

**General Terms and Conditions of Sale and Delivery
of SKE Engineering GmbH**Steyregg, 23.4.2024
Version 042024**1. Validity**

- 1.1. Unless expressly agreed otherwise, these General Terms and Conditions of Sale and Delivery (also referred to as „General Terms and Conditions“ or „GTC“) shall apply to all deliveries of goods and services (hereinafter also referred to collectively as „Deliveries“) of SKE Engineering GmbH (registered under FN 315430 v, hereinafter also referred to as „SKE“) with commercial customers within the meaning of Section 1 KSchG (Konsumentenschutzgesetz, Austrian Consumers Protection Act) (hereinafter also referred to as „Customer(s)“). The Customer and SKE are hereinafter jointly referred to as the „Parties“.
- 1.2. These GTC shall also apply in the event of conflicting or deviating terms and conditions of the Customer, which latter are not recognized and are hereby expressly rejected.
- 1.3. All agreements made between SKE and the Customer that deviate from these GTC must be recorded in writing.
- 1.4. In the context of an ongoing business relationship, these GTC shall become part of a contract even if SKE has not expressly referred to their inclusion in an individual case.

2. Offers and Conclusion of a Contract

- 2.1. Unless expressly designated as binding, all offers of SKE (individual offers, catalogs, sales documents, etc.) are subject to change.
- 2.2. Orders shall be deemed accepted and become a binding contract if they are either confirmed by SKE in text form (e.g. by order confirmation by e-mail) or executed after receipt of the order within the period specified therein. In the latter case, the delivery bill or invoice shall be deemed to be the order confirmation.
- 2.3. Verbal collateral agreements to a written contract shall only become binding if they are confirmed by SKE in text form.
- 2.4. If, after conclusion of a contract, SKE becomes aware of facts, in particular default of payment with regard to earlier deliveries, which indicate that the purchase price claim is jeopardized by the Customer's inability to pay, SKE shall be entitled to demand concurrent payment or corresponding securities from the Customer, setting a reasonable deadline, and to withdraw from the contract in the event of refusal or after expiry of such deadline.

3. Scope of Delivery, Additional Services

- 3.1. SKE's scope of delivery is expressly limited to the delivery of the specified goods and any agreed additional services.
- 3.2. The provision of additional services such as consulting and planning services by SKE is not a subject matter of the contract, unless expressly agreed otherwise. This applies in particular to structural planning, measures and construction work such as foundation work, roofing, the execution of assembly, commissioning or other preparations and adjustments. These are entirely the responsibility of the Customer. SKE recommends that the (end) customer has the installation and commissioning carried out by a licensed and expressly authorized electrical installation and assembly company.
- 3.3. SKE assumes no liability for contracts offered or concluded in the name and on behalf of third parties (in particular for services provided by Huawei).
- 3.4. Any terms used by SKE in connection with documents (brochures, offers, etc.) (in particular „warranted characteristics“, „guaranteed performance“, etc.) always represent a description of the agreed quality and performance characteristics, without this constituting a contractually agreed guarantee. SKE shall not be liable for advertising statements made by third parties, in particular advertising statements made by manufacturers and their agents.

4. Delivery and Delay, Transfer of Risk

- 4.1. Unless the Parties agree otherwise, delivery is FCA (Incoterms 2020) depending on the agreed destination. As a special customer service, SKE offers to organize the transport on behalf of the Customer, at his expense and risk. SKE shall only bear the costs of the transportation packaging that is customary in the industry. Further costs, such as the costs of insurance, special packaging, additional costs for individual shipments, etc. shall be borne exclusively by the Customer.
- 4.2. Unless a forward transaction (guaranteed delivery time) has been expressly agreed, delivery periods are only approximate. The delivery period is at least 14 days.
- 4.3. The delivery period shall commence after clarification of all details of execution (e.g. required official certificates) and receipt of the agreed (advance) payments / bank guarantees, unless expressly agreed otherwise.
- 4.4. Upon provision of the delivery at the agreed place of delivery and corresponding notification of the Customer by SKE, the risk shall pass to the Customer and the delivery deadline shall be deemed to have been met.
- 4.5. If the delivery is delayed at the request or through the fault of the Customer, it shall be stored at the Customer's expense and risk.
- 4.6. Unless a delivery in whole has been expressly agreed, SKE shall be entitled to make and invoice partial or whole deliveries at its discretion.
- 4.7. Deliveries are subject to national or international regulations of foreign trade law, embargoes or other legal prohibitions; the export of certain deliveries may, for example, be subject to authorization requirements due to their nature, their intended use or their final destination.
- 4.8. Force majeure such as strikes, riots, official measures, pandemics, wars and other unforeseeable, unavoidable and/or uncontrollable extraordinary events originating from outside (including the lack of ordered means of transport) shall release SKE from its obligation to perform for the duration of the disruption/event and to the extent of its effect and shall lead to a reasonable extension of the delivery period or to the justified postponement of delivery dates. SKE shall be obliged to provide the Customer with the necessary information without delay within the scope of what is reasonable. In addition, SKE shall endeavour to arrange delivery as quickly as possible.
- 4.9. Packaging material will only be taken back or reimbursed if this is regulated by law or agreed in writing.

5. Prices and Payment

- 5.1. The prices are net prices; any sales tax incurred will be shown separately.
- 5.2. If fees, taxes, customs duties or other charges are levied in connection with the delivery, these shall be borne by the Customer.
- 5.3. In the case of agreed payment terms, the payment period shall commence on the invoice date, unless otherwise agreed; in the event of late payment, any discounts and other remuneration granted (in particular bonuses) shall be deemed forfeited.
- 5.4. The utilization of granted cash discounts requires that all claims to which SKE is entitled and which are already due have been settled.
- 5.5. In the event of default of payment, SKE shall be entitled to declare all claims against the Customer due immediately, to demand immediate payment of all outstanding claims and, in particular, to revoke any payment terms granted. SKE shall be entitled to the expenses and costs necessary for the appropriate legal prosecution, including the costs of the necessary intervention of collection agencies and lawyers, as well as default interest of 9% above the applicable 3-month EURIBOR p.a. The right of withdrawal pursuant to § 918 ABGB (Austrian Civil Code) remains unaffected.
- 5.6. Offsetting against SKE's claims with counterclaims of any kind is excluded unless these have been legally established by a court.
- 5.7. Any cost estimates, indicative price offers or price estimates shall be prepared to the best of SKE's knowledge, but no guarantee can be given for their accuracy. SKE shall inform the Customer immediately in the event of cost increases after conclusion of the contract. In the case of cost overruns of up to 15%, these costs can be invoiced without further ado. In the event of cost overruns of more than 15%, the Parties shall enter into renewed price negotiations with the aim of agreeing a mutually acceptable price adjustment.

6. Obligation to Accept Deliveries and Consequences of Default of Acceptance

- 6.1. The Customer is obliged to accept (or collect) the ordered delivery on the contractually agreed delivery date or, in the absence of such, on the delivery date announced by SKE at least one week in advance. The delivery shall be expressly offered to the Customer for acceptance.
- 6.2. If the Customer is in default of acceptance, the risk shall pass to the Customer and all adverse consequences shall be borne by latter. From this point in time, the warranty period shall also begin to run. In particular, SKE shall be entitled to demand compensation from the Customer for the additional expenses that SKE had to incur for the unsuccessful offer to hand over (the delivery attempt) as well as for the storage and preservation of the delivery. In any case, the Customer shall be obliged to reimburse the usual local storage costs. SKE shall be entitled to choose the place of storage.
- 6.3. Notwithstanding any agreements to the contrary, SKE shall in any case be entitled to demand payment of the entire purchase price (including VAT and ancillary costs) for the delayed delivery upon occurrence of default of acceptance.
- 6.4. Furthermore, in the event of default of acceptance, SKE shall be entitled to withdraw from the contract by setting a reasonable grace period and to impose a contractual penalty in accordance with point 7.2. In any case, a grace period of one month shall be deemed reasonable.

7. Cancellation of the Order and Withdrawal from the Contract

- 7.1. The Customer is not entitled to cancel orders confirmed by SKE (to withdraw from a purchase contract), even if only conclusively confirmed by SKE.
- 7.2. If SKE agrees to the cancellation of the order (to the withdrawal from the contract) in individual cases, or if SKE withdraws from a contract in accordance with point 6.4, SKE shall be entitled to demand a contractual penalty from the Customer in the amount of 10% (ten percent) of the purchase price (including VAT and pro rata ancillary costs) attributable to the cancelled delivery. The contractual penalty shall be due within 10 days of receipt of the relevant invoice and may be offset by SKE against an existing claim.
- 7.3. SKE's consent to the cancellation of an order (to a withdrawal from the contract), even if this is done repeatedly or regularly, does not constitute a business practice between SKE and the Customer.

8. Notice of Defects and Warranty

- 8.1. The statutory warranty provisions apply, unless expressly agreed otherwise. Wearing parts are excluded from the warranty.
- 8.2. The warranty period is one year and begins with the dispatch or other provision of the Delivery.
- 8.3. The Customer shall inspect the Delivery for quantity and quality within a reasonable period of time after delivery of the goods or provision of the service. Obvious defects must be reported in writing to SKE within 8 days of acceptance, hidden defects within 8 days of discovery of the defect. Failure to give notice of defects in due time and form shall result in the loss of claims under the title of warranty and compensation for damages due to the defect itself, as well as due to errors regarding the absence of defects in the Delivery.
- 8.4. If the Customer detects defects in the Delivery, he shall be obliged to make the rejected Delivery available to SKE for the purpose of inspecting the complaint on site and to allow SKE to inspect it within a reasonable period of time. Alternatively, a return delivery of the rejected Delivery can be carried out at the expense and risk of the Customer after consultation with SKE.
- 8.5. SKE shall reimburse expenses for the removal of the defective goods and the installation of the repaired or newly delivered goods, if these have been incurred on the basis of customary market conditions and have been pre-approved by SKE. Unless otherwise agreed, any transportation costs incurred shall be borne by the Customer, unless SKE is at fault.
- 8.6. After replacement of defective goods, their ownership shall be transferred to SKE at SKE's discretion.

**General Terms and Conditions of Sale and Delivery
of SKE Engineering GmbH**Steyregg, 23.4.2024
Version 042024

- 8.7. If SKE is not given the opportunity to inspect the defectiveness, SKE's warranty obligation and liability for damages for the notified defect shall lapse. Until SKE has completed its inspection, the Customer may not dispose of the Delivery complained about, i.e. it may not be resold or further processed.
- 8.8. SKE shall have no warranty obligation if the Delivery has not been used in accordance with the manufacturer's specifications or - in the absence of such specifications - in accordance with the objectively expected way of usage or if the necessary state-of-the-art maintenance has not been carried out.
- 8.9. If there is a defect, SKE shall be entitled to determine the type of subsequent performance (replacement, improvement), taking into account the type of defect and the legitimate interests of the Customer. If the supplementary performance fails or is not carried out despite the reasonable deadline and/or grace period set by SKE, the Customer shall be entitled to demand a price reduction or, if the defect is not merely minor, the termination of the contract.
- 8.10. After replacement or improvement of the Delivery, the warranty claim for the new Delivery shall continue for an additional 120 days from subsequent performance or until expiry of the remaining warranty period, whichever is longer. Warranty claims are limited in total and conclusively to 30 months from the beginning of the first dispatch or provision of the Delivery.
- 8.11. The statutory presumption of defectiveness under Section 924 ABGB (Austrian Civil Code) does not apply, and the provisions of Section 933b ABGB on special recourse are also excluded.
- 8.12. Warranty claims shall expire six months after written rejection by SKE.
- 9. Retention of Title**
- 9.1. SKE retains title to the Deliveries until the purchase price has been paid in full.
- 9.2. The retention of title shall also extend to the products resulting from processing the Deliveries by the Customer. If the goods are processed, combined or mixed, SKE shall acquire co-ownership of the resulting products in the ratio of the value of the Delivery to the newly created item.
- 9.3. If Deliveries subject to retention of title are resold by the Customer, the Customer shall assign to SKE the claims arising from the resale in the amount of the outstanding purchase price for the Deliveries subject to retention of title plus any default interest and collection costs at the time of conclusion of the contract. The retention of title and the assignment shall be made evident in the Customer's business books by means of book entries that ensure sufficient publicity. SKE shall be entitled, after giving prior notice, to check that the book entries have been made.
- 9.4. Access by third parties to the reserved Deliveries must be reported immediately and the Customer is obliged to assert SKE's right of ownership.
- 10. Liability for Damages, Limitation of Liability**
- 10.1. Claims for damages by the Customer are - as far as legally permissible - excluded, unless the damage was caused by intentional or grossly negligent action or omission on part of SKE. In the event of slight negligence, SKE shall only be liable for injury to life, limb and health, without any limitation of liability.
- 10.2. Subject to contrary mandatory statutory provisions and except in the case of SKE's intent, SKE shall be liable, only up to the foreseeable damage typically occurring in contracts of this type; if such damage results from the distribution of a Delivery by the Customer, such liability shall be limited to the amount paid by the Customer to SKE for the (defective) goods giving rise to the liability.
- 10.3. In any case, claims for damages for mere pecuniary or indirect damage (including loss of profit) and consequential damage are excluded.
- 10.4. SKE shall not be liable for damage caused by improper handling or storage, overloading, failure to comply with operating and installation instructions, incorrect assembly or commissioning, maintenance, servicing by the Customer or in case of natural wear and tear.
- 10.5. The limitation period for claims for damages shall be one year after noticing the damage and the fact that SKE is the damaging party, but in any case no longer than three years from the transfer of risk.
- 10.6. SKE is not liable for the correctness of information on handling, operation or use, insofar as this is contained in brochures, technical descriptions or other instructions; these are the responsibility of the manufacturer or the entity placing it on the relevant market ("Inverkehrbringer"). SKE has also no duty to provide additional information relating to and in particular for storage, maintenance, installation or other handling.
- 10.7. The provisions on damages contained in these GTC or otherwise agreed shall also apply if the claim for damages is asserted in addition to or instead of a warranty claim.
- 11. Compliance**
- 11.1. The Customer declares to be familiar with the SKE Group's Code of Conduct, available at <https://ske-solar.com>, and undertakes to comply with this Code of Conduct and to act accordingly during the cooperation with SKE and to impose this obligation on any third parties involved in the fulfilment of the contract.
- 11.2. The Customer expressly declares and undertakes to comply with the laws of the applicable legal system, to refrain from corruption and bribery, to refrain from money laundering, to respect the fundamental rights of its employees, to refrain from child labour and to ensure the health and safety of its employees. Furthermore, the Customer declares and undertakes to observe environmental protection with regard to laws, norms and national and international standards.
- 11.3. The Customer declares that it is neither a sanctioned person nor any other natural or legal person to whom sanctions are applicable. If sanctions are imposed on or apply to the Customer after the contract has come into effect, the Customer is obliged to inform SKE immediately. In the event that a declaration is incorrect, SKE shall be entitled to withdraw from or terminate an existing contract with immediate effect for good cause, and the Customer shall indemnify and hold SKE harmless for all damages arising therefrom. In such a case, SKE shall also be entitled to demand a no-fault penalty in the amount of 10% (ten percent) of the gross order amount.
- 11.4. The Customer must take reasonable precautions to ensure the traceability of the Delivery in the event of a recall by the manufacturer.
- 12. Secrecy**
- 12.1. The Customer undertakes to comply with all statutory confidentiality obligations and to keep confidential all business and/or trade secrets obtained in the course of the execution of the business relationship with SKE, unless these: a) were already known to the Customer beforehand without an obligation of confidentiality or b) are or become generally known without the Customer being responsible for this or c) are communicated or provided to the Customer by a third party without an obligation of confidentiality or d) have demonstrably been developed independently by the Customer or e) must be made accessible to authorities due to legal regulations.
- 12.2. The term „trade and/or business secrets“ covers all business, operational and technical knowledge, processes and information that is only accessible to a limited group of people and which the parties do not wish to be made public.
- 12.3. Parties shall maintain confidentiality regarding the terms and conditions of a contract, insofar as this does not conflict with statutory provisions.
- 12.4. In addition, the Customer undertakes to impose these confidentiality obligations on all other legal and natural persons used by him to fulfill a contract and to use only those employees and vicarious agents who have been expressly obliged to maintain confidentiality. The obligation to maintain confidentiality with regard to trade and/or business secrets shall continue to apply indefinitely after termination of the contract.
- 13. Place of Jurisdiction and Applicable Law**
- The exclusive place of jurisdiction for all disputes between the Customer and SKE shall be the competent court in Linz, Austria. However, SKE shall also be entitled to sue the Customer at its general place of jurisdiction. Austrian law shall apply exclusively, excluding the conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.
- 14. Final Provisions**
- 14.1. Should one or more provisions of these GTC or of the contract concluded on the basis of these GTC be or become legally invalid, this shall not affect the validity of the remaining provisions. Any invalid provision shall be replaced by a provision that the Parties would have agreed upon while maintaining the economic content of this agreement as far as possible if they had been aware of the invalidity of the provision.
- 14.2. The Customer agrees that SKE may transfer the contractual relationship as a whole to another company directly or indirectly affiliated with SKE. Upon written notification to the Customer, the affiliated company shall assume all obligations and claims arising from this legal relationship and shall be subrogated to all rights.