General Terms of Sale SMA Solar Technology America LLC

GTC Edition February 2020

I. General Provisions

1. These General Terms of Sale (hereinafter “GTC”) shall apply to all offers, deliveries and services by SMA Solar Technology America LLC (including its parent, subsidiary and affiliated companies, hereinafter “SMA”) to any customer located in the United States, or any other person or entity with which SMA deals, to any order placed or any other purchase document between SMA and the Customer (any of which, hereinafter a “Contract”). Unless otherwise expressly agreed by the parties in writing, SMA shall not be bound by any other terms and conditions.

2. The Customer shall be granted the non-exclusive right to use any software referenced in the Contract solely for the purpose of monitoring the installation, performance, and maintenance of SMA technology. The Customer shall not disclose such information to any third party or use it for any purpose other than in connection with an order (without the prior written consent of SMA), which may in SMA’s sole discretion be withheld.

3. All information, prototypes, examples or samples, technical data and descriptions in this document are the property of SMA and shall be for the Customer’s sole use.

II. Prices - Packaging - Terms of Payment

1. Prices are quoted CIP Incoterms® 2020 at the FCA office of SMA. All prices include the costs of transportation and insurance to the named destination. If the delivery location is within 50 miles of the SMA premises, the Customer shall pay all transportation and handling costs. The prices are net of any sales or other taxes levied or imposed by any governmental authority.

2. Cancellation in whole or part of any confirmed order shall NOT be accepted, particularly if the delivery is under way. Any cancellation costs shall be borne by the Customer.

3. Unless otherwise directed by SMA in writing, all payments shall be made in US dollars, and shall be due thirty (30) days from the date of the Supplier’s invoice. Any amount due hereafter shall be interest free, or at the lower of 1.5% per month for each month or portion thereof that the amount remains unpaid or the maximum rate permitted by applicable law.

4. If (a) the Customer defaults on any payments owing to SMA, without any Contract or other agreement or (b) circumstances arise or become known to SMA which cause SMA to reasonably believe that the Customer is unable to meet its obligations hereunder, SMA may immediately of such occurrence, terminate the Contract and retain any deposits paid or other sums paid by the Customer. If SMA terminates the Contract, the Customer shall bear all costs and expenses incurred by SMA in connection with the termination, and shall be liable for all sums owing to SMA, together with interest at the rate of 1% per annum and any attorney fees incurred in connection with the action.

5. The Customer shall not be entitled to any set off or deduction of any amount payable.

III. Warranty and Delivery Risk - Delivery deadlines - Delivery Default - Delivery Damage

1. Delivery of all products shall be FCA Incoterms® 2020. The FCA Incoterms® 2020 excludes any risks or costs associated with loading the products at SMA premises. The risks and costs associated with loading the products shall be borne by the Customer.

2. The Customer shall be held harmless from and against any acts of God, war, riot, insurrection, labor disputes, measures by public authorities, severe weather or the occurrence of similar events beyond the reasonable control and foresight of SMA, which interfere with or delay any performance of SMA on its obligations hereunder. If such an event prevents SMA’s performance of its obligations for a period of 6 months or more, SMA shall be entitled in its sole discretion to terminate the Contract by refunding any payments and/or any other amounts paid by the Customer, other than any amounts paid by the Customer to costs incurred by SMA which cannot be mitigated.

3. The products are not available for return because there is a lack of supply with SMA’s suppliers. SMA’s suppliers shall be entitled to replace such good with another item of alternate but equivalent quality and price. If no replacement is available, SMA shall make a reimbursement of the price of the product. If the contract has been paid in full, SMA shall make available to the Customer at the Customer’s sole expense, in the event of non-performance, all transportation and service costs which shall be charged to the Customer. SMA shall not be held responsible for the storage of equipment. All costs incurred by SMA due to equipment held in storage after the contract is cancelled shall be charged to the Customer. Proposal for such costs can be provided upon request.

IV. Retention of title

1. Legal title shall not pass and the delivered products shall remain the exclusive property of SMA until all obligations of the Customer arising from the Contract have been performed, including full payment. Until then, the Customer shall not sell or transfer in any manner, lease or grant a security interest in or otherwise encumber the products. If any such encumbrance is nonetheless created, the Customer shall notify SMA immediately of such encumbrance.

2. The Customer is entitled to sell the products supplied by SMA as inventory in the ordinary course of business notwithstanding the above retention of title provisions. However, SMA shall have the right to retain a lien on its customers with respect to payment for the products to SMA to the extent of the value of the obligations outstanding to SMA at any point of time. The Customer hereby authorizes SMA to collect such claims on behalf of SMA. To the extent there are outstanding obligations owed to SMA, the Customer shall hold such funds in trust for SMA and shall forthwith remit those proceeds to SMA upon receipt.

3. Any processing or fabrication of the products or any other modifications of the rights, title and interest in the products shall not be carried out for SMA without binding SMA to any additional obligations.

4. If the products to which title is retained are inapproposely processed with third party goods without SMA’s consent, SMA shall have the right to claim payment for the goods at the contract price. If SMA postpones delivery at the Customer’s request, the Customer shall have to pay the contract price to the extent of the delay. If the force majeure event occurs at the SMA premises, or those of its contracted manufacturers, or third party logistics providers, SMA shall be entitled to terminate the Contract in whole or in part by giving written notice to the Customer. SMA shall be entitled to compensate SMA for the damages suffered by the latter. All property interest in the products shall in no case pass to the Customer, if the contract becomes essentially impaired, or if the Customer shall fail to perform any right, title or interest in or to the software except for the limited license granted herein.

5. SMA shall be entitled to all the rights in and to any bidding or rendering documents and the data provided by the Customer, which shall be assigned to SMA by the Customer. The Customer shall acquire no right in or to such documents. All such documents shall be immediately returned by the Customer upon SMA’s request, or in any order is terminated.

6. All business information, including but not limited to trade secrets that SMA provides to the Customer, or that comes into the possession of the Customer, shall be deemed to be the proprietary and confidential information of SMA and shall be disclosed to any third party only in connection with an order, without the prior written consent of SMA, which may in SMA’s sole discretion be withheld.

7. Any documents, prototypes, examples or samples, technical data and descriptions in this document are the property of SMA and shall be for the Customer’s sole use.

V. Acceptance – Limited Warranty

1. The Customer shall inspect all goods and products purchased from SMA immediately on delivery to ensure that there are no quality defects, or incorrect or incomplete delivery, and free from defects. Material defects, or incorrect/ incomplete delivery must be reported to SMA, in writing, within 7 days of receipt of the products. Otherwise, the products are deemed to have been accepted by the Customer. In the event of product defects, the Customer may not refuse acceptance of deliveries due to material defects (including cosmetic damage or variations in color or texture) and SMA shall not be responsible for any damage or defects which occur after risk has passed to the Customer.

2. Goods purchased from SMA are warranted to be free from manufacturing and material defects as set forth in SMA’s applicable Limited Warranty. This warranty shall not apply to material defects resulting from acts of God, war, riot, insurrection, labor disputes, measures by public authorities, severe weather or the occurrence of similar events beyond the reasonable control and foresight of SMA, which interfere with or delay any performance of SMA on its obligations. SMA warrants the product for twelve (12) months from the date of shipment and for the residual warranty period. SMA’s liability under the Limited Warranty shall be limited to repair or replacement of the defective goods at SMA’s sole expense, or at its discretion, to refund the purchase price of the defective goods.

3. The warranties expressly set forth above and herein are the exclusive warranties made by SMA with respect to the products. SMA DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, INCLUDING FOR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

4. All warranted defective products returned to SMA within the applicable limitation period and which SMA accepts shall, at the discretion of SMA, be repaired or replaced in accordance with SMA’s Limited Warranty.

5. The Customer bears the sole and entire responsibility for determining with respect to any product provided as to whether or not such product satisfies the domestic content requirements of any Feed-in-Tariff (“FIT”) program or contract. Accordingly, SMA makes no warranty whatsoever that any product will satisfy such domestic content requirements.

6. As security for performance of its obligations hereunder and under any Contract, now or hereinafter arising, the Customer grants to SMA a security interest in SMA with respect to the products. SMA DISCLAIMS ALL OTHER WARRANTIES, OR REPLACEMENTS THEREOF, and accepts the proceeds of the sale of the products and holds such security interest, and the Customer shall pay or reimburse SMA for all, fees, taxes and other costs incurred in connection with maintaining and perfecting such security interest. To the extent permitted by law, the Customer waives the requirement of being provided with a copy of any financing or verification statements or renewal thereof. Such security interest shall apply regardless of whether any product is or becomes a fixture.

7. All costs and expenses incurred by SMA in enforcing these provisions, including legal fees and any other expenses, shall be for the Customer’s account.

VI. Other Compensation Claims

1. SUBLICENSEES, SELLING OR USING THE SOFTWARE IN ANY OTHER MANNER, AS AUTHORIZED BY SMA. ANY IRREVOCABLE ASSIGNMENT OF ANY KIND WHATSOEVER, EXCEPTED OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, INCLUDING FOR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

2. SMA warrants the software to be free from viruses and defects at the time of delivery. All warranted defective products reported to SMA within the applicable limitation period and SMA shall be entitled, at its own discretion, to repair or replace the defective products or return the software to the Customer

3. The Customer shall comply with U.S. federal law in export of items purchased from SMA, and the Customer shall accept all risks and costs of any export controls, if any, applicable to the software. The Customer shall be liable for all duties, taxes and other costs incurred in connection with maintaining and perfecting such security interest. To the extent permitted by law, the Customer waives the requirement of being provided with a copy of any financing or verification statements or renewal thereof. Such security interest shall apply regardless of whether any product is or becomes a fixture.

2. All costs and expenses incurred by SMA in enforcing these provisions, including legal fees and any other expenses, shall be for the Customer’s account.