



Hereinafter GEA Matal
GENERAL TERMS AND CONDITIONS OF SALE

I – GENERAL PROVISIONS

1.1. The general terms and conditions of sale herein shall prevail over all general and/or special conditions of GEA Matal's co-contracting party.

1.2. They shall apply to all orders placed with GEA Matal and there shall be no derogation to them, unless there is an express prior agreement from GEA Matal made in writing.

II – STUDIES, DOCUMENTS AND DRAFTS

2.1. GEA Matal shall retain full intellectual property rights over its proposals, drafts and studies as well as over plans, drawings, supporting diagrams, which may not be forwarded or used without its prior written authorisation.

2.2. Proposals made by GEA Matal are valid for one month only, as from the date they are sent out. After this period, they may be cancelled or updated.

2.3. Studies and proposals shall be provided free of charge if they are followed by the order to which they relate. Otherwise, they may be invoiced for.

III – CONDUCT OF WORKS

3.1. GEA Matal may only be ordered to start the works only after acceptance in writing by the client of the proposals submitted and payment of the deposits provided for in Article 7 herein.

3.2. The conduct of preparatory works is incumbent upon the buyer. Services provided by GEA Matal are strictly limited to the supplies specified in the proposal. On the site where the services will be carried out, the buyer shall ensure that all the necessary items are made available to GEA Matal free of charge, and these include: handling equipment, consumables, water, lighting as well as power supply and personnel. Account handling charges, on a prorata basis, are not included in the quotation.

3.3. Any delay in the conduct of works and/or any stoppage of the site attributable to the buyer and which prevents or delays the performance of the order gives rise de facto to damages for GEA Matal, which shall invoice for the days of downtime, transport costs for the personnel and for the equipment, including those of subcontractors, and the costs required for reorganising its work.

3.4. GEA Matal is only required to comply with the norms and standards specific to the buyer if these norms and standards have been submitted along with the specifications and subject to the express written acceptance of GEA Matal. However, the buyer retains responsibility for any consequences resulting from the application of its norms and standards.

3.5. The buyer is solely responsible for ensuring compliance with all the laws and regulations applicable to it and in particular with the law pertaining to classified facilities, health and safety regulations, laws and regulations pertaining to the elimination and recovery of refrigerants.

3.6. Surplus equipment, refrigerant containers and assembly tools remain the property of GEA Matal. Refrigerant container shall be subject to rent and consignment at usual rates as from the day of dispatch.

IV – DELIVERY – TRANSFER OF RISKS

4.1. Equipment is deemed delivered in GEA Matal's workshops. As from dispatch of the goods, all risks shall be borne by the buyer even if the transport is paid for by GEA Matal. It is up to the recipient to subscribe, if necessary, to an insurance policy and to exercise its right of recourse against the transport company should there be any damage to the package. It is not mandatory for GEA Matal's personnel to be present at the arrival of the goods. The client is responsible for storage of the equipment delivered onsite, in particular for risks of fire and vandalism.

4.2. The buyer shall immediately give notification of the arrival of the equipment and all works for which it is responsible must be completed before the arrival of the first dispatch of equipment.

4.3. If the dispatch is delayed for any reason whatsoever which is beyond GEA Matal's control, and if the latter so agrees, the equipment shall be stored and handled, if necessary, at the risks and costs of the buyer. GEA Matal declines any responsibility arising in this respect. These provisions shall by no means modify the obligations to pay for the supply and shall not constitute a novation.

V – TIME FRAME FOR DELIVERY – FORCE MAJEURE – ASSEMBLY, COMMISSIONING AND TESTS, TRANSFER OF OWNERSHIP

5.1. The timeframes for delivery and commissioning are given for indicative purposes and are not guaranteed. A delay shall not give rise to cancellation of the order and shall not give right to any deduction, compensation or penalty and shall justify the payment of damages only if expressly provided for in a special agreement. These damages shall only be applicable if it is proven that the delay is exclusively attributable to the seller and if it has caused a real prejudice, jointly ascertained by the two parties. They shall in no case exceed 5% (five percent) of the ex-factory value of the undelivered equipment and shall not be payable in case of force majeure or fortuitous events such as a lockout, complete or partial strike, epidemic, war, requisition, fire, flood, reject of essential parts during manufacturing, interruption or delay in transportation or any other cause giving rise to partial or full unemployment for GEA Matal or its suppliers. The timeframes for delivery start at the later of the following dates: the date of acknowledgement of receipt of order, the dates on which GEA Matal receives the information, deposits or supplies that the buyer has undertaken to provide.

5.2. After assembly, GEA Matal shall proceed with the acceptance designed to ensure the proper construction of the facility, in the presence of the client or of its representative. This acceptance shall be subject to a report signed onsite by the concerned parties. GEA Matal shall provide the client with the necessary instructions for the smooth operation of the facility.

5.3. As long as the acceptance is not declared and notified in writing, the facility cannot be used. However, in the absence of written notification, acceptance shall be deemed unconditionally declared as soon as the facility is used by the buyer and the guarantee shall start as from the date of the first full or partial use of the facility.

5.4. Subject to the terms and conditions of the reservation of title clause, the transfer of ownership must be carried out in one of the following ways:

- acceptance declared with or without reservations,
- delivery onsite or at the buyer's plants or warehouses in case of sale of facilities entirely assembled in GEA Matal's workshops and for which it only provides a commissioning service.

VI – GUARANTEES AND RESPONSIBILITIES

6.1. Except for special contractual and/or legal guarantees, GEA Matal guarantees the good conduct and good quality of materials used for a period of six months as from the dispatch from the plant. GEA Matal also undertakes to either repair or replace, as per its choice, free of charge, any part which, due to a construction defect or poor quality of the equipment, proven by the buyer, may become unfit for the intended use. In the case of a complete facility, the guarantee shall start either as from the date of acceptance of the facility delivered by GEA Matal, or as from the date of its use, even partial, by the client. This undertaking is limited, as per GEA Matal's choice, to either the repair of the defective part in the manufacturer's workshops, or the delivery of a new part taken from its plant without any other obligation or any compensation whatsoever, irrespective of whether it relates to direct or indirect damages and in particular of accidents suffered by persons or damages caused to goods stored or to any goods that are distinct from the purpose of the contract or to the loss of enjoyment or loss of earnings.

The guarantee is limited to three months for equipment operating 24 hours a day on a continuous basis and for equipment not on fixed supports. For items that are not manufactured by GEA Matal, the guarantee is that provided by its suppliers. The guarantee lapses in case of repair or modification by a third party and/or in the event of late payment. The defective part shall become the property of GEA Matal again and shall be returned to it free of charge.

Any accident or damage, the cause of which cannot be proven by the buyer, or resulting from wear and tear, abrasion, corrosion of the equipment, lack of maintenance, operating conditions non-compliant with or different from those specified in the proposal, modifications of the equipment by the buyer or from force majeure, as well as any consequences of this accident or damage, shall remain the exclusive responsibility of the buyer.

The voltage must not vary by more than 10% (ten percent) in the user's facility. The guarantee is not applicable if the commissioning has been carried out by the buyer without the written authorisation of GEA Matal.

The replacement, modification or repair of parts during the guarantee period shall not have the effect of extending the guarantee period.

6.2. Guarantee relating to the supply of services

The supply of services and works carried out through direct labour, such as breakdown services, inspection, assemblies, repairs, transformations, as well as deliveries of second hand equipment are not covered by any guarantee.

6.3. The performance or characteristics of the equipment are measured and guaranteed in accordance with the technical terms and conditions of sale, and failing this, in accordance with applicable standards and best practices. GEA Matal shall not be liable for any compensation for direct or indirect damages.

6.4. Guarantees relating to industrial performance

When guarantees are given as to industrial or economic performance, the conditions and consequences of this undertaking are governed by a specific agreement between the parties. If this performance is not achieved, and if the penalties have not been specified, these cannot exceed a total amount equivalent to a maximum of 5% (five percent) of the value of the concerned equipment, exclusive of tax.

6.5. The guarantee can be applied only if the buyer has fully fulfilled its payment obligations. The buyer cannot exercise its right of recourse to a guarantee to suspend or defer its payments.

VII – CONDITIONS AND METHODS OF PAYMENT

The terms and conditions herein are applicable unless others are specified in the special terms and conditions of sale:

- 30 % (thirty percent) when the order is placed, by cheque or cash transfer,
- 60 % (sixty percent) when the equipment is made available, by bank transfer within thirty days,
- 10% (ten percent) when the facility is made available, by bank transfer within thirty days.

The first instalment must be paid upon signature of the purchase order or at latest within eight days following this signature. After this period, the seller may request the cancellation of the order. In case of delay in payment of the first instalment, the period shall be extended accordingly.

If the buyer does not fulfill its payment obligations, the seller's obligations to deliver the equipment, complete the works, commission or accept the facility shall be automatically suspended without any need for it to give prior formal notice.

In all cases, a facility may only be commissioned by GEA Matal if at least 90% of the facility has been paid for.

In the event of sale, transfer, collateral pledge or contribution to a company of its business or its equipment by the buyer, the amounts due become immediately payable irrespective of conditions previously agreed upon. The same shall apply if one of the payments or acceptance of one of the drafts is not made at the due date.

Invoices equivalent to or less than €150 (one hundred and fifty) exclusive of tax, are payable in cash.

GEA Matal reserves the right to revise the negotiated terms of payment in the event of proven payment default and, in that case, reserves the right to request the immediate payment of invoices already issued.

VIII – MISCELLANEOUS CLAUSES

8.1. CANCELLATION OF THE SALE

8.1.1. In the event of non-fulfilment of an obligation by the buyer, and particularly in case of late payment by more than 30 (thirty) days following a reminder of the agreed due date, besides the payment of penalties for late payment, the agreement may be automatically terminated upon a simple request by GEA Matal, without any prior notice or legal formality, and GEA Matal may at any time, at the buyer's expenses and despite the payment of subsequent deposits, request its personnel to take back the equipment, upon a simple interim order or provisional measure delivered by the Presiding Judge of the NANTES Commercial Tribunal or of the region where the facility is located.

8.1.2. In case of the abovementioned cancellation, it is agreed that the deposits paid by the client shall be allocated against following:

- interests charges for late payment and all legal charges,
- cost of dismantling the facility, equivalent to 10% (ten per cent) of the selling price of the complete facility,
- fitters' transport and travelling expenses, etc.,
- the value of the equipment returned to GEA Matal which is still usable.

The remaining balance shall be settled immediately. If, once the balance is established, GEA Matal is a creditor, it reserves the right to ensure the recovery of the amount due to it.

8.1.3. If, following an agreed order, GEA Matal obtains serious presumptions as to the buyer's financial soundness, it may, in the absence of sufficient guarantee offers, either suspend the supplies (without prejudice to its right to proportional payment for supplies made) or request that the supplies be returned to the plant in good conditions and free of charge.

8.2. ORDER CANCELLATION

If the client has to cancel its order for any reason whatsoever, GEA Matal shall invoice it for:

- compensation equivalent to 25% (twenty five percent) of the order's amount to cover the project, study and administrative costs,
- all works completed or which have started and all equipment delivered or ordered for the purpose of performing the order. The amounts due in this regard shall be allocated against the deposits paid by the client.

8.3. INSPECTION

Any costs of inspection by specialised bodies are not included in the price.

8.4. PENALTIES FOR LATE PAYMENT – PENALTY CLAUSE

The interest rate for late payment payable as from the first day following the payment date specified on the invoice, if the amounts due are settled after that date, is equivalent to at least three times the legal rate applicable, without prejudice to the payment of the debt. In accordance with the law of 4 August 2008, penalties for late payment are payable without the need for any formal notice and are automatically applicable on any discounts, reductions or rebates.

Payment terms may not be delayed for any reason whatsoever, even for reasons of litigations. In the case of payment by draft, payment shall be recognised upon collection only.

Moreover, any delay in payment shall automatically give rise to the payment by the buyer of a compensation, by way of penalty clause, equivalent to 25% (twenty-five percent) of the amount of the unpaid invoice, the recovery of which shall be taken care of by GEA Matal or any legal representative, plus any recoverable and unrecoverable legal charges.

IX – APPLICABLE LAW - DISPUTES

The relationship between GEA Matal and the buyer are exclusively governed by French law. In the absence of an amicable settlement, any dispute relating to the interpretation and execution of the terms and conditions herein shall fall under the jurisdiction of the NANTES Commercial Tribunal. This includes the application of interim measures, in the case of guarantee claims or of multiple respondents.

X – RESERVATION OF TITLE (law of 12 May 1980)

The seller retains ownership of the goods sold until the effective payment in full of selling price in principal plus other charges, in accordance with the provisions of the law of 12 May 1980. Payment default at any of the due dates may give rise to claim over these goods. However, as from the delivery, the buyer bears the risks of loss or damage to these goods, and responsibility for any damages that they may give rise to. The buyer undertakes not to transfer the goods to a third party before payment is made in full.

In case of application of the reservation of title clause, deposits and other payments already made shall remain vested with the seller by way of compensation and without prejudice to any legal actions and/or damages.

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Applicable on 01st July 2010