

# GENERAL INDUSTRY TERMS OF BUSINESS

## *for parts, components and sub-sets*

### I - GENERAL PROVISIONS

These general terms of business codify standard industry practice for standard parts, components and sub-sets in the areas represented by Artema: bearings, linear guides, hydraulic or oleo-hydraulic, pneumatic and mechanical transmission and mechatronics components. They govern the relationship between the Supplier and the Customer. They have been filed with the Practice Office (*Bureau des Usages*) of the Registry of the Paris Commercial Court. The Supplier and the Customer undertake to comply with standard industry practice as well as the guides, charters or good practice codes signed by them or by their professional bodies.

These general terms may be governed by sales law when they apply to the supply of standard equipment or equipment whose characteristics have been determined in advance by the supplier and by the law of job contracts when they apply to the manufacturing of equipment in line with terms of reference or the provision of a service.

Pursuant to Article L441-6 of the French Commercial Code (*Code de Commerce*), the Supplier's general terms constitute "the basis of the commercial negotiation". The Supplier cannot waive them in advance. The publication of Artema's general terms on Artema's website constitutes, based on standard practice, the usual manner in which general industry terms are provided.

Any exception to any one of these general terms must be expressly accepted by the Supplier in writing. Such an exception only applies for the contract or order for which it was accepted.

If the supplier fails to require performance at any given time of any one of the clauses of the general terms, this shall not be construed as a waiver of its right to require performance at a later date.

If any one of the clauses of these general terms is invalid, this shall not affect the validity of the other clauses. For the purposes hereof, "in writing" means any paper document and any written document sent electronically or by fax.

### II - CONTRACT DOCUMENTS AND ORDERS

#### 1) Contract documents

The prices, information and characteristics set out in catalogues, memos, leaflets, specification sheets or other documents are provided for information purposes only and may not, under any circumstances, be construed as binding proposals. Moreover, the Supplier reserves the right to modify or improve standard equipment as it deems fit, at any time and without prior notice. In such a case, the Customer may not claim any loss whatsoever.

#### 2) Orders

a) **Orders.** All orders must be placed in writing. The contract is only concluded when the Supplier

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expressly accepts the order. Orders may be accepted by any means of written communication. Orders handed over to the Supplier's agents or representatives or taken by them are only binding on the Supplier once it has accepted them in writing.

- b) **Order cancellation or modification.** Orders are irrevocably binding on the Customer. Accordingly, the Customer may not cancel the order without the Supplier's prior express consent. In such a case, the Customer shall indemnify the Supplier from and against all direct or indirect consequences arising therefrom, in particular the costs incurred for specific equipment and studies, labour costs, work in progress, stocks and supplies. In all cases, the Supplier shall not refund any down payments already made.

Order modifications and additions, in particular as regards delivery times, quantities or the equipment, shall be submitted to the Supplier for its express consent. The supplier shall inform the Customer of the terms and conditions thereof and the consequences on the commercial terms and conditions. Order modifications requested by the Customer are subject to the Supplier's express written acceptance, which shall take into account the consequences in terms of cost and delivery times.

- c) **Blanket orders.** Blanket orders are orders in which the Customer does not make a firm commitment as regards the quantity of equipment required or the schedule of services or deliveries and must be followed by blanket releases. They are placed for a limited agreed period which, unless otherwise stated shall be for a period of one (1) year. The price and other terms and conditions shall be defined on the basis of the Customer's purchasing forecasts. If the Customer fails to respect the purchasing forecasts, in the relevant schedule, the Supplier may modify the said terms and conditions and demand compensation from the Customer for the supplies and other costs.

### III - TECHNICAL DESCRIPTION OF THE EQUIPMENT

#### 1) Projects, studies, documents

- a) **Intellectual property.** The projects, studies, sketches, plans, quotes, photographs, illustrations, print-outs and documents of any kind handed over or sent by the Supplier shall remain the exclusive property of the Supplier at all times. The Customer acknowledges the Supplier's industrial and intellectual property in all of the Supplier's documents and equipment. They must be returned to the Supplier immediately on request. They may not be disclosed or produced without its prior written permission. Any reproduction or display of all or part of one or more of the said elements, using any process whatsoever, without the Supplier's written permission, shall constitute a breach of contract and may also constitute an act of infringement or unfair competition. Any transfer or assignment of intellectual property rights must be recorded in a separate contract entered into between the Supplier and the Customer.

If studies are conducted at the Customer's request or on the basis of documents supplied by the Customer, and the Customer fails to place an order for equipment thereafter, the costs incurred for the said studies shall be invoiced to the Customer and the documents must be returned.

The Supplier's brands and name are protected by law. Any person using the Supplier's brands or name on any medium whatsoever without the Supplier's prior written consent may be prosecuted by the Supplier.

- b) **Confidentiality.** The parties mutually agree to comply with a general confidentiality obligation covering the information (documents in any form whatsoever: discussion papers, plans, electronic data interchanges) shared in connection with the preparation or performance of the contract.

As a general rule, the Customer acknowledges that any and all confidential information whatsoever relating to the Supplier has been disclosed to it solely for the purposes of the contract and solely so that it may make its decision. However, the confidentiality obligation does not cover information that was already in the public domain when the contract was concluded and information already known to the Customer on a legal basis.

- c) **Studies - Customer as the assembler or designer.** Assembler Customers shall always conduct set-up, compatibility and assembly studies. The Customer or the project manager is responsible for

the operating characteristics of a set. The Supplier undertakes to provide it with the information in its possession required for the studies.

The Customer is responsible for ensuring compliance with the rules in force, in particular the noise, health and safety rules, even if special equipment is provided at the assembler's request (whether or not accompanied by documents).

In all cases, the Supplier only warrants that the equipment conforms to the specifications agreed in the order acceptance or in an express letter of acceptance.

However, the Supplier may, at the Customer's express request, agree to be responsible for certain set-up, compatibility or assembly studies. The said services shall be invoiced to the Customer and the Supplier shall only be liable therefor if its failure to comply with best industry practice constitutes a form of gross negligence.

Likewise, any study accepted and conducted at the Customer's request for the production of special equipment shall be invoiced to the Customer.

## 2) **Service life - Output**

Any service life information given may only be treated as theoretical calculations of the service life of the supplies. They may not be construed as a legal commitment by the Supplier incurring its liability or under a warranty.

Any output information given must be treated as the result of calculations and not as a performance level quantified and validated by tests. Accordingly, the said information is provided for information purposes only and expressed in relative terms only. The output is approximate and calculated on the basis of the theoretical properties of the equipment and its components and may not be used as a basis for compensation or non-performance penalties or to refuse to accept the equipment.

## 3) **Content and scope of the supplies - Modifications**

**a) General scope of the supplies.** The proposed supplies must conform in all respects to the equipment specified in the proposal (catalogue or quote). The contract is strictly limited to the supplies expressly stated in the proposal.

The Customer shall pay for all packaging in all cases and it will not be taken back by the Supplier, unless otherwise agreed. If no other arrangements are made, the Supplier shall prepare the packaging in the Customer's best interests.

**b) Modifications.** The documents, plans and diagrams of the equipment provided to the Customer, in particular those appended to proposals, are supplied for information purposes only. The Supplier may modify the equipment provided that it meets the expressed needs, as stated in the order. The (assembly) plans and diagrams, if any, enclosed with any documents or proposals are merely rough outline solutions and the Supplier may not be held liable therefor.

## IV - **PRICE**

### 1) **Content of the price**

The Supplier shall remain bound by the content of its price proposal for thirty (30) days. Thereafter, any orders placed shall be governed by the Supplier's price lists or schedules of charges in force on the date of the order or, in the event of an order for specific equipment, on the basis of a new proposal. The prices:

- are always stated in euros, exclusive of taxes and ex works (EXW - in accordance with the Incoterms in force on the date on which the contract is concluded);
- never cover packaging costs or the cost of transportation, the Customer remaining liable to pay such costs;
- are established on the basis of the purchasing forecasts or agreed quantities;

- do not cover installation, assembly or dismantling;
- do not cover specific controls required in certain industries, such as, for example, in the aviation or nuclear industry, which are not included in the prices stated in the quotes, proposals or invoices and which will be invoiced at an additional specific cost. More generally, they do not cover specific controls, it being specified that the equipment is produced in accordance with the current state of technical knowledge and that the materials used are controlled using the normal methods applied in mechanical industries.

## 2) Price modifications

If an event beyond its control occurs jeopardising the equilibrium of the contract, the Supplier may modify its prices in accordance with pre-determined terms agreed by the parties in the special terms and conditions (in particular in the event of fluctuations in commodity prices, changes in customs duties, exchange rate fluctuations or amendments to legislation).

If the Customer makes amendments to the contract, the agreed prices may be modified to reflect such amendments.

## 3) Conditions applicable for the opening of an account

Whenever an account is opened, the Customer may be required to make a down payment or to pay in full when the order is placed. The Supplier reserves the right to refuse to open an account until the Customer has provided it with accounting records and financial and legal documents as well as, where applicable, guarantees, along with a reservation of title clause or the provision of guarantees.

## V - PAYMENT

### 1) Payment terms

Invoices must be paid within thirty (30) days of the invoice date, with no discount.

Pursuant to the French Modernisation of the Economy Act (*Loi de Modernisation de l'Economie* or *LME*) No. 2008-776 of 4 August 2008 (Article L441-6 of the French Commercial Code (*Code de Commerce*)), the time agreed may not exceed forty-five (45) days end of month or sixty (60) days as of the invoice date. The implementation of the said Act shall not prevent the application of any shorter times for payment previously agreed.

A down payment of at least 30% of the amount of the order must be made. The said amount must be paid immediately and in full. Payment is deemed to have been made when the funds are actually made available and not before.

Payment shall be made at the Supplier's registered office, and unless otherwise agreed, the net amount should be paid, with no discount. The Supplier reserves the right to assign its accounts receivable to a third party.

If a draft is provided, the original debt shall survive with all the relevant guarantees, including the retention of title right, until the said draft has actually been paid.

### 2) Penalties

**a) Contractual penalties.** Pursuant to Article L441-6 of the French Commercial Code, in the event of late payment or a failure to accept and return a bill within fifteen (15) days of the date on which it is sent to the Customer, the Supplier may, at its own discretion,

- charge late payment interest at the European Central Bank's most recently published refinancing rate plus ten (10) percentage points. It is noted that the said rate may not fall below an amount equal to three (3) times the statutory interest rate,
- terminate the contract, require the Customer to immediately pay the balance of the price and all invoices on account, for any supplies, and refuse to accept new orders.

**b) Debt collection fee.** Pursuant to the twelfth paragraph of Article L441-6 of the French Commercial Code, as amended by French Act No. 2012-387 of 22 March 2012, in the event of late payment, a fixed debt collection fee of forty (40) euros shall become due and payable, by operation of law and

on top of the late payment interest, as of the first day following the due date stated on the invoice. The said fee is payable under a provision introduced by the French Act of 22 March 2012, which came into force on 1 January 2013. The amount of the fee is determined in Article D441-5 of the French Commercial Code.

Pursuant to the above-mentioned Article L441-6, if the debt collection costs incurred exceed the amount of the said fixed fee, the Supplier is also entitled to demand additional compensation on production of proof.

**c) Debit notes.** The Customer expressly agrees not to automatically debit from the Supplier's account or automatically invoice the Supplier for any sums that have not been expressly acknowledged by the Supplier as payable by it. Any sum automatically debited shall constitute an outstanding amount and the foregoing provisions on late payment shall apply to the said amount and the Customer may be liable under the provisions of Article L442-6(I)(8) of the French Commercial Code.

### **3) Changes to the Customer's position**

In the event that the Customer's credit rating deteriorates, as recorded by a financial institution and evidenced by a significantly late payment or if the Customer's financial position is materially different from the data provided, the goods will only be delivered against immediate payment in full.

In the event that the Customer sells, transfers, pledges or makes a capital contribution of its business or a significant part of its assets or its equipment, or fails to comply with the times for payment or to return a bill accepted within fifteen (15) days, the Supplier reserves the following rights, with no requirement to give formal notice:

- to implement an event of default, and accordingly to require the immediate payment in full of any outstanding sums on any basis whatsoever,
- to suspend any delivery or service,
- to notify the rescission of all contracts in force and to withhold all down payments received and equipment in its possession until the compensation payable has been fixed, if any.

If the Supplier exercises one of these rights, this shall not prevent the implementation of the retention of title clause or the exercise, by the Supplier, of its right to claim liquidated damages by way of a penalty.

### **4) Retention of title**

Title to the supplied equipment shall not pass to the Customer until it has actually paid the price in full, covering both the principal amount and any incidental charges.

If the Customer fails to pay any instalment on time, the Supplier may reclaim possession of the equipment.

Nevertheless, the risk of loss of or damage to the equipment shall pass to the Customer upon delivery along with liability for any damage that may be caused by the equipment.

Unless otherwise expressly agreed, if the Supplier asks the Customer to contribute to the cost of producing tools, title to the said tools shall not pass to the Customer as a result thereof.

## **VI - DELIVERY**

### **1) Delivery terms**

Goods are deemed to have been delivered when they are ready for collection at the Supplier's premises, notwithstanding any of the following indications: free on rail, free alongside ship, carriage-paid or reimbursement of all or part of transport costs. Risk in the goods passes to the Customer when notice is given that the goods are ready for collection.

By accepting the goods, the Customer acknowledges the conformity and apparent or detectable defects unless it issues reservations in writing to the transporter and the Supplier within forty-eight (48) hours.

### **2) Delivery times**

Delivery times take effect on the date on which the Supplier definitively accepts the order, provided that the down payment has been made. Also, delivery times shall not take effect until, where applicable, the Supplier has received all information or acceptance of the pilot study, if any, required to commence performance of the contract.

The delivery and completion times provided to the Customer are defined on the basis of the timetable drawn up by the parties in the terms of reference.

If changes are made to the timetable owing to an act or omission of the Customer, the Supplier may demand an extra fee for the changes and corresponding reorganisation. A new timetable shall be prepared and the Customer may not charge the Supplier any penalty in the event of a delay following its breach.

If the shipping of the goods is delayed, for any reason whatsoever beyond the Supplier's control, the Supplier may arrange for the packaging, transportation and storage of the equipment - and where applicable, its dismantling and reassembly - at the Customer's expense and risk, fifteen (15) days after formal notice to no effect. In such a case, the Supplier disclaims all liability therefor. These provisions do not in any way modify the Customer's obligations concerning payment of the supply.

### **3) Late deliveries**

An order may not be cancelled owing to a delay. If the Supplier fails to meet the delivery times agreed by the parties: where special agreements provide for penalties, the said penalties may not, under any circumstances, exceed 0.5% per full week late, capped at 5% of the workshop or warehouse value of the late equipment.

Late delivery penalties may only be applied if the Customer has shown that the delay was caused exclusively by an act or omission of the Supplier and that it caused a genuine loss to be sustained. They may not be applied unless the Customer informs the Supplier thereof in writing, at the time the order is placed, and confirms, at the scheduled time of delivery, its intention to apply the said penalties. The said penalties constitute liquidated damages and release the Supplier from all liability and no other form of compensation shall be payable.

Payment of the supplies may not be postponed or modified owing to the penalties.

The Supplier shall be released, by operation of law, from any commitment relating to delivery times if the Customer fails to comply with the payment terms or a force majeure event occurs, as defined below.

## **VII - TAKING BACK GOODS**

The Supplier may not, under any circumstances, be required to take back the equipment. If the Supplier does agree to take back equipment, it will be taken back as a commercial gesture, for standard equipment, and not for specific equipment produced on request or on the basis of terms of reference. Goods will only be taken back with the Supplier's prior written consent and the goods must be unused and in their original packaging. Goods may only be taken back within fifteen (15) days of the date of delivery. The goods must be returned carriage and packaging paid and the delivery slip number must be provided. The Supplier may decide to reduce the value of the goods refunded.

## VIII - WARRANTY AND LIABILITY

### 1) Warranty and liability exclusions

The contractual warranty and the Supplier's liability are excluded in the following cases:

- for wearable parts,
- in the event that equipment other than original equipment, or materials supplied by another supplier, by the Customer or recommended by it are used;
- in the event that assistance, repairs or alterations are performed by the Customer or a third party without the Supplier's prior consent,
- if the equipment is not used in line with its intended use or is used in an abnormal or atypical manner or in a way that does not conform to the normal intended use of the equipment or the technical characteristics recommended by the Supplier or in the event that the equipment is not stored properly owing to an act or omission of the Customer,
- in the event of negligence, a lack of surveillance, a lack of maintenance or poor assembly,
- if the Customer is not up to date with its payments, as the Customer is not authorised to suspend or postpone payments owing to a refusal to implement the warranty.

### 2) Contractual warranty

**a) Defects and equipment covered.** Under the warranty, the Supplier is required to correct any malfunction caused by a defect in the design, materials or production (including assembly if it is also responsible for it) within the limits of the provisions set out below. The warranty only covers original equipment bearing the Supplier's brand or marketed by the Supplier.

**b) Warranty period and effective date.** Unless otherwise agreed, the warranty only applies to defects that appear within six (6) months of the date of delivery. If the equipment is used by several teams, the said period is reduced to three (3) months.

Replacement and repaired parts are covered by the warranty on the same terms and conditions as apply for the original equipment and for a further identical period. However, in the event that a part or component of a set or a sub-set is changed, this shall not extend the warranty period for the set or sub-set, under any circumstances whatsoever.

**c) Customer's obligations.** To make a claim under the warranty, the Customer must inform the Supplier of the defects alleged in the equipment, in writing and within no more than forty-eight (48) hours of the occurrence of the said defects, supply all available evidence of the existence of the said defects and give the Supplier every opportunity to verify the existence of the said defects and correct them.

**d) Claims under the warranty.** If a claim is made under the warranty, the Supplier is solely required to replace the parts that it has acknowledged as defective or, at its election, to repair the said parts in its workshops.

The Supplier reserves the right to modify the equipment in order to fulfil its obligations, where necessary.

The Customer shall give the Supplier every opportunity to verify the existence of the said defects and correct them.

If the Supplier considers that repairs need to be carried out on site, the terms and conditions governing the repairs under the warranty shall be agreed and, in all cases, the Customer shall bear the cost of the preliminary and research work or dismantling or reassembly work rendered necessary owing to the circumstances in which the said equipment is used or set up and the elements that were not included in the relevant supply.

The Customer shall bear the cost of transporting the equipment or defective parts and the return of the repaired or replacement parts or equipment. Likewise, in the event that repairs are to be performed at the place where it is installed, the travelling and accommodation costs incurred by the Supplier's agents shall also be borne by the Customer. Parts replaced free of charge shall be made available to the Supplier and the Supplier shall recover title thereto.

Where, after an assessment has been carried out or repairs have been performed in the Supplier's

workshops or at the place where it is installed, it is established that the Supplier was not liable and that the detected defect is not attributable to the Supplier and cannot be claimed under the warranty, the Supplier shall be entitled to demand payment of compensation for all costs incurred, including the cost of the response team, transport and the replacement or repair of the relevant parts.

No compensation may be claimed, for any reason whatsoever, such as for the cost of the labour required for dismantling and reassembly, costs incurred due to equipment downtime or operating costs, transport, accommodation or travelling costs or for incidents that may occur.

### 3) Liability

**a) Definition.** The Supplier's liability is strictly limited to its compliance, or the compliance of its sub-contractors, with the expressly agreed contractual specifications. The Supplier shall produce the equipment or provide the service requested by the Customer in accordance with best industry practice.

**b) Limits.** The Supplier's civil liability, for all claims other than personal injury or gross negligence claims, is limited to the amount of the supplies received on the date of performance.

The Supplier is not required to compensate the harmful consequences of breaches or defaults by the Customer or third parties in relation to the performance of the contract or damage caused by the Customer's use of technical documents, information or data issued by the Customer or imposed by the Customer.

The Supplier shall not, under any circumstances, be required to compensate direct and/or indirect non-material damage such as operating losses, loss of profits, loss of chance, disruption to its business or loss of earnings etc.

**c) Implementation.** The Supplier may only be held liable if the Customer has first established the existence of the damage, the existence of wrongful conduct by the Supplier and the fact that the damage was caused by the said wrongful conduct. In the absence of a decision issued by a court of law having force of law, the said elements may only be established by a settlement, previously negotiated and agreed between the parties, in accordance with the statutory requirements.

**d) Waiver of recourse.** The Customer agrees to waive all rights of recourse against the Supplier and the Supplier's insurers and to procure that its insurers and third parties in a contractual relationship with it also waive all such rights, beyond the limits and exclusions determined in these general terms.

### 4) Force majeure

Neither party may be held liable for any delay or default in performing one of its obligations under the contract if the said delay or default was directly or indirectly caused by a force majeure event. For the purposes hereof, "force majeure" shall be interpreted more broadly than the meaning given to it by the French courts, and shall include, for example:

- the occurrence of a natural disaster,
- an earthquake, storm, fire or flooding etc.,
- armed conflict, war, terrorist attacks,
- industrial dispute or total or partial strike at the premises of the Supplier or the Customer,
- industrial dispute or total or partial strike at the premises of the Supplier, service providers, transporters, postal services or public services, etc.
- mandatory order issued by the authorities (import bans, embargo),
- epidemic or pandemic affecting the Supplier or its own suppliers, sub-contractors or service providers,
- operating accidents, broken machinery, explosion,
- supplier default.

Each party shall notify the other party, as quickly as possible and by letter sent by registered post with acknowledgement of receipt, of the occurrence of a force majeure event of which it becomes aware and which it believes could affect the performance of the contract.

## **IX - IMPORT AND EXPORT CONTROL**

Certain pieces of equipment may contain technology or software falling within the scope of the export control laws of the USA and the EU as well as the laws of the countries in which the equipment is delivered or used - in particular regulations on defence or dual-use goods, under which export or import licences may be required.

The Customer shall be personally responsible for all rules governing the export of parts integrated in its equipment and may not assert a force majeure event or other exonerating reason if there is a ban on importing the said equipment or the components thereof.

The Customer shall inform the Supplier in advance of the existence of any such regulations applicable to its supplies or services imposing obligations on the Supplier.

The equipment may not be sold, rented or transferred to restricted users or countries or users or countries that would use them for mass destruction or to commit genocide.

The Supplier shall not be liable for any delays or other consequences arising from the application of the said regulations. Contractual deadlines shall be extended by the time required to obtain the permissions. In any case, the invoice must be paid in accordance with the terms defined herein or in the special terms and conditions.

## **X - DISPUTES**

The parties undertake to attempt to settle their disputes amicably before referring the matter to the relevant court.

If an amicable settlement cannot be reached, any dispute relating to the formation, interpretation or performance of the contract shall be subject to the exclusive jurisdiction of the courts of the place of the Supplier's registered office, even in the event of third party claims for indemnity or impleader or cases involving multiple defendants and regardless of the agreed places of payment or delivery.

The contract and any subsequent ancillary matters shall be governed exclusively by French law. If the contract involves an international element, the Vienna Convention of 11 April 1980 on the international sale of goods shall also apply.

Any document issued by the Customer in a language other than French shall not be treated as a binding document, unless the Supplier expressly agrees to treat it as a binding document. In the event of conflicting interpretations between a French version and a foreign language version of a document, the French version shall prevail.

**Filed with the Expert Assessments and Industry Practice Office  
(*Bureau des Expertises et des Usages Professionnels*) of the  
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