

GENERAL PROVISIONS

1. The present General Sales Terms apply to all sales of standard or specific products by SESALY to its clients having the capacity of professional (hereinafter the «Client»), except in the event of a specific exemptive agreement prior to the order, agreed in writing between the parties. Consequently, passing of any order by a Client implies acceptance without reserves, by the latter, of the present General Sales Terms, with the stipulation that the Client declares that it has previously familiarised itself with them. The General Sales Terms take precedence over all documents of the Client, and in particular over all General Purchase Terms, except in the event of special terms consented in writing by SESALY to the Client.

2. The term «Product» refers to any standard or specific part, assembly or subassembly, and all designs, services, industrialisation, manufacturing, etc. covered by the Client's order.

3. All documents other than the present General Sales Terms, such as catalogues, sales literature, advertisements, notices, Internet, etc. have only a non-contractual informative and indicative value.

INTELLECTUAL PROPERTY

1. All technical documents given to the Clients remain the exclusive property of SESALY, which is the sole holder of the intellectual property rights over these documents. Similarly, the intellectual property rights relating to the Products remain the full and complete property of SESALY or of the holders of these rights. The Client is granted only, on a personal, non-exclusive and non-transferable basis, a right of use of these intellectual property rights, limited to use of the Products and of the technical documents internal to the Client's company, for France and for the lifetime of the Product. The Client undertakes to make no use of these documents which may impair SESALY's industrial or intellectual property rights.

2. All work to design specific Products undertaken by SESALY, on the basis of models or documents provided by the Client, is performed only under the liability of the Client, which guarantees expressly that it is the holder or possesses all the intellectual property rights relating thereto, and that it releases SESALY from all prosecutions or actions for infringement brought by any third party against it.

ORDERS

The contractual characteristics of the Products are those given in the order note accepted by both parties and/or SESALY's offer. SESALY guarantees only that the Products are compliant with the technical specifications contained in its offer and/or in the Client's order accepted without reserves by SESALY. SESALY's offers are made subject to availability of the Products at the time when the order is received. In the absence of a special mention in the offer, the validity of SESALY's offers and estimates is limited to 2 months.

2. The Client undertakes to pass the orders for Products from SESALY in writing (fax, letter, email, etc.). The Client's offer is considered as definitively accepted, and the sale contract (hereinafter the «Contract») formed, only after SESALY's express agreement. The order may not be cancelled (resolution) by the Client unless accepted in writing by SESALY.

3. If the order is modified by the Client, SESALY shall be released from the deadlines agreed for its performance, and the new order is considered to be accepted only by a written confirmation of SESALY. The price shall be revised in accordance with the modification of the specifications and characteristics of the order, and of its volume.

4. Since the Products sold by SESALY are subject to change, SESALY may at any time modify their characteristics or components for any reason whatever, or withdraw a Product from its catalogues and/or sales documents, provided that accepted Orders are not modified, subject to imperative legislative and/or statutory provisions applicable to the Products.

DELIVERIES

1. In the absence of an agreement to the contrary between the parties, delivery is deemed to have been made on provision of the Products to the Client in SESALY's premises in accordance with the Ex-Works incoterm (CCI 2010). Prices are understood to be exclusive of taxes, and for Products ex-works SESALY. The Client shall be informed by a simple notice of provision, notified by all means. The Client must take possession of the Products, by all means (transport, removal), within 5 days following the date of notification of provision by SESALY. After this period, all additional costs, in particular storage and custody costs, incurred by SESALY shall be payable by the Client, and shall be invoiced to it by SESALY.

2. Delivery times are given for information, on an indicative basis only; they depend in particular on the order in which orders arrive, on supply possibilities and on carriers' availability.

3. No delivery delays, if applicable, may lead to any penalty or compensation, nor be used as a basis for cancellation (resolution) of the order by the Client.

TRANSPORT AND RECEPTION

1. Unless otherwise stipulated, in writing, and accepted by SESALY, in the order, Products sold by SESALY to the Client are transported at the Client's risk, from the moment they leave SESALY's factory, in accordance with the Ex-Works incoterm (CCI 2010). The Client acknowledges that the carrier bears exclusive liability for the transport of the Products. The Client consequently has no basis for recourse against SESALY, in the event that the Products fail to be delivered, and/or in the event of damage to the Products during transport. It is the Client's responsibility, in the event of delay, average to the delivered Products, or missing Products, to make all necessary reserves with the carrier, in particular on the delivery note, and to confirm them in writing to the carrier within three days, by registered letter with request for acknowledgement of receipt, with copy to SESALY (article L.133-3 of the Commercial Code).

2. Without prejudice for the measures to be taken by the Client with the carrier (see above paragraph), all claims by the Client relating to visible flaws and/or to non-compliance of the Products relative to the order (in particular erroneous quantity or references), may be examined only if they are made in writing with acknowledgement of receipt, within a period of 3 after reception of the product. After this time, delivered Products are deemed to be in compliance with the terms of the order, and no claim relating to visible flaws or relating to compliance of the delivered Products may be accepted by SESALY. It is the Client's responsibility to provide all proofs proving the reality of the observed flaws or non-compliances.

3. No products may be returned by the Client without SESALY's express, written agreement. No product returned by the Client with Freight Collect may be considered as tacitly accepted by SESALY's reception. Return costs shall be payable by SESALY only in the event that a visible flaw or non-compliances are indeed observed by SESALY.

4. When, after inspection, a visible flaw or a non-compliance is indeed observed by SESALY, the Client may request only replacement of the non-compliant items and/or delivery of the missing Products, at SESALY's expense, and the Client may not claim any compensation, or resolution of the order. All suspensions of payment relating to the Products in question, or offsetting in relation to the sums due are expressly prohibited.

PRICES AND PRICE LIST

1. Our price list applies to all Clients, on the same date. SESALY reserves the option of modifying its prices at any time, after previously informing the Clients, subject to pending orders. Any pricing modification shall automatically be applicable on the date indicated on the price list.

2. The applicable prices are those in force on the date on which the order was passed by the Client and/or those mentioned in the price offer given by SESALY to the Client, solely for the term of validity of this offer.

3. In the absence of an express stipulation agreed between SESALY and the Client, our prices are always understood to be exclusive of taxes, for unpackaged Products, Ex-Works (CCI 2010). Prices do not therefore include costs of loading, transport, unloading, customs and insurance, which are borne by the Client. All duties and/or taxes due in application of French law, and in particular VAT at the rate in force on the date on which the invoice is issued, are payable by the Client.

PAYMENTS

1. In the absence of an express provision to the contrary included in our price offers, and/or in the special terms consented by SESALY to the Client, invoices are payable by the Client within a period of thirty (30) calendar days from the issue date of the invoice. The expiry date is shown on the SESALY invoices. Only actual clearance of drafts, cheques or transfers shall be considered as equivalent to full payment in the sense of the present General Sales Terms. No discount is granted in the event of early payment.

2. The Client may not claim any dispute or return under the guarantee to suspend payment for the Products.

3. All sums unpaid on the due date shown on the invoice lead (i) as of right, from the day following the payment date given on the said invoice, to application of late-payment penalties equal to the rate of interest applied by the ECB to its most recent financing operation, plus ten (10) percentage points, firstly, and to a flat-rate charge for administration costs of 40€, secondly, together with (ii) a penalty clause equal to twenty (20) % of the unpaid sums, after notice to pay sent to the client which has gone unheeded. Whatever the payment method initially agreed between the parties, failure to make any payment instalment by the Client leads, as of right, all outstanding sums for other orders, or on any basis whatever, to become immediately payable. In all the above cases, SESALY also reserves the right to withhold sold Products which have not yet been delivered, and/or to resolve as of right pending orders without prior notice, or to require payment in cash prior to any shipment of Products, without prejudice for any other means of legal recourse.

4. All orders which we accept to honour are so honoured, if the Client has sufficient financial guarantees, and if it pays the sums due at their due date. If our company has serious or particular reasons to fear payment difficulties on the part of the Client, on the date of order or after it, or alternatively if the Client does not have the same guarantees as on the date on which the order was accepted, SESALY may make acceptance of an order or performance or continuation of performance of one or more orders conditional on payment in cash or on the provision of guarantees for SESALY. If the Client refuses to pay in cash, and if no sufficient guarantee is offered by it, SESALY may refuse to honour orders passed, and to refuse to deliver the goods in question, without the Client being able to assert that there has been an unjustified refusal of sale, or claim any compensation.

5. Discounts consecutive to certain sales are due only if, on the date on which they are applied, all debts have been settled.

FORCE MAJEURE

SESALY's obligations towards the client shall be suspended in the event of force majeure, as defined by French law and case law, or in the event of transport strikes or postal service strikes, or energy power supply cuts, even if these events do not have the legal or case law characters of force majeure (hereinafter «Force Majeure»), until cessation of the said case of Force Majeure.

OWNERSHIP RESERVE

1. SESALY reserves full ownership of the Products until actual payment of the full price invoiced to the Client, both principal and accessories. All clauses to the contrary, particularly any included in the Client's purchase terms, are deemed unwritten.

2. In the event of non-payment, and unless SESALY prefers to require full and complete performance of the sale, SESALY reserves the right to declare resolution of the sale after notice, and to claim the delivered Products, the return costs being payable by the Client, with payments remaining vested with SESALY as a penalty clause. The Client is prohibited from having possession of Products for which it has not paid in full in order to sell them on or transform them. These provisions form no obstacle to the transfer of the risks of loss of and damage to the sold Products, and of any damage which they may occasion.

GARANTEE - TRANSFER OF RISKS

1. Unless expressly consented beforehand by SESALY, the Products supplied by SESALY are guaranteed against manufacturing defects for the first twelve (12) months of use of the said Products. Our Products are deemed to be used by our Clients at the latest one (1) month after their delivery. The effect of repairs under the guarantee cannot be to extend the guarantee's term.

2. Under the guarantee, SESALY shall be bound only to replace or repair defective Products without expense, and the Client may not claim any damages, for any cause whatever.

3. Our guarantee excludes:

(i) from the moment that use has been made of our Products under abnormal conditions of use or performance, and/or conditions which are not covered by the documentation relating to the said Products;

(ii) during assembly, modification or adaptation of the Products undertaken by the Client or a third party, without use having previously been made of the consultancy services and/or services for development of a Product by SESALY;

(iii) in cases of vandalism and, more generally, all faults or negligent acts attributable to the Client;

(iv) if the Client fails to comply with the legislative and/or statutory provisions applicable to the Products, and/or if it fails to comply with the applicable standards or the state of the art;

(v) in the event of normal wear and tear of the Products;

(vi) in a case of Force Majeure, as provided above.

4. The Products are judged defective if a fault is reproduced, as observable under normal conditions of use, after the Product has been returned by the Client to SESALY. Transport costs are payable by the Client.

5. In the event of a client return or a return of goods by SESALY (not involving application under the Guarantee, a delivery error or a special operation), the Client shall be invoiced a minimum ADMINISTRATIVE CHARGE of 50€. SESALY reserves the right to increase the value of these costs if the Client does not follow the return procedure defined by SESALY.

6. Transfer of these risks for the Products sold by SESALY occurs on removal from our premises, in accordance with the Ex-Works incoterm (CCI 2010).

LIABILITY

1. SESALY's total liability is limited (i) solely to direct material losses caused to the Client and attributable exclusively to the Products, up to a maximum of (ii) two (2) times the value excluding taxes of the order concerned by the Products having caused losses to the Client. SESALY is under no circumstances liable for indirect and/or immaterial damage of any kind which may be caused by the Products, such as, in particular, operating losses, loss of turnover, of orders, of clientele, reputational damage, etc.

2. The Client remains solely liable for use of the Products supplied by SESALY.

TERMINATION

1. In the event of Force Majeure, as defined above, or of a major claim, SESALY reserves the right to suspend or terminate the Contract without either party being able to claim damages.

SETTLEMENT OF DISPUTES

1. All questions relating to the present General Sales Terms, together with the sales they govern, which are not covered by the present contractual provisions, shall be governed by French law, to the exclusion of all other laws. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

2. If an amicable agreement cannot be reached, it is expressly agreed that all disputes shall be subject to the exclusive jurisdiction of the Lyon courts, notwithstanding any contrary provisions of the Client's General Purchase Terms, or of any of its sales documents (order confirmation, order, etc.), and even in the event of impleader or of multiple defendants.

DATE OF APPLICATION

The present General Sales Terms apply from the 1 November 2016 (01/11/2016) and replace the General Sales Terms previously in force.

