

General Terms and Conditions of SK TECHNOLOGY GmbH

1 General Information

- 1.1 These General Terms and Conditions shall form the basis of all deliveries, services and quotations of SK TECHNOLOGY GmbH towards entrepreneurs, legal persons under public law or special funds under public law in terms of Sect. 310(1) of the BGB (German Civil Code).
- 1.2 Any contradictory or additional terms and conditions of the ordering party are expressly rejected. They shall become part of the contract only if SK TECHNOLOGY GmbH expressly agrees in text form (e.g. by e-mail) to their application.

2 Quotation, Documents and Contract Conclusion

- 2.1 Any quotations of SK TECHNOLOGY GmbH shall be subject to change and non-binding, unless they have been expressly referred to as binding or contain any specific period for acceptance. The information and documents associated with the quotation, such as illustrations, drawings, weight and dimensional specifications, values in use, information on load capacity, tolerances and technical data, shall only be approximate values, unless they are expressly declared to be binding. They shall not be deemed guaranteed characteristic features, but descriptions or markings of the delivery or service. Any customary deviations and any deviations that are based on legal regulations or represent technical improvements as well as any replacement of components by equivalent parts shall be permissible as long as they do not impair the usability for the contractually intended purpose.
- 2.2 If SK TECHNOLOGY GmbH provides the ordering party with any drawings, technical documents, models, tools or other documentation or any aids relating to the technical subject-matter of purchase to be delivered, title to these shall remain with SK TECHNOLOGY GmbH. Any existing copyrights shall be retained as well. The ordering party may not provide third parties with these objects nor any of their content, nor may it disclose them, use or allow any third parties to use them or reproduce them without express consent. Upon request, the ordering party shall be obliged to return these objects in full and to destroy any copies made if they are no longer needed by the ordering party in the proper course of business or if any negotiations fail to result in the conclusion of a contract. Any existing separate confidentiality agreement shall remain unaffected and shall take precedence over these terms and conditions within its scope; in the event of doubt, the objects referred to above shall be deemed to be covered by the separate confidentiality agreement in this case.

- 2.3 Any purchase orders placed by the ordering party shall be binding on the ordering party. If any purchase order is placed based on a quotation from SK TECHNOLOGY GmbH, the contract shall be concluded only upon its confirmation in accordance with clause 2.4. Unless otherwise confirmed in text form by SK TECHNOLOGY GmbH, the invoice shall be deemed to be an order confirmation.

- 2.4 Any purchase or customer orders may be accepted by SK TECHNOLOGY GmbH within 14 days by it sending an order confirmation or an invoice or by it supplying the ordered products.

The content of any purchase orders and agreements shall be governed exclusively by the confirmation of SK TECHNOLOGY GmbH in text form, unless the ordering party immediately objects in text form as well. This shall apply, in particular, to any purchase orders and agreements made in writing or by telephone. Any notice to SK TECHNOLOGY GmbH shall no longer be deemed given immediately, if SK TECHNOLOGY GmbH has not received it within fourteen days.

- 2.5 Any verbal side agreements or verbal representations beyond the confirmed contract (cf. 2.3, 2.4 and 2.5) shall be ineffective. Any side agreements must be confirmed in text form by the executive management or authorised signatories – in their respective number authorised to represent the company – of SK TECHNOLOGY GmbH at any rate.

3 Prices and Payment

- 3.1 The agreed prices shall apply to the scope of services and deliveries set out in the contract or in the order confirmations. Any extra or special services shall be charged separately. Unless expressly stated otherwise, prices shall be deemed to be in EUR ex works (excluding packaging and transport, customs duty, insurance charges, fees and other public duties). To the extent that the agreed prices are based on any list prices and delivery is to be performed more than four months after conclusion of the contract, the list prices of SK TECHNOLOGY GmbH at the time of delivery shall apply (in each case less an agreed percentage or fixed discount).
- 3.2 For deliveries in Germany, the applicable price shall be plus the VAT applicable on the day the delivery note is issued.
- 3.3 The remuneration of SK TECHNOLOGY GmbH shall become due and payable upon performance of delivery/service and after receipt of the invoice by the ordering party. In case of any contracts with ordering

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parties not domiciled in the Federal Republic of Germany, the "cash against documents" regulation shall apply by way of derogation from the above. The costs for transferring the invoice amount shall be borne by the ordering party.

- 3.4 Any payment by bill of exchange and/or cheque shall be on account of performance and accepted only after special prior agreement. The ordering party has to bear any costs incurred to that end, such as discount charges, bill of exchange charges and the like.
- 3.5 The employees of SK TECHNOLOGY GmbH shall be entitled to receive any payments only on presentation of an appropriate debt collection authorisation. Proof of the power of attorney needs to be furnished here by presentation of the original or, alternatively, official authentication of the power of attorney.
- 3.6 If the ordering party's solvency situation deteriorates in the period between conclusion of contract and delivery or if SK TECHNOLOGY GmbH subsequently becomes aware that there are reasonable concerns about the ordering party's ability to pay, SK TECHNOLOGY GmbH shall be entitled to demand payment prior to the agreed date of payment or to withhold any outstanding deliveries until payment has been effected in full or to rescind the contract within 14 days while retaining any claims for damages or, where any bill of exchange has been received, to demand payment before the end of the term.
- 3.7 The ordering party shall not be entitled to set off against any payment claims of SK TECHNOLOGY GmbH unless its claims have been finally and bindingly established and are uncontested. Any rights to refuse performance/payment and rights of retention shall be due to the ordering party only to the extent that they are based on the same contractual relationship.
- 3.8 If the ordering party defaults on any payment, SK TECHNOLOGY GmbH shall be entitled to demand default interest in the amount of 9 percentage points above the basic rate of interest. The assertion of any specific damage caused by default shall remain reserved. For the eventuality that any higher damage caused by default is asserted, the ordering party shall have the option to prove that the asserted damage caused by default has not occurred at all or at least in a substantially lower amount.
- 3.9 Any cash discount deductions must be expressly agreed. Any cash discount deduction agreed shall nonetheless be excluded as long as there are any older claims due to SK TECHNOLOGY GmbH.
- 3.10 Unless expressly agreed otherwise, Sect. 367(1) of the BGB shall apply to any partial payments by the ordering

party. Any unilateral redemption provisions of the ordering party pursuant to Sect. 367(2) of the BGB shall be irrelevant.

- 3.11 Any offsetting against counterclaims of the ordering party or any retention of payments due to such claims shall be permissible only to the extent that the ordering party's counterclaims are uncontested or have been finally and bindingly established. Any assertion of rights to refuse performance/payment and rights of retention of the ordering party shall be admissible only to the extent that these are rights from the same contractual relationship.

4 Quality Grades, Varieties, Dimensions and Weights

- 4.1 Any quality grades, varieties and dimensions of the goods shall be governed by the DIN and EN standards agreed as applicable upon conclusion of contract. Failing such agreements, the DIN and EN standards applicable upon conclusion of the contract shall prevail. If no DIN and EN standards have been agreed nor are any pertinent, practice and commercial usage shall be decisive.
- 4.2 SK TECHNOLOGY GmbH makes no guarantees or representations by referring to any standards and similar sets of rules, to factory test certificates and similar reports as well as any information on quality grades, varieties, dimensions, weights and usability or to declarations of conformity and corresponding markings, such as CE or GS.
This shall not apply if the parties have expressly agreed anything to the contrary.

5 Delivery Time, Default of Delivery, Export

- 5.1 Any delivery dates and delivery periods may be agreed as binding or non-binding. Any corresponding agreement shall be subject to text form (e.g. by e-mail).
- 5.2 Unless expressly agreed otherwise, any delivery period expressly agreed upon shall commence upon conclusion of the contract. If SK TECHNOLOGY GmbH requires any documents from the ordering party, permits or releases to execute the order or if an advance payment has been agreed, the period shall commence only after SK TECHNOLOGY GmbH has received the documents, permits, releases or advance.
- 5.3 The delivery period shall be deemed complied with if the goods have left the works or notice of readiness for shipment has been given before its expiry.
- 5.4 Any defaults of delivery and performance due to force majeure and due to any events that make performance of delivery or service significantly more difficult or

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impossible for SK TECHNOLOGY GmbH, e.g. subsequent difficulties in material procurement, operational disruptions, strike, lock-out, shortage of staff, lack of means of transport, official orders, etc., shall extend the delivery period accordingly, with SK TECHNOLOGY GmbH not being responsible for these even if any periods and deadlines have been agreed as binding. They shall entitle SK TECHNOLOGY GmbH to postpone performance of the delivery or service by the duration of the impediment plus a reasonable start-up time or to rescind the contract in whole or in part on account of the portion not yet performed.

- 5.5 If shipment is delayed on the ordering party's request, the latter shall be required to reimburse the costs incurred by SK TECHNOLOGY GmbH as a result, especially the costs of storage. If any goods are stored in the works of SK TECHNOLOGY GmbH, the costs of storage shall amount to at least 0.5% of the net order value for each month. After a reasonable period has been set and expired to no avail, SK TECHNOLOGY GmbH shall be entitled to otherwise dispose of the goods and to supply the ordering party within a reasonably extended period.
- 5.6 Compliance with the delivery time shall be subject to fulfilment of the ordering party's contractual duties. Any damages asserted by SK TECHNOLOGY GmbH shall amount to 20 per cent of the net order value plus material costs. Such damages need to be set at a higher or lower percentage if SK TECHNOLOGY GmbH proves any higher or the ordering party proves no or any lower damage.
- 5.7 There is agreement that the ordering party shall be obliged to check whether the goods purchased by it are subject to the issue of any export licence and to export control. The ordering party undertakes to obtain the necessary export and import permits and licences at its own expense. The Federal Office for Economic Affairs and Export Control (BAFA) in Eschborn is responsible for the issue of any information and licences pursuant to German law. Any refusal of an export licence shall not entitle the ordering party to rescind the contract or to claim damages. In case of doubt, any and all goods delivered shall be subject to the issue of an export licence and to export control due to national, European or international provisions or regulations, even without our explicit reference. Any such products or any copies of such products must not be used for any military purposes or for any civilian or military activities relating to nuclear technology. In particular, they must not be used for any kind of

activities that serve to develop or produce any chemical or biological weapons.

The ordering party acknowledges German, European and international export control provisions and restrictions and undertakes not to sell, export, re-export, supply or otherwise pass on any such products or technical information, either directly or indirectly, to any persons, companies or countries to the extent that this violates German, European or international laws or regulations. The ordering party shall indemnify SK TECHNOLOGY GmbH from any liability in that respect.

- 5.8 SK TECHNOLOGY GmbH shall be entitled to make partial deliveries only if
- the partial delivery can be used by the ordering party within the scope of the contractually intended purpose,
 - delivery of the remaining goods ordered is ensured and
 - the ordering party does not incur any significant additional effort or additional costs or SK TECHNOLOGY GmbH agrees to bear these costs.
- Any deliveries of partial quantities that are in compliance with the delivery schedule specified in the contract or order confirmation shall not be considered partial deliveries in the sense above.
- 5.9 If SK TECHNOLOGY GmbH defaults on any delivery or service or if its delivery or service becomes impossible for any reason whatsoever, its liability for damages shall be limited in any case in accordance with these terms and conditions (cf. clause 8).

6 Passing of Risk, Acceptance

- 6.1 If the goods are shipped to the ordering party at the latter's request, the risk of accidental destruction or accidental deterioration of the goods shall pass to the ordering party once they are shipped to the ordering party, at the latest once they leave the works/warehouse. This shall apply regardless of whether the goods are shipped from the place of performance or the party bearing the freight costs or even if any partial deliveries are made or SK TECHNOLOGY GmbH has committed to perform any further services, e.g. covering the shipping costs or delivery and installation and/or commissioning.
- 6.2 If shipment or acceptance is delayed for any reasons for which SK TECHNOLOGY GmbH is not responsible, the risk shall pass to the ordering party as from the day on which notice of readiness for shipment or acceptance is given.

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- 6.3 Any storage costs after the passing of risk shall be borne by the ordering party. If any goods are stored by SK TECHNOLOGY GmbH, the storage costs shall be 0.1% of the invoice amount of the objects of delivery to be stored per week elapsed. The option for SK TECHNOLOGY GmbH to assert any storage costs demonstrably incurred in excess or for the ordering party to prove that any storage costs have been incurred only to a lesser extent shall remain unaffected.
- 6.4 SK TECHNOLOGY GmbH shall insure the shipment against theft or breakage, transport, fire and water damage or any other insurable risks only at the ordering party's explicit request and expense.
- 6.5 To the extent that acceptance is required, any movable items shall be deemed to have been accepted
- if the delivery and, where SK TECHNOLOGY GmbH also owes construction or installation, such service has been completed,
 - where SK TECHNOLOGY GmbH has informed the ordering party of this whilst referring to the fictitious acceptance pursuant to this clause and has prompted it to perform acceptance,
 - where 15 workdays have elapsed since the delivery or installation or the ordering party has begun using the goods (e.g. has put the delivered item into operation) and ten workdays have elapsed since delivery or installation in this case,
 - the ordering party has failed to carry out / declare acceptance within this period for any reason other than a defect notified to SK TECHNOLOGY GmbH which makes any use of the goods impossible or significantly more difficult.

7 Warranty

- 7.1 SK TECHNOLOGY GmbH shall provide the ordering party with the goods free of material defects. Any minor material defect shall be irrelevant. The information on the characteristics of the goods delivered is to be regarded as approximate and shall always serve as a benchmark for determining whether the subject-matter of contract is free of defects, although any limit values may differ by tolerances in any case. The general terms and conditions of delivery of the respective manufacturers shall expressly become content of the contract regarding the characteristics of the goods delivered and the general instructions for care, transport and storage as well as installation regulations.
- 7.2 We shall warrant for the duration of the statutory warranty period, but no longer than for a period of 12 months, that the subject-matter of contract is free of defects and has any properties that may have been

agreed as guaranteed. The warranty period shall commence on the respective delivery/service date.

- 7.3 The duty of warranty under 7.2 shall not apply if the ordering party has been intentionally misled about any defect or any defect has been intentionally concealed. In this case, the warranty periods shall be governed by the statutory regulations. The same shall apply to any guarantee to that extent that SK TECHNOLOGY GmbH has made any guarantee for a certain property/quality of the goods. The warranty period for any defects in services of cure shall likewise end upon expiry of the original warranty period of the goods.
- 7.4 Unless the obligation of SK TECHNOLOGY GmbH to remedy defects is excluded by contract, SK TECHNOLOGY GmbH may, at its own discretion, remedy the defect by subsequent improvement or replacement delivery free of cost. In case of replacement delivery, the defective goods are to be returned to SK TECHNOLOGY GmbH. If the defect cannot be remedied or if subsequent improvement or replacement delivery is to be regarded as having failed, the ordering party may, at his own discretion, request reduction of the remuneration or rescind the contract. Subsequent improvement shall not be considered to have failed until subsequent improvement or replacement delivery is impossible, if it is unreasonably delayed by SK TECHNOLOGY GmbH, if there are any reasonable doubts about the prospects of success or if this is unreasonable for any other reasons.
- 7.5 Following consultation with SK TECHNOLOGY GmbH, the ordering party is to give SK TECHNOLOGY GmbH the time and opportunity required to perform all subsequent improvements and replacement deliveries that appear necessary to SK TECHNOLOGY GmbH according to its equitable discretion. The ordering party shall have the right to rectify or to have third parties rectify the defect and to demand reimbursement of the necessary costs from SK TECHNOLOGY GmbH only in urgent cases, such as any hazard to operational safety and to avert any disproportionate damage, or if SK TECHNOLOGY GmbH is in default with remedying the defect.
- 7.6 The ordering party must give notice of any defects in text form immediately after their discovery. Any warranty claims for obvious defects not notified to SK TECHNOLOGY GmbH in text form within fourteen days after receipt of the goods shall not be accepted.

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- 7.7 Claims for defects shall not exist for the eventuality that the ordering party has stipulated processing of certain materials or provided any material or parts and SK TECHNOLOGY GmbH has pointed out potential defects due to the processing of these materials.
- 7.8 Claims for defects shall further not exist in the event of only insignificant deviations from the agreed property or if usability is impaired only to any insignificant extent.

8 Liability of SK TECHNOLOGY GmbH

- 8.1 SK TECHNOLOGY GmbH shall be liable without limitation for any intentional or grossly negligent conduct by its legal representatives or any persons deployed to perform an obligation of it; for slight negligence, it shall be liable only for violation of any essential contractual duties in a manner endangering the purpose of contract.
- 8.2 Other than that, any liability for culpably caused damage shall be basically limited to contract-typical and consequently foreseeable damage. Any more extensive rights and claims shall be excluded from liability. This shall apply in particular to any compensation for indirect damage (e.g. production failure, operational interruption, lost profit and loss of information and data).
- 8.3 Any claims for damage to health, life and limb, however, shall remain unaffected by the preceding limitations of liability, as well as any claims pursuant to the Germany Product Liability Act.

9 Retention of Title

- 9.1 Title to the goods supplied by SK TECHNOLOGY GmbH shall remain with it (goods subject to retention of title). The ordering party shall be entitled to process and alienate the goods subject to retention of title in the ordinary course of business. Ordinary course of business in terms of these Terms and Conditions shall not apply if the ordering party is excluded from assigning its claims to third parties in case of any alienations or any other disposals or actions by it for the benefit of third parties. Any pledges or chattel mortgages of the goods subject to retention of title shall not be admissible.
- 9.2 The ordering party's shall not acquire title to the goods subject to retention of title through any processing or transformation. Any processing or transformation shall always be made for SK TECHNOLOGY GmbH as the manufacturer, but without any obligation for SK TECHNOLOGY GmbH.
- 9.3 If the goods subject to retention of title are combined or intermixed with any other movable items such that

they become essential components of any singular item, SK TECHNOLOGY GmbH shall become co-owner of such item, with the co-ownership share being determined by the value relation between the items at the time of combination or intermixture. If the goods subject to retention of title need to be regarded as the main item, however, SK TECHNOLOGY GmbH shall acquire sole ownership.

- 9.4 The ordering party already now assigns to SK TECHNOLOGY GmbH, by way of security, any claims that shall arise in relation to the goods from the further alienation/processing or any other legal ground in the amount of the purchase price of the goods subject to retention of title. SK TECHNOLOGY GmbH accepts such assignment. The ordering party shall be authorised to collect these claims for SK TECHNOLOGY GmbH. The authorisation to collect shall not be applicable if the ordering party fails to not properly meet its payment obligations towards SK TECHNOLOGY GmbH. In this case, SK TECHNOLOGY GmbH shall be entitled to disclose the assignments to the garnishees.
- 9.5 The ordering party shall be obliged to provide, at its expense, SK TECHNOLOGY GmbH without delay with the information necessary to assert its claims and other entitlements and to hand over the evidential documents, to the extent these are in its possession. The duty shall exist accordingly in case of any compulsory enforcement against any items, claims and other pecuniary rights of SK TECHNOLOGY GmbH; the ordering party shall be obliged to inform SK TECHNOLOGY GmbH about the compulsory enforcement without delay; moreover, it shall point out the rights of SK TECHNOLOGY GmbH in writing to the seizure creditor.

10 Property Rights

- 10.1 SK TECHNOLOGY GmbH shall be liable, in accordance with this paragraph, for ensuring that the object of delivery is free from any industrial property rights or copyrights of third parties. To the extent that any infringement of an industrial property right or copyright of third parties is based on any stipulations by the ordering party regarding the properties of the objects to be delivered or the work to be created or the manner of the provision of services, this shall apply only if the ordering party was not aware of the relevant property right and SK TECHNOLOGY GmbH knew or must have known about the property right.

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- 10.2 If claims are asserted against SK TECHNOLOGY GmbH by any third party for any infringement of industrial property rights that is based on any stipulation by the ordering party in terms of clause 10.1, the ordering party shall be required to indemnify SK TECHNOLOGY GmbH upon first request from any such claim unless SK TECHNOLOGY GmbH is responsible for the infringement.
- 10.3 Each contractual partner shall give the other contractual partner notice in text form without delay if any claims are asserted against it for any infringement of such rights. The contractual partners shall inform each other in the same manner without delay as soon as they become aware of any circumstances suggesting any infringement of intellectual property rights.
- 10.4 In the event that the object of delivery infringes any industrial property right or copyright of a third party, SK TECHNOLOGY GmbH shall, at its own discretion and expense, modify or replace the object of delivery in such a way that any rights of third parties are no longer infringed, but the object of delivery still fulfils the contractually agreed functions, or provide the customer with the right of use by concluding a licensing agreement. If it fails to do so within a reasonable period of time, the ordering party shall be entitled to rescind the contract or to reduce the purchase price appropriately. Any claims for damages by the ordering party shall be subject to the restrictions of these Terms and Conditions (cf. clause 8).
- 10.5 In the event of any infringements of rights due to any products of other manufacturers supplied by SK TECHNOLOGY GmbH, SK TECHNOLOGY GmbH shall, at its discretion, assert any own claims against the manufacturers and pre-suppliers for the ordering party's account or assign these to the ordering party. In such cases, any claims against SK TECHNOLOGY GmbH in accordance with this clause shall exist only if the judicial enforcement of the claims referred to above against the manufacturers and pre-suppliers had been unsuccessful or, for example due to insolvency, has no prospect of success.
- 11.4 In the event that any provision in these Terms and Condition or any provision under any other agreements is or becomes ineffective, this shall not affect the effectiveness of all other provisions or agreements.

11 Other Provisions

- 11.1 Place of performance and place of exclusive jurisdiction for all disputes from or in connection with this contract shall be Regensburg.
- 11.2 This contract and the entire legal relations of the parties shall be subject to the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 11.3 The contractual language shall be German.