

**1. Preamble**

1.1. Except any formal and express derogation made by the Seller/Vendor, all Buyer's/Purchaser's orders carry off his full and entire consent to the present General Sale's Conditions which prevail over any Sales' Conditions. All particular sale's clauses or conditions aiming to modify the present conditions must not be contrary to the seller's ones.

The Seller/Vendor being :  
Ets Charriau J&Y  
located in St Etienne de Mer Morte in France  
VAT number FR 29 429 952 344

The Buyer/Purchaser being :  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The transaction's performance is governed by :  
- the General Conditions which apply to the transaction  
- the concluded contract between seller and buyer, its annexes and all other documents mentioned in the contract having contractual value (For example: the seller's offer ).  
- the additional clauses signed by the parties.

In the case of contradiction or difference between the transaction's constituent documents, these documents will prevail in the inverse order to how they are listed above. In the case of a clause's or disposition's lapse, nullity or inapplicability, partly or as a whole of one of the contractual documents, the other dispositions of the mentioned documents stay enforce.

**2. Formation of contract**

2.1. The contract shall be deemed to have been entered into, when, upon receipt of an order, the Vendor has sent a pro-format invoice within the time-limit (if any) fixed by the Purchaser.

2.2. Where an export or import licence a foreign exchange control authorization or similar authorization is required for the performance of the contract, the party responsible for obtaining the licence or authorization shall act with due diligence to obtain it in good time. If on the expiration of the period specified in paragraph A of the appendix from the date of the formation of the contract, or where no such period is specified then on the expiration of three months, the requisite licence or authorization cannot be obtained, either party shall be entitled to regard the contract as never having been formed provided that such party informs the other party of his decision without delay.

**3. Descriptive documents and instruction leaflets relating to use**

3.1. The weights, dimensions, capacities, prices, performance ratings and other data included in catalogues, prospectuses, circulars, advertisements, illustrated matter and price lists shall not be binding save to the extent that they are by reference expressly included in the contract.

3.2. The Vendor shall furnish to the Purchaser, material as described on the Vendor's proforma invoice.

**4. Packing**

4.1. Unless otherwise specified :  
(a) prices shown in price-lists and catalogues shall be deemed to apply to unpacked goods ;  
(b) prices quoted in tenders and in the contract shall include the cost of packing or protection required under normal transport conditions to prevent damage to or deterioration of the goods before they reach their destination as stated in the contract.

**5. Passing of the risk**

5.1. Where no indication is given in the contract of the form of sale, the goods shall be deemed to be sold "ex works Vendor's warehouse" according incoterms ICC 2000.

5.2. Save as provided in paragraph 6.5, and unless the parties have otherwise agreed, the moment when the risk passes shall be determined as follows : On a sale "ex works", the risk shall pass from the Vendor to the Purchaser when the goods have been placed at the disposal of the Purchaser in accordance with the contract, provided that the Vendor gives to the Purchaser notice in writing of the date on and after which the Purchaser may take delivery of the goods. The notice of the Vendor must be given in sufficient time to allow the Purchaser to take such measures as are normally necessary for the purpose of taking delivery.

**6. Delivery**

6.1. Unless otherwise agreed, the delivery period shall run from the latest of the following dates :  
(a) the date of the formation of the contract ;  
(b) the date of the receipt by the Vendor of such payment in advance of delivery as is stipulated in the contract.

6.2. On expiry of the delivery period provided for in the contract, the Vendor shall be entitled to the period of grace specified in paragraph B of the Appendix, or where no such period is specified, to a period of grace of one month from the expiry of the delivery period provided for in the contract.

6.3. Should delay in delivery be caused by any of the circumstances mentioned in Clause 10 or by an act or omission of the Purchaser, there shall be granted such extension of the delivery period as is reasonable, having regard to all the circumstances of the case. This provision shall not apply where the delay in delivery occurs after the expiry of the period of grace referred to in paragraph 6.2, unless such delay is due to an act or omission of the Purchaser.

6.4. Should the Vendor fail to deliver the goods after the period of grace mentioned in paragraph 6.2, the Purchaser shall be entitled to terminate the contract by notice in writing to the Vendor, both in respect of all goods undelivered, and in respect of goods which though delivered cannot be properly used without the undelivered goods. Where the Purchaser so terminates the contract he shall be entitled, to the exclusion of any other remedy for delay in delivery to recover any payment which he has made both in respect of all goods undelivered and in respect of goods which although delivered cannot be properly used without the undelivered goods, to reject the goods delivered which are unusable and to recover any expenses properly incurred in performing the contract.

6.5. Where the Purchaser does not take the goods at the place and time provided for by the contract for any reason other than an act or omission of the Vendor he shall nevertheless make any payments provided for in the contract as if the goods had been delivered. In such a case, once the goods have been appropriated to the contract, the Vendor shall arrange for their storage at the risk and cost of the Purchaser. The Vendor shall further be entitled to the exclusion of any other remedy for the Purchaser's failure to take the goods, to recover any expenses properly incurred in performing the contract and not covered by payments received.

**7. Payment**

7.1. Payment shall be made in the manner and at the time or times agreed by the parties. In the absence of agreement to the contrary, express or implied, full payment shall be due in the case of a sale "ex works" thirty days after notification from the Vendor to the Purchaser that the goods have been placed at his disposal.

7.2. Where the Purchaser delays in making full payment and the delay is not due to an act or omission of the Vendor, the Vendor may postpone the fulfilment of his own obligations until such payment is made.

7.3. Where at the end of the period specified in paragraph C of the Appendix, or where no such period is fixed, then after the expiry of one month from the date on which payment became due, the Purchaser shall still have failed to pay the sum due, the Vendor shall be entitled by notice in writing, and to the exclusion of any other remedy against the Purchaser by reason of the latter's delay, to terminate the contract, without prejudice to his right to recover any payment due in respect of delivered goods and all expenses properly incurred by the Vendor in performing the contract.

7.4 Payment is to be made by swift transfer to the following account : Crédit Agricole Atlantique Vendée  
account number : 14706 00007 3035123000071 iban : FR76 1470 6000 0730 3512 3000 071 swift code : AGRI FR PP 847

## 8. The Purchaser's right of rejection

8.1. During the period specified in paragraph D of the Appendix, or where no such period is specified, then within such reasonable period as will allow inspection, the Purchaser shall be entitled to reject goods which do not conform with the contract (excepting any defect caused after the passage of risk), provided that before the Purchaser can exercise his right of rejection the Vendor shall have an opportunity to make good any default at his expense within a reasonable period.

8.2. The Purchaser's right of rejection shall also apply to goods which, although delivered and accepted, cannot be properly used without the goods mentioned in paragraph 8.1.

8.3. The Vendor shall be entitled to have rejected goods returned to him at the Purchaser's risk and expense.

## 9. Guarantee

9.1. Material being second hand, the Vendor undertakes no liability except to remedy to any missing components.

9.2. Where the Purchaser wishes to avail himself of the guarantee, he shall notify the Vendor in writing without delay of any defect that has appeared. On receipt of such notification the Vendor shall if the defect is one that is covered by this clause at his option :

- (a) repair the defective goods in situ ; or
- (b) have the defective goods or parts returned to him for repair ; or
- (c) replace the defective goods ; or
- (d) replace the defective parts in order to enable the Purchaser to carry out the necessary repairs at the Vendor's expense.

9.3. Where the Vendor has returned to him defective goods or parts for replacement or repair, unless otherwise agreed, the Purchaser shall bear the cost and risk of carriage. Unless otherwise agreed, the return to the Purchaser of goods or parts sent by way of replacement or of repaired goods or parts shall take place at the cost and risk of the Vendor.

9.4. Defective goods or parts replaced in accordance with this clause shall be placed at the disposal of the Vendor.

9.5. Where the Vendor fails to fulfil his obligations under this clause within a reasonable period after receipt of notification under paragraph 9.2, the Purchaser may proceed to have the defect remedied at the Vendor's expense, provided that he does so in a reasonable manner.

9.6. The Vendor's liability shall apply only to defects that appear under the conditions of operation provided for by the contract and under proper use. In particular it does not cover defects arising from faulty installation, maintenance or repairs, carried out by a person other than the Vendor or his agent, or from alterations carried out without the Vendor's consent in writing, nor does it cover normal deterioration.

9.7. Subject to the provisions of clause 8 and save as in this clause expressed, the Vendor shall be under no liability in respect of defects after the risk in the goods has passed even if such defects are due to causes existing before the risk passed. It is expressly agreed that the Purchaser shall have no claim in respect of personal injury or of damage to property not the subject matter of the contract or of loss of profit unless it is shown from the circumstances of the case that the Vendor has been guilty of gross misconduct.

9.8. "Gross misconduct" does not comprise any and every lack of proper care or skill, but means an act or omission on the part of the Vendor implying either a failure to pay due regard to serious consequences which a conscientious contractor would normally foresee as likely to ensue, or a deliberate disregard of any consequences of such act or omission.

## 10. Reliefs

10.1. Any circumstances beyond the control of the parties intervening after the formation of the contract and impeding its reasonable performance shall be considered as cases of relief. For the purposes of this clause circumstances not due to the default of the party invoking them shall be deemed to be beyond the control of the parties.

10.2. The party wishing to claim relief by reason of any of the said circumstances shall notify the other party in writing without delay on the intervention and on the cessation thereof.

10.3. Where by reason of any of the circumstances referred to in paragraph 10.1 the performance of the contract within a reasonable time becomes impossible, either party shall be entitled to terminate the contract by notice in writing to the other party and in that event there shall be such restitution (if any) whether by way of repayment of money, return of goods, or otherwise as shall be just and as the circumstances referred to in paragraph 10.1 may permit.

## 11. Arbitration and applicable law

11.1. Any dispute arising out of or in connexion with the contract, which the parties have been unable to settle by agreement; shall be settled by the French tribunal of commerce located in Nantes France (tribunal de commerce de Nantes en France).

11.2. The contract shall be governed by the law of France. In case of contradiction between the English and French version for this translation, the French version (available on company's web site) has priority.

## Appendix

Paragraphs of General Conditions

- A. Period after which the parties are entitled to consider the contract as never having been formed if the necessary licence or authorization cannot be obtained (paragraph 2.2.) - 3 month from Vendor's pro-format invoice
  - B. Length of the period of grace for delivery (paragraph 6.2.) - not applicable
  - C. Period of delay in payment authorizing termination by the Vendor (paragraph 7.3.) - not applicable
  - D. Period for exercise of the Purchaser's right of rejection (paragraph 8.1) - 5 working days in Purchaser's country
  - E. Guarantee period starting on passing of the risk (paragraph 9.2.) - not applicable
  - F. Guarantee period from sale of goods to first end user (paragraph 9.2.) - not applicable
- See pro-format invoice attached