

## **GENERAL PURCHASING AND SUPPLY TERMS OF THE SOLVARO GROUP**

### **Article 1 Scope of validity, written form**

1.1. Our General Commercial Terms (GCT) apply exclusively. These Terms apply with regard to all businesses (article 14 of BGB), legal entities and special institutional funds under public law. We do not recognise any deviating commercial terms of the Customer. Our GCT apply also if we are aware of different commercial terms of the Customer, and make a delivery to the Customer unconditionally, nonetheless.

1.2. All agreements made between us and the Customer for the purposes of delivering this agreement shall be made into writing in this agreement. This applies in particular to the assumption of warranty representations.

1.3. These Terms also apply to any future commercial relationships with the Customer, even if they are not specifically referred to again in the agreements.

### **Article 2 Offers, the making of contracts, contract documents, the contents of contracts**

2.1. Our offers are non-binding. We can accept contract offers within four weeks. We have the right to refuse the acceptance of an order even in case of framework agreements or lifetime agreements if it becomes obvious that our claim for payment under the individual contract would be jeopardised by the lack of the Partner's ability to deliver at the acceptance of the order. This applies in particular if the Partner's creditworthiness rating with the credit rating agency is rated as unsatisfactory, or if another reason applies under article 321, section 1 of BGB.

2.2. Images and data used in advertising materials and other presentations are not binding.

2.3. We reserve the ownership title and copyright in images and drawings, calculations and other data or documents, and these shall not be disclosed to any third party. This applies in particular to data or documents that are labelled "confidential"; the Customer shall not disclose these to any third party unless with our specific, written consent.

2.4. Unless specifically agreed otherwise, the following provisions apply to all products to be delivered:

- The agreed condition is indicated in the technical contract documents, in particular in the agreed drawings, samples, descriptions and other documents; while the factory norms, specifications and margins of tolerance under DIN apply to raw materials as customary in the trade.
- Weight data are not binding.
- The usual deviations in sheet thickness and format are permissible in case of deliveries from steel-mills. DIN standards applicable at the time of production are binding, including margins of tolerance and deviation. The deviations caused by punching tools or other machines and equipment are to be considered in case of steel sheets with prescribed un-punched rims. Possible differences are evenly spread on other rims.
- A light rust film can and may appear on the goods. No special surface condition of the basic material, especially no freedom from grease is guaranteed.

The above regulations shall not apply to commercial goods that are not produced by us, which we sell (except to the extent that DIN standards or other requirements are mandatorily applicable to them).

2.5. Except if agreed otherwise, the products supplied by us are destined exclusively for use within the Federal Republic of Germany. Therefore we are not liable for any complaints that derive from different technical conditions abroad or legal requirements applicable in any given country.

### **Article 3 Prices, Payment Terms, Payment Delay, Setoff, Right to Withhold**

3.1. Except to the extent that anything else derives from the order confirmation, all prices shall be in EUR ex warehouse (in case of goods on stock), or ex works exclusive of packaging, freight, insurance, customs duties, agreed installation and other ancillary costs, with value added tax to be added at the rate from time to time valid. In case of agreed delivery,

transport shall be to the curb-side at the agreed place of unloading. In order to secure unperturbed unloading, the Customer is obliged in this case to make available the personnel and equipment as necessary in time and to its own cost. The condition applies that the vehicle can pull up directly to the unloading site and can be unloaded immediately. If these conditions are not met, all arising additional costs shall be invoiced separately.

3.2. The price list valid on the day of the order shall apply to orders made. If, in case of long term agreements (agreements with a term of more than 4 months and agreements with an indefinite term), any substantial change occurs at wage, material or energy costs, then each Customer is entitled to request negotiations on an appropriate adjustment of the price with due consideration to these factors.

3.3. Invoices will be sent in text form (article 126b of BGB), e.g. per post, fax or via electronic communication. In case of electronic communication we will send the invoice to the Customer's general Email address, as indicated on its homepage, if no other Email address has been indicated by the Customer. Except if agreed otherwise, payment shall be made without any deductions within 30 days from the date of delivery and receipt of invoice.

3.4. We are not obliged to accept any payment by cheque or bill of exchange. If we accept any such payment, it shall be for the purpose of delivery only.

3.5. If, in case of partial payments, the Customer is late with at least two instalments, we are entitled to advance the due date of all claims, also from other invoices, even if cheques or bills of exchange were accepted. In this case the documents shall be returned in exchange for prompt cash payment.

3.6. If there is any substantial change or deterioration in the financial standing of the Customer after the conclusion of the agreement, which poses a risk to our claim for a consideration, or if such standing of the Customer was already there at the time when the agreement was made, but only because known subsequently, then we can refuse to deliver until the consideration is paid. In these cases we have the right to set a deadline for the Customer to effect payment of the consideration or to provide security. If the consideration is not paid or security is not provided despite a deadline set under the conditions herein described, then we have the right to rescind. Additionally, article 321, section 1, sentence 2 and article 2 of BGB apply. Section 3.7 remains valid unaffected.

3.7. If the Customer is delay with its payment, we have the right, after written notice to the Customer, to suspend deliveries until complete payment of our claims; to take back the goods upon expiry of an extended deadline that we set; to eventually access the Customer's premises and remove the goods. Additionally we can also ban any removal of the delivered goods. Section 3.6 and all legal provisions on the dispensability of setting an extended deadline remain valid unaffected.

3.8. If any goods delivered by us are taken back, then, irrespective of the assertion of any additional claims for damages, these shall be credited to the Customer with an appropriate discount, and shall be set off against our open claims. The Customer has the right to prove that the value has deteriorated by less in any individual case.

3.9. Only uncontested or legally binding and final claims can be set off against our claims. The Customer can assert a right to withhold only to the extent that its counterclaim is based on the same contractual relationship.

#### **Article 4 Delivery Delay, Partial Delivery, Right to Withdraw**

4.1. Our delivery obligation applies conditionally upon the appropriate and timely supplies received from our own suppliers. This caveat applies in cases when the delivery default is not our fault, particularly if a congruent hedging transaction is done with our suppliers.

4.2. The term of delivery starts with the dispatch of our order confirmation, however not any earlier than the receipt of all documents and information to be provided by the Customer, and the clarification of all details of the order, in particular all technical issues, release of drawings, the supply of eventually required ancillary parts etc. This also applies to assembly works. Partial deliveries are permissible only to the extent that they are reasonable. Mentioned delivery dates are non-

binding, unless these have been expressly stated by us as a "binding delivery date" or similar. confirmed in writing or bindingly agreed.

4.3. We shall not be liable for delivery delays attributable to force majeure and other circumstances beyond our control, particularly traffic and factory disturbances that we are not liable for, strikes, lock-outs, shortage of raw materials, and war. If we are unable to deliver in these cases within the agreed delivery term, then such delivery term shall be extended appropriately, however, no claims can arise from these events on the Customer's part. If the impediment to delivery extends beyond the reasonably extended delivery deadline, then we have the right to rescind from the contract.

4.4. If we are unable to comply with the agreed delivery deadline, the Customer is entitled to declare within a reasonable deadline upon our request whether it insists on receiving the delivery nonetheless. If the Customer makes a negative statement, we have the right to rescind from or to cancel the contract upon lapse of a reasonable time period.

### **Article 5 Transfer of risks**

Except to the extent that the order confirmation provides otherwise, delivery is agreed to be done on "ex works" terms, and on "ex warehouse" terms in case of goods on stock. Shipping is always done to the Customer's risk, even if delivery happens from a place different to the place of delivery, even if carriage is prepaid, and/or if shipping is done with own personnel or vehicles.

### **Article 6 Quality complaints**

6.1. Delivered goods shall be examined by the Customer according to the provisions of article 377 HGB. Defects discovered through such examination – and also defects discovered later – shall be reported immediately. The Customer is not released from the obligation to examine even if the contractor takes recourse in article 478 BGB. If the Customer fails to report complaints made by its buyer immediately, then the goods are deemed accepted even in view of such defect. Goods complained about are to be returned to us immediately upon request; we assume the transport costs if the complaint is justified.

6.2. If there is a defect, we are entitled – with due consideration for the type of the defect, and the justified interests of the Customer – to determine the method of remedy. Any attempt to remedy that fails three times in a row is considered ultimately futile. This section does not apply in case of recourse under article 478 BGB.

6.3. In case of a remedy for a defect we are obliged to cover the related expenses, in particular transport costs, tolls, labour and material costs, only to the extent that these are not increased by the fact that the object concerned has been removed to a place different from the Customer's seat or commercial site where it was originally delivered. This section does not apply in case of recourse under article 478 BGB.

6.4. Claims for quality complaints lapse after 12 months. This provision shall not apply if the law provides for a longer term, particularly for defects in a building or a product that, pursuant to its ordinary use, has been used for the purpose of a building and has caused a defect in the same. Sentence 1 of this section does not apply either to injuries to life, body or health, and in case of damages arising from intentional or grossly negligent conduct on the part of our legal representatives or executives, and in case of culpable violation of material contractual obligations (i.e. of obligations the delivery of which allows the ordinary delivery of the agreement in the first place, and the delivery of which is and can be reasonably and usually expected by the Partner) and for any obligation to reimburse the expenses required for the purpose of supplementary performance in accordance with Section 439 (3) BGB.

6.5. Legal claims for recourse by the Customer shall only apply against us if the Customer has not made an agreement that extends beyond the claims for defects permissible under the law.

## **Article 7 Liability for Damages and Reimbursement of Expenses**

The following provisions apply to our liability for damages:

7.1. Except if provided otherwise herein below, all other and additional claims of the Customer against us are excluded. This applies in particular to claims for damages due to the violation of obligations from the contract and non-permissible actions. We do not accept liability for damages that are not suffered by the delivered goods themselves. Above all we shall not be liable for any lost profit or other financial losses of the Customer.

7.2. The above limitation of liability shall not apply to the case of intent or gross negligence on the part of our legal representatives or leading executives, as in No. 6.4, and in case of culpable violation of material contractual obligations, i.e. of obligations the delivery of which allows the ordinary delivery of the agreement in the first place, and the delivery of which is and can be reasonably and usually expected by the Partner. In case of any culpable violation of material provisions of the agreement we are liable only for damages that are typical for the agreement and reasonably expectable, except for the cases of intentional or grossly negligent actions of our legal representatives or leading executives.

7.3. The limitations to liability under section 7.1 also do not apply to cases when, under the product liability law, liability covers personal or financial damages to privately used objects due to defects of the supplied goods. These limitations do not apply in case of injury to life, body or health, and if guaranteed features are missing, if and to the extent that the guaranteed feature had the exact purpose of securing the Customer against damages that are not suffered by the supplied goods. Finally, the limitations of liability in accordance with No. 7.1 not even if we have concluded a purchase contract with the customer and are obliged to reimburse the expenses required for the purpose of subsequent performance in accordance with Section 439 (3) BGB.

7.4. If our liability is excluded or limited, then this also applies to the personal liability of our employees, workers, co-workers, representatives and agents.

7.5. All legal regulations on the burden of proof remain unaffected by the above regulations.

## **Article 8 Complementary regulations for international contracts**

If delivery takes place in accordance with the contract the following provisions shall also apply in addition to all other provisions of this GCT:

8.1. We shall not be liable for the legitimacy of the use of the supplied goods as intended by the contract under the laws and regulations of the recipient country. We are also not liable for any taxes payable in such country.

8.2. We shall not be liable for any impediments to delivery caused by state measures, particularly by import or export limitations. In the absence of a deviating agreement, we are also not liable for any violation of the delivered goods against statutory regulations or official orders.

8.3. Section 2.5 remains unaffected.

## **Article 9 Securing reservation of title**

9.1. Our ownership title in the supplied goods remains reserved until receipt of all payments from the commercial relationship with the Customer. This also applies if our claims are part of an account current, and the balance is drawn and acknowledged, and it also applies to all future claims.

9.2. The Customer is obliged to handle the supplied goods with care, especially to store them appropriately; the Customer is also obliged to take an insurance against fire, flood and theft for the replacement value of the goods, to the Customer's own cost.

9.3. The Customer shall inform us immediately in writing in case of any attachment or other measures by third parties against the goods with reserved title, the claims assigned to us or any other securities given to us in order to safeguard

our rights (e.g. claim under article 771 ZPO). If the third party is not in the position to indemnify us for the legal or out of court costs of an intervention, then the Customer shall be liable to pay all our resulting losses.

9.4. The Customer has the right to sell on and to use the supplied goods in the ordinary course of business; however, the Customer already now relinquishes to us all claims that it may have against its buyers or third parties from any further sale at the value of the goods with reserved title; this irrespective whether the supplied goods were sold with or without any further processing. The value of the supplied goods is defined as the final sum indicated in the commercial invoice (including VAT). If the resold supplied goods are partly owned by us, then the relinquishment of claims extends to the amount that corresponds to our share in the joint ownership. The Customer is not authorised to effect any other transfer of the goods, particularly to pledge the goods or to offer them as security.

9.5. The Customer is authorised to collect claims deriving from the resale of the goods also after such relinquishment. Our right to collect the claim ourselves remains unaffected. We undertake, however, not to collect the claim as long as the Customer meets its payment obligations from its revenues received, it is not in payment delay, and, in particular, as long as no filing for bankruptcy has been made, and payments have not been suspended. Should that be the case, we can request the Customer to disclose to us the relinquished amounts and the identity of the debtor, and all data necessary for collection, to hand over all relevant documents, and to notify the debtor of the relinquishment.

9.6. Any processing and reconstruction of the supplied goods shall always be done by the Customer for us. The expectant right of the Customer survives in the reconstructed thing. If the supplied goods are inseparably combined or merged with other things that are not our property, then we acquire joint ownership of the new thing in proportion to the objective value of the supplied goods in comparison to the other processed objects at the time when such processing happens. The same rules as for goods supplied with reserved ownership title shall also apply to the thing created through processing.

9.7. As security for our claims against the Customer, the Customer also relinquishes to us, with priority and together with all ancillary rights, all claims up to the value of the goods with reserved title that the Customer assumes against a third party from the association of the goods with reserved title with a land property, a ship, shipyard or aircraft of another person. Section 9.4, sentences 2 and 3 apply as appropriate.

9.8. We undertake to release, within our own discretion, the securities we hold upon request from the Customer to the extent that the marketable value of our securities exceeds the secured claims by more than 20%.

## **Article 10        Subcontracting**

10.1. If subcontracting works are done, or if the Customer provides us with raw materials, semi-finished products or machine tools or other parts, then we are not obliged to test the parts provided. However, the Customer does carry the obligation to check their suitability for the purposes intended by the contract.

10.2. The Customer acknowledges the usual reject rate as agreed. Rejects up to 5% of the total volume of materials is permissible and according to the contract.

10.3. If a defect of a supplied part or raw material (cf. section 10.1.) renders a part manufactured by us defective or unusable, then the Customer still has to pay the agreed compensation for our work. If we, or any third party suffer any damages from the unfitness of such a supplied part or material, then the Customer shall be liable for such damages, and shall release us from any possible claims for damages of third parties, except if the Customer is not responsible for the defect.

## **Article 11        Closing provisions**

11.1. This contract is governed by the laws of the Federal Republic of Germany. The effect of the United Nations Convention on Contracts for the International Sale of Goods (CISG, UN Vienna Convention) is excluded.

11.2. The place of delivery of all performances under this contract is Kirchheim/Teck.

11.3. The place of jurisdiction is Kirchheim/Teck. We also have the right to file claims at the registered seat of the Customer.

11.4 Should any individual provision of this contract be or become invalid or ineffective, then that does not affect the validity and effectiveness of all remaining terms and conditions of this contract. In this case an effective and executable provision is considered agreed, which comes closest to the commercial purpose that the parties would have agreed had they known about the ineffectiveness or invalidity of the provision.

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