

## **GENERAL TERMS AND CONDITIONS OF SALE**

### **1 - General Provisions**

1-1 By placing an order for goods, the purchaser is deemed to have unconditionally accepted and to have fully and unrestrictedly agreed to abide by these general terms and conditions of sale, which prevail over any other document issued by the purchaser, and in particular over any and all general terms and conditions of purchase, unless, exceptionally, we have given our express prior written consent thereto.

1-2 These general terms and conditions of sale apply to any and all services provided, goods sold and ancillary services provided, where applicable, by our company, unless otherwise specifically agreed in writing by the parties prior to the placing of the order. Accordingly, by placing an order, the customer is deemed to have unconditionally agreed to abide by these general terms and conditions of sale, unless our company agrees in writing to grant special terms and conditions to the customer.

1-3 All documents other than these general terms and conditions of sale, and in particular any and all catalogues or instructions etc., are provided for information and illustrative purposes only and are not contractually binding.

### **2 - Orders**

2-1 For the purposes hereof, "order" shall mean any order for our goods and/or services that has been accepted by our company in the form of an acknowledgement of receipt specifying that the order has been accepted, along with the deposit, if any, provided for in the purchase order.

2-2 Once our company has accepted an order, in accordance with the provisions of Clause 2-1 hereof, the order becomes binding. In the event that the customer cancels the order, the customer shall remain liable to pay our company a sum corresponding to 20% of the total order amount. Where the amount of the costs already incurred by MMT exceeds the said 20%, the customer shall also pay the difference. MMT shall produce proof thereof, by any means.

### **3 – Special studies, prototypes and production**

Where our company accepts an order (or confirms an order) for a study (or any other form of engineering) or agrees to produce one or more

prototypes, we have no absolute obligation to obtain a specific result.

Quotes are issued on the basis of the specific technical data provided by the customer and an estimate of the work required.

If the in-house cost of a service (study, development, prototype etc.) exceeds the quote given by more than 20%, our company shall contact its customer in order to explain the reasons for the additional cost. A new proposal will then be presented to the customer for the remainder of the service.

In the event that the parties fail to reach an agreement on the financing of the remaining work, our company reserves the right to terminate the relevant service and shall provide the customer with a report setting out the results already obtained.

Unless otherwise expressly stated, any equipment manufactured by MMT or its sub-contractors for the purpose of fulfilling an order for the customer shall remain the exclusive property of MMT.

### **4 - Delivery dates - Packaging - Carriage - Payment**

#### **4-1 Delivery dates**

Delivery dates are approximate and for information purposes only. The exact dates depend, in particular, on carrier availability and the order in which orders arrive.

Our company shall endeavour to meet its delivery dates specified in the acceptance of the order, based on standard industry logistics lead times, and to perform orders, save in the event of force majeure as defined in these general terms and conditions of sale.

In the event of late delivery, there shall be no entitlement whatsoever to compensation and late delivery may not be used as a ground to cancel the order.

#### **4-2 Passing of risk**

Unless otherwise provided in the proposal presented by MMT, the goods shall be carried at the recipient's risk.

Accordingly, the risk pertaining to the goods sold by our company shall pass at the time the goods are handed over to the carrier or when they leave our warehouses.

#### 4-3 Carriage

In the event of a shortfall or damaged goods, the customer is responsible for issuing the customary reservations to the carrier. Accordingly, unless reservations are issued to the carrier by letter sent by registered post with acknowledgement of receipt within three (3) days of receipt of the goods, in accordance with the provisions of Article L133-3 of the French Commercial Code (*Code de Commerce*), and to us, by sending a copy of the said letter at the same time, the goods shall be treated as having been accepted by the customer.

#### 4-4 Acceptance

Without prejudice to the steps to be taken by the customer vis-à-vis the carrier, in the event of a patent defect or a shortfall, any and all complaints of any kind whatsoever pertaining to the delivered goods will not be handled by our company unless they are made in writing, by letter sent by registered post with acknowledgement of receipt, within the three (3) day period provided for in the foregoing paragraph. The customer shall provide suitable proof of the existence of the reported patent defects or shortfall.

The customer may not return any goods without our company's prior express written consent, given, in particular, by fax or e-mail with acknowledgement of receipt.

Our company will not bear the cost of returning the goods unless the patent defect or shortfall is actually confirmed by our company or its agent. In all cases, only the carrier appointed by our company is authorised to return the relevant goods.

Where, after examination, our company confirms the existence of a patent defect or shortfall, the customer may only require our company to replace the non-conform items and/or make up the shortfall at our company's own expense. The customer may not claim any right to compensation or to cancel the order.

The customer may not rely on a complaint submitted to our company as a ground to suspend its payment of the relevant goods.

Our company may not, under any circumstances, be held liable for any events that occur during the

carriage of the goods, such as destruction, material damage, loss or theft.

#### 4-5 Payment

Our acceptance of an order is dependant on the customer having sufficient financial guarantees and actually paying all sums owed by their due date, as prescribed by law. Accordingly, in the event that our company has genuine or specific reasons to believe that the customer will have problems meeting its payments at the time of the order or once the order has been placed, or if the customer ceases to have the same level of guarantees as on the date the order was accepted, our company may require the customer to make an upfront payment in full or to provide guarantees to our company, before accepting the order or performing the remainder of the order.

In the event that the customer refuses to make an upfront payment and fails to propose a sufficient guarantee, our company may refuse to fulfil the placed order and to deliver the technical study and/or the relevant goods. In such cases, the customer may not claim an unjustified refusal to sell or any compensation.

In the event that the customer fails to fully pay an outstanding invoice, our company reserves the right to suspend the provision of any service and/or pending and/or future deliveries forty-eight (48) hours after formal notice to no effect.

In the event that the customer places an order with our company without ensuring that the previous order has been fully paid, our company may refuse to fulfil the order and to produce the technical study and/or deliver the relevant goods. In such cases, the customer may not claim any compensation for any reason whatsoever.

In all cases, in the event that the customer fails to pay for any service involving the delivery of the results of technical studies, the customer's right to use the said studies shall be suspended until payment of any and all outstanding amounts.

#### 5 – Price Lists - Prices

Unless otherwise provided in the proposal made by MMT, our prices do not include carriage costs, which shall be borne by the customer.

Our prices are stated net, with no discount for early payment, and are payable by the date stated on the invoice.

For the purposes of these general terms and conditions of sale, payment shall only be considered to have been made in full when the price has been actually collected, in particular by actually collecting the sums payable under a draft or electronic bill of exchange.

In the event that the customer fails to pay any amount, including the applicable VAT, by its due date, the customer shall be charged late payment interest at a rate equal to three (3) times the legal interest rate and a fixed indemnification of 40 Euros for collection charge (Art L.441-3 c.com) will be applied but only between professional. This late payment interest applies by operation of law and shall automatically accrue to the customer's account. The customer is expressly informed that no reminder letter or formal notice is required for the application of late payment interest. Furthermore, our company reserves the right to apply to the Court of competent jurisdiction, seeking an order requiring the customer to comply with its payment obligations subject to a penalty for non-compliance per day late.

## **6 - Industrial Property and Confidentiality**

Unless otherwise expressly stated, the customer has the right to use our technical studies.

Unless otherwise stated, prototypes produced by our company remain the exclusive property of our company until payment in full.

Prior to exploiting an artistic or literary property right or an industrial property right held by our company, the relevant parties shall first enter into an express written licence agreement covering the said exploitation.

Our company may not be held liable for any infringement or unfair competition proceedings brought against its customer by third parties relating to the technical studies and/or prototypes and/or goods created by our company at the customer's request.

## **7 – Retention of Title**

Title to our goods (including the prototypes) shall not pass to the customer until the customer has paid the price thereof in full, covering both the principal amount and any incidental expenses. The

foregoing applies even where our company has granted deferred payment terms.

Pursuant to Article L624-16 of the French Commercial Code, any clause conflicting with the foregoing, appearing, in particular, in general terms and conditions of purchase, shall be deemed null and void.

It is expressly agreed that our company may assert its rights under this clause in relation to any of the sums owed to it, against all of its goods in the customer's possession. By virtue of this agreement, the said goods shall be deemed to be the unpaid goods and our company may take them back or claim title and possession thereof as compensation for any outstanding invoices, without prejudice to its right to cancel any pending sales.

The customer may only sell unpaid goods to a third party in the ordinary course of its business and may not, under any circumstances, pledge its unpaid stock or use it to provide security. In the event that the customer fails to comply with its payment obligations, the customer undertakes to retain a sufficient stock of the goods to cover the unpaid goods and not to sell the said stock to a third party.

In the event that the customer fails to pay an invoice by its due date, our company reserves the right to demand the cancellation of the sale, by operation of law, forty-eight (48) hours after the customer's receipt of formal notice sent by registered post with acknowledgement of receipt to no effect. Moreover, our company may unilaterally draw up an inventory of its goods in the customer's possession or arrange for such an inventory to be drawn up, forty-eight (48) hours after the customer's receipt of formal notice sent by registered post with acknowledgement of receipt to no effect. For this purpose, the customer hereby undertakes to grant unrestricted access to its warehouses, stores and other premises and to ensure that the company's goods are identifiable at all times.

The provisions of this clause do not in any way affect the passing of risk to the purchaser upon delivery. Accordingly, as of delivery, the purchaser is treated as the depository and custodian of the said goods.

## **8 – Warranties**

### **8-1 Technical studies**

All studies are produced on the basis of the customer's requirements and in accordance with the information supplied by the customer.

## 8-2 Prototypes

Prototypes are supplied “as is” and MMT does not provide any kind of warranty whatsoever in relation to the prototypes or the use thereof. Prototypes are supplied for testing or demonstration purposes only and are not designed to be incorporated into marketable goods. Should, notwithstanding the foregoing, the customer decide to sell the said prototypes to a third party or to integrate them into goods for retail sale, the customer shall do so at its own risk and shall be fully liable therefor.

## 8-3 Equipment

Equipment must be checked by the customer at the time of delivery in accordance with the provisions of Clause 4-4 hereof. In the event of a patent defect and after due examination and confirmation of the alleged defect, we will replace the defective parts.

The customer shall provide suitable proof of the existence of the discovered defects. Our company reserves the right to challenge the customer’s allegations and to conduct an on-site examination thereof, directly or through a third party.

The customer must report any non-conformity by letter sent by registered post with acknowledgement of receipt to our company within three (3) clear days of receipt of the goods. The customer may not bring any claim based on the non-conformity of the goods after the said period. Accordingly, on the expiry of the said period, the customer loses its right to assert the non-conformity of the goods and its right to file a counterclaim in its defence in the event that our company initiates proceedings to recover a debt. If the customer fails to comply with the foregoing terms and conditions, our company may not be held liable for any latent defect.

The warranty against latent defects only covers the replacement, at no additional cost, of defective goods by our company. The customer may not claim any right to seek damages, on any ground whatsoever. The said warranty applies to goods that have lawfully become the property of the customer. It only applies to goods that have been manufactured in their entirety by our company.

As our customers are professionals, the warranty against latent defects only applies to defects in the production of goods rendering them unfit for their purpose that could not have been discovered by the customer prior to their use. Defects in the design of the goods do not constitute latent defects and our customers are deemed to have received sufficient

technical information on our goods. Our warranty only covers the replacement or repair of defective parts and applies for a period of twelve (12) months as of the date of their delivery to the customer. In all cases, our customers must produce proof of the date on which the goods were first used. Our warranty ceases to apply, by operation of law, at the end of the said period.

Equally, our warranty against latent defects shall cease to apply, by operation of law, in the event that our customer fails to inform us of the alleged defect within eight (8) clear days of the discovery of the defect. The customer bears the burden of proving the date of the said discovery.

## 9 – Force Majeure

For the purposes hereof, events beyond the control of the parties, that the parties could not reasonably be expected to foresee and could not reasonably be expected to avoid or overcome, shall be treated as force majeure or fortuitous events, to the extent that they render performance of the obligations completely impossible.

In particular, the following events shall be treated as force majeure or fortuitous events, releasing our company from its obligation to deliver within the agreed deadlines: strike of all or part of the staff of our company or its usual carriers, fire, flooding, war, a halt in production owing to a fortuitous breakdown, an impossibility to obtain supplies, epidemics, road weight limits imposed during a thaw, roadblocks, EDF-GDF strikes or disruption in energy supplies, disruption in supplies for any reason that is not attributable to our company as well as any disruption in supplies attributable to our suppliers.

In such cases, our company shall inform the customer in writing, and in particular by fax or e-mail, within twenty-four (24) hours of the date on which the events occurred. The agreement shall accordingly be suspended, by operation of law, with no entitlement to compensation, effective from the date on which the event occurred.

Where the event lasts for more than sixty (60) days as of the date on which it occurred, either party may terminate the agreement and in such cases, neither party shall be entitled to claim damages. A letter notifying the other party of the termination of the said agreement shall be sent by registered post with acknowledgement of receipt and the termination shall take effect on the date that the said letter is first presented for delivery.

## **10 – Applicable Law**

These general terms and conditions of sale are governed by French law, which shall be supplemented by the Vienna Convention on Contracts for the International Sale of Goods.

## **11 – Address for Service - Disagreements - Litigation**

Our company elects its address for service at its registered office.

Any dispute on the scope, interpretation or performance of these general terms and conditions of sale or on sale agreements entered into by our company shall be subject to the exclusive jurisdiction of Besançon Commercial Court.