



## **GENERAL TERMS AND CONDITIONS OF SALES FOR GOODS** **valid for foreign Clients**

### **0. SUBJECT**

The present General Terms and Conditions of Sales (hereinafter called 'GTC') are applied to all offers/quotations, order's confirmations and to all contracts of sales of Goods/Supplies effected by Laminés Marchands Européens with legal address rue Emile Zola, 2 59125 Trith Saint Léger France VAT Number FR030568801013 (hereinafter 'LME' or 'the Supplier') in favour of customers (hereinafter called the 'Client/s' or 'Customer/s' or 'Buyer/s') with object: merchant bars, beams, special steels SBQ (Hereinafter called 'Goods' or 'Products')

### **1. ORDERS AND EFFECTIVENESS OF THE CONTRACT:**

**1.1.** These GTC are expressly accepted by the Buyer when LME sends its proposal/quotation to the Buyer .

**1.2.** The Client acknowledges and accepts these GTC as the only terms and conditions regulating the purchase of Supplier's Goods

**1.3.** Each order issued by the Buyer in favour of LME (hereinafter 'Purchase Order') implies the acceptance, without exceptions, of these GTC.

**1.4.** In no case any general condition of purchase in any manner inserted, mentioned, quoted in the Client's correspondence and forms shall be considered as applicable in the supply of LME's Products

**1.5.** Save a shorter validity is expressly indicated in LME's documents, Proposal/Quotation is valid and effective only if the complete and definitive Purchase Order is sent by the Buyer to the Supplier within 3 (three) working days from the date of proposal/quotation. The delivery date/s shall be fixed only when LME sends proper document with confirmation of all defined and agreed contents (hereinafter called 'Order Confirmation').

**1.6.** Any technical specification requested by the Client and any applicable Norm (hereinafter called "Technical Characteristics"), shall be considered as an integral part of the Purchase Order, only when approved by Supplier. In case the Client should require any additional technical request, after the issue of LME's Order Confirmation, these further requirements shall not be considered valid unless preventively authorized and expressly accepted in writing by LME.

**1.7.** Any possible change, cancellation or addition of the above mentioned Technical Characteristics by the Buyer shall become effective only if previously authorized by LME in writing.

**1.8.** It is understood that the Client is solely and fully liable for the choice of the Technical Characteristics and shall keep LME harmless from any claim that any third party may raise in connection to wrong, mistaken, improper Technical Characteristics. In no case the Supplier may be held liable or responsible for any verbal or written comment or suggestion given in relation to the Technical Characteristics, unless such a liability or responsibility is expressly agreed in writing as part of a collateral consultancy agreement for a valuable consideration.

**1.9.** The contract of supply of Goods (hereinafter also 'Contract') is considered effective only after LME sends the Order Confirmation to Client.

### **2. PRICES**

**2.1.** Prices and currencies are those indicated in Order Confirmation. Unless otherwise stipulated, the prices of the Goods neither include the VAT (Value Added Tax) amount nor other taxes, duties etc related with the Goods or the supply (hereinafter called as 'Taxes'). Amount of Taxes in relation with the supply of the Goods shall be at the Buyer's expense and shall be invoiced by LME to the Buyer in the commercial invoice or through a separate invoice.

**2.2.** If LME grants a discount, it shall be applicable only for the specific supply for which the discount has been granted and mentioned in Order Confirmation.

### **3. TERMS, DELIVERY, QUANTITY TOLERANCE AND EXECUTION OF DON'S OBLIGATIONS**

**3.1.** Readiness of the Goods is in accordance with the terms and conditions of Order Confirmation, except for unexpected events and force majeure.

**3.2.** The delivery date indicated on Order Confirmation is only approximate and not essential. In any case, 15 (fifteen) working days of grace period shall be applicable on delivery date indicated by LME.

**3.3.** In case of delay in the delivery of the Goods, Supplier shall not be liable for any loss or damage of any kind whatsoever directly or indirectly caused by any delay in the delivery of the Goods or completion of the supply. Moreover in no event the Contract shall be automatically terminated in case of late deliveries, nor shall the Client be entitled to terminate or withdraw from the Contract in case of late deliveries.

**3.4.** No penalties shall be applicable by the Client to LME in case of late delivery of the Goods.

**3.5.** The events which can prevent or delay the Contract are, by the way of an example, strikes, insurrections, wars, locks-out, earthquakes, fires, flooding, atmospheric events, imports embargoes, delays in deliveries by the suppliers of LME, limitations of supply of energy, limitations on traffic circulations are expressly recognized by the Buyer as force majeure events, for which LME shall not be considered, in any case, responsible in case of delay in the deliveries .

**3.6.** Prices offered are intended ex works LME's premises as per updated Incoterms.

**3.7.** In case of delay in the collection of the Goods ready for shipment, the Client shall bear all the expenses concerning the occupation of LME's warehouses and yards. It being understood that the risks of damage, deterioration and/or theft of the Products are to be borne by the Client from the initially agreed date of delivery.

**3.8.** Packaging included in the offered prices is the standard packaging of the Supplier. In case of specific requests by the Client, the packaging shall be quoted separately.

**3.9.** LME guarantees that the Goods comply with specifications in accordance with LME's Order Confirmation.

**3.10.** Plus/minus 10% (ten percent) of tolerance on quantity between Goods indicated in Order Confirmation and Goods manufactured and invoiced is allowed

**3.11.** In addition plus/minus 3 ‰ (three parts in a thousand) of tolerance on quantity between Goods reported on Supplier's documentation and actual delivered Goods is allowed

**3.12.** The possible mismatches must be confirmed by a tested scale as per legal provisions in force set out by the Metrology Institute

## **4. CANCELLATION OF THE CONTRACT**

**4.1.** The Buyer shall not have the right to cancel all or any part of the Purchase Order and/or the Contract unless agreed in writing by LME. In case of any agreed cancellation, all the costs borne by LME till the termination shall be paid by the Buyer.

## **5. WARRANTY**

**5.1.** LME warrants that the Goods are in compliance with the technical specification as per LME' Order Confirmation and, if and when applicable, with referred Norms. When an agreed acceptance test is performed in Supplier's premises and results on Goods are not in compliance with the agreed parameters, the Client shall raise immediately objections otherwise the Customer shall not be entitled to refuse the Products, nor to require modifications thereof. In any case the Client shall not be entitled to refuse the Products or to require modifications thereof, should the inconsistencies with the said parameters be trivial and/or fall within the normal tolerances and limits.

**5.2.** The warranty period is of 12 (twelve) months from the relevant delivery

**5.3.** The warranty may be claimed by the Client only, whilst the Client's assignees or other third parties shall not have any direct claim against LME

**5.4.** The warranty shall not apply in case of defects, damages or failure of the Goods resulting as a consequence of

of and/or from:

**5.4.1.** improper transport, storage, maintenance, installation, use, application;

**5.4.2.** operations beyond estimated capacity;

**5.4.3.** damages caused by accident, fire or other casualty or negligence not ascribable to LME;

**5.4.4.** failures resulting from unauthorised modifications or alterations of the Products and/or not in compliance with updated applicable Norms;

**5.4.5.** any damage, loss or consequence deriving from defects or non compliance of the Products caused by failure, deficiencies and/or mistakes in the information or Technical Characteristics supplied by the Client;

**5.4.6.** metal pollution/metal decay and relevant consequences by environmental/chemical agents and/or by the contact with other substances and/or materials

**5.4.7.** any other cause, not ascribable to LME's negligence

**5.5.** The Client forfeits from warranty if he doesn't provide to suspend immediately the use of the Goods in case of discovery of a non-conformity or of a defect on the Goods

**5.6.** During the warranty period, LME shall provide for repairing or, at its sole discretion, replacing free of charges the Products found not in compliance. Alternatively, LME, at its sole discretion, may authorize the Client to return the defected Goods against the repayment of the price originally invoiced. If required by the Supplier, the replaced Goods should be returned, at the Client's costs, to LME's premises . Any further express or implied warranty as well as any reimbursement of costs or other obligations or liability, either direct or by way of redress being, to the extent permitted by law, expressly excluded and waived.

**5.7.** The Client shall, sub poena of forfeiture of the warranty, notify in writing by fax/email with Supplier's confirmation of such communication or by registered letter with return receipt, any non compliance or discovered defects, within and no later than 8 (eight) days from the date of delivery of the Goods. In case of hidden defects within and no later than 8 (eight) days from the date of relevant discovery. The burden of proving the date of the relevant discovery lies with the Client. When receipt a claim, the Supplier shall examine in detail such demand. In case LME should require samples for necessary verifications, the Client shall provide to return to Supplier such material. After proper verifications and in accordance with the result of the tests and analysis provided by Supplier, in case the goods should result not in compliance, then Supplier shall provide in accordance with the activities provided by this article. Differently, if the test's results should provide that the Goods are within the normal tolerance and limits, Client undertake to pay all costs and expenses sustained by Supplier for such activities. In no case claims for non compliance or for defects shall be accepted if received by LME after 12 (twelve) months from the date of delivery of the relevant Products.

**5.8.** Any further express or implied warranty of fitness or merchantability as well as any reimbursement of costs or other obligations or liability either direct or by the way of redress including those for direct, indirect, incidental or consequential damages are, to the extent permitted by law, expressly excluded and waived.

## **6. EXCLUSION OF INDIRECT DAMAGES AND LIMITATION OF SUPPLIER'S LIABILITY**

**6.1.** To the fullest extent permitted by law, in no event shall LME be liable to the Client, Client's assignee and/or any other third party for any claim, whether arising under contract, tort (including negligence), strict liability or otherwise, for loss of revenue, loss of profit or loss of use of capital, downtime of facilities, standby of equipment/plant, standby of personnel, loss of business reputation or opportunities, loss of production, loss of product and/or for any special, indirect, incidental or consequential loss or damage of any nature arising at any time or from any causes whatsoever and whether or not foreseeable, even if caused or contributed to by the negligence or breach (statutory or otherwise) of LME in relation to Contract

**6.2.** Notwithstanding any other provisions on the contractual documents, maximum total cumulative responsibility of LME towards Client for whichever reason, except the case of demonstrated wilful conduct of LME, shall not exceed the amount paid by the Client for the Goods recognized as defective and/or not in compliance by LME.

## **7. 7. RETIRE AND DELIVERY OF ORDERED GOODS. TRANSFER OF RISKS**

**7.1.** Transfer of risks shall occur when LME shall put the Goods at Buyer's disposal. In case different delivery terms should apply, the risks on the Goods shall pass from the Supplier to Buyers in accordance to applicable updated Incoterms

**7.2.** At the expire of the agreed delivery terms, but in any case not later than 7 (seven) days from the notice of Goods ready for collection, the Buyer is obliged to provide for the collection of the Goods as indicated in the Order Confirmation

**7.3.** The above term elapsed, LME shall be authorised to issue the relevant invoice and terms of payment shall accrue as indicated in Order Confirmation and the relevant Goods shall be stocked in LME's yard at Client's costs and risks, with forfeiture of warranty without any responsibility for the Supplier. LME in addition shall be authorized to debit to the Buyer 0,5% (zero point five percent) of total amount of Order Confirmation for each/part of week of delay as handling and stocking charges.

## **8. PAYMENTS AND DELAYS ON BUYER'S OBLIGATION**

**8.1.** Unless otherwise agreed, payment of the total amount of the Goods and Services shall be effected by swift bank transfer in favour of LME in its bank account within 7 (seven) days from Order Confirmation.

**8.2.** LME's invoices shall be exclusively paid at its domicile

**8.3.** Should the Client delay or fail to comply with the payment terms, even if the Client is in delay with just one payment term, LME shall be entitled to suspend all the pending deliveries, until full payment of the outstanding credits, even if related to other Contracts and/or until receipt of proper guarantees, in the form required by LME, for any future delivery . In case of delay on payment

Items, Buyer shall pay to LME for each/part of week of delay 0,1% (zero point one percent) of penalty calculated on the delayed amount.

**8.4.** In no event shall any claim on the Products, defect or non compliance of the Products, even when expressly acknowledged as such by LME and/or delays of delivery of the Products give the Client the right to suspend the relevant payments and/or any other payment for whichever reason due to LME (Solve et repete).

**8.5.** In case of plurality of Contracts, if the Buyer doesn't provide to pay or delay in the payment of even just one invoice, LME is authorized to suspend the outstanding Contracts, without prejudice to any other rights LME may have or to any other damages to be paid by the Client to LME in accordance with any other provisions of Order Confirmation

**8.6.** Notwithstanding any other provisions, LME shall be authorized to terminate the Contract, for right cause, should the Client fail to provide for the payment within 15 (fifteen) days from receiving of notice to pay from the Supplier.

## **9. SUPPLIER'S RIGHT TO TERMINATE THE CONTRACT**

**9.1.** LME shall have the right to terminate all or any part of the Contract, without any responsibility, in the following circumstances:

- the Buyer becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or a receiver is appointed for a substantial part of Buyer's assets.

## **10. SEVERABILITY**

**10.1.** If any provision of these GTC shall be found invalid or unenforceable, the invalidity and unenforceability shall not affect the other provisions of GTC which shall remain in full force and effect. The Parties agree to attempt to substitute for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the maximum possible extent, the objectives of the invalid or unenforceable provision.

## **11. TRANSFER OF TITLE**

**11.1.** The full and unrestricted title to the Goods shall pass to the Client when the first of the following events occurs:

- Identification by the Supplier of the Goods which the Supplier intends to deliver to the Buyer
- When the Goods are put at Client's disposal by LME
- When Goods are loaded on the first transport mean (such as truck, container etc)
- Full payment by the Client in accordance with Order Confirmation provisions

**12. EXCLUSION OF VIENNA SALES CONVENTION**

12.1. The application of any of the provisions of the United Nations Convention on Contracts for International Sale of Goods (Vienna Sales Convention year 1980) to these GTC, or incorporation of such provisions into any contractual document, at any time is expressly excluded in all respects

**13. APPLICABLE LAW AND SETTLEMENT OF DISPUTES**

13.1. Any and all disputes should arise relating or in connection with the formation, validity, existence, interpretation, application, implementation, performance, breach or termination of these GTC shall be subject to the French law. Only the Commercial Court of Valenciennes shall be the competent court.

Trith Saint Léger, France \_\_\_\_\_

The Supplier \_\_\_\_\_

The Client \_\_\_\_\_

The Client hereby states and declares to expressly approve the following provisions of these GTC:

- Item 1.4. exclusion of Client's general conditions
- Item 1.8. Limitation of Supplier's responsibility for Technical Characteristics
- Item 1.9. Effectiveness of the Contract
- Items 3.2.,3.3. and 3.4. Limitation of Supplier's responsibility in case of delay in delivery of the Goods
- Item 4.1. Cancellation of the Contract and relevant consequences for the Buyer
- Item 5.3. Limitation of warranty in favour of the sole Client
- Item 5.4. Exclusion of warranty for reasons not attributable to Supplier
- Item 5.5. Exclusion of warranty in case of use or processing of the Goods
- Items 5.6. and 5.8. Limitation of warranty to the sole reparation or substitution of the defected Goods
- Item 5.7. Forfeiture of warranty and burden of proof
- Items 6.1. and 6.2. Exclusion of Indirect damages and maximum Supplier's liability
- Item 8.3. Suspension of deliveries in case of delay or failure to pay
- Item 8.4. Solve et Repete
- Item 8.6. Right to terminate the Contract
- Item 12.1. Exclusion of Vienna Sales Convention year 1980
- Items 13.1. Applicable Law and settlement of disputes

Trith Saint Léger, France \_\_\_\_\_

The Client \_\_\_\_\_

