

GENERAL CONDITIONS OF SALE AND DELIVERY



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1) GENERAL PROVISIONS

1.1 - These general conditions of sale and delivery (hereafter referred to as the "General Conditions") define the rights and obligations of MICROSTEEL / CIMD (hereafter referred to as the "Seller") and her customers (hereafter referred to as the "Purchaser") and apply to all contracts between the parties regarding the sale of products and/or services (hereafter referred to as the "Product") in particular manufactured by the industrial company MICROSTEEL / CIMD located at Vern / seiche and Corps-Nuds, subject to specific conditions or modifications made by express agreement in writing between the parties. The General Conditions therefore may not be modified by contrary stipulations in any of the Purchaser's documents, irrespective of the formulation thereof, without the Seller's express agreement in writing.

1.2 - The General Conditions apply in addition to the other general conditions for each trade, particularly those laid down by the FIM3 and the SGFF4.

2) THE SALE CONTRACT

2.1 - The Purchaser is fully and entirely responsible for drawing up, in association with its order, technical specifications for the Product, the parts to be made and any other indication essential for manufacturing the Product.

2.2 - Unless another validity period is expressly defined in the Seller's quotation, the said quotation is firm and irrevocable solely for a period of one month from the date of issue thereof.

2.3 - Each quotation is deemed to have been made inseparably for the supply of the different Products formulated therein.

2.4 - Any order sent to the Seller that refers to its latest quotation is binding on the Seller only if it complies with this latest quotation.

3) JURISDICTION / APPLICABLE LAW

3.1 - In the absence of amicable settlement, any dispute relating to a sale and/or a delivery by the Seller shall come within the exclusive competence of the courts of Paris, France, even in the event of third party introduction proceedings or plurality of defendants.

3.2 - Any dispute shall be settled according to French law, excluding the rules of French private international law.

4) DELIVERY PERIODS

4.1 - Delivery periods runs from the date of the Seller's acceptance of the order.

4.2 - When provision is made for the Buyer to validate the production schedule, the delivery period runs from this validation by the Purchaser. Moreover, the Seller shall be released ipso jure from any commitment relating to delivery periods if the Purchaser fails to provide the Seller in time with the required information.

4.3 - If the Purchaser is unable to physically take possession of the Products on the agreed date, the Seller may ensure their safekeeping, though in return at a fee at the charge of the Purchaser, without any modification whatsoever of the payment terms set out in Article 9 below. This fee shall be equivalent to twice the one-month Euribor, as compensation for the delay in paying for the Products and for the safekeeping of the Products.

5) CARRIAGE

5.1 - Unless otherwise agreed with the Purchaser, the Products are deemed to be delivered Ex Works, in accordance with the ICC Incoterms 2000.

5.2 - In the absence of instructions on the destination of the Products or if it is impossible to dispatch the Products for reasons beyond the Seller's control, delivery is considered as carried out via an ordinary notice of availability. The Products are then stored at the Purchaser's own risk and the Seller reserves the right to charge for storage.

6) TRANSFER OF RISKS

6.1 - The transfer of risks is carried out at the time of delivery.

6.2 - Unless the Products are DDP Incoterms 2000, they travel at the Purchaser's own risk, and the Purchaser must take recourse against the carriers, which may or may not have been designated by the Seller, in the event of delay, loss or damage.

6.3 - Unless the Purchaser requests otherwise, the Products shall be dispatched on the Purchaser's behalf according to the means of transport that the Seller considers most appropriate for the Products. This in no way shall make the Seller responsible for the Products while in transport.

7) DELIVERY DELAY

7.1 - Contractual periods may be extended for any reason preventing the Seller from fulfilling its obligations, particularly in the event of force majeure. For the purposes of the General Conditions, force majeure shall refer to circumstances outside the Seller's reasonable control such as a strike, an embargo, a tool accident, riot, war, natural disaster, fire, etc or due to similar events such as bad weather, difficulties with supplies, accidental production shutdown, unforeseeable evolution of the market, etc.

7.2 - Unless explicitly defined otherwise, the parties agree that the term "delay penalties" or any similar term, where specified, shall refer to compensation for the loss and damage resulting from a delivery delay. In the event of a delay in delivering a Product and where a penalty clause has been agreed between the parties, this clause shall apply exclusively to the Products affected by this delay. In terms of losses resulting from a delivery delay, the Seller limits his liability to any delay penalties agreed with the Purchaser.

7.3 - A delivery delay cannot be used as justification to cancel the order under any circumstances.

8) PRICES

8.1 - Prices are net, exclusives of all taxes and duties, and cover the unpacked Products made available in the manufacturing plants. All duties and taxes that the Seller may be required to pay on behalf of the Purchaser shall be charged to the Purchaser. Packaging, all handling expenses, carriage on land, sea or air, embarkation, insurance and other expenses shall be invoiced in addition.

8.2 - Unless stipulated otherwise in the terms of acceptance of the order, prices are Ex Works in accordance with the Incoterms 2000.

8.3 - Any increase in duty tax or stamp duty intervening after the conclusion of the contract shall be borne by the Purchaser, even in the case of a "duty-paid" sale.

8.4 - Unless stipulated otherwise, prices are subject to revision in order to take into account variations deemed to be beyond the control of the Seller, notably including variations in prices of materials, costs of fuel and power and labour costs, when variations have occurred between the date when the price is set and that of contractual delivery.

9) PAYMENT

9.1 - Unless stipulated otherwise, particularly in the quotation, prices are payable either net, within thirty days of the invoice date, or by applying a discount at a rate of 0.3% per month for early payment.

9.2 - The Seller reserves the right to assign its receivable to a factoring company.

9.3 - The payment method and the payment of any advances must be explicitly agreed in the contract.

9.4 - Under any circumstances shall the Seller reserve the right, to ask the Purchaser for payment by bank transfer or by accepted and domiciled bill. The Seller accepts payments by promissory note (French Act 85-695 dated 11/7/85, Article 39).

9.5 - The Seller reserves the right to demand payment by cheque on delivery of the Products in the event the Purchaser has an outstanding debt towards the Seller or presents any risk of insolvency.

9.6 - Failure to pay a price fraction by the due date thereof or to comply with any due payment date whatsoever shall ipso jure, without any formal notice, make all sums due at the time, on any basis whatsoever, payable immediately (even if they are covered by bills of exchange) and the Seller shall retain both all advances received and all tools and parts in its possession until the sums due are paid in full.

9.7 - As a penalty clause and for the application of French Act 92-1442 dated 31/12/92, the Purchaser shall be liable for penalty for late payment, calculated by applying an interest rate equal to 1.5 times the legal interest rate to all the outstanding sums, payable on the day following the payment date shown on the invoice, without any need for a reminder.

10) RETENTION OF TITLE

10.1 - Title to delivered Products shall not pass to the Purchaser until full payment of price thereof e.g. the principal sum and any other charges, in accordance with French Act 80-335 dated 12th May 1980 and, in particular, French Act 94-475 dated 10th June 1994. This clause does not prevent transfer to the Purchaser, on delivery, of risks of loss and deterioration of the sold Products and risks of damage that they may cause.

10.2 - Failure by the Purchaser to make any of its payments may lead to the Seller claiming the Products or any similar product of same quality in the Purchaser's possession, in which event the Purchaser shall be credited for the price thereof, minus the expenses incurred for taking the Products back and minus any reduction in the price thereof between the date of the contract and the date when the Products are taken back.

10.3 - As long as the title on the Products has not been transferred to the Purchaser, the latter undertakes to refrain from granting a third party any secured debt on these Products and from reselling them without the Seller's prior agreement.

10.4 - As the transfer of risk becomes effective as from delivery, the Purchaser undertakes to assist the Seller if the latter has to take action to protect his property right. The Purchaser undertakes to insure the Products, in the Seller's favour, against all risks to which they may be exposed and to which they may give rise as from their delivery. Except where the Products become unidentifiable as a result of operations forming part of the Purchaser's normal working practices, the latter undertakes to store them in such a way that they cannot be mistaken as the Seller's property.

11) GUARANTEE AND CIVIL LIABILITY

11.1 - The Seller's liability is limited to manufacturing the Products, in compliance with the drawings and requirements of the specifications agreed between the parties.

11.2 - The Seller's liability does not extend, under any circumstances, to the creation of the Products, as the Purchaser retains full liability for the industrial result of the Product. The Purchaser shall be liable for the consequences of any errors or omissions in the specifications. Except where expressly agreed otherwise in writing, the Purchaser is liable for all consequences of the choice of the Product.

11.3 - In any event, except in the case of French law and order regulations, the Seller limits its liability out of contract to eight times the net value invoiced for a material Product and twice the net value invoiced for a Product consisting in services.

11.4 - Any repair to the Products performed without the Seller's agreement, even if the Products are considered defective, entails the loss of all guarantees and waiver of all recourse against the Seller.

11.5 - Except where guarantee or penalty clause is stipulated by mutual consent on acceptance of the order, it is agreed that the amount of the compensation which the Purchaser or any other person may ask from the Seller for Products used in the nuclear field (in radioactive areas), and found to be defective following a joint control of the decontaminated Products, shall be calculated exclusive of indirect losses (particularly commercial and financial damage), all decontamination expenses, extra expenses involved in work conducted in a radioactive area and extensions of deadlines due to the technology of these works. Such costs shall be borne by the Purchaser, in default of the ultimate customer. The Products alleged to be defective shall be presented to the Seller after decontamination, the cost of which shall be borne by the Purchaser in default of the ultimate customer.

11.6 - In the event of nuclear damage causing material losses or personal injury that originates from a defect in the Seller's Products, no party whatsoever may hold the Seller liable, wherever such damage occurs. The Purchaser shall ensure, within the legislative framework of the country where the Product is installed, that no claim can be made against the Seller for such damage. Should such recourse be taken against the Seller, the Purchaser shall answer and shall substitute for it for the payment of any sum, irrespective of the amount thereof, in principal, interest and expenses.

12) QUALITY / QUANTITY / WEIGHT

12.1 - Except in the case of prices provided regarding number of items, Products are sold by weight and any quantity shall be invoiced by weight. Any dispute based on another quantity measurement is demurrable upon the seller.

12.2 - Whether the delivery is provided in weight or in length or in number of items, the Seller reserves the right to deliver a quantity differing significantly from that set out in the order, provided this difference does not exceed $\pm 10\%$.

13) ACCEPTANCE / RETURNS / COMPLAINTS

13.1 - The Purchaser is deemed to have accepted the Products within fifteen days from physical delivery. After this period, in accordance with Article 1642 of the French Civil Code, the Purchaser is deemed to have accepted any conspicuous defects in the Product.

13.2 - Any claim must be sent to the Seller's commercial manager in charge of relations with the Purchaser or to the head of the quality department of the plant that supplies the Products. All Products returned by the Purchaser must be sent to the Seller's plant that supplied them. All risks connected with the return of the Products lie with the Purchaser until they arrive definitively at the Seller's plant.

13.3 - Non compliance must be established after full argument on both sides. If proven, the Seller reserves the right to have such non compliance compensated according to one of the following three methods: a) replacement of the defective Product at one of the Purchaser's plants, b) repair by the Seller at one of its plants or c) reimbursement of the invoiced price paid by the Purchaser for the Product recognised as defective. In the case of methods b) and c), the replaced or reimbursed Product becomes the Seller's property.

14) TOOLS

14.1 - In the case of investment castings produced by lost wax process, a contribution to the cost of designing the tools and their development shall be included in the first order or in a separate preliminary order.

14.2 - Tools designed for the Purchaser's purposes shall remain in the workshops of the industrial company MICROSTEEL / CIMD. The Purchaser's contribution to the tooling-up costs confers only on him the right to use these tools in the plants of the said industrial company and is not a waiver of the Seller's title on these tools. The Seller reserves the right to destroy these tools without prior notice should he wait for more than two years without receiving a sufficiently large order to justify their setting up.

14.3 - Where the tools are supplied by the Purchaser, the Seller does not guarantee the duration of use thereof. If the Seller considers that modifications must be made for the proper performance of the Products, the cost incurred shall be borne by the Purchaser.

14.4 - The Purchaser guarantees the Seller against all consequences of any legal action that may be taken against the latter as a result of manufacturing the Products covered by proprietary rights such as registered patents, drawing or patterns.

15) RIGHT OF ACCESS TO THE SELLER'S SITES

15.1 - Any visit by the Purchaser must be made according to the procedures defined by the Seller. The Purchaser must send a written request to the Seller with one month's notice before carrying out such checks.

15.2 - Any visit of this nature must be arranged with the sole intention of checking the proper performance of the Purchaser's orders, within the confines of protecting the Seller's know-how and the rights of third parties. The cost incurred to the Seller of such visit of this nature may not exceed the reasonable content of the agreed operations.

16) SUB-CONTRACTING

The Seller reserves the right to sub-contract certain operations without informing the Purchaser. Partners duly approved by the Seller or by the industrial company : Aubert & Duval Alliages, Aubert & Duval Fortech or Aubert & Duval Tecphy, shall be entrusted with such sub-contracting.

17) CONFIDENTIALITY

17.1 - Documents supplied by the Seller such as quotations, quality plans, specifications, qualification files and all documents drawn up by the Seller shall remain the latter's

intellectual property and may not be transmitted to third parties without the Seller's prior express written consent.

17.2 - Information contained in inspection and conformity certificates, issued individually, is supplied exclusively in order to demonstrate the conformity of the supplied Product. Any statistical analysis result, irrespective of the author thereof, carried out based on the compilation of this data shall remain the property of the Seller and may not be transmitted to a third party.

18) CANCELLATION / TERMINATION

18.1 - A mere delay in delivery, failure to observe a procedure, a force majeure incident or any reason preventing the Seller from fulfilling his obligations cannot justify cancellation.

18.2 - The contract may be terminated automatically by the Seller should the Purchaser be declared in official receivership or liquidation of assets. The same shall apply in the event of a significant change in the Purchaser's legal position reducing its solvency. However, termination of the contract shall not affect receivables already due between the parties.

18.3 - In the event of unilateral termination by the Purchaser for any reason whatsoever, the Seller reserves the right to take remedial action to obtain compensation for the loss and damage caused by this eviction. The corresponding compensation shall particularly take into account cost for rebuilding revenue, fixed costs for facilities which have been shut down and irrecoverable outstandings.

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- 1) SATS: Syndicat National des Entreprises d'Application de Revêtements et Traitements de Surface (National Association of Coating Application and Surface Treatment Contractors).
 - 2) SNEF: Syndicat National de l'Estampage et de la Forge (National Forging Association).
 - 3) FIM: Fédération des Industries Mécaniques (Engineering Industry Federation).
 - 4) SGFF: Syndicat Général des Fondeurs de France (General Association of French Foundry Operators).