

## General terms of sales

For the purpose of these general terms of sale, the term "Seller" shall mean the SOLARONICS company.

### **1. Application**

Unless other terms are expressly accepted in writing by the Seller, these general terms of sale shall govern all sales, notwithstanding different or contrary terms or conditions mentioned on the order form or other documents from the Buyer.

### **2. Offers – Acceptance**

All bids and prices are communicated without binding the Seller. They may be modified at any time without prior notice. The order of the Buyer shall constitute the offer.

All purchase orders, including those received or accepted by representatives or agents of the Seller, shall commit the Seller only after his written acceptance, in the form of an order confirmation.

### **3. Delivery**

1. All sales are governed by the "Incoterms 2000".
2. Unless otherwise stipulated, all deliveries shall be made "FCA Armentières/Mouvoux".
3. Dates of delivery are given for information purposes only and are not binding.

In case of non-delivery of the goods within three (3) months after the date stated, the Buyer shall have the right to invoke this delay to claim cancellation of the contract, excluding all claims for damages, on the condition that he informs the Seller of his intention, by telex, telefax or letter within fifteen (15) days after the three (3) months have expired.

Within fifteen (15) days after giving such notice, the Seller shall either accept this cancellation or commit himself to deliver within thirty (30) days; if he does not respect this last commitment, the sale shall be cancelled.

4. The Seller reserves the right to make a partial delivery and to deliver the ordered goods with a ten per cent (10%) tolerance due to technical reasons.

In case of partial delivery, partial payment shall become due.

### **4. Guarantee**

1. Conformity to the contract of the delivered goods is determined according to the state of the goods at the time of delivery.
2. The acceptance of the goods at the time of delivery implies "clean receipt" and covers all visible defects.
3. Claims for defects visible at delivery must be submitted by the Buyer in writing to the Seller within three (3) days following delivery.
4. Claims for hidden defects can be considered only if the defects appear within a period of six (6) months following delivery, and are notified to the Seller by telex, telefax or letter within three (3) days following their discovery.
5. Goods found defective cannot be returned by the Buyer except with the prior and explicit consent of the Seller.
6. Unless explicitly agreed in writing, the Seller does not guarantee that the goods meet the requirements of a specific use or process.

### **5. Liability**

1. Under no circumstances shall the Seller be liable for defects caused by bad storage, handling by the Buyer, abnormal use of

the goods, or transformation of the material due to climatological conditions.

2. Without prejudice to the above, the Seller's liability for damages arising from the delivered goods is in any case limited to the price of the goods, excluding damages.

3. In case of resale of the goods, processed or not, the Buyer shall, with respect to his own purchasers, restrict his liability for damages arising from the delivered goods to the value of this delivery.

4. Without prejudice to the above, the Seller's liability for physical injury caused by the defective goods shall be governed by the law of the place of the Buyer's registered office, unless this place is in the United States of America, in which case Belgian law shall prevail.

5. The Buyer agrees to inform the Seller immediately whenever he becomes aware of a patent which is infringed by the delivered goods.

If a patent infringement claim is brought against the Buyer due to the offer, import, storage, sale and/or use of the Seller's goods, the Buyer shall immediately inform the Seller in writing thereof, and allow the Seller to take over the defence in the proceedings.

If a final judgment holds the Buyer liable for patent infringement by the delivered goods, the damages which the Seller may owe to the Buyer shall not exceed an amount equal to the sales price paid by the Buyer for the infringing goods, delivered to him during the last six (6) months preceding the summons.

Under no circumstances does the Seller assume any liability or responsibility for any extraordinary use or special application which the Buyer or a third person makes of the delivered goods and which may infringe patent rights of third parties.

Moreover, the Seller cannot be held liable for infringements by his goods of a patent which is unknown to him but of which the Buyer was aware.

### **6. Payment and Security**

1. All invoices are payable at the place, time and conditions specified on the invoice. Unless otherwise determined, the payment must reach the Seller before the fifteenth (15<sup>th</sup>) day of the month following the month in which delivery took place.

2. Subject to any other remedy available to the Seller, any invoice or part thereof which is not paid on its due date shall from the next day bear interest, automatically and without prior notice, at the reference rate plus seven percentage points and rounded to the higher half percentage point. If the country of the registered office of the Seller belongs to the Euro zone, the reference rate shall be the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question. If that country does not belong to the Euro zone, the reference rate shall be the equivalent rate set by the central bank of that country.

Furthermore, all other outstanding invoices of the Buyer shall become due immediately.

3. Moreover, any amount which is unpaid on its due date shall be increased by a fixed amount, payable as liquidated damages for administrative costs caused by recovery measures, and equal to ten percent (10 %) of the unpaid amount.

4. Finally, in case of non-payment within one (1) month following the due date, the Seller is entitled to cancel the sale by notifying the Buyer by registered letter, which shall take effect on the day of its receipt by the Buyer.

5. The Seller is entitled to require security for payment, at his own discretion and to his satisfaction. If the Seller has serious doubts about the solvency of the Buyer, or if the Buyer does not provide satisfactory security, the Seller is entitled:

- a) To suspend any further deliveries to the Buyer, either under the same contract or under any other contracts;
- b) To take, with regard to the goods already shipped, any measures required to prevent the goods from coming into the possession of the Buyer and to secure the Seller's rights.

#### 7. Retention of Title

1. The delivered goods shall remain the Seller's property until the invoice is fully paid or until the cheque for payment or the bill of exchange, issued in payment of the invoice, is cashed. The same applies in case of partial deliveries and partial payments.

2. Notwithstanding the above, the risk of goods sold pass to the Buyer at the time of delivery.

3. As far as possible under the applicable law, the retention of title also applies for delivered goods that are transferred to third parties.

If according to the law, the retention of title disappears with the transfer of the goods to third parties, the Buyer shall, at the simple request of the Seller, transmit to the Seller all claims which the Buyer has on the acquirer of the goods.

The Seller commits himself not to collect these claims to the extent that the Buyer correctly meets his commitment to pay.

4. As far as possible under the applicable law, the retention of title also applies for delivered goods which are transformed into other goods.

The transformation of the goods, to which the retention of title applies, is carried out for the account of the Seller.

If the goods with retention of title are transformed with other goods not belonging to the Seller, the Seller acquires the co-ownership of the new goods in the proportion of his share in the goods with retention of title, calculated on the total value of the new goods.

#### 8. Jurisdiction and Applicable Law

1. When the registered offices of the Seller and the Buyer are located in different countries, all disputes shall be settled by the competent courts which have the defendant party's registered office under their jurisdiction.

2. When the registered offices of the Seller and the Buyer are located in the same country, then all disputes shall be settled by the competent courts of the Seller's registered office.

3. All sales are governed by the law of the country of the Seller's registered office, with the exception, however, of the issues mentioned in Articles 5.4 en 7, which are governed by the law of the place of the registered office of the Buyer.

The Convention of Vienna relating to International Sales (1980) is not applicable.

#### APPENDIX COMMENTS AND GLOSSARY of TERMS ABOUT SERVICE

##### Definition of man days:

The man-day described in this proposal corresponds to a working day of 8 hours carried out between 7.00 a.m. and 7.00 p.m.

The French working legislation imposes on us a maximum duration of effective work of 48 hours per week during 6 consecutive days with a maximum duration of 10 hours per day.

If, in case of overloaded schedule, more than 10 hours per day would have to be carried out, our team would be split into two and the customer would have to undertake to allocate to Solaronics an addition to the personnel (in the form of his choice) which would allow to respect these constraints, without forgetting the safety factor which insists on the presence of more than one technician on site.

Solaronics reserves the right to change its personnel after 4 consecutive weeks on site at customer's expense (travel costs and time).

The number of man-days described in this proposal takes into account this agreement.

- Maximum working time during 24 hours is 10 hours per day. The additional hours worked will be divided by 8 to determine the number of man-days used.

- All man-days used for both travel and for or "waiting time" will be charged at 80% of above man-day rate.

- Any Sunday or legal/national vacation (local or French) will be considered as two man/days.

- Waiting time is defined as the time when work cannot be undertaken for reasons beyond Solaronics control, i.e. installation unfinished, gas not available, paper not available, etc.

- The number of man-days proposed by Solaronics is sufficient to perform the specified services providing that we do not encounter problems outside of our control. In case problem occurs (which are not of Solaronics responsibility) and this leads to an overrun of the number of allocated man-days, an order extension will be requested by our technicians on-site.