

# Customer Terms and Conditions

## ENTIRE CONTRACT

These Standard Terms and Conditions for Customers (this "Agreement"), together with any revisions and additional terms and conditions which may be agreed to in writing by Seller, constitute the entire agreement between Buyer (Customer) and Seller (Solon Manufacturing). These terms are intended to cover all activity of Seller and Buyer hereunder, including sales and use of products, parts, work and all related matters (including installation and startup). All orders are subject to the approval by Seller at its offices in Chardon, Ohio. No course of prior dealings between the parties or usage in the trade shall be relevant to supplement or explain any term used in this Agreement. No waiver or alteration of the terms herein or additional terms and conditions shall be binding upon Seller unless agreed to in writing and signed by Seller.

The agreement formed hereby and the language herein shall be construed and enforced under codes as in effect in the state of Ohio.

## PRICE

All prices are ExWorks shipping point unless otherwise agreed to in writing by Buyer and Seller. Prices and lead times quoted are expressly limited to, and expressly made conditional on, Buyer's acceptance of these Standard Terms and Conditions for Customers. If after prices and lead times have been quoted, Buyer advances new terms that differ from those set forth in this Agreement and that cause or may cause increases in costs of labor or materials to Seller, then the prices and lead times quoted are subject to change. Additionally, all prices are based on the quantities quoted and any change in the quantities may also affect the price.

## PAYMENT TERMS

Unless otherwise negotiated between Seller and Buyer, Invoices for Goods and services shall be due and payable net thirty (30) days from shipment. Seller may withhold shipments or information from Buyer until any outstanding balances are paid in full.

## ACCEPTANCE AND TRANSPORTATION

Upon Buyer's receipt of shipment, Buyer shall immediately inspect the Goods. Unless Buyer provides Seller with written notice describing with particularity the nature of any defects in the Goods or the amount of any shortage claimed within thirty (30) calendar days after receipt of shipment, the Goods shall be deemed accepted by Buyer. In the event that Buyer does not specify a method of shipment, Seller may use its own discretion in determining the method of shipment. All transportation expenses are the responsibility of Buyer.

## SHIPPING

Shipping is not included in our product pricing.

Incoterm - EXWORKS: Seller makes the product available at dock and Buyer is responsible for specifying shipping method. If international shipment, Buyer agrees to supply broker and contact information at time of order or freight method and account number. If prepaid terms are required, Seller can provide freight quote to Buyer upon request.

If special packaging is required (material, bagging, marking, phytosanitary), Buyer agrees to cover additional expense. Purchase orders must reflect all special packing requirements.

## TITLE AND RISK OF LOSS

Title to Goods sold and risk of loss of such Goods shall pass to Buyer at the ExWorks shipping point.

## PERFORMANCE, WARRANTY & CONSEQUENTIAL DAMAGES

### PERFORMANCE

Unless Seller specifically assumes installation or start-up responsibility, all products shall be inspected and accepted within twenty (20) days after receipt at point of delivery by Buyer or agent of Buyer. All claims whatsoever by Buyer (including claims for shortages), excepting only those provided for under the Warranty section) must be asserted in writing by Buyer within said twenty (20) day period. There shall be no revocation of acceptance. Rejection may be only for defects substantially impairing the value of products or works and Buyer's remedy for lesser defects shall be those provided for under the Warranty section.

### FORCE MAJEURE

Seller shall not be responsible for nonperformance or delay in performance occasioned by any causes beyond Seller's reasonable control, including, but not limited to, labor difficulties, delays of vendors or carriers, fires, governmental actions, and material shortages. Any delays so occasioned shall effect a corresponding extension of Seller's performance dates, which are understood to be approximate.

### WARRANTY

Seller warrants goods manufactured by it will be free from defects in material and workmanship for one (1) year following the date of shipment. If any of the goods are found by Seller to be defective, such goods will, at Seller's option, be replaced or repaired at Seller's cost. The foregoing warranty is in lieu of all other warranties. Seller is not responsible for labor or other costs or expenses of repairing or replacing any defective goods that are sold but not manufactured by Seller. The foregoing warranty does not apply to any goods installation, modification (including but not limited to, use of unauthorized parts or attachments), adjustments, or repairs performed by anyone other than Seller or one of Seller's authorized agents.

Any claim by Buyer with reference to the goods sold hereunder shall be deemed waived by Buyer unless submitted in writing to Seller within the earlier of (I) thirty (30) days following the date Buyer discovered or by reasonable inspection should have discovered any claimed breach of the foregoing warranty, or (II) twelve (12) months following the date of shipment. Any cause of action for breach of the foregoing warranty shall be brought within one year from the date the alleged breach was discovered or should have been discovered, whichever occurs first.

## LIMITATION OF LIABILITY

Seller's liability (whether under the theories of breach of contract or warranty, negligence, or strict liability) for its goods shall be limited to repairing or replacing parts found by Seller to be defective. At Seller's request, Buyer will send, at Buyer's expense, any allegedly defective parts to the plant of Seller which manufactured them for evaluation and disposition.

In no event shall Seller be liable for incidental or consequential damages arising out of or in connection with this agreement, including, without limitation, breach of any obligation or warranty imposed on Seller hereunder or in connection herewith, incidental or consequential damages for purposes hereof shall include without limitation, loss of use, income or profit, or losses sustained as the result of injury to any person, or loss sustained as the result of work stoppage. Buyer shall indemnify Seller against all liability, cost or expense which may be sustained by Seller on account of any such loss, damage or injury.

## DELAYS

Unless expressly specified to the contrary, all shipping dates are based upon current availability of materials, present production schedules, and prompt receipt of all necessary information. Seller will not be liable for any damage, loss, fault, expense or freight charges arising out of delays in shipment, regardless of the causes for the delays.

Notwithstanding anything contained in this Agreement to the contrary, Seller shall have no liability to Buyer for, and Buyer shall protect, indemnify and hold harmless Seller and its representatives from and against, any and all damages, losses, claims, liabilities, costs and expenses (including, but not limited to, court costs and attorneys' fees, settlements, judgments, punitive and exemplary damages, economic loss, loss of profits, fines, and penalties that may arise

## RETURNS

Goods may not be returned for credit without Seller's prior consent. All transportation charges for returned Goods are the sole responsibility of Buyer. Returned Goods are subject to Seller's inspection and will not be considered to have been accepted for return of credit unless they are, (i) in Seller's sole discretion, in "like new" condition, and (ii) returned to Seller within twelve (12) months from the date of shipment. Buyer hereby agrees that it will not debit Seller's account for any return, regardless of the reason for such return, unless agreed to by Seller.

## PRODUCT RECALLS

Seller is not responsible for any claims, liabilities, costs, damages, or expenses (including, but not limited to, expenses for reworks, repairs, or replacements) Buyer sustains or may sustain by reason of any recalls or retrofits of any of Buyer's goods or products that contain components that are manufactured by Seller, if such recalls or retrofits are not attributable to any defect in the design, workmanship, or materials in the Goods or if such recalls or retrofits are not attributable to a breach of any of Seller's obligations or warranties under this Agreement.

## TAXES

Unless otherwise specifically provided herein, the price for the Goods purchased does not include sales, use, excise or similar taxes, whether federal, state, or local. Buyer shall be responsible for all such applicable taxes levied or assessable on any Goods after title passes to Buyer at the ExWorks shipping point. Buyer will provide Seller with any and all tax exemption certificates, acceptable to the appropriate taxing authorities, where applicable.

If Buyer does not have a valid exemption certificate recognized by the governmental taxing authority, Buyer agrees to report and pay any relevant taxes imposed on this sale directly to the Office recognized by the governmental taxing authority.

## CREDIT TERMS

All orders and shipments shall at all times be subject to the approval of Seller's Credit Department. Seller reserves the right to decline any order or decline to make any shipment whenever, for any reason, there is, in the sole judgment of Seller, any doubt as to Buyer's financial responsibility and Seller shall not in such event be liable for breach or nonperformance of contract in whole or in part.

## TERMINATION, CANCELLATION, AND CHANGES

After Seller's acceptance of Buyer's orders, such accepted orders cannot be terminated, cancelled or modified, and shipment cannot be deferred, except with Seller's written consent and subject to conditions then agreed upon. In the event Seller consents to any such termination, cancellation, modification, or deferred shipment, Buyer shall indemnify Seller against liability and expense incurred and commitments made by Seller, and shall compensate Seller for profit on work in process and for the contract value of products or parts that have been completed and are ready for shipment.

## PATENTS AND COPYRIGHT

In no event shall Seller be liable for damages arising from infringement or alleged infringement of patents or copyrights. In the event that Buyer should be enjoined in such suit or proceeding from using any of the Goods purchased pursuant to this Agreement, Seller agrees to assume the defense of any suit for infringement of any United States Patents brought against Buyer to the extent such suit charges infringement of any apparatus or product claim by Seller's product in and of itself, provided (i) said product is built entirely to Seller's design, (ii) Buyer notifies Seller in writing of the filing of such suit with ten (10) days after the service of process thereof, and (iii) Seller is given complete control of the defense of such suit, including the right to defend, settle and make changes in the product for the purpose of avoiding infringement. Seller assumes no responsibility for charges of infringement of any process or method claims. . The sale of Goods hereunder does not convey any license or copyright under any proprietary or patent rights of any manufacturer. Seller shall not have any liability if the alleged infringement is based upon the use or application of the Goods in combination with other goods and Buyer shall indemnify Seller therefor. Seller disclaims all other liability for infringement of intellectual property rights and further disclaims any liability for incidental, consequential, or exemplary damages.

## GENERAL CONDITIONS

No agent, salesman or other party is authorized to bind Seller by any agreement, warranty, statement, promise or understanding not herein expressed.

The sale of Goods pursuant to this Agreement shall be governed by the laws of the State of Ohio.

The remedies herein shall be cumulative and additional to any other or further remedies provided in law or at equity which the parties may possess. In addition to the rights and remedies conferred upon Seller by law, Seller shall not be required to proceed with the performance of any order or contract if Buyer is in default in the performance of any order or contract with Seller.

Any clerical errors are subject to correction.

No delay or omission by Seller in exercising any right or remedy provided for herein shall constitute a waiver of such right or remedy, and no such delay or omission shall constitute a bar to or waiver of any such right or remedy on any future occasion.

The waiver, illegality, invalidity or unenforceability of any provision appearing in this Agreement shall not affect the validity of the Agreement as a whole or the validity of any other provisions herein.

This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of Buyer and Seller. Buyer may not assign or transfer this Agreement, in whole or in part, except upon the prior written consent of Seller.

## INTERNATIONAL CUSTOMERS

International Customers are subject to cash in advance terms unless other arrangements are negotiated between Seller and Buyer prior to any sales transactions. Seller reserves the right to change existing terms on any Buyer account to cash in advance at any time without notice if risk of Buyer non-payment presents.

Cash-in-advance (CIA) payment methods include: wire transfer, credit card (MasterCard, Visa, American Express). Buyer agrees to adhere to all terms set forth by the financial institutions supporting payment transactions on behalf of the Seller.

Seller agrees to provide a proforma (deposit) invoice as required by Buyer upon request.

## CERTIFICATES

Standard Certificate of Conformance is issued with each order. Buyer to identify special certificate requirements at time of quote to ensure that Seller can comply. Special requirements must be identified on Buyer's purchase orders and include but are not limited to:

- RoHS
- First Article Inspection
- Material Certificate (MTR)

Additional costs may apply for non-standard certificate requirements.

## PURCHASE ORDER

**A formal written purchase order is required. Verbal and informal orders are not accepted.**

The following items must be included on the PO:

- Correct pricing in USD
- Accurate payment terms
- Solon part number/description
- Complete shipping address
- Complete billing address
- Customs broker contact information
- Complete shipping information