

## **1. GENERAL**

1.1 The present General Terms and Conditions intend to rule the conclusion and the contents of orders and contracts relating to the supply of components and sub-assemblies to a customer acting in the scope of his professional or commercial activity.

1.2 These General Terms and Conditions are an integral part of the offer with its appendices, and are binding. Other contractual provisions, especially the customer's general conditions, will only be valid if expressly acknowledged by us in writing. The same procedure applies for any modification or adjunction to the present General Terms and Conditions.

1.3 All agreements and legally relevant declarations of the parties to the order and contract must be in writing in order to be valid.

## **2. OFFER, ORDER AND ORDER ACKNOWLEDGEMENT**

2.1 If the acceptance of the offer is not received by Jean Gally before the end of the acceptance period fixed in the offer, we are freed from his commitments.

2.2 The contract shall be deemed to have been entered into upon receipt of the Jean Gally's acknowledgement stating our acceptance of the order. Without notice, the written acknowledgement is deemed to be binding.

2.3 It shall be at our discretion as to whether we accept cancellation and/or postponement of any order placed. We shall only agree to cancellation or postponement if we are reimbursed for all costs that have been, or will be incurred, and for the loss of profit involved. Cancellation or postponement of orders shall never be accepted if it would threaten the economic survival of the company, or if it would lead to lay-offs.

## **3. PRICE AND ADDITIONAL CHARGES**

3.1 Unless otherwise agreed, our prices are in Swiss francs, net, ex works JGSA Plan-les-Ouates, excluding packaging and loading without any deduction whatsoever. V.A.T is not included in the prices. It is stipulated separately on the invoice. Any and all additional charges, such as in particular freight charges, insurance premiums, fees for

export, transit and other permits, as well as for certifications, shall be borne by the customer. Unless otherwise agreed, the contracts and policies leading to additional charges are contracted by the customer. We reserve the right to make adjustments to prices, e.g. if prices for raw materials change, and/or in the event of exchange rate fluctuations, or increased freight costs up to the date of delivery, etc.

3.2 If the supply is delayed upon customer's request beyond Jean Gally's control, the customer bears all costs related to the measures taken by us, such as in particular warehouse, conservation and insurance against all kind of damage.

3.3 We remain the owners of the entire delivery until we have received full payment in accordance with the agreement. The customer undertakes to assist in adopting any measures required to protect the property. In particular, the customer authorizes us to arrange the entry of the reservation of title at its cost in the relevant public records, registers and the like, and to meet the required formalities for this.

## **4. TERMS OF PAYMENT**

4.1 Unless otherwise agreed, payments shall be made by the customer within 30 days net from the date of invoice.

4.2 If the execution of the order requires specific tooling and/or raw materials, the price shall be paid in the following instalments:

- 30% as advanced payment within 30 days after receipt of the order acknowledgement by the customer;
- 30% on expiry of half of the agreed delivery time;
- Payment of balance within 30 days following the first delivery.

4.3 Payments shall be made by the customer at supplier's domicile according to the agreed terms of payment, without any deduction for early payment, cash discount, expenses, taxes, levies, fees, duties and the like. It is considered settled at the moment the supplier's account has been credited with the sum due.

4.4 If the customer delays in the agreed terms of payment, he shall be liable, without reminder, for interest with effect from the agreed date on which the payment was due at a rate of 4 per cent over the current 3-month CHF-LIBOR target. Moreover,

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the customer shall pay all charges caused by the delay in payment, in particular the charges for the reminder.

4.5 Each suspension of payment requires previous written consent of the supplier. The same applies to each exception of compensation. In specific case, in particular if customer's credit is dealt a blow, the supplier reserves the right to request securities or complete payment before delivery. The dates of payment shall also be observed if transport or taking over of the supplies is delayed or prevented due to reasons beyond Jean Gallay's control; the case of Force Majeure is reserved.

#### **5. SPECIALISED TOOLS**

Specifically manufactured tools and appliances for customer remain in the ownership of Jean Gallay until receiving full payment. Intellectual property rights of it vest in Jean Gallay. Jean Gallay receives custody of the tools and appliances until five years after the last use for production processing. Upon request of customer Jean Gallay undertakes to mark the tools and appliances as property of customer. During the custody of Jean Gallay the tools and appliances are used only for production processing. The tools and appliances are insured against loss and damage for its replacement value. Costs for repair due to wear and tear or for modification are borne by customer. After expiry of the custody term Jean Gallay will give written notice to customer to pick-up the tools and appliance within 90 days. If they are not collected within such term then Jean Gallay has the right to dispose of it without further notice, including the right for its destruction.

#### **6. DELIVERY AND PACKAGING**

6.1 The delivery dates specified in our order confirmation apply. Compliance with the delivery time is conditional upon the customer's fulfilment of his contractual obligations. The delivery time shall be reasonably extended, if the customer asks for changes of the contractual product. Acts of God, work stoppages in our factory or in our supplier plant, industrial disruptions, and late or deficient delivery by our suppliers shall release us from the obligation of complying with the specified delivery dates. Any compensation claims arising from non-compliance with delivery dates are hereby excluded.

6.2 Unless otherwise agreed, the benefits and risk shall transfer to the customer once the delivery leaves the factory and the customer shall assume the shipment costs. For delivery in Switzerland, Incoterms 2010-EXW JGSA Plan-les-Ouates applies. For international deliveries, unless otherwise agreed, Incoterms 2010-FCA JGSA Plan-les-Ouates applies. If dispatch is delayed at the request of the customer or due to reasons beyond Jean Gallay's control, the risk of the supplies shall pass to the customer at the time originally foreseen for their leaving the works. From this moment on, the supplies shall be stored and insured on the account and at the risk of the customer.

6.3 Packaging is not included in the product price and shall not be returnable. However, if it is declared as Jean Gallay's property, it shall be returned by the customer, carriage paid, to the place of dispatch. If the customer requires circulation packaging, this may be delivered and provided at no cost to us. Any additional costs for packaging operations, handling and storage shall be borne by the customer.

#### **7. WARRANTIES AND COMPLAINTS**

7.1 We guarantee delivery in the quality set out in the agreement (but not on suitability for the intended use). The warranty period for the contractual product is 12 months, starting at the taking-over of the parts. For replaced or repaired parts the warranty period starts anew and lasts 6 months after replacement or completion of the repair. The following legal remedies are available at our discretion for verifiable defective goods: remedial work, free delivery of a replacement, or issue of a credit note (on return of the defective goods). We reject any other claims, including claims for time expenditure, and compensation claims. Other warranties and/or guarantees are expressly excluded.

7.2 The customer must raise any complaints in writing within 10 working days of receipt of the goods at the destination. Any defects that could not be identified by careful inspection within this period must be reported immediately as soon as they become known and any further processing stopped without delay, but within no more than two months of receipt of the goods.

7.3 The guarantee according to article 7 of the present General Terms and Conditions expires

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prematurely if the customer has violated his obligations here above.

**8. COPYRIGHT**

8.1 Each party in the contract retains all rights to plans, drawings, models, sketches, schemes, prototypes, technical documents and all other information related to the components or sub-assemblies provided to the other.

8.2 The party receiving such documents or information recognizes these rights and shall – without previous written consent of the other party – not copy, reproduce nor make these documents available to any third party, either in whole or in part, nor use them for purposes other than those for which they were handed over.

8.3 Any reproduction or modification of the parts is strictly forbidden without the supplier's explicit and written authorization.

**9. EXPORT CONTROL**

The customer recognizes that the supplies may be subject to Swiss and/or foreign legal provisions and regulations on export control and are not allowed to be sold, leased or otherwise transferred or used for a purpose other than the agreed without an export or re-export permit of the competent authority. The customer undertakes to comply with such provisions and regulations. He is aware that these may change and that they apply to the contract in the current valid wording.

**10. EXCLUSION OF LIABILITY**

All cases of breach of contract and the relevant consequences as well as all rights and claims on the part of the customer, irrespective on what ground they are based, are exhaustively covered by the present General Terms and Conditions. In the event that claims of the customer in relation to or in connection with the contract or the breach thereof should exist, the total amount of such claims is restricted to the price paid by the customer. In particular, any claim not expressly mentioned for damages, reduction of price, termination of or with-drawal from the contract is excluded. In no case shall the customer be entitled to claim damages other than compensation for the costs of remedying defects in the supplies. This in particular refers, but shall not be limited, to loss of production, loss of use, loss of orders, recall costs,

loss of profit and other direct or indirect or consequential damage. Liability is also excluded for compensation claims from third parties against the customer for infringements of intellectual property rights.

This exclusion of further liability on the Jean Gally's part does not apply to unlawful intent or gross negligence on the part of the supplier, but does apply to persons employed or appointed by the supplier to perform any of his obligations. This exclusion of liability does not apply as far as it is contrary to compulsory law.

**11. CASES OF FORCE MAJEURE**

11.1 Are considered as usual circumstances corresponding to the definition of Force Majeure all external events, which are extraordinary, unforeseeable, of insuperable violence, leading to the violation of a universal duty or obligation, such as war, terrorism, insurrection, fire, natural disaster, strike or accident.

11.2 The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention of such circumstances as well as on the consequences on its aptitude of fulfilling the contract. As long as the case of Force Majeure subsides and the fulfilling of the contract is objectively impossible, the contract is suspended.

11.3 In case of the intervention of Force Majeure which seems likely to last longer than 15 days, the parties shall immediately agree upon the measures to be taken in order to minimize the effects of the impediment and to eliminate the obstacle as soon as possible.

**12. JURISDICTION AND APPLICABLE LAW**

12.1 The present General Terms and Conditions shall be governed in all respects by Swiss law.

12.2 The place of jurisdiction for any disputes or contestation related to the formation and execution of the order shall be the registered office of the supplier. The customer explicitly renounces any other place of jurisdiction especially the one of its registered office.