

I - GENERAL**1. Purpose and scope of the general terms and conditions**

These Terms and Conditions of Sale (hereinafter "GTCS") are compliant with the rules of contract law and competition law. They express the common will of the parties for all issues where it has not been clearly expressed.

These general terms and conditions apply to the sale of materials or equipment (the "Materials or Equipment") and related services. They do not apply to services where they are the main object of the contract.

These conditions apply to ACTEYS (hereinafter the "Seller") and to professional buyers (hereinafter "the Buyer" or the "Customer"). For the purposes of these general terms and conditions, "written" means any document drawn up by any means and, in particular, on paper or in electronic format.

In accordance with Article L. 441-1 of the French Commercial Code, these GTCS constitute the sole basis for the commercial negotiation between the Seller and the Buyer. Consequently, the sale of the Products is exclusively governed by these GTCS, supplemented when applicable by specific conditions established and approved between the parties.

2. Formation of the contract

In the absence of any particular mention, the Seller's offer shall have a validity period of one month.

The sales contract is deemed valid only after the Seller's written acceptance of the Buyer's order.

The latter declares and acknowledges that it is fully aware of these GTCS as well as the applicable prices. The fact that the Customer places an order with the Seller implies full, complete and unreserved acceptance to these GTCS.

Unless expressly provided otherwise between the parties, these GTCS shall prevail over any other written document and in particular any general terms and conditions of purchase and any purchase orders of the Customer. In the case of the sale of spare parts, the shipment of the parts by the Seller shall be deemed acceptance of the Buyer's order.

The Seller reserves the right to cancel or refuse any order from a Buyer with whom there is a dispute relating to the payment of a previous order.

Any amendment to the contract requested by the Buyer is subject to the express acceptance by the Seller. The order expresses the Buyer's irrevocable consent to the item and the price; it cannot therefore cancel it, unless expressly agreed beforehand by the Seller. In this case, the Buyer shall indemnify the Seller for all costs incurred and for all direct consequences arising therefrom. In addition, the deposit already paid shall remain the property of the Seller.

Unless otherwise stated, the characteristics mentioned in the catalogues, prospectuses and all advertising documents of the Seller are provided as items of information only and do not constitute a contractual document.

The Seller reserves the right to bring to its models any change it may deem appropriate subject to orders already accepted by the Customer. For these orders, ACTEYS will propose the new model to the Customer if the changes made do not affect the essential characteristics and performance of the Materials or Equipment sold.

In the case of the creation of equipment that meets the Buyer's specific needs, a study is carried out by the Seller leading to an approval plan including the specifications of the product. This document is an integral part of the contract and requires the Buyer's approval. In this case, the Seller reserves the right to add specific clauses in relation to the context of the request. They will then appear on the order.

II - DELIVERY**1. Terms of delivery**

Delivery times shall start from the date of the acknowledgement of receipt of the order, subject to receipt of all documents due by the Buyer for the start of the performance of the contract and the receipt of any down payment.

The deadlines indicated on the order acknowledgement are standard and indicative average times which correspond to the production processing times to which the delivery time is added.

The goods are delivered to the delivery address specified by the Buyer at the time of the order. When several products are ordered simultaneously, and they have different shipping times, the order shipping time shall be the longest time. However, the Seller reserves the right to split shipments. Only the shipped products are then invoiced.

In the event of a delay exclusively attributable to the Seller for more than thirty (30) calendar days in relation to the delivery time indicated on the order acknowledgement, the Buyer shall have the right to cancel the order and shall not pay any damages or late payment penalties.

2. Receipt

If the Buyer fails to make a claim, by registered letter with acknowledgement of receipt, within eight days of the date of delivery, the Materials and Equipment shall be deemed to have been received. This acceptance shall constitute recognition of the absence of apparent defects.

III - RETENTION OF TITLE AND TRANSFER OF RISKS

RETENTION OF TITLE - The Seller retains full ownership of the goods covered by the contract until full payment of the price in principal and incidental charges, in accordance with Articles 2367 and seq. of the French Civil Code and L. 624-16 and seq. of the French Commercial Code. In its capacity as owner of the Materials and Equipment, the Buyer shall, at its own expense, ensure the custody, risks and liability thereof. In the event of a total or partial non-payment of the price on its due date, the Seller reserves the right to terminate the Contract and demand the return of unpaid Materials and Equipment, or fungible goods held by the Buyer, at the Buyer's expense and risk.

However, in the event of resale, the Seller may exercise a right of pursuit by claiming the debt directly from the final Buyer. In this case, the Buyer undertakes to inform its customer of the existence of the title retention clause on the Materials and Equipment it wishes to acquire and the right reserved by the original Seller to claim, for itself, either the Materials and Equipment in question or the price under Articles L.624-9 and seq. of the French Commercial Code.

TRANSFER OF RISKS - Notwithstanding the title retention clause, the risks shall be borne by the Buyer as soon as the Materials and Equipment are made available to the Buyer at the Seller's premises. Following shipment, the Seller disclaims all liability for any damage that such Materials and Equipment may suffer or cause for any reason whatsoever. Until full payment, the goods may not be resold or transformed without the prior agreement of the Seller.

IV - CARRIAGE AND INSURANCE

Unless otherwise agreed in writing between the parties, the sale is governed by the Incoterm Ex Works (ICC 2020) and by the following provisions. Delivery is deemed to be made when the Materials and Equipment are made available in the Seller's plants. The Seller shall notify the Customer in writing of the date on which the Products are made available.

The transport, insurance, import/export customs clearance, handling, loading and unloading operations and the on-site delivery are at the Buyer's expense and risk. In this respect, the Buyer shall ensure that such operations can be carried out in accordance with the relevant professional standards. Failing this, the Seller may refuse to allow such operations to be carried out and shall inform the Buyer thereof.

The Customer undertakes to collect the Materials and Equipment from the Seller's plants, by its own means or through a carrier of its choice. Any transport made by the Seller with its own material means, whether or not the costs are borne by the Buyer, shall be deemed to be carried out in accordance with a contract of carriage separate from the sales contract.

In the absence of instructions, the Seller shall carry out the shipment to the Buyer's best interests. The Materials and Equipment are insured only at the express request of the latter.

In all cases, it is the Buyer's responsibility to carry out all verifications, to express any reservations upon arrival of the Materials and Equipment and to initiate, if needed, the actions provided for by Articles L. 133-1 and seq. of the French Commercial Code, within the time-limits specified by Article L. 133-3 of the French Commercial Code.

The words "subject to unpacking" have no relevance in relation to the carrier and cannot be accepted as a reservation.

V - PRICES, CONDITIONS AND LATE PAYMENT

PRICE - The Seller reserves the right to change its prices at any time subject to current orders. The products are invoiced on the basis of the prices in force on the date of registration of the order.

The prices of the products are indicated in euros not inclusive of VAT and excluding contribution to delivery and insurance costs.

PAYMENT - Payments are made at the Seller's domicile (i.e. SAINT VICTOR 03410) by international bank transfer (SWIFT), bill of exchange or letter of credit within 30 days end of month, and this payment period shall be calculated as follows: 30 days + end of month.

Advance payments are made without discount unless otherwise agreed.

In the case of a payment by bank draft, the acceptance must be made within seven days of its dispatch.

DOWN PAYMENTS - Amounts paid prior to delivery shall be down payments.

Down payments are always paid in cash and must be invoiced. VAT is payable under the conditions laid down by the French General Tax Code.

LATE PAYMENT - Any payment not made on a due date indicated on the invoice or any refusal to accept a bill of exchange, when submitted, shall result, without prior formal notice and without prejudice to the right to enforce the retention of title clause :

(i) at the Seller's discretion, in the suspension or termination of any orders in progress,

(ii) in the payment by the Customer of a lump sum indemnity in the amount of forty (40) €, and

(iii) in the payment by the Customer of late penalties equal to the rate applied by the European Central Bank to its most recent refinancing operation, plus ten (10) percentage points; the rate applicable during the first half of the year being the rate prevailing as of 1st January and in the second half the rate of 1st July, without prejudice to any damages,

(iv) finally, at the Seller's discretion, in the automatic termination of the sale contract one month after the formal notice it has given to the Buyer, by registered letter with acknowledgement of receipt to comply with its obligations. In this case, and without prejudice to any damages, the Buyer, in addition to its obligation to return the Materials and Equipment for which it is responsible on its own expense, shall pay the Seller a compensation for termination, fixed at 20% of the price, evaluated on the date of termination. This compensation will be charged against payments already received.

VI - COMMERCIAL WARRANTY FOR NEW EQUIPMENT**1. Scope of the warranty**

The Seller undertakes to remedy any malfunction arising from a defect in the design, the material itself or the execution (including assembly if this operation is assigned to it), within the limits of the provisions below.

- The warranty ceases automatically when the Buyer has either used non-original spare parts, or undertaken itself or through an unauthorised third party, without the written approval of the Seller, maintenance, restoration or modification work.

- The warranty shall be excluded:

- in the event of damage resulting from a lack of maintenance and supervision and in general any handling not in accordance with the manufacturer's written instructions (the requirements for normal use being contained in the instructions) or the regulations in force,

- for defects that result in whole or in part from the normal wear and tear of the part, from damage or accidents attributable to the Buyer or a third party,

- in the event of a defect of parts supplied by the Buyer and incorporated on its request from the time of manufacture,

- in the event of force majeure as defined in Article VIII, in the event of an accident involving fortuitous events or caused by a third party.

In the event of use of the Equipment outside metropolitan France, the Seller may modify the scope and terms of the warranty as set out in these terms and conditions.

Unless otherwise stipulated, no commercial warranty applies to used Equipment; the transfer of the Equipment by the first user does not imply the transfer of the commercial warranty.

No contractual warranty applies to spare parts which are not assembled by the Seller or a third party approved by the Seller.

2. Buyer's obligations

In order to benefit from this warranty, the Buyer shall promptly notify the Seller in writing of any defects it attributes to the Equipment and provide any justifications for their reality; it shall provide every access to proceed with the examination of defects and remedy them.

3. Duration and starting point of the warranty

The normal warranty covers the connection of ACTEYS couplers and accessories for a period of two (2) years. For all other products, this duration is reduced to one (1) year.

The starting point of the warranty is set from the date of shipment by the Seller.



4. Terms of using the warranty

The warranty is exercised if and only if the following process is followed:

- The Buyer must file a warranty request with the Seller (indicating the references of the product and order, and providing the photos and other documents allowing the defect(s) found to be shown).
- The Seller's technical service then examines the Buyer's request, informs the Buyer about the specific terms and conditions of the warranty, and agrees with it how to return the parts for expert evaluation, repair, replacement or possible refusal of the warranty request.
- After written agreement on its terms and conditions, repairs under the warranty may be carried out in the Seller's own workshops or designated by the Seller.

Unless otherwise specified in the contract, the following rules shall apply:

- During its term, the warranty obliges the Seller to replace parts recognised as defective after examination by its technical service, or, if it so prefers, to repair them free of charge.
- The warranty excludes any other service or indemnity (capital costs, loss of productivity, etc.).
- If the warranty is not exercised, the Seller may propose an estimate of repairs or replacements to the Buyer.
- The replaced parts become the property of the Seller and must be returned to it immediately after their replacement.
- The re-shipment of the Equipment not covered by the warranty is at the Buyer's expense and risk.

VII - LIABILITY

The products offered comply with the European Machinery Directive and the French legislation in force, and French standards have been used for defining them. It is the Buyer's responsibility to check with the local authorities the possibility of importing or using the goods or services that the Buyer intends to order.

The Seller shall not be liable for any use that does not comply with the user documentation, applicable legislation or regulations and the prescribed safety measures.

The Seller shall not be held liable in the event of non-performance of the contract due to a case of force majeure.

The Seller shall provide documents containing service instructions (such as instructions manuals, instructions for use...). The user must read them before commissioning.

The Seller's liability shall be limited to direct property damage and bodily injury caused to the Buyer resulting from faults attributable to the Seller in the performance of the contract.

Under no circumstances shall the Seller be obliged to compensate the non-tangible and/or indirect damages, including, but not limited to, any business interruption, loss of profit, loss of turnover, loss of opportunity, commercial prejudice, shortfalls, damage to image.

In the event that the penalties and compensation provided have been mutually agreed, they shall constitute lump sum compensation, discharging compensation and shall be exclusive of any other penalty or compensation. The total civil liability of the Seller, all causes combined with the exception of bodily injury, is limited to an amount capped to the value of the Materials or Equipment concerned.

The Buyer waives recourse and warrants that its insurers in contractual relationship with it waive all recourse against the Seller or its insurers beyond the limitations and exclusions set out above.

VIII - FORCE MAJEURE

None of the parties to the contract shall 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 a force majeure event as defined by Article 1218 of the French Civil Code such as:

- occurrence of a natural cataclysm,
- earthquake, storm, fire, flood...,
- armed conflict, war, civil conflict, attacks,
- labour disputes, total or partial strike at the Seller or the Buyer,
- labour dispute, total or partial strike at suppliers, service providers, carriers, post, utilities...,
- mandatory injunction by public authorities (ban on import, embargo),
- operating accidents, machinery breakdown, explosion,
- epidemics, pandemics,
- failures or deficiencies by suppliers.

Each party shall inform the other party, without delay, of the occurrence of a case of force majeure of which it is aware and which, in its view, is likely to affect the performance of the contract by indicating an estimate of its duration.

IX - TERMINATION

In the event of a serious breach by either party of any contractual provision and notwithstanding the provisions of Article 11.1, the other party may automatically terminate the contract after a formal notice has remained unheeded within thirty (30) days specifying the alleged breach and the intention to terminate the contract under this article.

This provision does not preclude the right to compensation for the damage suffered as a result of the total or partial non-performance of the contract.

X - DISPUTES AND APPLICABLE LAW

The parties undertake to attempt to settle their dispute amicably before referring the matter to the Commercial Court. In the absence of an amicable agreement, the Commercial Court of Montluçon shall have exclusive jurisdiction, regardless of the terms of the sale and the method of payment, even in the event of introduction of third parties' claims or several defendants.

French law is the only applicable to the contract. It is agreed between the Parties that the application of the Vienna Convention on the International Sale of Goods is hereby expressly excluded.

XI - MISCELLANEOUS

1. Confidentiality

The parties reciprocally commit themselves to a general obligation of confidentiality relating to any oral or written confidential information, regardless of the medium (reports of discussion, plans, electronic data exchanges, activities, installations, projects, know-how, products...), exchanged within the framework of the preparation and performance of the contract, except for information which is generally known to the public or which becomes known to the public other than through the fault or action of either party.

Consequently, the parties undertake:

- to keep strictly confidential all confidential information, and in particular never to disclose or communicate, in any way whatsoever, directly or indirectly, all or part of the confidential information, to anyone, without the prior written consent of the other party,
- not to use all or part of the confidential information relating for purposes or an activity other than the performance of the contract,
- not to copy or imitate all or part of the confidential information.

The parties undertake to take all necessary measures to ensure compliance with this obligation of confidentiality, throughout the term of the contract and even after its expiry, and shall guarantee compliance with this obligation by all their employees. This obligation is an obligation of result.

2. Waiver

The fact that the Seller does not rely upon at any given time on any of the clauses of the general terms and conditions of sale shall be not be construed as a waiver to rely upon them on a future occasion.

Similarly, the invalidity of any one of the clauses of these conditions shall not affect the validity of the other clauses.

3. Customer Service

For any information or questions, our Customer Service is at your disposal:

ACTEYS - 9 Route de la Loue - 03410 SAINT VICTOR - France

Tel. : +33(0)4 70 28 81 81 - Fax: +33(0)4 70 28 83 83

4. Intellectual Property

The sale of products does not entail any assignment or transfer of the intellectual and/or industrial property rights held by the Seller for the whole world. Any total or partial reproduction of the Seller's products is strictly prohibited.

On April 18th, 2024 – in St Victor (03410)

