

## General Terms and Conditions of Sale and Delivery (GTC)

### 1. Scope of Application and Bases

#### 1.1. Scope of Application of the General Terms and Conditions of Sale and Delivery

These "General Terms and Conditions of Sale and Delivery" ("GTC") apply to any and all legal relationships (offers, contract negotiations, contracts) between SOLIFOS AG, FIBER OPTIC SYSTEMS ("SOLIFOS") and its customers ("CUSTOMERS") regarding (i) the sale and delivery of products or works ("DELIVERABLES") and (ii) the rendering of services ("SERVICES") by SOLIFOS AG – or their subcontractors - to the CUSTOMERS.

These GTC form an integral part of the legal relationships existing between SOLIFOS and the CUSTOMER, unless explicitly otherwise agreed. Any provisions deviating from these GTC will only become legally binding, if such are explicitly offered by SOLIFOS or if such are explicitly accepted by SOLIFOS, in writing.

Upon engagement of SOLIFOS, the CUSTOMER confirms, accepts and agrees that the sale and the delivery of DELIVERABLES and the rendering of SERVICES shall be governed by these GTC. SOLIFOS reserves the right to amend these GTC at any time. Amendments shall apply, from their notification to the CUSTOMER, to all legal relationships established between SOLIFOS and the CUSTOMER thereafter.

General terms and conditions and other contract documents of the CUSTOMER shall explicitly be waived and excluded, unless SOLIFOS has given its explicit written consent to such. That shall also apply if the general terms and conditions or other documents of the CUSTOMER were integrated in a purchase order, an "order confirmation" or other documents of the CUSTOMER or were otherwise communicated to SOLIFOS.

#### 1.2. Offers and Conclusion of Contracts

Any and all offers, price lists, product descriptions, brochures, plans and the like of SOLIFOS shall be deemed to be non-binding and can be subject to change or revocation at any time, unless explicitly otherwise specified in the relevant document.

Insofar as SOLIFOS' offers are non-binding, a contract with SOLIFOS shall only be deemed to be concluded on the date when SOLIFOS gives its consent. The consent will be given by way of a written order confirmation (statement of acceptance), signature of a written contract or performance of the purchase order by SOLIFOS. Purchase orders and "declarations of acceptance" of the CUSTOMER apply as sole offers to conclude a contract.

The order confirmations of SOLIFOS contain a detailed description of the DELIVERABLES and/or SERVICES. SOLIFOS shall be informed, in writing, of any requests for changes or discrepancies within two days after receipt of the order confirmation. If no order confirmation is issued, the description will be deemed to be contained in the offer of SOLIFOS and/or the written contract signed by SOLIFOS.

#### 1.3. Form

Statements in text form which are transferred by or specified in electronic media (e-mail, SMS and the like) shall be deemed to be written declarations of a party. The sender shall be responsible for obtaining evidence that the recipient received such declarations. Such declarations shall be deemed to be received at the time of receipt by the recipient.

#### 1.4. Certificates, brochures, plans and the like

All descriptions of DELIVERABLES and SERVICES or information contained in offers, tenders, plans and the like shall be subject to technical changes and improvements. This information shall only be deemed to be bindingly owed properties of the DELIVERABLES and SERVICES if that was explicitly agreed.

## 2. DELIVERABLES

### 2.1. Purchase Order, Standards, Changes

SOLIFOS may receive purchase orders directly from the CUSTOMER or from a third party authorised, orally or in writing, by the CUSTOMER, e.g. a developer ("THIRD PARTY"). Purchase orders of a THIRD PARTY shall be deemed to be purchase orders made in the name and for the account of the CUSTOMER.

The valid Swiss standards shall be applicable, unless other agreements have been made regarding the properties of the DELIVERABLES.

SOLIFOS shall not be obliged to take into account subsequent changes of the purchase orders made by the CUSTOMER; SOLIFOS shall, in any case, be authorised to invoice the extra price resulting from a change of a purchase order it performed.

### 2.2. Packaging, Provision, Delivery and Unloading

The provision or delivery of the DELIVERABLES ("DELIVERY") will be made according to the packaging units specified in the offer or the price lists. The CUSTOMER shall make additional payments for special packaging.

If large quantities are ordered (e.g. whole packaging, winding, storage or transport units), the DELIVERY and the settled quantity might deviate from the ordered quantity by plus or minus 5% and can be delivered in partial lengths.

DELIVERIES within Switzerland will be made "Carriage Paid To" (CPT) in accordance with the Incoterms 2010 to the place of destination in Switzerland agreed between SOLIFOS and the CUSTOMER ("Place of Destination"). DELIVERIES to foreign countries shall be made "Free Carrier" (FCA) Windisch, Switzerland, pursuant to Incoterms 2010.

Benefits and risk will, in all cases, be transferred to the CUSTOMER when the DELIVERABLES are handed over to the carrier or when the goods are handed over to the post for mailing in Brugg, Switzerland.

The CUSTOMER shall make written notes regarding any type of transport damage and deficient quantities on the delivery note and shall have them confirmed by the carrier on the delivery note, in writing. If the DELIVERY is made by post or rail, the competent post office or railway station shall be requested to issue a statement of facts on the date of delivery. In case of a non-compliance with these standards, any liability on the part of SOLIFOS shall be excluded.

If the DELIVERY is delayed or made impossible for reasons not attributable to SOLIFOS, such as e.g. refusal to receive the DELIVERABLES, failure of or delay in pick-up of the DELIVERABLES by the carrier in case of export, postponement of deadlines, etc., the DELIVERABLES will be stored at the CUSTOMER'S expense (0.4% of the goods' value per week) and at the latter's risk.

Any intermediate storage of the DELIVERABLES and call-off deliveries require the express prior consent of SOLIFOS. Any extra costs arising therefrom shall, in any case, be borne by the CUSTOMER.

The unloading of the DELIVERABLES shall fall in the CUSTOMER'S scope of risk and responsibility.

If the DELIVERABLES are collected from SOLIFOS'S warehouse by the CUSTOMER, the latter shall be responsible for loading them. If the CUSTOMER or THIRD PARTIES request SOLIFOS to load them, SOLIFOS will not accept any type of liability for any damage resulting therefrom. The CUSTOMER shall be responsible for the operational safety of the vehicle, in particular, the safety of the load, compliance with the admissible load capacity and the occupational safety rules by all persons involved.

### 2.3. Handling of Roles

Steel roles (including straps and wooden shell) and plastic rolls ("ROLLS") remain the property of SOLIFOS and will only be provided to the CUSTOMER on a loan basis. ROLLS shall be returned to SOLIFOS after emptying immediately, not later than within 6 months after receipt of the ROLLS, in a good condition, cleaned and the CUSTOMER'S expense.

SOLIFOS reserves the right to invoice to the CUSTOMER the costs of a recovery of the ROLLS, if such are not returned within 6 months or if such are returned in a damaged condition. Any non-returned ROLLS shall remain the property of SOLIFOS until full payment of the cost of acquisition was received. SOLIFOS excludes any type of warranty for such ROLLS.

Disposable rolls will be charged to the CUSTOMER. SOLIFOS will not take back any disposable rolls.

## 2.4. Warranty

SOLIFOS warrants to the CUSTOMER that, at the time of dispatch from SOLIFOS, the DELIVERABLES have no substantial defects in workmanship or material which would impair the ordinary use of the DELIVERABLE. Any other material guarantees or warranty of title going beyond that shall be excluded.

The CUSTOMER shall immediately inspect the delivered DELIVERABLES after their receipt at the agreed PLACE OF DESTINATION and shall notify SOLIFOS, in writing, of any and all complaints within 20 days; the date of the post mark shall be decisive. SOLIFOS shall be notified, in writing, of hidden defects within 7 days after such were detected. If the CUSTOMER fails to make an inspection and notification in due time, or if the DELIVERABLES are processed without inspection, the DELIVERABLES shall be deemed to be approved.

If any DELIVERABLES which were subject to complaints are processed by the CUSTOMER or THIRD PARTIES without the written consent of SOLIFOS, any type of warranty duty on the part of SOLIFOS shall be excluded.

After the defects were notified, SOLIFOS shall subsequently either inspect the affected DELIVERABLE on site or request that the DELIVERABLE be returned to SOLIFOS. SOLIFOS will verify the claim for warranty and inform the CUSTOMER whether the asserted claim is covered by the warranty or not. The CUSTOMER shall store the DELIVERABLE until the definite clarification of the complaint.

If a claim is covered by the warranty, SOLIFOS will, at its own discretion, either remedy any defect in the DELIVERABLE at its own expense or replace the DELIVERABLE, in full or in part, free of charge. Any claim for withdrawal from the contract (repudiation), reduction of the purchase price (reduction) or substitute performance shall be excluded.

If the claim is not covered by the warranty, the CUSTOMER shall bear any and all costs which SOLIFOS incurred due to the assertion of the claim which is not covered by the warranty. This includes, in particular, transport, assembly and labour expenses. The invoice shall be prepared in analogy to the invoice for SERVICES as defined in item 4 hereof.

SOLIFOS will not accept any warranty if the CUSTOMER or THIRD PARTIES perform changes or repairs at the affected DELIVERABLE without SOLIFOS' consent or if they treat them improperly.

Claims for warranty will become statute barred after the expiry of two years after the DELIVERY of the DELIVERABLE. The two-year period from the delivery of the original DELIVERABLE shall apply to any DELIVERABLES which were replaced or repaired by SOLIFOS

Any and all assistance provided by SOLIFOS during the determination or elimination of defects shall not be deemed as a recognition of any warranty duty.

## 2.5. Liability and Exclusion of Liability

The liability depends on the applicable legal provisions. However, SOLIFOS shall, in no event, be liable for (i) slight negligence, (ii) indirect damage and consequential damages and lost profits; (iii) non-realised savings; (iv) damage from delayed DELIVERY or SERVICE, as well as (v) any activities and omissions of SOLIFOS' VICARIOUS AGENTS, regardless of whether they act under a contract or not.

In addition, SOLIFOS shall not be liable for any damage which is caused by one of the following reasons:

- Defective transport and/or storage;
- Defective assembly or assembly outside of the recommended assembly environment;
- Improper use of the DELIVERABLE or any use contrary to the contract or to their intended purposes;
- Insufficient maintenance and/or improper change or repair of the DELIVERABLE;
- Inconsideration of the local or geographic situation;
- Force majeure, such as, in particular, natural events, ice, snow, fire, strike, war, terrorist attacks and orders by authorities;
- Violation of the duties as Customer pursuant to item 6 as stipulated herein.

The CUSTOMER will release SOLIFOS of the duty of an immediate notification in case of a serious endangerment of the performance of the contract in line with the contract (Art. 365(3) of OR [Swiss Code of Obligations]).

## 2.6. Third Party Products

Upon delivery of products manufactured or delivered by third parties, SOLIFOS will only take over the role of arranger and/or procurement for the CUSTOMER. The CUSTOMER shall direct any type of claims, e.g. from the manufacturer's guarantees of such third party directly against them. For this purpose, SOLIFOS assigns to the CUSTOMER any claims for warranty or other claims to which SOLIFOS is entitled against the relevant third party, insofar as the CUSTOMER so requests. Any warranty and other liability of SOLIFOS for products of third parties shall be excluded. That shall also apply to the liability for any deinstallation and re-installation of the products and to consequential damages of defects.

## 2.7. Take-back

DELIVERABLES are generally not taken back.

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## 3. SERVICES

### 3.1. Subject Matter and Scope

Subject matter and scope of the SERVICES are listed exhaustively in the relevant contract. SOLIFOS will render SERVICES in the field of laying or installation of the Deliverables ("INSTALLATION WORK") in exceptional cases only, will, however, provide advice and support in processes, such as analysis, planning and optimisation of the operational use of the products of SOLIFOS, and will sporadically supervise the INSTALLATION WORK.

### 3.2. Rendering

The CUSTOMER shall inspect the SERVICES immediately after such were rendered ("RENDERING OF SERVICES") and shall notify SOLIFOS, in writing, of any complaints immediately, however within 20 days; the date of the post mark shall be decisive. If the CUSTOMER fails to make the notification, the SERVICES shall be deemed to be approved.

### 3.3. Liability or Warranty in Case of Responsibility for Results

Unless explicitly agreed otherwise, SOLIFOS shall only be liable to the CUSTOMER for the careful performance of the SERVICES and will not accept any responsibility for the results of the SERVICES. The SERVICES of SOLIFOS are based on the documents provided by the CUSTOMER or THIRD PARTIES. The CUSTOMER shall be responsible for ensuring that the documents are up-to-date, complete and correct. Otherwise, reference is made to item 2.4 stipulated herein regarding the liability. In case the responsibility for the results was explicitly agreed on the part of SOLIFOS, item 2.5 stipulated herein shall apply, mutatis mutandis.

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## 4. Prices, Invoicing and Compensations

Prices shall apply as specified in the relevant offers, price lists, etc. at the time the order is placed, etc. If the underlying starting situation changes significantly during the term hereof or if SOLIFOS provides additional DELIVERABLES or renders additional SERVICES, SOLIFOS may, in addition, adapt the fixedly agreed compensation.

Unless explicitly otherwise agreed, any SERVICES rendered by SOLIFOS shall be compensated for according to the time necessary for performing them. Out-of-pocket expenses and cost of material will be charged in addition.

All prices and compensations for DELIVERIES and the RENDERING OF SERVICES within Switzerland shall be deemed to be quoted as net prices, in Swiss Francs, plus value added tax, at the legal rate.

All prices and compensations for DELIVERIES and the RENDERING OF SERVICES in or to a foreign country shall be deemed to be quoted as net prices, in Swiss Francs, plus the applicable excise tax, value added tax, Goods and Services Tax (GST) at the legal rate or comparable taxes in the country of destination ("EXCISE TAX"), insofar as such Excise Tax is not transferred to the CUSTOMER in the country of destination by way of a "Reverse Charge".

Solifos shall, at its own discretion, be entitled to request advance payments or payments, pari passu. Any set-off with counter-claims of the Customer shall be prohibited. Any unjustified deduction of discounts will be invoiced.

In the event of any export of DELIVERABLES, SOLIFOS reserves the right to request a letter of credit issued by a first-class Swiss bank or "Cash Against Documents" (CAD), pursuant to the Incoterms 2010.

The due date shall, at the same time, be the expiry date. Default interest of 5% p.a. as well as the payment of dunning charges of CHF 50.00 per dunning letter shall be deemed to be owed from the due date, where no other notice of default shall be necessary. SOLIFOS explicitly reserves the right to claim other damage caused by delay and to withdraw from the contract and to be provided with the DELIVERABLES pursuant to Art. 214(3) of Swiss Code of Obligations as well as to assert further claims for damages. If the CUSTOMER is in default of payment, SOLIFOS shall be entitled to have the debt collected by a third party, at the CUSTOMER'S expense.

If the Customer is in default of payment, SOLIFOS shall be entitled to reject the further performance of the contract or any other contracts, until it has received full payment of the outstanding amounts from the CUSTOMER or it may declare their withdrawal from the contract.

Any and all complaints regarding invoices shall be made in writing, within 10 days after receipt of the invoice, otherwise invoices shall be deemed to be acknowledged. The payment shall also be made in due time, if merely insignificant parts of any DELIVERABLE and/or of the SERVICE are missing or if subsequent work is necessary.

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## 5. Delivery Periods and Dates

SOLIFOS will always make all efforts to comply with agreed delivery periods and deadlines. SOLIFOS may, however, not accept any warranty for the compliance with delivery periods and dates. That shall apply, in particular, if the Customer or a Third Party are in default of the fulfilment of their own duties or obligations (e.g. advance payments, payments; release, provision or signature of addendums, documents and plans, preparation or support by the CUSTOMER or Third Parties) or in case of new findings or in cases of force majeure.

SOLIFOS will charge cost surcharges for express deliveries (deliveries of stored goods within 24 hours or CUSTOM-BUILT PRODUCTS within 72 hours) or for explicitly requested fixed delivery dates ("**EXPRESS SURCHARGE OR FIXED DATE SURCHARGE**"). If agreed delivery dates are shortened due to change requests on the part of the CUSTOMER, SOLIFOS reserves the right to also charge an Express Surcharge.

The time of transfer of risk shall be deemed as date of delivery.

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## 6. CUSTOMER'S Duties

### 6.1 Provision of Information

The CUSTOMER shall be obliged to perform, correctly and in due time, all preparational and assistance activities in relation to the DELIVERABLES and/or SERVICES (incl. obtain all permits from authorities). The CUSTOMER shall, in particular, provide the information and materials necessary for the DELIVERABLES and SERVICES when they place the purchase order and shall inform SOLIFOS, in writing, of any special regulatory and other provisions and guidelines and special characteristics which are to be taken into account for a proper performance of the contract by SOLIFOS.

### 6.2 Compliance with Instructions

The CUSTOMER shall be obliged to comply with any and all instructions, assembly and processing instructions given by SOLIFOS - even those on packaging or in brochures and technical documents.

### 6.3 Handling of Hazardous Goods

The CUSTOMER shall be obliged to observe the applicable legal provisions and SOLIFOS' data sheets on hazardous goods when they transport and store hazardous goods and handle such goods.

### 6.4 Secrecy

The CUSTOMER undertakes to take all steps necessary to keep in secret, for an indefinite period of time, any and all confidential information of which the CUSTOMER and/or THIRD PARTIES gain knowledge in connection with the SERVICES. Any information which is not in the public domain and in the secrecy of which SOLIFOS might have an interest worthy of being protected shall be considered to be confidential.

The CUSTOMER will refrain from any type of attempt to solicit employees of SOLIFOS for themselves or any other company.

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## 7. Further Provisions

### 7.1. Involvement of Third Parties

SOLIFOS shall be entitled to involve third parties in the performance of the contract. SOLIFOS shall be responsible for services rendered by engaged third parties like for its own services.

### 7.2. Intellectual Property Rights and Retention of Title

SOLIFOS shall remain the owner of any and all rights in all DELIVERABLES and SERVICES, descriptions, brochures, plans, documents and data carriers, including patent rights, copyrights or other intellectual property rights. The CUSTOMER acknowledges these rights of SOLIFOS.

DELIVERABLES shall remain the property of SOLIFOS until the fulfilment of the payment obligations by the CUSTOMER and receipt of the agreed compensation by SOLIFOS. The CUSTOMER shall be obliged to cooperate in measures to protect the property of SOLIFOS. The CUSTOMER authorises SOLIFOS to have the latter's property registered in the relevant register of retention of title, by making a unilateral declaration.

### 7.3. Prohibition of Assignment

The CUSTOMER shall not be entitled to assign or transfer their rights against SOLIFOS and their duties to third parties, without the prior consent of SOLIFOS.

### 7.4. Severability

If individual provisions of these GTC shall be deemed to be invalid or ineffective by a competent court of arbitration, any ordinary court or a competent authority, the other provisions and these GTC shall remain in full force and effect. The parties will make all efforts to replace the ineffective provision by an effective provision which comes as close as possible to the economic purpose of the ineffective provision.

### 7.5. Applicable Law and Place of Jurisdiction

All legal relationships between the CUSTOMER and SOLIFOS shall be governed by Swiss law to the exclusion of the conflict of law rules and the UN Convention on Contracts for the International Sale of Goods (CISG).

The exclusive place of jurisdiction shall be Brugg (Switzerland). In addition, SOLIFOS shall be free to sue the CUSTOMER before any competent court by virtue of the law.

Windisch, 27 February 2019