inevitable events over which that Party or the Seller’s production affiliate(s) have no control (“Force Majeure”). Such reasons include wars, hostilities between states, terrorist acts, national strikes and lock-outs, national or international transport strikes, public laws, ordinances and regulations, embargoes, governmental acts and acts by governmental agencies, natural disasters, storms, fires, explosions or other similar contingencies beyond the reasonable control of a Party, which lead to the temporary or permanent inability to perform its obligations. Either Party that desires to declare Force Majeure shall notify the other Party in writing of the reasons for non-fulfilment or delays in fulfilment of its obligations as soon as reasonably practicable after the occurrence of the event. If the Force Majeure event should continue beyond 30 days, then the Parties shall meet to discuss and agree on how to proceed. If the Force Majeure event should continue beyond a further 60 days following the aforementioned discussions, either Party may terminate any affected contract in writing immediately.

Further statutory or contractual rights of withdrawal and termination of the Agreement including exclusions of the duty to perform (e.g. due to impossibility of performance) remain unaffected.

IV. Buyer's Duty to Cooperate; Claim for indemnification

1. The Buyer shall assist the Seller during the performance as far as this is reasonable, necessary, and useful. In particular, the Buyer shall assist the Seller in the event of any claims under a warranty or guarantee and with regard to any measures that are destined to prevent any warranty or guarantee claims.

2. The Buyer shall provide its customers with all instructions for the installation and use of the Systems and shall point out to them separately that the Systems must not be used for any installation which human safety or lives rely on, including but not limited to aviation safety installations, medical equipment, traffic control installations, or similar, as well as that Systems may only be installed by authorised experts. **IF THE BUYER VIOLATES THIS DUTY AND IF THE SELLER IS SUED BY A THIRD PARTY AFTER DAMAGE HAS OCCURRED DUE TO A USE OF THE SYSTEMS THAT IS NOT ADMISSIBLE UNDER THIS CLAUSE, THE BUYER SHALL HOLD THE SELLER HARMLESS AND INDEMNIFY HIM FOR ANY CLAIMS BY THE THIRD PARTY. THE DUTY TO INDEMNIFY THE SELLER AND HOLD HIM HARMLESS SHALL ALSO EXTEND TO ANY REASONABLE EXPENSES RELATED TO THE EVENT OF DAMAGE, E.G., LAWYERS' AND EXPERTS' FEES.**

V. Warranty and Liability

1. Warranty for defects in quality

1.1. If a System is defective the Seller is obliged to cure the defect.

1.2. The Seller can choose whether to cure the defect by repairing the System or by replacing it by a defect-free System. The Buyer is obliged to send back the goods to the Seller on his request for the purpose to cure the defect, whereby the goods must be packed properly. Transportation costs shall be borne by the Seller, in case the defect was justified, otherwise the Buyer has to bear the costs.

1.3. If the cure has failed within the meaning of the law, the Buyer shall be entitled to withdraw from the contract, to reduce the purchase price or to claim damages or reimbursement of futile expenditure, provided that the respective statutory requirements are fulfilled.

1.4. The Buyer shall not be entitled to cure defects himself and demand reimbursement for the necessary costs unless the Seller has definitively failed to cure the defect.

1.5. All warranty claims for defects in quality are void if the Buyer or any third parties, e.g., service stations not authorised by the Buyer, effect any repairs or modifications or any other interventions to the Systems without the Seller's prior express written approval. This does not apply only as far as the Buyer proves that any defects or malfunctions are not caused by the interventions and that these have not made the identification and cure of the defect more difficult. **PLEASE NOTE: FURTHERMORE, ANY MODIFICATIONS MAY NEGATIVELY AFFECT ANY RIGHTS UNDER THE GUARANTEE; PLEASE CONSULT THE GUARANTEE TERMS FOR DETAILS.**

1.6. The following defects shall not give rise to a warranty claim:

- Defects that are caused by Force Majeure,
- Defects that are caused by components not approved by the Seller,

- Defects that are caused by abnormal handling by the Buyer or third parties (e.g., incorrect wiring or installation; installation or use in a mobile or maritime environment, like vehicles or vessels),
- Defects that are caused by improper voltage or power surges,
- Defects that were caused by abnormal environmental conditions (e.g., acid rain or other pollution),
- Defects that are caused by vandalism or manipulation,
- Defects that are caused by incorrect installation, incorrect operation - in particular, in disregard of any specifications given by the manufacturer - or incorrect use.

1.7. If the Parties do not agree whether or not a Product is defective, the matter will be investigated by an expert to be named by the President of the Munich Chamber of Commerce at the request of either Party. The expert opinion shall be binding also in the event of litigation. The costs of the taking of evidence shall be attributed according to Sections 91 et seq. of the German Code of Civil Procedure.

2. Additional provisions for defects of title

2.1. If any third parties allege vis-à-vis the Buyer that the Systems infringe their industrial property rights, like patents, utility patents, trademarks, design rights, copyrights (hereinafter referred to as „IP rights“), after the signature of the contract and if the use of the Systems in accordance with this contract is negatively affected or prevented by this the Buyer shall inform the Seller of the claims made by the third party without undue delay, at the latest within ten calendar days. The Buyer shall not admit any infringement and shall use reasonable efforts to assist the Seller in the defence of his rights. The Buyer shall only acknowledge any rights of any third party if the Seller grants his prior written approval or if the Seller does not react at all within ten work days upon the receipt of the notice.

2.2. If the Buyer stops using the Systems in order to limit any possible damage or for any other important reason he shall be obliged to point out to the third party that this does not constitute an acknowledgement of any infringement of any IP rights.

2.3. The Seller is entitled to take all actions of defence or – at his option – to engage in settlement discussions with third parties claiming that any IP rights are being infringed.

2.4. If the Buyer has informed the Seller as required and if the use of the Systems in accordance with the contract is within the warranty period of one year from the beginning of the statutory limitation period prohibited wholly or in part by a final court decision the Seller shall cure the defect in title, i.e., the Seller will, at his option and at his cost, either

- acquire the right to use the Systems for the Buyer, or
- alter or replace the Systems in such a way that they do not infringe anymore but still essentially comply with the agreed specifications.

2.5. As far as the cure of the defect in title according to subsection 2.4 fails, the Buyer shall be entitled to withdraw from the contract and to claim reimbursement of the purchase price less adequate compensation for the value of the use of the Systems taking into account the ordinary useful life of the Systems, in return for the return of the Systems.

2.6. If the Buyer has neglected to inform the Seller of any claims made by third parties within the deadline stipulated in subsection 2.1 he shall lose his claims under sections 2.4 and 2.5.

2.7. If the Seller is unable to fully cure the defect in title within the meaning of the aforementioned subsections he shall be liable to the Buyer for any necessary court and out of court costs or, if no statutory regulation on refundable costs exist, for his reasonable costs.

3. The following provisions shall apply to any liability for damages, regardless of its legal basis.

3.1. The Seller shall be liable without a limit for any damage caused by physical injury.

3.2. The Seller shall be liable without a limit for any damage caused intentionally or by gross negligence.

3.3. If essential duties under the contract, i.e. the violation of duties to whose fulfilment only the proper performance of the contract enables and on whose performance the Buyer may regularly rely are violated by slight negligence the Seller shall only be liable for the foreseeable, typical damage.

3.4. The foreseeable, typical damage shall be limited by the respective purchase price.

3.5. The Seller is not liable for any damage caused by the violation of non-essential duties caused by negligence.

3.6. The Seller shall not be liable for any damage suffered by the Buyer and caused by Force Majeure.

3.7. Liability for any profit expected by the Buyer is excluded.

3.8. Any other claims for damages shall be excluded. In particular, liability for any consequential damage that is caused by or in connection with the use of the Systems shall be excluded. The exclusion shall not apply as far as a guarantee granted by the Seller was intended to protect against such damage.

3.9. Liability for the fraudulent concealment of a defect, liability under a guarantee for the quality or the durability of a Product and liability under the applicable Product Liability Act shall remain unaffected by these provisions.

3.10. For any third-party product which the Seller uses for the manufacturing of the Systems without significant development of the product, the Seller shall be entitled to limit his liability to an assignment of his warranty claims against the manufacturer of such third-party products. If the Seller exercises this right, his liability for claims, which the Buyer asserted out-of-court without success against the manufacturer of such third-party product, shall be subordinate.

3.11. The aforementioned provisions shall apply accordingly to the reimbursement of expenses that is claimed instead of damages in lieu of performance.

4. Statute of Limitation

The limitation period for claims for defects shall be, in deviation from Section 438 BGB, one year from the beginning of the statutory warranty period. This shall not apply to fraudulently concealed defects, cases regulated by Section 438 (1) no. 2 BGB

and any claims for damages for physical injury or loss of life, claims due to intentional or grossly negligent behaviour and for the violation of essential contractual duties due to slight negligence.

VI. Guarantee

1. Seller grants the person or entity using the Systems for the generation of power for the first time a Guarantee with respect to the Systems as specified in the Guarantee Terms for End-Users.

2. The Guarantee is only granted if the Systems are used in the countries for which the Guarantee is valid according to its terms or for which the Seller explicitly declares the validity of the Guarantee.

VII. Prices and Terms of Payment

1. Unless anything to the contrary has been agreed between the Parties, the Seller's prices valid at the time of signature of the respective contracts - ex stock, plus statutory VAT - shall apply. The VAT applicable on the day the invoice is issued shall be shown separately in the invoice. No trade discount shall be granted unless specifically agreed in writing.

2. The purchase price shall be payable according to the payment terms which will be individually agreed within each contract between the Seller and the Buyer and shall be paid into the account specified in the Seller's order confirmation. The payment has to be effected in accordance with the conditions specified in the order confirmation. The Seller does not accept bills of exchange. Any discount costs or other costs of the collection of the purchase price and any protest charges shall be borne by the Buyer.

3. After the expiry of the aforementioned deadline for payment the Buyer will be in default without any further notice or warning from the Seller. During the time of default the due purchase price shall bear interest. The default rate of interest per year shall be 8 percentage points above the basic rate of interest. The Seller reserves the right to claim indemnification for any damage caused by the default that exceeds the amount due pursuant to the previous sentence.

4. The Buyer shall only be entitled to set off claims against the Seller's claims if the Buyer's claims have been established by final court decision or if the Seller has not denied their existence or has acknowledged them. The Buyer shall be entitled to exercise a right of retention as far as his counterclaim is based on the same contract.

5. If there is an indication that the Seller's claim for the purchase price is at risk due to a lack of soundness of the Buyer (e.g., if it files for insolvency), the Seller shall be entitled to withhold performance according to the statutory provisions and -if applicable, after setting a deadline - to withdraw from the contract (Section 321 BGB).

VIII. Retention of Title

1. The Seller reserves title to the Systems sold until all his claims under the sales contract and an ongoing business relationship with the Buyer (hereinafter referred to as "**Secured Claims**") have been fully satisfied.

2. The Buyer shall treat the sold Systems carefully. In particular, he shall insure them adequately at the value as new against damage caused by fire, water and theft.

3. The Systems subject to the retention of title shall not be pledged or transferred as security to a third party until the Secured Claims have been paid in full. The Buyer shall notify the Seller immediately in writing if and as far as any third parties attempt to seize the Systems belonging to the Seller so that the Seller can file a complaint under Section 771 of the German Code of Civil Procedure (ZPO) (or equivalent). As far as the third party is unable to reimburse the Seller for its court costs and out of court costs of the proceedings under Section 771 ZPO (or equivalent) the Buyer shall be liable for the loss.

4. In case of a breach of contract by the Buyer, in particular, if he does not pay the purchase price when due, the Seller is entitled to withdraw from the contract according to the statutory provisions and to reclaim the Systems relying on the retention of title. If the Buyer does not pay the purchase price when due the Seller shall only exercise these rights after he has set the Buyer an adequate grace period without success or if the setting of a grace period is unnecessary under applicable statutory provisions.

5. The Buyer is entitled to resell the Systems that are subject to the retention of title in the regular course of business and/or to process them or combine or intermix them with other things. In that case the following provisions apply:

5.1. The retention of title also applies to any products coming into existence as a result of the processing of the Systems or their combination or intermixture with other things at the full value of the new things; the Seller shall be considered to be the manufacturer. If the Systems are processed, intermixed or combined with things to which third parties hold title and the latter's title remains unaffected by this, the Seller shall acquire co-ownership in proportion to the respective invoice values of the processed, intermixed or combined products (total amount of the invoice including VAT). Furthermore, the new product shall be subject to the same rules as the Systems delivered subject to the retention of title, in particular, the Buyer's expectant right to the delivered Systems shall also be reflected by an expectant right to the new product.

5.2. The Buyer assigns his claims against third parties arising from the resale of the Systems or the new products in the amount of the total invoice value (including VAT) or, if applicable, in the amount of a possible co-ownership share of the Seller pursuant to the previous subsection as a security, regardless of whether the Systems have been sold without or after processing. The Buyer's duties stated in clause VIII.3 shall also apply to the assigned claims.

5.3. The Buyer shall also be entitled to collect the receivables. The Seller shall not collect the receivables as long as the Buyer duly discharges his payment obligations, is not in default, no filing for bankruptcy has been filed and his financial standing is not affected in any other way. If that is the case, however, the Seller shall be entitled to request a list of the assigned receivables and the respective debtors as well as that the Buyer provides all information necessary to collect the receivables, hands over the corresponding documents and communicates the assignment to third parties.

5.4. The Buyer hereby also assigns any claims against third parties arising from the combination of the Systems with a plot of land to the Seller as a security for his claims.

5.5. The collateral granted to the Seller shall only expire after his claims have been fully satisfied. If the realisable value of the collateral exceeds the Seller's claims by more than 10 per cent, the Seller shall release an adequate part of the collateral; the Seller shall be entitled to choose the collateral to be released.

IX. Choice of Law and Jurisdiction

1. These Standard Terms of Sale and all legal relationships between the Seller and the Buyer shall be governed by the laws of the Federal Republic of Germany excluding its Conflict of Laws rules and all international (contract) laws, in particular, the United Nations Convention for the International Sale of Goods (CISG). However, the conditions and legal effects of the retention of title under section VIII of these Standard Terms of Sale shall be governed by the laws of the place where the Systems are located as far as the choice of German law is inadmissible or void under such laws.

2. If the Buyer is a trader within the meaning of the German Commercial Code, a body corporate organized under public law or special assets organized under public law the courts of Munich, where the Seller has its business address, shall have exclusive – including international – jurisdiction for any disputes arising from or in connection with the contract. However, the Seller shall also be entitled to sue the Buyer at the latter's business address.

X. Miscellaneous

1. Should any provisions of these Standard Terms of Sale be unenforceable wholly or in part the remaining provisions shall stay unaffected. The Parties shall replace any unenforceable provision by the valid provision the economic effect of which is closest to the effect the unenforceable provision would have. However, this does not apply in the event that a provision is unenforceable under statutory provisions on Standard Contract Terms (Sections 305 et seq. BGB). In the latter case, the statutory provisions shall apply unless the then incomplete terms need to be complemented by supplementary interpretation of the contract.

2. Both Parties shall treat any information identified by the other Party as confidential and revealed to it by the other Party during or on the occasion of the negotiation or performance of the contract only in order to carry out the contract and shall not disclose it to a third party unless the other Party has given its prior written approval. The Seller is in any case entitled to submit information to third parties as far as this is necessary for the execution and implementation of the sales contracts.