

# General Conditions of Sale on 1<sup>st</sup> November 2018

## 1. Preamble

The GCS constitute the foundation of commercial negotiations, on the basis of which discussions on any contract linking the Parties are to be conducted. Any amendment, addition and/or derogation to the GCS must result from an express agreement between the Parties, freely negotiated and noted in the Order, without any of the Parties being subjected to a significant imbalance as understood by Article L. 442-6 of the Commercial Code. The Order constitutes the entirety of the agreement between the Parties and replaces any communications previously to its signing. In accordance with Article L. 441-6 of the Commercial Code, the Customer formally waives any right to the general conditions of purchase, of any written or verbal agreement, or any correspondence or proposal previous to the date on which the Order shall enter into force.

## 2. Definitions

The words and expressions below shall have, within the framework of the Order, the following meaning:

**Acknowledgement of Receipt:** Document issued by Cefival by means of which the latter accepts the Purchase Order definitively establishing the Order.

**Purchase Order:** At the Customer's choice, either a copy of the Commercial Offer signed by a person authorised to commit the Customer, or a document issued by the Customer and signed by a person authorised to commit it, making express reference to the Commercial Offer and containing all terms and conditions.

**GCS:** The General Conditions of Sale applicable on the date of confirmation of the Order by the Customer.

**Customer:** Any legal entity, acting in a professional capacity, duly registered with the administrative or legal authorities, residing or having its head office in France or in another country.

**Order:** Together, the GCS, the Commercial Offer, the Acknowledgement of Receipt, as well as any amendments and/or special conditions agreed between the Parties.

**Cefival:** The limited company Cefival, enrolled in the Pontaise trade and companies register under number 384 650 453, whose head office is located at 35, rue du Docteur Tsouati, F-95340 Persan, with whom the Customer shall enter into contract.

**Commercial Offer:** Contractual, technical and pricing offer issued by Cefival based on the needs and/or Specifications of the Customer, setting out the terms and conditions under which Cefival agrees to sell the Products to the Customer.

**Party:** May refer to either the Customer or Cefival.

**Product:** Any product offered for sale by Cefival under the conditions set out in the Order.

**Specifications:** Technical characteristics, functionalities, performances and/or results which must be met by the Products (including plans, designs and technical data) as stated in the Commercial Offer and repeated in the Order.

## 3. Object

The object of the GCS is to set out the conditions under which:

- Cefival shall sell the Products to the Customer;
- The Customer shall undertake to pay the price to Cefival.

## 4. Products

### 4.1. Elaboration and conception of Products

Within the framework of an Order, Cefival may, at the request of and in collaboration with the Customer, elaborate, design, invent or create Products based on the Specifications communicated by the Customer.

In this event, the procedures, studies, test reports and other deliverables produced by Cefival within the framework of the Order shall become the exclusive property of the Customer as of their creation. This transfer of intellectual property rights concerns the right of exploitation, of representation and of reproduction in any known or as yet unknown format, of adaptation, arrangement and, in general, with regard to all ownership rights related to copyright and related rights, and with regard to industrial property rights. It shall apply for the duration of legal protection for the right in question and for the entire world. Such rights may be freely transferred by the Customer in whole or in part to third parties. The Customer shall take sole responsibility for ensuring the existence, validity and protection of the intellectual property rights coded by Cefival. The Customer acknowledges and accepts that Cefival does not offer it any guarantee of the existence, validity and enjoyment of the intellectual property rights coded. Cefival therefore undertakes, unless authorised in advance and in writing by the Customer, not to use procedures and studies produced for a Customer within the framework of an Order for another Customer and for any purpose other than the fulfilment of this Order. The Parties expressly agree that the procedures shall remain held by Cefival.

Each Party shall retain exclusive ownership of patents, software, designs and models, know-how and information belonging to it, developed or acquired previous to entry into force of the Order in question, or outside the framework of the said Order.

### 4.2. Manufacturing of Products

Cefival shall manufacture the Products under the conditions set out in the Order, notably under the terms of the Specifications. The Customer acknowledges and accepts that only the manufacturing plan provided by Cefival may be accepted within the framework of the Order. The Customer acknowledges and accepts that only the Specifications expressed in the Order shall be binding on Cefival. Cefival shall not be liable for any error, omission or inaccuracy in the Specifications, once validated by the Customer within the framework of the Order.

In view of the nature of the Products, the Customer acknowledges and accepts that a minimum quantity of Products, set out in the Commercial Offer, may be imposed on it by Cefival.

## 5. Order

### 5.1. Issuing a Commercial Offer

To place an Order, the Customer shall contact Cefival by telephone, fax and/or mail, including e-mail. Based on the needs expressed by the Customer, notably concerning Specifications, Cefival shall issue a Commercial Offer. The terms of the Commercial Offer shall be valid for the duration mentioned therein. After expiry of the Commercial Offer, the Customer acknowledges and accepts that it may neither avail of the terms and conditions which were offered to it by Cefival in this Offer, nor hold Cefival liable in this regard.

### 5.2. Confirmation of the Commercial Offer

If the Customer approves the terms of the Commercial Offer, it shall confirm its Order by sending Cefival a Purchase Order by fax, letter or e-mail using the contact details stated on the Commercial Offer.

Non-acceptance of the GCS or modification of the terms of the Commercial Offer shall prevent confirmation of the Order. Under the terms of Articles 1368 of the Civil Code and L. 110-3 of the Commercial Code, the Parties expressly agree that the signing and sending of the Purchase Order by the Customer shall constitute proof of unreserved acceptance of the Order by the Customer and in particular of the GCS applicable on the day of such Order. Information communicated or confirmed by the Customer with its Order (notably name, address, delivery methods, as well as Product Specifications and quantities) shall be binding on the latter. Cefival may not be held liable in the event of any error, inaccuracy or omission of information preventing or delaying the manufacture or delivery of the Products.

### 5.3. Acceptance of the Order

On receipt of the Purchase Order, Cefival shall verify that the Purchase Order complies with the terms of the Commercial Offer. In the event of discrepancy, inconsistency and/or incompatibility between the Purchase Order and the Commercial Offer, Cefival shall contact the Customer, by any means it deems appropriate, to make a request for clarification. No fault may be attributed to Cefival for agreement or consent between the Parties should prove impossible before expiry of the Commercial Offer. In the absence of an agreement between the Parties on the basis of the original Commercial Offer, Cefival shall issue a new Commercial Offer based on the needs and Specifications expressed by the Customer in the Purchase Order. In the case of acceptance of the Order and, where applicable, settlement of the deposit and/or the advance payment referred to in article 6.4 of the GCS, Cefival shall send an Acknowledgement of Receipt to the Customer. Only the Acknowledgement of Receipt shall provide definitive establishment of the Order. However, the Customer acknowledges and accepts that Cefival may not accept and/or may refuse to honour its Order where it may have legitimate reason, notably due to:

- A legal prohibition to sell the Products in question;
- Abnormality of the Order, notably with regard to the number, volume and/or weight of the ordered Products;
- Clear bad faith on the part of the Customer;
- Legitimate suspicion of fraud;
- Non-settlement by the Customer of the advance payment deposit provided for under Article 6.4 of the GCS and/or of the deposit provided for by the Order;
- Impossibility of delivering the Products to the country or address chosen by the Customer;
- A clear error in the GCS, or the Products acquired by the Customer within the framework of its Order;
- The current or prior existence of a dispute concerning payment of a previous Order.

## 6. Financial conditions

### 6.1. Price

The price of the Products, stated in the Commercial Offer and contained in the Order, is given in euros, ex VAT. Deliveries of Products outside the territory of France or Overseas French departments shall be subject to the VAT-related provisions set out in the French General Tax Code. The Products shall be invoiced to the Customer according to the weight, number or line of Products inspected on leaving the Cefival factory stated on the delivery slip issued by Cefival, at the rate set out in the Order.

### 6.2. Invoicing

For all Orders, Cefival shall issue an invoice to the Customer, where appropriate in electronic form, for the Products. In the case of an electronic invoice being issued at the request of the Customer, it shall be sent to the Customer by e-mail to the address stated on the Order. The invoice shall be provided to the Customer no later than the time of delivery of the Products.

### 6.3. Means of payment

The Customer must settle the Orders either by:

- Bank transfer into Cefival's bank account, the details of which are given on the invoice sent to the Customer;
- Cheque made out to Cefival drawn on a bank based in France;
- Promissory note.

Banking charges and commission fees resulting from a bank transfer shall be borne exclusively by the Customer. Any transfer not net of charges may be refused by Cefival.

Unless otherwise stated in the Order, Orders must be settled cash at the date of issue of the invoice.

In the event of failure to meet the payment date stated on the invoice, the Customer shall be liable, by operation of law and without any prior notification being required, to Cefival for late payment interest calculated at the rate applied by the European Central Bank with regard to its most recent refinancing rate plus ten (10) percentage points. To the late payment interest will be added a fixed fee of forty (40) Euro for administrative recovery expenses.

Payment shall only be deemed to have been made after final entry into Cefival's bank account and expiry of the deadlines for reversal of entries, varying according to the means of payment. Once made, payment for the Products brings transfer of ownership for the Products to the benefit of the Customer.

The Customer acknowledges and accepts that non-receipt of payment within fifteen (15) calendar days after the invoice due date shall lead to suspension of any subsequent Order or any Order in the course of production. Such Orders may furthermore be cancelled by Cefival after official notification has been sent to the Customer by registered, recorded delivery letter which has gone without effect ten (10) days after its receipt by the Customer. No fault may be attributed to Cefival due to the suspension and/or cancellation of an Order, including where the delay in receipt of payment results from the actions of a third party outside the Customer's control.

### 6.4. Request for deposit, advance payment or outstanding limit

The Customer acknowledges being aware that any draft Commercial Offer shall, prior to its provision to the Customer, be subjected to an analysis by Cefival's credit insurer. Based on the financial risk assessment made by this credit insurer, a deposit, a cash advance payment and/or an outstanding limit may be provided for in the Order.

The Customer acknowledges and accepts that:

- Non-payment of the deposit and/or of the advance payment within fifteen (15) calendar days of receipt by Cefival of the Purchase Order shall lead to non-fulfilment or cancellation of this Order;
- Cefival may suspend the manufacture, fulfilment or delivery of any Order in the event of the outstanding limit stipulated by the Parties being exceeded and not settled within fifteen (15) calendar days of notification thereof to the Customer by Cefival, by any means. Should the Customer fail to settle within this time, the Customer may cancel the Order, without prejudice to the rights reserved to Cefival, and without prejudice to the fact that Cefival shall not be held at fault due to suspension and/or cancellation of the Order, including where the delay in receipt of payment results from the actions of a third party outside the Customer's control.

## 7. Delivery

Delivery of the Products shall be made to the address stated on the Commercial Offer and confirmed at the time of the Order; any subsequent change to this address cannot be taken into account by Cefival. An Order cannot be delivered to more than one address.

The estimated date by which it should be possible to deliver the Products shall be indicated in the Commercial Offer and confirmed in the Acknowledgement of Receipt, in accordance with the information provided by its suppliers and the time required for production and manufacture of the Products. In the event that this date is exceeded, Cefival shall contact the Customer, by any means it deems appropriate, to inform it thereof. The means of delivery and the moment at which risk transfer takes place are set out in the Order, with reference to the wording and terms used by INCOTERMS. If not specified in the Order, the Products shall be transferred at the Customer's risk as of their handover to the first carrier, and it shall be up to the Customer to take action against the carrier if necessary. The Customer undertakes to take out any insurance policies required as of the moment at which risks are transferred to it. The Customer further undertakes in the case of delivery:

- Subject to the EU transit procedure, to provide to Cefival, at the latest on the Purchase Order, with the name of the customs office of destination and the names and addresses of customs agents or persons responsible for customs formalities upon arrival of the Products. The Customer shall be solely responsible for any difficulties, charges or taxes which may arise from customs clearance of the Products should these obligations not be met or should there be any failure to provide EU transit documents, within the required deadline, to the French customs office of departure;
- Outside the European Union, to duly export the Products to the country of destination stated on the Order and to provide proof thereof to Cefival immediately if requested;
- Assuming customs formalities are to be carried out, the Customer undertakes to provide all details, documents and information required for their completion by Cefival where the Order places this obligation on the latter.

The Customer, or any person to whom the delivery is made at the request of the Customer, must check the dispatched Products upon arrival and make any reservations or complaints which may appear justified, or refuse the Products, where they show clear signs of damage. In order to enable Cefival to take, where applicable, action against the carrier, such reservations and complaints must be:

- Stated directly on the delivery slip; and
- Sent to the carrier by registered, recorded delivery letter within three (3) working days of delivery of the Products (in such cases, a copy of this letter must be sent to Cefival).

## 8. Guarantees

Cefival shall guarantee, under the terms of the Order, compliance of the Products with the Specifications, as well as the absence of any latent defects under the conditions provided for in Articles 1641 to 1649 of the Civil Code.

The Customer shall request from Cefival, within fifteen (15) days of receipt of the Products, the benefit of this guarantee, by registered, recorded delivery letter, stating in precise detail the reason for its implementation, the defects observed, the Specifications which it feels have not been met, and the circumstances of their occurrence. The Products may be subjected, at the request of Cefival, to an examination in the presence of both Parties. In the event of non-compliance being observed during this examination, the Customer shall choose, except where such choice should give rise to a cost clearly disproportionate to the value of the goods or the significance of the defect, between a replacement or refund of the Product. The Customer may, with Cefival's agreement, request cancellation of the Order or retain the Product and have part of the price refunded to it, should replacement be impossible, represent a major inconvenience for the Customer due to the nature of the Product or the use it intends to make thereof, or where it cannot be provided within a reasonable deadline due to Cefival's supply and manufacturing times following the claim from the Customer.

## 9. Cefival liability

The Products shall comply with the legislation and standards applicable in France. Cefival may not be held liable in the event of non-compliance with legislation in the country to which the Product is delivered, notably in the case of prohibition of the Product. It is up to the Customer to check with local authorities that the importation and use of the Products it intends to acquire is permitted.

Before acquiring the Products, the Customer must check that they are compatible with:

- Materials, its installations, and more generally with all equipment and items with which the Products are to be used, connected or integrated;
- The end purposes and use for which it intends them.

In this respect, Cefival recommends that the Customer should closely analyse the Specifications applicable to the Products and contact Cefival if it wishes to obtain any additional information.

The Customer acknowledges and accepts that the Products, considering their nature and/or their composition, may oxidize and/or rust in contact with air and moisture. Consequently, the Customer acknowledges and accepts that Cefival may not be held liable in the event of oxidation and/or the appearance of rust or white rust on the Products before risk transfer to the Customer where such phenomena do not render the Products unfit for their intended purpose. Under all circumstances, as of risk transfer to the Customer, Cefival may not be held liable for any rust, white rust, rounding, oxidation, torsion or alignment damage or deterioration of any kind occurring to the Products.

Cefival shall not be liable for the condition of Products delivered as a result of any work, notably processing, bending, bulging, welding, machining or surface treatments to which the Customer submits them, unless otherwise specified in the Order authorising certain operations under the conditions set out in the Specifications.

In this respect, the Customer is solely responsible for the incorporation, integration, connection, installation, processing, adaptation and use of the Products.

Cefival shall not be held liable if the Products prove to be incompatible or dysfunctional with certain equipment, installations, configurations or operating systems of the Customer. Cefival may not be held liable in the event of damage, notably deterioration and/or operational interruptions to the Products or other equipment of the Customer, resulting from abnormal, unsuitable, inappropriate or fraudulent use of the Products.

Under all circumstances, any liability on the part of Cefival, which shall only apply in the event of a proven breach of one of its obligations under the Order, shall be limited to direct material damage, excluding:

- Any indirect and/or immaterial damage and, in particular, any harm related to the activity or role of the Customer;
- Any punitive and/or exemplary damage;
- Any loss of turnover, income, profit, operation, customers and/or revenue;
- Any commercial or economic prejudice or difficulties;
- Any harm to reputation, standing or brand image suffered by the Customer.

Furthermore, for any Order, notwithstanding any other provision in the GCS, the total accumulated liability of Cefival, in respect of the Order, shall not exceed, per Order, ten per cent (10%) of the total amount invoiced with regard to this Order.

## 10. Force majeure

Force majeure is defined as events that prevents the performance of the Order, which are outside the control of Cefival and unforeseeable on the date of the Order and whose effects cannot be avoided by any appropriate measures. These events result from natural catastrophes, significant protests, acts of war and/or hostility, civil unrest, strikes, serious accidents, labour shortages, floods, epidemics, shortage of raw materials, transportation and/or energy.

In the event of occurrence of a case of force majeure, Cefival shall inform the Customer thereof by registered, recorded delivery letter. The fulfilment of Cefival's obligations under the terms of the Order shall be suspended for the duration of such an event in so far as it is prevented from acting. Cefival undertakes to do its very best to eliminate or reduce as quickly as possible the effects of such non-fulfilment and to resume fulfilment of its obligations as soon as possible. In the event of suspension of the Order for a period in excess of thirty (30) calendar days following a case of force majeure affecting Cefival, the Parties shall meet to jointly agree the terms and conditions for continuation of the Order. Where no such agreement can be reached between the Parties within two (2) months, the Order may be cancelled by registered, recorded delivery letter sent to this effect by one of the Parties, without any liability in this respect. Cancellation shall take effect upon receipt of this letter, it being specified that the Customer shall nonetheless be obliged to take delivery of Products already manufactured and to settle their price under the conditions set out in the Order.

## 11. Retention of ownership

Cefival shall retain full and entire ownership of the Products sold until final payment of the full price of their principal amount including applicable charges, taxes and duties. The Customer is not therefore authorised, until full payment of the price, either to pledge the Products, or to concede to a third party any right of resale or preference for these Products.

The Customer undertakes, until full payment of the price of the Order has been made:

- Not to incorporate the Products under conditions which would not allow them to be recovered without damage to the Products and the item into which they are incorporated;
- To inform the sub-acquirer of the Products of the existence of this clause and to transfer to Cefival, in this event, the credit it receives from resale to the third-party at the rate of the amount remaining due to Cefival under the terms of the Order;
- To store the Products under conditions enabling them to be individually located, identified and conserved;
- To take and maintain any insurance policy required to cover any damage which may affect them.

Until full payment has been made, in the absence of identification of the Products which are the subject of the retention of ownership, and in the event that the Customer holds stocks of identical Products supplied by Cefival, such Products shall be deemed to belong to the Products which are the subject of the retention of ownership clause, thus authorising Cefival to claim them.

Cefival may claim the Products by registered, recorded delivery letter sent to the Customer. Failing return of the Products within a deadline of one (1) week, Cefival may compel the Customer to do so, by means of legal ruling at the exclusive cost of the latter, from the Customer's premises or any other place where the Products may be stored.

In the event that the Products are taken back by Cefival, the Customer shall be refunded for partial payments made, after deduction of costs incurred by Cefival to obtain return of the Products and for any prejudice resulting from their use, modification or deterioration, intentional or otherwise.

The Customer shall no longer be permitted to process, incorporate, resell or deliver the Products which are the subject of the retention of ownership where the Customer is in a position to bring, for reasons of fact or law, collective or safeguarding proceedings.

## 12. Personal information

The Customer is informed that Cefival, as data controller, shall use personal information concerning it for the purposes of fulfilling its obligations resulting from the Order, inviting it, to recover payment of due sums, deal with requests from the Customer, prepare technical files and/or customs documents, keep it informed of the status and tracking of its Order and, subject to express prior consent having been given by the Customer, inform it of commercial offers which may interest it. For these end purposes, the Customer accepts that personal information concerning it shall be stored, processed and transferred by Cefival to its commercial partners and sub-contractors.

In accordance with the amended Law on "Data Protection" no. 78-17 of 6 January 1978, the Customer has an individual right to access, correct and remove personal data concerning it held by Cefival, by sending a registered, recorded delivery letter to the following address: Direction Commerciale, Cefival, 35 Rue du Docteur Tsouati, 95340 Persan, France.

## 13. Other provisions

### 13.1. Agreement on proof

The Order information contained in the Acknowledgement of Receipt and the invoices issued by Cefival constitute the proof of all transactions concluded between Cefival and the Customer.

In this context, Cefival recommends that the Customer should print and/or store, in a reliable and lasting format, the Commercial Offer, Acknowledgement of Receipt, Order invoice, and applicable GCS.

### 13.2. Nullity/Unenforceability of the GCS

Should one or more stipulations of the GCS be declared null and void under the terms of a law, a regulation or subsequent to a final ruling from a competent court, such stipulations shall be considered as separable from the Order. The other stipulations of the GCS shall be considered valid, and shall remain in force, unless one of the Parties can demonstrate that the cancelled stipulation is of essential and decisive nature, without which it would not have entered into the contract.

### 13.3. Confidentiality

For the purposes of this article, "Information" shall be considered as any information, data, documents of any kind, including the Order, transmitted between the Parties or brought to their respective attention in written, oral or any other form, including but not limited to any technical, commercial, strategic or financial information, studies, Specifications, software, know-how or products related to the Products or the activity of the Parties. The Parties acknowledge the confidential nature of the Information. Consequently, each Party undertakes not to disclose the other Party's Information, only to use it for the purposes of the Order, and only to transmit to its staff or to any staff of a company within its group or to any sub-contractor, the parts of the Information which are strictly necessary to it.

Each Party agrees to take all necessary provisions to ensure that its staff respect the confidential character of the other Party's Information. This confidentiality requirement is agreed to for the duration of the Order and until such time as the Information has entered into the public domain without any breach of a confidentiality requirement.

### 13.4. Advertising

Without prejudice to Article 13.3, the Customer authorises Cefival to make use of the experience acquired as a supplier to the Customer. In this respect, Cefival is authorised to use, on its website and/or in any documents written or published by Cefival for promotional purposes, the names, brands, logos or other identifying symbols of the Customer.

## 14. Applicable law/competent courts

Only the French version of the Order shall be legally binding between the Parties.

The Order is governed by French law and interpreted in accordance therewith. In the event of a dispute between the Parties resulting from the interpretation or fulfilment of the Order, the Parties undertake to do everything necessary to reach an amicable resolution. The deadlines for bringing legal action shall be suspended while an amicable solution is being sought.

Where no amicable solution can be found within two (2) months of notification of a dispute by one of the Parties to the other, exclusive competence shall be attributed to the Commercial Court (*Tribunal de Commerce*) in Pontaise, including in the case of interim measures (*référé*), the introduction of third parties (*appel en garantie*) or proceedings involving several defendants.

In case of conflict between the French and the English versions of the GCS, the French version shall prevail.