

General Terms and conditions of Sale and Delivery Solydus BV

Article 1 – General

1. In these General Terms and Conditions (General Conditions):
 - a. “Product” shall mean deliveries made and services such as maintenance, consulting and inspection rendered;
 - b. “Solydus” shall mean Solydus BV itself;
 - c. “Principal” shall mean the person to whom the above offer is directed, and/or with whom the above agreement (s) is / are entered into;
 - d. “Service” shall mean all work undertaken by Solydus on behalf of the Principal(service), including, but not limited to, maintenance, consulting and inspection.
2. These General Conditions apply to all offers made by Solydus, to all agreements it concludes and to which it is a party, to all agreements that may follow concerning the provision of deliveries and/or services for its principals and the related legal acts and actual operations resulting from the foregoing.
3. Deviation from these General Conditions is only possible when both parties hereby expressly and in writing.
4. Under no circumstance shall the general conditions of Principal apply. The applicability of such general conditions is explicitly rejected.
5. The annulment or invalidity of any provision of these terms and conditions shall have no effect on the validity of the remaining provisions.
6. These General Conditions are drafted in the Dutch and English language. In case of discrepancies or conflicts between the Dutch and English version of these General Conditions, the Dutch wording shall prevail.

Article 2 - Offers

1. All offers from Solydus involves no commitment and can be revoked, even after its acceptance by the Principal. The revoking of offer after acceptance by the Principal must, however, be done without delay.
2. Each offer is based on implementation of the agreement by Solydus under normal circumstances and during normal working hours.

Article 3 – Agreement

1. If the agreement is entered into in writing, it shall become effective on the date of signature of the agreement by Solydus, or the day of dispatch of the written order confirmation by Solydus.
2. Additional work shall mean all work undertaken by Solydus in consultation with the Principal which is additional to the work agreed upon in the agreement or order confirmation.
3. Amendment or supplement to the agreement shall only be binding between parties after written confirmation by Solydus. Directions, instructions and the like that are given by Principal to employees of Solydus after the agreement has been entered into shall not be binding for Solydus, if and insofar as they have not confirmed in writing

Article 4 – Price

1. Unless stated otherwise, by us, the prices quoted do not include VAT and other charges levied by the government on sales and deliveries and are based on delivery DAP (Delivered On Place – INCOTERMS 2010) in accordance with the INCOTERMS that are applicable on the date of the offer in so far as these INCOTERMS are not deviated from in these General Conditions and.
2. If, after the date of completion of the agreement, one or more of the cost price factors have been subject to a rise, even if this occurs as a result of foreseeable circumstances, Solydus is entitled to raise the agreed price accordingly.

3. Solydus shall be authorized to invoice additional work carried out by Solydus separately once the amount to be invoiced is known. To the invoicing of additional work paragraphs 1 and 2 of this Article shall apply.
4. Cost estimates and plans shall, unless otherwise agreed, not be invoiced separately. In case any new drawings, calculations, descriptions, models or tools etc. have to be submitted for repeat orders, these shall be invoiced separately.
5. If assembly and/or putting into operation of the product to be delivered has been agreed with the Principal, the price is, unless elsewhere directed in the agreement, calculated including the agreed assembly and delivery of the product in operating order at the location referred to in the quote, including all costs, but excluding costs that are not included in the price subject to the above paragraphs of this Article or are mentioned in Article 7.

Article 5 – Drawings, calculations, descriptions, models, tools etc.

1. Data listed in catalogues, illustrations, drawings, statements of dimensions and weights etc. are only binding if and insofar as they have been explicitly included in a contract signed by the Principal and Solydus, or in a confirmation of the order signed by Solydus.
2. When Principal provides Solydus with data, images, drawings, calculations and descriptions etc., then Solydus is entitled to assume the accuracy and completeness of this information.
3. Quotes given, as well as drawings, calculations, software, descriptions, models, tools, etc. made or provided by Solydus, remain the property of Solydus, irrespective of whether costs have been charged for these. The information enclosed in or underlying the manufacturing and construction methods, products etc. remain exclusively reserved to Solydus, even if costs have been charged for these. The Principal vouches that the information we provide will be used solely and exclusively in connection with the agreement and that he will not use that information in any manner that is in breach of the intellectual rights of third parties.

Article 6 – Delivery times

1. Delivery times confirmed by Solydus are approximate delivery times.
2. The delivery time commences on which ever of the following times is latest:
 - a. the day of completion of the agreement;
 - b. the day of receipt by Solydus of the requisite documents, data, permits, etc. for implementing the order;
 - c. the day on which the necessary formalities for commencing the work have been fulfilled;
 - d. the day of receipt by Solydus of that which in accordance with the agreement had to be paid in advance, prior to commencing the work. If a delivery date or week has been agreed, the delivery time is the period between the date of completion of the agreement and the delivery date or week.

If a week or day of delivery has been agreed upon, the delivery time shall be the period between the date that the agreement is entered into and the week or day of delivery.

3. The delivery time is based on the working conditions at the time of completion of the agreement and on delivery in good time of the materials ordered by Solydus for implementing the work. If, due to no conscious recklessness of Solydus a delay arises as a result of a change to the said working conditions or because materials ordered in good time for performing the work have not been delivered in good time, the delivery time will be extended insofar as is necessary.
4. With reference to the time of delivery, the product is deemed to be delivered, when it is available for transfer of ownership to the Principal.
5. Notwithstanding the provisions set forth elsewhere in these conditions with regard to extending the delivery time, the delivery time is extended by the duration of the delay arising on the part of Solydus as a result of the failure of the Principal to comply with any of the obligations arising from the agreement or any cooperation to be required of him with regard to the implementation of the agreement.

6. If the agreed delivery period is exceeded – for whatever reason – this shall not entitle the Principal to claim damage or to wholly or partially dissolve the agreement or to perform or cause to be performed any work in execution of the agreement, without having judicial authorization to do so, unless this results from the conscious recklessness of Solydus.

Article 7 – Assembly and installation

1. The Principal is responsible vis-à-vis Solydus for implementing correctly and in good time all arrangements, facilities and/or conditions that are necessary for setting up the product to be assembled and/or the correct operation of the product in assembled state, except and insofar as this work is carried out by or on behalf of Solydus in accordance with data and/or drawings made by or on behalf of the latter.
2. Notwithstanding the provision of paragraph 1, the Principal shall in any event arrange at his own expense and risk that:
 - a. the employees of Solydus as soon as they have arrived at the place of installation, can commence their work and continue performing their work during normal working hours and moreover, outside normal working hours if this is deemed necessary by Solydus, provided the Principal has been informed of this in good time;
 - b. suitable accommodation with all conveniences becomes available for the employees of Solydus or its subcontractors, as required by virtue of governmental regulations, the agreement or practice;
 - c. the access roads to the place of installation are suitable for the requisite transport;
 - d. the designated place of installation is suitable for storage and assembly;
 - e. the necessary lockable storage sites for equipment, tools and other matters are present;

- f. the requisite and usual auxiliary workers, auxiliary equipment, additives and industrial materials (fuel and lubricants, polishing and other small materials, gas, water, electricity, steam, pressurized air, heating, lighting etc.) as well as the normal measuring and testing equipment for the business of the Principal, are available for Solydus employees and its subcontractors in good time, free of charge and in the right place;
 - g. all necessary safety and precautionary measures have been taken and will be maintained in accordance with the guidelines for VCA certified work and that, as regards assembly or installation undertaken by our technicians is complaint with all government regulations;
 - h. at the start of and during the assembly all the requisite products and materials are present in the correct place.
- 3. Damage and costs arising because the conditions set forth in this article have not been complied with or not in good time, are to be paid for by the Principal.
 - 4. With regard to the assembly /installation time, Article 6 is likewise applicable.

Article 8 – Inspection and acceptance test

- 1. The Principal shall inspect the product within 14 days after delivery under Article 6 paragraph 4 or - if assembly has been agreed upon - within 14 days after installation. If this term expires without written complaint and/or specified notification of justified complaints, the product shall be deemed to be accepted by Principal.
- 2. In case of minor shortcomings, particularly those that do not influence the use of the product, the product shall be deemed to be accepted despite these shortcomings. Solydus shall remedy such shortcomings as soon as possible.
- 3. Without prejudice to the obligation of Solydus to fulfill its warranty obligations, acceptance in the preceding paragraphs shall preclude any claim of the Principal in respect of a shortcoming in the performance of Solydus.

Article 9 – Transfer of risk and ownership

1. Passing of the risk in respect of all direct and consequential damages arising to or from the product shall be immediately upon delivery under Article 6 paragraph 4, except and in so far as the Principal demonstrates that the damage originate from the acts and/or omissions of Solydus, done either with the intent to cause to such damage or recklessness and with the knowledge that this damage would probably result. Under its own acts or omissions of Solydus means the acts or omissions of the management or executives within the company Solydus.
2. If the product is stored at Solydus and the Principal, after being given notice of default, continues to fail to accept the product, Solydus will be entitled to charge the Principal for the costs of storing the product.
3. Without prejudice to the stipulations of the foregoing paragraph and of Article 6 paragraph 4, title to the product shall only pass to the Principal once all amounts due to Solydus from the Principal in connection with the delivery or related work have been settled in full, including damage, interest and costs.
4. In case Solydus invokes the retention of title stipulated in the preceding paragraphs in writing, Solydus shall be entitled to suspend delivery, to retain the product and/or to retrieve already delivered products. Should the occasion arise, Solydus will be entitled to unimpeded access to the delivered products. The Principal will grant all cooperation in order to give to Solydus to opportunity of exercising the condition with regard to ownership given in the preceding paragraphs, by taking back the delivered products, including any disassembly that may be required.

Article 10 – Payment

1. Unless otherwise agreed, the agreed price will be paid as follows:
 - a. 50% on acceptance by Solydus of the order made by the Principal, within fourteen days from the date of the order confirmation of Solydus. Solydus shall not commence the execution of the order until receipt of this down payment;

- b. 40% on execution of the order and upon loading of the goods on board the sea vessel or airplane for carriage to the agreed upon place of delivery, within fourteen days from the date of the confirmation by Solydus that the goods have been loaded on board one of the mentioned methods of carriage;
 - c. 10% within fourteen days from delivery in accordance with Article 6 on the agreed upon place of destination.
2. Payment of additional work shall be made within seven days from the date that it has been invoiced to the Principal.
3. Unless otherwise agreed in writing, all payments should be made without any deductions or offset, immediately upon receipt of the invoice to the designated account or an office of Solydus.
4. If the Principal shall not pay the amounts within the payment deadline, it shall – without notice of default being required – be in default of payment and Solydus shall have the right to invoice legal commercial interest under Article 6:119a Dutch Civil Code from the date that payment was due and shall also be entitled to payment of the costs for collection through judicial or other channels.

Article 11 - Guarantee

1. Notwithstanding the constraints set below, Solydus vouches for the soundness of the products supplied and for the quality of the materials used and/or supplied for these products, in so far as the defects are not visible upon inspection and in case the Principal demonstrates that (i) the defect arose within three months after delivery under Article 6 paragraph 4 of these General Conditions or (ii) are the consequence of an error in the construction applied by Solydus or (iii) are the consequence of a defective finish or (iv) are the consequence of the use of poor materials.
2. Defects covered by the guarantee under the preceding paragraph of this Article 11 shall be remedied by repair or replacement of the defective component, whether or not within the company Solydus or by the supply of a replacement part, to the exclusive choice of Solydus. All costs exceeding the sole obligation as described in the preceding paragraph, such as – but not limited to – transport costs, traveling expenses as well as costs assembly and disassembly shall be for the Principal's account.

3. In any event defects that do not come under the guarantee are those occurring which are fully or partially the result of:
 - a. failure on the part of the Principal to have due regard for operating and maintenance regulations or other use than is normally anticipated;
 - b. normal wear and tear;
 - c. assembly/installation or repair by third parties, including the Principal;
 - d. application of any governmental regulation with regard to the used materials;
 - e. materials or products applied at the request of the Principal;
 - f. materials or products which have been provided for treatment or processing by the Principal to Solydus;
 - g. materials, products, methods and constructions, which have been applied at the explicit instruction of the Principal, as well as materials and products supplied from, by or on behalf of the Principal;
 - h. components supplied to Solydus by third parties, in so far as these third parties have not provided any guarantee to Solydus.

4. If the Principal fails to comply with any obligation deriving from the contract that he has concluded with Solydus or a contract connected with it, or he does not do so properly or in good time, Solydus cannot be held to any guarantee in these agreements, however it is referred to. If the Principal resorts to or has resorted to disassembly, repair or other work with reference to the product without the prior written approval from Pon Power, all entitlement under guarantee lapses.

5. Claims with regard to defects must be submitted immediately after their discovery, but in any event within the guarantee period referred to in the preceding paragraphs, in a written, specified notification by the Principal to Solydus. Should the said periods be exceeded, all claims vis-à-vis Solydus lapse with regard to the said defect. Legal claims in this matter should be submitted within one year after the claim has been submitted in good time, failing which the claim shall lapse.

6. If Solydus replaces parts and products in order to comply with the guarantee obligations, these parts and products become the property of Solydus.

7. As regards inspections, consultancy and similar operations carried out by Solydus, no guarantee will be given.
8. The alleged nonperformance of the guarantee obligation on the part of Solydus does not absolve the Principal from this obligations deriving from any agreement concluded with Solydus.

Article 12 - Liability

1. The liability of Solydus is confined to compliance with the guarantee obligations described in Article 11 of these conditions.
2. All liability of Solydus, including liability for death or injury, is excluded, unless and in so far as the Principal proves that the damage results from Solydus' acts and omissions, done either intentionally or recklessly and with the knowledge that such damage would probably result. Solydus's acts and omissions shall means the acts and omissions of the management or or executives within the company Solydus.
3. Consequently Solydus is not liable for:
 - a. the violation of copyright, licenses or other rights of third parties as a result of the use of date provided by or on behalf of the Principal;
 - b. damage or loss, through whatever cause, arising from raw materials, semimanufacturers, models, tools, and other matters made available by the Principal.
4. If Solydus, without being assigned to carry out the assembly, provides assistance and help of whatever kind in the course of the assembly, this will be done at the risk of the Principal.
5. Subject to the last part of Article 12 paragraph 5, the Principal is obliged to hold harmless and indemnify Solydus with reference to all claims of third parties for compensation of damage for which the liability of Solydus in relationship with the Principal been excluded in these conditions, unless the damage results from Solydus' acts and omissions, done either intentionally or recklessly and with the knowledge that such damage would probably result.

6. If employees of Solydus and/or persons instructed by Solydus for the performance of the agreement or agreement arising therefrom are held liable, these persons can invoke any limitation or exclusion of liability, which Solydus could invoke under the agreement or law or regulation or contractual provision.

Article 13 – Force majeure

For the purposes of these General Conditions, force majeure shall mean any circumstance existing independently from Solydus's intentions even if such circumstance could have been foreseeable at the time that the agreement was entered into, as a result of which performance is (temporarily) prevented or made unreasonably difficult and also, insofar as not already included within that definition, war, threat of war, civil war, riot, industrial action, lockout, transport difficulties, fire and other serious disruption to the business of Solydus or that of Solydus's suppliers.

Article 14 – Suspension and dissolution

1. In the event of an impediment to the implementation of the agreement arising as a result of force majeure Solydus shall be entitled, without the intervention of the court, to suspend the implementation of the agreement for a maximum of six months or to dissolve the agreement in full or in part, without being obliged to pay any compensation. During the suspension Solydus is empowered, and at the end of this obliged to opt for implementation or full or partial dissolution of the agreement.
2. Both in the case of suspension and dissolution, Solydus is entitled to require immediate payment for the reserved products, products under construction, manufactured raw materials, materials, parts and other goods for the value that they reasonably represent. In the event of dissolution under the preceding sentence of this paragraph 2, the Principal shall take receipt of the products after transferring the amounts to Solydus, failing which Solydus is entitled to store and/or sell the goods for the risk and account of the Principal.

3. If the Principal fails to comply with any obligation deriving for him from the agreement concluded with Solydus, or from a coherent agreement, or fails to do so properly or in good time, or if there is a good ground for fearing that the Principal is unable or will be unable to comply with the contractual commitments vis-à-vis Solydus, as well as in the case of bankruptcy, suspension of payment, closure, liquidation or partial transfer for collateral or otherwise, of the Principal's business including the transfer of a major portion of his receivables, Solydus is entitled, without notice of default and without the intervention of the court, to suspend the implementation of each of these agreements for a maximum of six months or to dissolve them in full or in part without being held to any compensation or guarantee and notwithstanding the further rights accruing to Solydus. During the suspension Solydus is empowered, and at the end of this obliged, to opt for implementation or full or partial dissolution of the suspended agreement(s).
4. In the event of suspension by virtue of paragraph 3 the agreed price becomes immediately due with deduction of the instalments already paid, and the costs saved by Solydus, and Solydus is entitled to store the reserved products, products under construction, manufactured raw materials, materials, parts and other goods for the risk and account of the Principal. In the event of dissolution by virtue of paragraph 3, the agreed price becomes immediately due and - in case the agreement was not previously dissolved – with deduction of the instalments already paid, and the costs saved by Solydus and the Principal shall be held to pay the amounts as mentioned in this Article 14 and take delivery of the products mentioned, failing which Solydus is entitled to store and/or sell the products for the risk and account of the Principal.
5. The Principal is not entitled to claim dissolution of the agreement with retroactive force.

Artikel 15 – Jurisdiction and applicable law

1. Dutch law shall apply for all agreements to which these General Conditions apply in whole or in part. The applicability of the Vienna Sales Convention is expressly excluded.
2. All disputes arising out of or relating to these General Conditions shall be exclusively brought before the Court of Amsterdam.