



# Logistics Agreement

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between

**SMA Solar Technology AG**

Sonnenallee 1  
34266 Niestetal  
Germany

- hereinafter referred to as SMA -

and

**Supplier**

- hereinafter referred to as Supplier -

- jointly referred to as Parties -



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# 1 Preamble

## 1.1 Definition

The Logistics Agreement defines the basic logistical requirements that SMA expects its suppliers to fulfill. The fulfillment of these requirements is an essential component of any supplier relationship with SMA and is therefore a contractual obligation of the Supplier. To further constructive cooperation with its suppliers, SMA has released this Logistics Agreement for the purpose of describing the basic requirements for suppliers and increasing the transparency of internal workflows.

## 1.2 Objectives

The objectives of this Logistics Agreement are to:

- Minimize logistics costs along the supply chain
- Guarantee supply and process reliability
- Define minimum standards for planning and designing the SMA logistics system
- Rate, promote and increase the performance of suppliers
- Ensure a process of continual improvement

# 2 General Terms and Conditions

## 2.1 Validity and Scope

This Logistics Agreement supersedes all prior agreements, directives and provisions governing the execution of the logistics processes between SMA and the Supplier. If SMA and the Supplier have entered into a Master Procurement Agreement, this Logistics Agreement shall apply in conjunction with such Agreement. If no Master Procurement Agreement was concluded, this Logistics Agreement applies in conjunction with the General Terms and Conditions for Purchase and packing instructions of SMA. If the Parties conclude agreements that differ from these, these agreements take precedence.

## 2.2 Responsibility for Supply Reliability

The Supplier is responsible for making deliveries on a timely basis and thus for ensuring the supply reliability required by SMA. The Supplier shall take all actions required for this purpose, including but not limited to integrating its upstream or downstream suppliers and/or service providers into the process.



## 2.3 Exchange of Information

### 2.3.1 Availability of Contact Persons

SMA shall be informed of fixed contact persons for the delivery process. Their contact information shall include, at a minimum, a name, telephone number, fax number and e-mail address. These contact persons must be available<sup>1</sup> from 8 a.m. to 4 p.m. CET on business days. In the event such contact persons are absent (e.g., due to illness or vacation), clear provisions on representation must be in place so that a qualified contact person is available to SMA. The Supplier will immediately respond to any requests or inquiries. If the information required by SMA is not currently available to the Supplier, the Supplier shall provide the information to SMA without undue delay or at the agreed time for subsequent delivery.

Operational Purchasing is responsible for all the Supplier's questions on delivery (e.g., delivery times, standby duty), on ongoing orders and release orders (e.g. delivery dates, delivery quantities, quality deficiencies), and for the clarification of general logistics questions on processes (e.g., kanban, VMI, transport, customs, empties).

General questions regarding contracts (e.g., sales offers, business inquiries, contract negotiations) are to be directed to Strategic Purchasing.

### 2.3.2 Information Sharing

A supply relationship between the Parties requires the possibility of electronic data exchange (hereinafter referred to as "EDI"). The Supplier is obligated to use EDI to receive and send information.

If the Supplier does not yet have an EDI connection to SMA, the Parties will jointly agree to a timetable for connecting the Supplier to SMA's data exchange system and implement the connection. The Parties will conclude a separate EDI Agreement to govern the legal basis of the electronic data exchange and the technical requirements and message formats of EDI.

If SMA only orders small volumes from the Supplier or its infrastructure is not sufficient, the Supplier can with SMA's prior written consent use the web portal "pool4tool" instead of an EDI connection to handle the business processes arising.

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<sup>1</sup> Saturdays, Sunday, and holidays at the headquarters of either SMA or the Supplier are not considered business days.



## 2.4 Emergency Management

All disruptions in the supply by the Supplier that pose a risk to routine production or individual production processes at SMA shall be considered emergencies. Such circumstances may include, for example, production problems with a supplier, tool breakage, transport problems or quality defects. Any and all disruptions occurring or foreseen must be reported to Operational Purchasing at SMA immediately. For purposes of remedying the disruption, the Supplier must prepare an emergency management plan that is suited to each disruption, includes the appropriate measures to be taken and identifies a contact person. If special transport is necessary in connection with a disruption, it is important to ensure that the driver can be reached by telephone during such transport. The telephone number at which the driver can be reached must be provided to the responsible contact person at SMA. Special transport or any additional outlays that serve SMA's supply reliability will be charged based on the costs-by-cause principle.

## 2.5 Self-Auditing

As part of supplier development, the Supplier shall, upon SMA's request, conduct a self-audit of its logistical process according to SMA criteria and then report the results to Strategic Purchasing. The current requirements regarding suppliers' disclosure of information can be found on the Supplier Portal at <http://www.sma-supplier.de/de/downloads.html>. SMA is likewise authorized to carry out its own audit of the Supplier and demand the implementation of measures determined by said audit.

## 2.6 Supplier Evaluation

SMA reserves the right to systematically evaluate the logistical performance of the Supplier and to meet with the Supplier to discuss the evaluation.

# 3 Material Planning and Shipment Release Order Control

At SMA, there are various methods available for material planning. Material can be sourced through individual orders, framework orders, a vendor managed inventory concept, delivery schedule or Kanban releases. The desired planning method is defined by SMA in the tendering procedure on a material-specific basis.



### 3.1 Individual Orders

For an individual order, SMA shall provide an order specifying a binding delivery quantity and a binding delivery date. This order is to be confirmed by the Supplier within three business days.<sup>2</sup> If the Supplier does not confirm within the above period, the Supplier's failure to comment shall be regarded as acceptance. SMA can revoke the individual orders free of charge at any time up until expiration of this deadline or before receipt of the Supplier's confirmation.

### 3.2 Framework Orders

In framework orders, SMA and the Supplier agree on a certain quantity of material for a certain time period in order to plan production capacity. The fixed quantity of material is ordered by SMA in portions via release orders with reference to the relevant framework order and delivered to SMA by the Supplier. In the event of premature ending of this framework order, SMA is only obliged to accept the quantity of material actually included in the so-called buffer stock at the time of termination. The maximum quantity of materials in the buffer stock will be agreed on between SMA and the Supplier in the framework order.

### 3.3 Vendor Managed Inventory

In order to guarantee an automated, continuous and stable flow of goods, the Parties can also agree on a vendor managed inventory (VMI) concept for individual materials. In this VMI concept, the Supplier is responsible for merchandise planning. Consignment stock must be set up in order to implement the VMI concept. A separate agreement on vendor-managed inventory (VMI) with consignment stock is concluded between the Parties to govern the VMI concept.

### 3.4 Delivery Schedule Release

#### 3.4.1 Delivery Schedule

In the delivery schedule release, SMA will provide the Supplier with a demand forecast for the planned scope of delivery in the form of a delivery schedule for the individual materials. This demand forecast covers a period of up to twelve months and is nonbinding. It is only intended to give the Supplier information about the future material requirements of SMA and allow long-term capacity planning based on the production and sales forecasts of SMA. The Supplier is responsible for the proactive planning of its capacities and the planning of its subcontractors. If the Supplier has information relating to future capacity shortages, it must notify SMA of this situation immediately.

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<sup>2</sup> Saturdays, Sundays and holidays at the headquarters of either SMA or the Supplier are not considered business days.



## 3.4.2 Merchandise Planning

Based on the delivery schedule, quantities according to delivery schedule with quantities and delivery dates are created by SMA and sent to the Supplier via delivery schedule releases. The quantity according to delivery schedule is adjusted to the current demand situation on a rolling basis. If the Supplier does not object to the delivery schedule release within one business day<sup>3</sup>, the delivery schedule release is considered accepted.

SMA is entitled to revoke any erroneous delivery schedule releases immediately. For delivery schedule releases that are incorrect or appear implausible, the Supplier is required to contact SMA immediately so that SMA can exercise its right to revoke the corresponding delivery schedule releases.

## 3.4.3 Release

The forwarding of a delivery schedule release by SMA only substantiates a purchase commitment for the quantity of material named therein if this quantity is within the release period of the production release and/or material release. If production and material releases are agreed on, these are listed in the delivery schedule. Otherwise, there is no purchase commitment for SMA on the basis of delivery schedule releases.

### 3.4.3.1 Production Release

The production release refers to the period during which SMA is obligated to accept and pay for the quantities specified in the quantity according to delivery schedule and produced for this period. The production release period will be agreed on in the delivery schedule per material at the beginning of the contract term. The Supplier is obligated to produce at least the material quantities specified in the delivery schedule release for the said time period and to stockpile them as quantities of finished goods.

If SMA does not accept quantities for which a production release was granted and which were already produced by the Supplier within three months of the delivery date advised, the Supplier shall initially be obliged to arrange alternative use of these in order to minimize the damage. The revenue generated thereby will be offset against the purchase price to be paid for by SMA and then credited to SMA. Insofar and to the extent that the Supplier is demonstrably unable to sell such products within three months of receiving notification of non-acceptance, the Supplier must scrap these products and provide SMA with adequate proof thereof. Any additional claims for expenses or compensation due to non-acceptance shall be excluded.

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<sup>3</sup> Saturdays, Sundays and holidays at the headquarters of either SMA or the Supplier are not considered business days.





### 3.4.3.2 Material Release

The material release refers to the period during which the Supplier is obligated to procure raw materials in the quantities specified in the delivery schedule release. The material release period will be agreed on in the delivery schedule per material at the beginning of the contract term. If SMA reduces the quantities in the quantities according to delivery schedule within the material release period, the Supplier agrees not to place further orders of the raw materials included in the material release period.

SMA is obligated to accept or reimburse the costs of raw materials purchased under the material release provided that said materials are not accepted under the production release, in accordance with the following conditions:

SMA's obligation to refund costs resulting from the material release is limited in value to the agreed portion of the material price. This portion is calculated based on the material price of the SMA-specific raw material costs and is indicated in the delivery schedule. SMA and the Supplier agree to the periodic review and possible adjustment of the material release for SMA-specific raw materials. The Supplier is obligated to procure and stock the raw materials in such a way that it can fulfill the quantities according to delivery schedule.

SMA shall decide about the acceptance of these raw materials within three months of the Supplier's request or shall reimburse the Supplier for the demonstrably incurred raw material costs according to the requirements listed below.

The Supplier may only claim reimbursement for the quantities specified in the delivery schedule and covered by the material release if the following can be shown:

- it has procured raw materials exclusively and specifically for deliveries to SMA,
- it can use the raw materials exclusively for SMA,
- it is unable to find another purchaser and
- the upstream supplier refuses to take back the goods.

If SMA chooses not to accept the SMA-specific raw materials that the Supplier has already procured and is holding, the Supplier is initially obligated to sell these materials to another purchaser in order to minimize loss. Any revenue generated thereby will be offset against the amount to be reimbursed by SMA and then credited to SMA. Insofar and to the extent that the Supplier is demonstrably unable to sell such materials within three months of receiving notification of non-acceptance, then the Supplier must scrap these raw materials and provide SMA with adequate proof thereof. Any claims for reimbursement are limited to the purchase price of the SMA-specific raw materials that was incurred by the Supplier. Any additional claims for expenses or compensation due to non-acceptance shall be excluded.

If an additional flexibility agreement has been made, and if stipulated in this agreement, the Supplier is obligated to stockpile more quantities than what is actually specified in the quantity according to delivery schedule.



## 3.5 Kanban Release

### 3.5.1 Planning

In the kanban method, quantities according to delivery schedule are prepared based on a delivery schedule. The individual quantities according to delivery schedule cover a period of up to 12 months and shall be provided to the Supplier as a nonbinding basis for planning. Quantities according to delivery schedule are updated and sent to the Supplier on a rolling basis.

### 3.5.2 Merchandise Planning

A material release with a binding quantity to be delivered and accepted and a binding delivery date shall take place via kanban release. After receiving the binding kanban release from SMA, the Supplier must fulfill the delivery and comply with the delivery date irrespective of the agreed Incoterm® (transport kanban). If the Supplier does not object within one business day<sup>4</sup> of receiving the kanban release, the kanban release is considered accepted.

### 3.5.3 Production Release

The Supplier is obligated to keep an adequate buffer stock (quantity of finished goods) based on the demand forecast the Supplier has received. The buffer stock is to be interpreted such that the quantity of finished goods matches the total quantities from the material-specific production release period agreed between the parties on the basis of the current demand forecast. SMA reserves the right to spot-check the Supplier's buffer stocks with prior notification.

If SMA does not accept the quantities for which a production release was granted and which were already produced by the Supplier within three months of the delivery date advised, the Supplier shall initially be obliged to arrange alternative use of these in order to minimize the damage. Any revenue generated thereby will be offset against the purchase price to be paid for by SMA and then credited to SMA. Insofar and to the extent that the Supplier is demonstrably unable to sell such products within three months of receiving notification of non-acceptance, the Supplier must scrap these products and provide SMA with adequate proof thereof. Any additional claims for expenses or compensation due to non-acceptance shall be excluded.

### 3.5.4 Material Release

The provisions of 3.4.3.2 on material release apply mutatis mutandis to the kanban release method.

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<sup>4</sup> Saturdays, Sundays and holidays at the headquarters of either SMA or the Supplier are not considered business days.



## 4 Transport Packaging and Goods Labeling

The requirements that the Supplier must fulfill regarding transport packaging and goods labeling are defined in the Packaging Guidelines. The current Packaging Guidelines can be found on the Supplier Portal at <http://www.sma-supplier.de/de/downloads.html>. If special requirements must be observed for the transport or packaging of individual materials, the Parties will agree on these separately.

## 5 Shipping and Transport

The provisions on shipping and transport are based on the agreed Incoterm (Incoterms® 2010). In addition to the agreed Incoterm® 2010, the following provisions apply and must be observed in particular.

### 5.1 Mode of Transport Selection

A shipment refers to the sum of all goods that is intended for a specific recipient from a specific sender on a specific loading day. Shipments for SMA must be processed as follows.

#### 5.1.1 General Cargo, Partial Truckloads and Full Truckloads

General cargo (< 2.5 metric tons/< 6 loading spaces/< 2.5 to 3 loading meters) as well as partial truckloads and complete truckloads are to be registered with the regional freight forwarding company specified by SMA. The Supplier's place of shipment or delivery determines which regional freight forwarding company is used. The current regional assignment can be found on the Supplier Portal at <http://www.sma-supplier.de/de/downloads.html>.

#### 5.1.2 Small Shipments

Small shipments with a gross weight of up to 30 kg must be sent using the CEP service providers specified by SMA. Such shipments have to be made without bottom pallets and must be sent on the basis of their combined length and girth. Each SMA delivery address has its own CEP customer number, which the Supplier must indicate on the shipping notice. The Supplier's place of shipment or delivery determines which CEP service provider is used. The current regional assignment can be found on the Supplier Portal at <http://www.sma-supplier.de/de/downloads.html>.

#### 5.1.3 Air and Sea Freight

The Supplier's place of shipment or delivery determines which SMA specific freight forwarding company is used.



## 5.2 Notification

### 5.2.1 Notification at SMA

SMA must be notified immediately upon goods issue. The notification shall be made via EDI as per VDA 4913 (German Association of the Automotive Industry) or EDIFACT (United Nations Electronic Data Interchange for Administration, Commerce and Transport) or via an Internet-based platform.

### 5.2.2 Notification at the SMA Freight Forwarding Company

The freight forwarding company must be notified of the shipments electronically via EDI as per VDA 4920 or EDIFACT or via an Internet-based platform in accordance with the relevant notification and transport times. The notification and transport times currently in effect can be found on the Supplier Portal at <http://www.sma-supplier.de/de/downloads.html>. Shipment registration via telephone is not permitted.

## 5.3 Loading at the Supplier

Registered quantities must be suitably packaged for transport based on SMA requirements and instructions and then loaded on a suitable vehicle. The Supplier is required to load the vehicle in a manner that ensures transport safety.

## 5.4 Documents

For each unloading location, the shipment must include a separate delivery note as per DIN 4994 and, for EDI processing, as per VDA 4912 or EDIFACT. The shipment must also include a consignment note/shipping order for national transport as per VDA 4922 or an international consignment note (CMR) for cross-border shipping. These documents must show the name of the freight forwarding company and the license plate number of the truck and trailer or semi-trailer. This also applies if the registered goods are to be picked up by a third party (e.g., a subcontractor) employed by the freight forwarding company in question.

The consignment note must list all the delivery notes associated with the shipment as well as the gross weight of each delivery.



The Supplier must ensure that the physical scope of the delivery, including loading carrier and/or packaging, matches all delivery data and documents.

If the delivery is effected by a parcel service provider, a separate delivery note based on DIN 4994 and via EDI based on VDA4912 or in accordance with EDIFACT must be enclosed with each order.

If SMA has requested the disclosure of additional information in the order or commission, the Supplier is obliged to disclose the information on the delivery note included with the goods. In particular, this may include the manufacturing date of the delivered items and the labeling of the goods as functional models.

## 5.5 Customs Clearance

The Supplier must indicate the country of origin and the customs tariff number (HS code) for each SMA item number. For goods originating within the EU, the Supplier automatically supplies this information to SMA via a long-term supplier's declaration as per Regulation (EC) no. 1207/2001 of the Council dated June 11, 2001. For goods originating outside of the EU, the country of origin and the customs tariff number must be indicated in the commercial invoice. Any changes must be reported to SMA immediately. Further provisions can be found in the Directive on the Provision of Foreign Trade Data at <http://www.sma-supplier.de/de/downloads.html>.

## 5.6 Transport Insurance for Incoming Shipments

SMA is a self-insurer and, for purposes of the freight forwarding, logistics and storage insurance certificate, it waives freight forwarding insurance coverage. Consequently, all deliveries made to SMA must be without further transport insurance, regardless of the agreed Incoterm (Incoterms® 2010), unless SMA and the Supplier have explicitly made a contrary agreement regarding goods delivery. The designation of an Incoterm® alone is not an explicit agreement. If the Parties have not concluded a contrary agreement, any amounts invoiced for transport insurance will be paid for by the Supplier.



## **6 Irregularities and Non-Acceptance**

Adhering to the above provisions is essential for ensuring a smooth logistical workflow. Any deviation from the provisions will result in additional costs for SMA. SMA therefore reserves the right to invoice the Supplier for any costs arising from a breach of these terms and conditions.

Moreover, if irregularities are found, SMA reserves the right to send goods back to the Supplier on a freight collect basis. SMA will be responsible for organizing the return shipment. The resulting costs will be borne by the Supplier.

The right to assert further compensation claims shall remain unaffected.

## **7 Applicable Law, Place of Jurisdiction**

This agreement shall be subject to German law. Kassel, Germany, is the exclusive place of jurisdiction for all disputes arising from or in connection with this Agreement.

## **8 Written Form**

Any amendments and supplementary information pertaining to this Logistics Agreement must be made in writing. This shall also apply to changes to the above written form clause.

## **9 Severability Clause**

If a provision of this Agreement is or becomes invalid or unenforceable, the other provisions of this Agreement shall remain valid. The invalid or unenforceable provision is automatically considered replaced by such a valid or enforceable provision that realizes the economic meaning and purpose of the invalid or unenforceable provision.



**SMA Solar Technology AG**

**Supplier**

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Place, date

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Place, date

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