

GENERAL CONDITIONS OF SALES

1 – GENERAL PROVISIONS

These general conditions organize the trade customary practices for the profession that are in force with regard to the sales of welding and brazing fluxes and chemicals products. These general conditions apply to the contractual relations between the supplier company and the client company, hereinafter referred to the “Customers”.

In accordance with Article L441-6 of the French Commercial Code, general conditions of sale form the sole basis for commercial negotiation. The Supplier cannot waive said conditions in advance. All derogations to the general conditions must be evidenced by the written acceptance of the parties. Unless there is an express agreement to the contrary, a derogation to the general conditions is only valid for the contract for which said derogation was requested and accepted. The Supplier reserves the right to amend the general conditions, provided that the Customer is notified one month prior to the effective application of the amended conditions.

Within the meaning of these general conditions, “written” shall be understood to mean all documents drawn up on paper or electronic media or sent by facsimile transmission.

The fact that the Supplier does not at a given time assert its rights under any one of the clauses whatsoever of the general conditions cannot be construed as a waiver by the supplier of its entitlement to assert said rights at a later date.

In the same way, the invalidity of any one of the clauses whatsoever of these conditions shall not affect the validity of the other clauses.

2 – ORDERS

The contract is formed by the express acceptance of the order by the supplier. The Customer is also deemed to be validly bound by the actions of members of its personnel.

A given supply includes precisely and solely goods specified in the order that was expressly accepted by the Supplier.

The order represents the acceptance of the offer by the Customer and, in accordance with the general rules of French law, acceptance is unfringeable. The Customer cannot withdraw or cancel its acceptance, regardless of the reason therefor, unless the Customer obtains the express agreement of the Supplier on the principle of the termination of the contract and on the amount resulting of the expenses incurred. All payment made when placing an order are deemed non - refundable down payments, the benefit of which shall definitively inure to the Supplier.

Order amendments and additions, in particular concerning delivery times, quantities or goods; shall be subject to the express agreement of the Supplier, which shall inform the Customer of the attendant conditions and consequences for the commercial conditions.

The conditions for additional supplies cannot adversely affect the conditions for the main order under any circumstances

3 – PRICE

The price, which is in principle that shown in the Supplier's tariff or order, shall be determined in light of the economic conditions, in particular the prices of materials, which exist when the offer or tariff is drawn up, and may therefore change in light of modifications that affect said economic conditions.

Prices are stipulated exclusive of tax, exclusive of carriage costs (unless stated differently) and at the tariff in force on the date on which the order is place or on the date of delivery, if delivery is requested for a date that is subsequent to the change in tariff.

Changes to the tariff shall be notified to the Customer one month prior to the changes being implemented.

Unless there is a prior agreement for a set price, all deliveries of catalogued goods shall be invoiced at the price mentioned on the order receipt confirmation.

A minimum invoice amount or the invoicing of a flat rate below a certain order threshold may be provided for in addition to this document.

4 – DELIVERY

4.1 Delivery conditions

Except as otherwise provided for, delivery shall be deemed to have been made as from the time the delivered items are made available in the Supplier's plants or stores, with all carriage, insurance, customs, handling and on-site delivery operations being under the responsibility and at the cost, risk and jeopardy of the Customer.

Delivery shall take the form of direct remittance to the Client or a mere notice of availability, or by transfer at the Supplier's plants or stores to a carrier or transporter designated by the Customer or, in the absence of such designation, chosen by the Supplier.

The principle of delivery taking place in the Supplier's plants and stores cannot undergo derogation due to statements such as remittance free at station, free alongside ship, free to domicile or total or partial reimbursement of carriage costs. If the dispatch is delayed for any reason whatsoever that is beyond the control of the Supplier, and if the Supplier so agrees, the Goods shall be stored and handled where applicable, at the Customer's risk and jeopardy; the Supplier declines all resulting liability in this regard

These provisions in no way modify the obligations to pay for the supplies and do not constitute any form of novation.

4.2 CHECKS

It is up to Customer to check the dispatches upon arrival and, where applicable, to exercise its remedies against the carrier, even if the dispatch was free (of carriage costs). In accordance with

Article L133-3 of the French Commercial Code, it is up to the Customer to issue its reservations to the carrier within 3 days of receipt of the goods by registered letter with return accept.

In order to be accepted, claims concerning the composition and/or quantity of goods delivered, its non-compliance with the delivery note or the condition of goods, must be stated as reservations on the delivery note at the time of arrival of the goods counter-signed by the driver and simultaneously notified to the Supplier, without prejudice to the provision of Article L133-3 of the French Commercial Code. All Customers must imperatively inform their own clients of these provisions.

The statement “sous réserve de déballage » (“subject to inspection of the content”) has no value vis-à-vis the carrier and is not admissible as a reservation.

In the event that the Customer has arranged carriage and pays the cost thereof, the Customer shall pay for all the pecuniary consequences of direct action by the carrier against the Supplier.

All returns of Goods shall be admissible if the Supplier’s prior agreement has been obtained. Returns must be made within eight days of receipt, free of all duties, a decrease may be applied for the inspection, repackaging, storage and administration costs, etc .

4.3 Delivery time

The delivery times shall start to run as from the latest of the following dates the date of the order confirmation receipt, the date on which the information, the down payment or the supplies that the Customer undertook to remit to the Supplier reach the Supplier

As the delivery times are indicative, delays cannot justify the cancellation of an order under any circumstances.

The Supplier shall by right, be released from all undertakings concerning the delivery times if the Customer does not comply with the payment conditions or in the presence of an instance of force majeure or events that are beyond the Suppliers’ control

The Supplier shall ensure that the Customer is apprised, as soon as possible, of instances or events of this type.

5 PAYMENT CONDITIONS

In accordance with Article L 441-6 of the French Commercial Code, the payment date agreed between the parties to pay the outstanding amounts cannot exceed 60 days following the date of issue of the invoice. In the case of periodic invoicing within the meaning of Article 289 (I)(3) of the French General Tax Code, the payment date agreed between the parties cannot exceed 45 days following the date on which the invoice is issued.

Down payments are paid on the spot.

All late payment shall trigger the application of default interest that is equal to the European Central Bank’s most recent refinancing rate, increased by 10 points.

Any clauses of requests for the purpose of setting or obtaining a payment date which exceeds this maximum period, which represents the profession’s best practices, shall be liable to be deemed wrongful, as defined by Article L442-6/7° of the French Commercial Code and is liable in particular to a civil fine of up to five million Euros

In accordance with Article L441-3 of the French Commercial Code, payment is only made as from the time the funds have effectively been made available. Remittance of an instrument of payment does not constitute payment. It is agreed that all bills of exchange must arrive, having been accepted by the Customer, within seven days of their remittance for acceptance or, failing this, within eight days

of invoicing. Any costs that are incurred by the refusal or a means of payment shall be deemed to be the responsibility of the Customer.

Unless the parties agree otherwise in writing, the agreed payment dates may not be pushed back for any reason, even in case of dispute.

Any delayed payment makes automatically applicable, from the first day after the payment date mentioned on this invoice:

1/ Late payment penalties

The late payment penalties shall be determined by application of the refinancing rate of the European Central Bank, increased by ten points.

2/ A fixed compensation of 40 Euros for the recovery costs

This amount is determined by the Article D441-5 of the French Commercial Code. When the recovery costs incurred exceed this fixed compensation, the Supplier is also entitled to obtain a justified additional compensation

Unless there is an express agreement between the parties, the agreed payment dates cannot be postponed for any reason whatsoever, including in the event of a dispute.

6 – RETENTION OF TITLE

The Supplier shall retain title to the goods sold until the effective payment of the entirety of the price (principal and ancillary costs).

Failure to pay any instalment whatsoever may lead to said goods being reclaimed.

The Customer shall nonetheless assume, as from the time of delivery, as defined by the Article 6.1 above, the risks pertaining to the loss or deterioration of said goods as well as the liability for the damage said goods may cause.

7 – UNFORSEEN CIRCUMSTANCES AND FORCE MAJEURE

Should an event beyond the control of the parties take place that compromises the balance of the contract to the point of rendering the performance of its obligations prejudicial to one of the parties, the parties agree to negotiate in good faith the modification of the contract; In particular, the following events are concerned changes in the price of raw materials, changes in customs duties, changes in the exchange rate, changes in legislation. If the parties fail to reach an agreement, they shall follow a conciliation procedure wherein the presiding judge of the competent commercial court shall act as arbitrator

7.1 UNFORSEEN CIRCUMSTANCES

None of the parties to this contract can be held liable for its delay or failure to perform any of its obligations under the contract if such delay or failure is the direct or indirect effect of an event of force majeure such as:

- occurrence of a natural disaster

- earthquake, storm, fire, flood, etc.
- armed conflict, war, attacks,
- labour dispute, total or partial strike at the Supplier or the Client
- labour dispute, total or partial strike at the Suppliers, service providers, carriers, posts, utilities , etc.
- imperative injunction of the public authorities (import ban, embargo)
- operating accidents, machine breakdown, explosion.
- supplier deficiency

Each party shall inform the other party, without delay, of the occurrence of an event of force majeure of which it becomes aware and that, in its opinion, is liable to affect the performance of the contract. If the duration of the impediment exceeds one month, the parties must get together as soon as possible to examine in good faith the future of the contract

8 – CONTESTATION

In the absence of an amicable agreement pursuant to Article 56 and 58 of the French Code of Civil Procedure, it is expressly agreed that all dispute concerning the contract shall fall under the exclusive jurisdiction of the court within the authority of which the Supplier's domicile is located, even in the event of third-party notice or multiple defendants.

Solely French law shall apply to the contract. It is drawn up in French. In the event that it is translated into one or more languages, only the French version shall be legally binding in the case of dispute.