

## 1. General principles

**1.1.-** The purpose of these General Terms and Conditions of Supply (hereinafter the “**GTCS**”) is to define the terms on which the company SAB Montmerle (hereinafter the “**Supplier**”), a French simplified joint stock company with a share capital of 450,000 Euros, whose registered office is located at 251 rue de l’Industrie, zone d’activité Visionis in Montmerle-sur-Saône (01090), registered with the Trade and Companies Register of Bourg-en-Bresse under no. 432 466 191, supplies to professional customers (hereinafter the “**Customer**”) the parts, materials and components which it manufactures (hereinafter referred to as the “**Goods**”).

**1.2.-** The GTCS apply to all orders placed by the Customer with the Supplier. Any clauses contrary to or derogating from the GTCS that may be asserted by the Customer, notably under its general terms and conditions of purchase, shall not prevail over these GTCS unless expressly accepted in advance by the Supplier, irrespective of when they may have been made known to the Supplier. The GTCS may be supplemented by Special Terms and Conditions, provided that they are accepted in writing by the parties. Consequently, the Customer may not assert the enforcement of any statement, stipulation or document that has not been accepted in writing by the Supplier.

**1.3.-** The Supplier may modify the GTCS in full or in part. Any modification of the GTCS shall be notified in writing to the Customer and become applicable eight weeks after the above-mentioned notice, unless exceptional circumstances justify a shorter notice period.

**1.4.-** The Supplier’s failure at any time to avail itself of all or part of the GTCS shall not be construed as a tacit waiver by the Supplier of its right to subsequently avail itself thereof.

## 2. Order

**2.1.-** Any order by the Customer shall be set out in a written document containing all the information needed to analyze the request, including: the Customer’s contact details, the reference and quantities of Goods ordered, the desired delivery date and, as the case may be, the delivery address.

**2.2.-** Any order sent by the Customer will be definitively accepted only after written confirmation by the Supplier. Once accepted by the Supplier, orders (“**Orders**”) are firm and definitive. No modification or cancellation may be made by the Customer without the Supplier’s prior written consent. Where applicable, the Customer shall compensate the Supplier for any direct or indirect consequences of a cancellation or modification, notably for expenses incurred and for the work already performed.

**2.3.-** The Supplier shall be at full liberty not to fill Customer orders whose terms and/or conditions may be considered abnormal, notably with regards:

- to the quantities of Goods concerned by said order, notably in light of the available stock,
- to the time allotted to make delivery of said order,
- to any late or non-payment, even in part, of a single invoice.

The Supplier’s refusal to fill an order may not give rise to any penalty whatsoever against it nor entitle the Customer to any compensation.

## 3. Delivery

**3.1.-** Delivery shall be made on the date specified on the Order under Incoterm® EXW 2020 by pickup at the Supplier’s warehouse, at the address specified on the Order.

**3.2.-** Delivery (“**Delivery**”) is considered to be made on the date on which the Goods are made available as notified in writing by the Supplier to the Customer; the Goods being, as from that date, warehoused and invoiced at the Customer’s expense and risk.

**3.3.-** The Customer shall pick up the Goods at the place, delivery date and in the manner agreed upon. It shall take all steps necessary to allow for a safe and optimal Delivery, in strict compliance with the modalities specified to this end by the Supplier.

**3.4.-** The Customer shall inform the Supplier in writing of the name of the agent or carrier responsible for receiving, picking up, loading and transporting the Goods. The Customer warrants that this agent or carrier shall have the full power necessary to sign, in the Customer’s name and behalf, all the documents relating to the receipt and Delivery of the Goods.

**3.5.-** Each Delivery shall give rise to the issuance of a delivery slip which must be signed by the Customer (stamp and signature) and bear reference to the name of the receiving agent.

**3.6.-** Compliance with the delivery date is subject to the Supplier's timely receipt of all the information required from the Customer. The Supplier shall inform the Customer as quickly as possible of any foreseeable delivery delay and of the new delivery date. The Supplier reserves the right, if need be, to make delivery in a staggered manner, without any indemnity or penalty being owed to the Customer.

**3.7.-** Force majeure will – temporarily or definitively – release the Supplier or the Customer from any delivery commitment, without any compensation being owed to the other party. Such a situation includes but is not limited to the following events:

- fire, destruction affecting all or part of the Supplier's facilities and means of production, storage and marketing,
- serious public disorders, embargos, wars, strikes, riots, government actions and administrative measures, epidemic, pandemic, health crisis, blockage of means of transport or communication, interruption in the supply of energy or of materials,
- natural disasters, exceptional weather conditions, cold spells, heat waves, thunderstorms, storms, draught or any other analogous events,
- evident shortages of agricultural and industrial raw materials, technical unavailability, depletion of stocks and delays of the Supplier's suppliers,
- attacks on IT systems, computer viruses,

and, more generally, any events or causes beyond the Supplier's control, obstructing and/or stopping the supply, manufacturing and/or deliveries by the Supplier or by its suppliers, service providers and/or subcontractors, and preventing the Supplier in good faith from carrying out the production and/or delivery of the ordered Goods.

#### **4. Receipt of the order**

**4.1.-** Upon Delivery (as defined in Article 3.2 above), it shall be the responsibility of the Customer, the carrier designated by the Customer or the Customer's agent to verify the condition, quantity and, more generally, conformity of the delivered Goods to the content of the Order concerned.

**4.2.-** Any taking of a sample and verification of its conformity by the Customer shall be done in the presence of the Supplier.

**4.3.-** Unless a reservation or challenge relating to the delivery's conformity is immediately made known to the Supplier, the Order shall be deemed to be in conformity by virtue of the signing of the delivery slip.

#### **5. Financial conditions**

##### **5.1.- Supply Prices**

**5.1.1.-** The Supply Prices are those appearing on the estimate or offer issued by the Supplier integrating a price adjustment clause according to the nature and circumstances of the project.

**5.1.2.-** The Supply Prices are stated ex warehouse at the address indicated by the Supplier at the time of the Order concerned, exclusive of tax, and in euros. Consequently, any taxes, duties, contributions or other services to be paid pursuant to the regulations in force, the costs of delivery, the costs of special wrapping at the Customer's request, shall be at the expense of the Customer.

##### **5.2.- Terms of payment**

**5.2.1.-** Payment is set at thirty (30) days from the delivery date. Payment shall be made in euros (€) in accordance with the payment period agreed for the Order. Unless otherwise provided by Special Terms and Conditions, the invoices are payable by bank transfer.

**5.2.2.-** Any deduction and/or offsetting by the Customer is expressly excluded, unless previously agreed in writing by the Supplier.

**5.2.3.-** No claim made by the Customer may suspend its obligation to pay for the Goods concerned on the payment date shown on the invoice.

**5.2.4.-** No discount shall be granted for early payment.

**5.2.5.-** Any Order not paid by the due date shall trigger the application of late-payment penalties chargeable from the day following the payment date shown on the invoice and accruing, per calendar day, until full payment of the amount due, at the interest rate applied by the European Central Bank to its most recent refinancing operation plus 10 percentage points and a fixed indemnity of forty euros (€40) for collection costs. Should said costs exceed that amount, the Supplier may obtain additional compensation upon presentation of the associated supporting documents.

**5.2.6.-** In the event of a failure to pay or late payment, the Supplier may also, without prejudice to its right to also obtain the payment of any damages on this basis:

- suspend its obligations concerning the Order for which payment is delayed as well as all pending orders until payment in full of all outstanding sums owed to it by the Customer;
- condition the performance of any pending Orders on obtaining guarantees or new terms (notably new terms of payment) that provide the Supplier with full guarantees of payment and are considered satisfactory by the Supplier;
- terminate the Order by operation of law;
- offset the amount of the unpaid invoice against any sums that the Supplier may owe to the Customer.

**5.2.7.-** Any credit deterioration of the Customer and, more generally, any change, whatever the cause, in the Customer's situation may justify a demand for guarantee(s) and/or specific payment terms as set by the Supplier, or even a refusal by the Supplier to fill the orders placed by the Customer.

## **6. Transfer of risks / Transfer of ownership**

### **6.1.- Transfer of risks / Insurance**

**6.1.1.-** The transfer of risks occurs at the warehouse designated by the Supplier, as soon as the Goods are made available to the Customer before being loaded into the pickup vehicle. As from that moment, the Goods are in the custody of the Customer who fully bears the risks of loss and, more generally, of any damage that said Goods may incur or cause. The loading is done by the Customer under its responsibility and at its expense and risk.

**6.1.2.-** The Customer shall be personally responsible for any claims against the carriers it hires.

**6.1.3.-** The Customer shall take out insurance covering all risks:

- relating to the performance of its activity,
- arising as from the Delivery of the Goods,
- and, more generally, covering the goods that it owns,

allowing the Supplier, where applicable, to be directly indemnified.

### **6.2.- Transfer of ownership**

**6.2.1.-** The Goods will become the Customer's property only after payment in full of the sums (principal and ancillary costs) owed by it. Only the actual collection of the means of payment will constitute payment within the meaning of this clause.

**6.2.2.-** The Customer shall refrain from disposing of any Goods for which payment has not been made and shall continuously take care to ensure that they are individualized and identified as the Supplier's property.

**6.2.3.-** The Goods may, at any time and without any need for a prior summons, be taken back by the Supplier, at the Customer's expense, in the event that the Customer fails to perform its obligations, without prejudice to the Supplier's right to the payment of any damages directly or indirectly relating to this take-back. This procedure shall not preclude any other court actions or proceedings that the Supplier may decide to bring.

## **7. Compliance /Warranty/Liability**

**7.1.-** The Supplier warrants only that the Goods delivered to the Customer shall conform to the technical specifications and quality instructions transmitted by the Customer. The Supplier does not in any event warrant that the delivered Goods are fit for any specific application or defined duration of use.

**7.2.-** The Supplier does not offer any other warranty than those provided for hereunder. The Supplier's warranty shall not in any event extend:

- to the design or definition of the Goods, the Customer remaining fully responsible for the industrial result of the Goods;
- to errors, deficiencies and/or inaccuracies concerning the technical specifications of the Goods communicated by the Customer;
- to malfunctions resulting from any storage or use of the Goods by the Customer or by its own customers under conditions that are abnormal or do not conform to the state of the art;
- to defects which the state of the art cannot prevent and which cannot be detected during the standard controls conducted on the parts at the end of the manufacturing process;
- to defects detectable during the receipt or control operations carried out by the Customer or third parties under the Customer's responsibility, and whose non-detection is due to their negligence or lack of supervision.

**7.3.-** When Goods are exported by the Customer, the Customer alone shall be responsible for the concerned Goods' compliance with the safety, health and environmental protection rules set forth by the applicable standards and laws of the countries in which the Goods will be used.

**7.4.-** In order to be admissible, any claim relating to apparent defects must be made known to the Supplier in the manner provided for by Article 7 of these GTCS.

If there is evidence that the Goods are non-compliant, the Supplier shall not be held liable beyond reimbursing or replacing the Goods found to be non-compliant. In particular, the Supplier shall not have to compensate for any indirect or immaterial damages, costs or losses of any kind whatsoever such as loss of profit, loss of income, loss of customers, etc.

Moreover, the Supplier shall not be held liable if the Goods are transported, unloaded, warehoused, stored, kept or used in conditions that are abnormal or incompatible with their nature.

## **8. Work preparatory and ancillary to the Order**

### **8.1.- Plans, studies and descriptions**

**8.1.1.-** All plans, studies, descriptions, technical documents or estimates, handed over to the other party, are transmitted as a loan for use, the purpose of which is to manufacture Goods in accordance with the Customer's specifications.

**8.1.2.-** The Supplier is authorized to transmit such documents to any subcontractor for purposes of drawing up a price estimate or offer and/or in connection with filling an Order. For its part, the Customer shall not transmit such documents to any third party not authorized by the Supplier.

**8.1.3.-** The Supplier and the Customer shall retain all the intellectual and tangible property rights to the loaned documents they have drawn up.

**8.1.4.-** These documents shall, at first request, be returned to the party who transmitted them. The same applies to any studies that the Supplier may propose in order to improve the quality or cost price of the parts, by way of an original modification to the specifications. Such modifications, accepted by the Customer, may not entail any shifting of responsibility onto the Supplier.

### **8.2.- Design of Goods**

**8.2.1.-** Notwithstanding the Supplier's involvement in developing parts on behalf and at the request of a Customer given its special expertise, it is hereby specified, as need be, that the Supplier is acting as an industrial subcontractor and that the Supplier is not the designer of the parts it manufactures. This is true in particular of any parts developed by the Supplier, at the Customer's request, based on a set of specifications or functional plan provided by the Customer.

**8.2.2.-** The Customer shall hold the Supplier harmless from and against all the consequences of any actions that may be brought due to the manufacturing of Goods that are covered by an exclusive right such as a filed patent, design or model.

### **8.3.- Initial samples and prototypes**

**8.3.1.-** The initial samples, prototypes and related documents transmitted to the Customer are strictly confidential. The Customer shall refrain from communicating such items to any third party not authorized by the Supplier.

**8.3.2.-** No order of a series of parts can begin until after the Customer has validated the initial samples and prototypes. No delivery delays resulting from a lack or lateness of validation of such samples may be attributed to the Supplier.

## **8.4.- Tools**

### **8.4.1.- Foundry tools**

**8.4.1.1.-** The foundry tools manufactured by the Supplier on behalf and at the expense of the Customer are the Customer's property, as from the Customer's payment in full of the related invoice.

In this case, the Supplier shall ensure the maintenance and storage of the tools and shall inform the Customer of their state of repair and of when they will need to be replaced. The Customer shall then bear the costs relating to the manufacturing of the new tools needed to continue manufacturing the parts covered by the Order.

**8.4.1.2.-** The foundry tools made available to the Supplier by the Customer for the manufacturing of the tools covered by the Order are the Customer's property.

In this case, the Customer warrants that the tools are fit for the manufacturing of the parts covered by the Order. The Customer shall proceed at its expense with the replacement of the tools made available.

**8.4.1.3.-** All costs relating to the identification of these tools shall in any event be borne by the Customer.

### **8.4.2.- Machining fixtures**

**8.4.2.1.-** The machining fixtures manufactured by the Supplier for purposes of manufacturing the parts covered by the Order are the Supplier's property and shall at all times remain in the workshops.

**8.4.2.2.-** A Customer financial participation for the study, creation and development of the machining fixture needed to manufacture the parts covered by the Order shall be invoiced to the Customer.

**8.4.2.3.-** The Customer's financial participation in the fixture costs confers on it only a right to use this machining fixture for the exclusive manufacturing of the parts covered by the Order, in the Supplier's workshops.

**8.4.2.4.-** The Customer's financial participation in the fixture costs shall not entail any transfer of the related tangible and/or intellectual property rights to the Customer.

**8.4.3.-** The Supplier shall not be held liable (i) for any delivery failure or delay relating to the unavailability of the tools and/or machining fixtures resulting from the Customer's refusal or failure to pay the related invoices, and/or (ii) for any manufacturing defect relating to the use of end-of-life tools belonging to the Customer and not replaced by the Customer. None of these situations may give rise to any penalty whatsoever against the Supplier, render the Supplier liable in any manner whatsoever or entitle the Customer to compensation.

## **9. Intellectual property**

**9.1.-** No element of the commercial relationship between the Supplier and the Customer may allow the Customer to claim any transfer to it, or to any third party, of any right of ownership or exploitation of all or part of the intellectual property rights (of whatever kind, scope and/or origin) held and/or exploited by the Supplier concerning the Goods and/or relating to said Goods, including but not limited to studies, industrial plans, diagrams, technical explanations, improvements to or adaptations of the Goods, equipment or technical specifications originating from and owned by the Supplier. Any transfer of intellectual property rights shall be the subject of a contract between the Supplier and the Customer and shall provide for compensation in this respect.

**9.2.-** The Customer agrees to respect the rights thus held and/or exploited by the Supplier and not to undertake any action that could adversely affect them or, more generally, that could adversely affect the interests of the Supplier.

## **10. Personal data - Confidentiality**

**10.1.-** The Supplier and the Customer guarantee to comply with the personal data protection regulations in force and undertake to keep the personal data communicated to them in connection with the Order strictly confidential and to process them in accordance with said law.

**10.2.-** The Supplier undertakes not to communicate the personal data transmitted by the Customer to any third parties other than its business partners tasked with the execution, delivery and/or payment of orders. The Supplier may however have to communicate such data in response to an injunction from legal authorities.

**10.3.-** All written or oral information transmitted by the Supplier to the Customer relating to the Supplier's know-how, specifications, procedures, needs and other technical information, documents and data, shall be treated as confidential

and shall not be disclosed to any third parties, without the Supplier's prior written consent, for five (5) years as from the date of their disclosure to the Customer. Such information may only be used to execute the Order or for the purpose of preparing offers or estimates.

#### **11. Safeguard clause - Unforeseeable circumstances**

**11.1.-** In case of the occurrence of an event and/or, more generally, of a change of circumstances, beyond the control of the parties and compromising the economic balance of the Order, such that performance by one of the parties of its obligations becomes excessively onerous, the parties will in good faith negotiate a modification of the Order so as to take into account the consequences of this event and/or change.

**11.2.-** If no such modification is agreed within thirty (30) days of receipt of the notice given by the concerned party of its wish to avail itself of this Article, via registered letter with return receipt requested, said party may automatically terminate the Order on fifteen (15) days' notice sent via registered letter with return receipt requested.

**11.3.-** The economic balance of the Order cannot be considered as compromised, and the application of this Article therefore cannot be considered as justified, notably by the existence of competing offers on more favorable terms or by any change whatsoever relating to the Customer's relations with its own customers.

#### **12. Applicable law - Language - Dispute resolution - Choice of jurisdiction**

**12.1.-** The Supplies made by the Supplier and, more generally, the commercial relations between the Supplier and the Customer and any disputes arising therefrom, of whatever kind, shall in all respects be subject to French law.

If the GTCS are translated into a foreign language, the French version shall prevail over any translation in the event of a dispute or litigation relating to the GTCS and, more generally, concerning the relations between the parties.

**12.2.-** The parties shall make their best effort to amicably resolve any disagreements that may result from the interpretation, validity, performance, non-performance or termination for whatever reason, of the commercial relations between the Supplier and the Customer.

**12.3.-** If no amicable agreement is reached, and unless otherwise provided for by mandatory public policy provisions, any dispute arising from the interpretation, validity, performance, nonperformance or termination, for whatever reason, of the Order or, more generally, relating to the relations between the Supplier and the Customer, as well as the acts that will be an extension or consequence thereof, shall be subject to the exclusive jurisdiction of the Courts having jurisdiction over the Supplier's registered office, even in the event of multiple actions or parties, of a joinder of third parties, or of summary proceedings.