

ARPEGE MASTER K
GENERAL SALES CONDITIONS June 1st, 2018
– for sales out of European Union and Switzerland –
(Supersedes any previous version)

1 – CONTRACT FORMATION

Save for contrary provisions, these General Sales Conditions are applicable. By issuing his order, the buyer accepts without reservation these general sales conditions, which take precedence over any other document. The sales contract is only valid insofar as the vendor has accepted the buyer's order in writing and collected the down payment.

In the event of the sale of spare parts, the vendor's dispatch of such parts is deemed as acceptance of the buyer's order.

Any contractual modification requested by the buyer is subordinated to the vendor's express acceptance thereof.

The order expresses the buyer's irrevocable consent; therefore, such order may not be cancelled save for the vendor's prior and express agreement thereto. In such a case, the buyer shall compensate the vendor for all incurred costs and for all resulting direct or indirect consequences, this compensation will be by no mean less than 20% of the total value of the cancelled order. Furthermore, any down payment already performed shall remain the vendor's property.

2 – EQUIPMENT SPECIFICATIONS

Characteristics indicated in all the vendor's advertising catalogues, prospectuses and documents are for information only. The vendor reserves the right to modify all said party's models as it deems necessary, even subsequently to acceptance of orders. Said modifications shall not alter the essential characteristics and performance of the material or equipment, subject matter of the sale.

3 – PRICE

Failing specific indication, the vendor's offer shall be valid for thirty (30) days. Save for special agreement, all prices are in Euros (€) and do not include the possible expenses of conditioning, transport, taxes, administrative export documents or any fees which might burden them. When specific No rebates shall be granted for early payments, save for special agreement.

All transport, insurance, customs, handling and rendering available operations are at the buyer's charge according EXW (Incoterms 2010), save for special agreement.

4 – PAYMENT TERMS

Save for different provisions, payments are performed at the legal address of the vendor, net, without rebate and are payable with the terms here under :

- thirty (30) % by bank transfer on order (down payment).
- balance by bank transfer payable as of the invoice date, within a reference deadline of thirty (30) days. The invoice specifies the payment's due date.

Amounts paid prior to delivery shall be considered as down payments.

Any clause or request tending to fix or obtain a payment date in excess of said 30-day deadline, which represents good practice for the profession, and save for an objective reason evidenced by the buyer, may be considered as abusive.

5 – LATE PAYMENT

In addition to the application of a 40€ compensation for recovery costs, according to Directive N°2011/7/EU, any default of payment on the agreed due date, or any refusal to accept a bill of exchange when presented, and without prejudice to the right to implement the retention of title, shall entail :

- 5.1 – If The vendor deems necessary, the suspension or termination of all pending orders.
- 5.2 – **Penalties** – Ipso jure and without further notice to perform, the application of a penalty equal to the most recent refinancing rate of the ECB increased by ten (10) points, in compliance with French law and the EC Directive 2000/35/EC, without prejudice to payment of all damages. This rate will be by no mean lower than three (3) times the legal French rate.
- 5.3 – If The vendor deems necessary, contract termination ipso jure one month subsequently to said party serving notice to perform on the buyer, by registered letter with acknowledgement of receipt and demanding that the buyer complies with said party's obligations. In this case, and without prejudice to the payment of all damages, the buyer, in addition to its obligation of returning all goods at this party's expense, shall owe termination compensation to the vendor, to be assessed on the date of such termination. Said compensation shall be charged to payments already received.

5.4 – **Retention of title and transfer of risks**
The vendor remains full owner of the goods, subject matter of the contract, until full payment of their price in principal and ancillary costs.
As of the delivery, the buyer is responsible for all damages that goods may suffer or cause for any reason whatsoever.

Until their full payment, the goods may not be resold or reprocessed without the vendor's prior agreement.
However, in the case of resale, the vendor may operate a right to follow property into the hands of a third party by claiming the receivable directly from any intermediate or from the end customer.

5.5 – **DELIVERIES**

6.1 – Delivery terms : delivery deadlines start as of the order receipt acknowledgement, subject to reception of all documents to be provided by the buyer and collection of the foreseen down payment. The vendor warrants to the buyer that it shall use reasonable endeavors to meet any performance dates specified in the order receipt acknowledgement, but any such dates shall be estimates only and time for performance by the vendor shall not be of the essence of this sales contract.

Whatever the equipment's destination or the sales' terms, delivery is deemed as performed according to the International Chamber of Commerce Ex-works Incoterm 2010 in force upon contract signature, save for contrary provision.

This is performed by simple notification of availability, using any means. Such notification may be implemented via the equipment's direct remittal to the buyer, or delivery of said equipment at the vendor's plant or stores, to a dispatcher or carrier appointed by the buyer or, failing this, by the vendor.

The buyer shall take possession of the equipment within eight (8) days pursuant to notification of availability.

If the buyer does not collect the equipment at the agreed location and on the agreed date, and insofar as such delay does not result from the vendor's action or omission, the former is held to performing the contractually foreseen payments, as the delivery is considered as performed. In this case, the vendor may decide to store the equipment at the buyer's risk and expense (The vendor will then charge the buyer a minimum daily fee of 30€ per equipment) insofar as the equipment is quite separate or implement application of article 5.4.

In no case shall the vendor's non-compliance with the specified delivery date entail order cancellation, payment of damages or penalties of any type whatsoever save for express agreement between the parties.

6.2 – Hand over : Failing the buyer's claim within eight (8) days subsequently to the delivery date, the material and equipment are deemed as being handed over. Such reception is valid acknowledgement of the lack of any apparent defects.

7 – TRANSPORT AND INSURANCE

Transport, insurance, customs, handling and rendering available operations are at the buyer's risk. Therefore, the buyer shall ensure that said operations are performed according to best trade practises in such matters. Failing which, the vendor shall be entitled to refuse that such operations be undertaken, shall inform the buyer thereof, and Article 6-1 shall be applied in full.

Measures that the vendor may be brought to implement in the buyer's interest and on behalf of this latter concerning insurance and transport, in particular the fact of including shipping costs in the price, do not prevail over the principle of delivery in its plant or stores.

When specific requirements, as environmental (eg fumigated packaging ISPM15), regulatory (eg OIML_R76), tax (eg customs duties), or any other are imposed, it is up to the buyer to inform the vendor from the request for initial quote otherwise the buyer will assume the responsibility and the financial consequences of the eventual resolution of the sale.

All shipments undertaken by the vendor using said party's own material means are deemed as performed pursuant to a shipment contract, which is separate from the sales contract, whether the buyer takes charge of such costs or not.

Failing specific instructions, the vendor shall perform dispatch in the buyer's best interest. The material and equipment shall only be insured pursuant to the latter's express request.

In all events, the buyer shall be responsible for performing all verifications, and formulating all reservations when the material and equipment arrives, and if necessary, for undertaking the required action against the carrier within three (3) days. The indication « subject to unpacking » has no value as concerns the carrier and shall not be accepted as a reservation.

8 – WARRANTY

Term and extent of the Warranty

8.1 – All hardware is guaranteed against defects in material and construction faults for a period of 12 months from the date appearing on the delivery slip.

8.2 – This warranty is strictly limited, after examination of the product by the vendor and to suit its convenience, to the repair or replacement of the product recognized as defective, with the express exclusion of all accessory costs. Are only covered by the warranty the cost of replaced parts and labour used. Travel costs and hotel expenses for the personnel on the user's site as well as transport costs of the product concerned at the vendor's factory and return are to be paid for by the beneficiary of the warranty.

8.3 – The warranty does not cover the damage resulting from bad assembly, insufficient maintenance, or normal wear. It does not apply to paints and coatings.

8.4 – Any defect bringing into play the vendor's warranty must, failing forfeiture, be declared to the vendor, with the invoice corresponding to the purchase of the product in question.

8.5 – Exchanges or repairing of parts covered by the warranty cannot extend the warranty.

8.6 – All software is guaranteed for a period of 3 months from the date of installation.

8.7 – The warranty will be removed from any product which is modified, altered, repaired outside the vendor's workshops without the vendor's prior written approval.

8.8 – The vendor's liability is expressly limited to the above-mentioned warranty.

8.9 – An action to enforce the warranty cannot justify any delay in payments.
Replaced parts become the vendor 's property and shall be returned to this party immediately pursuant to such replacement. Any claim on the equipment that might activate the warranty should be communicated to the vendor by registered letter with acknowledgement of receipt sent to the vendor's head office address in France within ten (10) days.

9 – LIABILITY

The vendor shall supply the documents which include service instructions (such as instructions for use). The user shall have these read by educated and trained operators previously to starting operating.

The vendor's liability shall be limited to direct material damages caused to the customer resulting from errors which may be attributed to the vendor in the scope of contract performance. Liability on direct loss shall be limited to the value of the sales contract paid by the buyer. In any case, the vendor shall have no liability to the buyer for any losses of any kind such as loss of revenue or profit, indirect (including tortious) or consequential losses, loss of goodwill.

The vendor is not held to remedying the damaging consequences of faults committed by the customer or third parties concerning contract performance.

10 – CLAIMS AND APPLICABLE LAWS

FRANCE has ratified the [“UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS”](#)

(The CISG, sometimes also referred to as the “Vienna Convention”) which completes and is applicable for all terms not specified in these GENERAL SALES CONDITIONS. The parties agree to endeavour to settle their disputes amicably, before referring to the competent Court. Failing such settlement, the COMMERCIAL COURT OF LYON (FRANCE) is alone competent, whatever the sales conditions and payment method, even in the event of warranty implementation or several defendants. FRENCH LAW ALONE GOVERNS THIS CONTRACT.