



**WEBEN**

# GENERAL TERMS & CONDITIONS OF SALES

## **WEBEN FRANCE SAS**

SAS AU CAPITAL DE 100 000 € | SIRET: 880 874 862 00019 | RCS VALENCIENNES | TVA : FR54880874862 | APE: 7112B  
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**1. Validity**

- 1.1. Following general terms and conditions of sales describe rights and obligations of the company WEBEN France SAS and its customer in connection with the sales, offer, presentation of goods, services or any consulting concluded by WEBEN France SAS.
- 1.2. Any services realized by the company WEBEN France SAS imply the fully and unconditionally adherence of the general terms and conditions. These conditions are the unique commercial negotiation background therefore these conditions shall have precedence over any other conditions that might be in opposition with the present terms.
- 1.3. The customer shall purchase the goods and/or services in accordance with any quotation or order acknowledgement of the company WEBEN France SAS which is accepted in writing, subject in either case to these conditions which shall, subject to any variation in accordance with these conditions, govern the contract to the exclusion of any other terms and conditions provided that in the case of conflict between any term of these conditions or a term of the quotation and/or contract. The same shall apply to any commitment, additional understanding, modification, and amendment of the contract.
- 1.4. These general terms and conditions shall form the part of every contract, offer, order, advice on the supply and services offered by WEBEN France SAS.

**2. Conclusion of contract and contractual terms and conditions**

- 2.1. Both contracting parties are tied for a period of two months.
- 2.2. The scope of supply is defined by the offer and order confirmation received from WEBEN France SAS.
- 2.3. The company WEBEN France SAS reserves the right to make any changes to the order for the goods and/or service which are required to conform with any applicable safety, technical improvement, other statutory requirements or that shall be favorable for customer, which do not materially affect their quality or performance; even after reception of the order confirmation.

**3. Rules concerning export rights**

- 3.1. In case of the exportation of the products to be supplied by WEBEN France SAS, customer shall guarantee in writing prior to delivery, installation or assembly that it will only apply the products of WEBEN France SAS in the civil sector and not in the military sector or in connection with nuclear technology, or other prohibited purposes.
- 3.2. WEBEN France SAS reserves the right of supplementary export control. For this purpose, WEBEN France SAS shall have the right to forward the names and addresses of customers, forwarders and any persons involved in the performance of contract to third parties for the sake of security checks, to which customer gives its express consent by signing this contract or shall obtain the appropriate consent from the above persons. WEBEN France SAS assumes no liability for the security of any data getting into the possession of third parties.
- 3.3. If the names of customers, forwarders or any persons involved directly or indirectly in the performance of contract are included in the German, European or USA's sanction lists, WEBEN France SAS shall have the right to cancel or terminate contract. Following such cancellation or termination, any claims for damages against WEBEN France SAS shall be excluded.

**4. Prices and terms of payment**

- 4.1. All prices offered and contracted are expressed in Ex-Works (EXW – Incoterm 2020) Place to define within Europe, packaging not included. Prices are applicable on the date of signature. They are mentioned in euros and calculated without any taxes (in particular VAT) which imply VAT and shipment fees with be added the day of the purchase order's signature.
- 4.2. Prices reflect the cost conditions valid on the date of making offer. If any changes shall be made due to the evolution of raw material, overhead costs, exchange rates or any conditions of the present contract or offer, WEBEN France SAS reserves the right to modify accordingly the offer, or on-going contract. Meanwhile, WEBEN France SAS shall invoice the goods and services ordered to the price indicated at the signature of the contract. If there shall be any legal increase in taxes, customer shall pay for the additional fees even during the execution of the contract.
- 4.3. Any modification or additional elements of the offer might modify all conditions without any prior notice. Likewise, during the execution of the contract, any amendments might alter the condition. All amendments shall be explicitly approved by the customer before its execution. In case of execution without prior agreement, the acceptance of goods and/or services will constitute an agreement of the amendments.
- 4.4. The debt obligation toward the company WEBEN France SAS shall be due within 30 days net upon the issue of invoice. The payments must be made by bank transfer, any exchange rates or bank fees shall be at the expense of the customer.
- 4.5. The compliance with the payment corresponds to the reception date of the payment. No discount will be granted for advance payments. In the event of total or partial non-payment of the goods and/or services delivered or following payment milestones agreed within the contract, customer must pay delay penalty to WEBEN France SAS. The rate of interest applicable to such penalties shall be restricted to three times the French legal rate of interest at the moment of the delivery of goods and/or services. This penalty shall be calculated on the full amount (VAT included) of the due payment, from the payment due date without any prior notice needed. In addition to the delay penalties, any amount, included advance payment, not paid before due date, must be compensate with a 40€ fixed allowance due for recovery fees. If the customer did not discharge sums remaining within 15 days after the start of the late payment clause, the sale will be cancelled as of right and might will be able to open right to the allowance of damages to the profit of WEBEN France SAS.
- 4.6. Without prejudice to other rights which the consumer may invoke, WEBEN France SAS may cancel the sale and take back the goods and services within the contract, to guarantee its rights in case of late payment from the customer. WEBEN France SAS shall inform the customer of such measure and fix a morally reasonable deadline to pay mentioned due amounts. If partial payment has been agreed between both parties, WEBEN France SAS can request immediate payment of the remaining payment milestone in case of late payment of a due milestone, protest, suspension of payment from the customer or as well in case of major deterioration of customers' financial situation which may threaten WEBEN France SAS's rights. Such major deterioration of customer's financial situation might be considered when customer is or might be over-indebted or insolvent, when noncompliance of the payment from customer request actions, when a protest is performed, when customer must do a sworn statement to its creditors to affirm its sincerity in the inventory of the assets, when a due draft has not been paid or when such information are given by a bank or any information service, in accordance with its duty of care and diligence.
- 4.7. The customer shall only hold offsetting, retaining or refusal rights of the delivery if its pretentions, acknowledged in court law, are not contested, or are accepted by WEBEN France SAS. Customer shall have the right to hold it retaining rights only if the right they invoke rely on the same contractual report.
- 4.8. If WEBEN France SAS shall oversee the installation or assembly of the sale goods, requirements of the article 8, al II shall apply.

**5. Delivery, term of delivery and service**

- 5.1. Place of performance: Valenciennes, FRANCE
- 5.2. Delivery deadline indicated during the signature of the purchase order is given for information and shall not be guarantee. As consequence, any reasonable delay in the delivery of goods will not constitute ground for the award of damages or termination of the purchase order. Dates and delivery deadlines are only legally binding, if agreed in writing by WEBEN France SAS, if customer has provided in due time every documents, information or data necessary for the execution and delivery, and that the customer has paid every milestones following the agreement. Agreed deadline shall start upon the reception of the purchase order. Deliveries to the customers shall, therefore, be subject to proper and timely delivery from WEBEN France SAS's suppliers.
- 5.3. In case of any modification or additional to the purchase order requested by the customer, the delivery deadline shall extent to a reasonable extent. Such extent shall occur in case of work dispute (such as protests, lock-out, or any disruption of the activity), the mobilization of armed forces, war, civil commotion, strikes, bad production of an essential part, delivery delay in parts or important raw material, as well in case of any other events non predictable by WEBEN France SAS, to the extent that impediments will not allow WEBEN France SAS to fulfill agreed delivery deadline or contribute to the impossibility of delivery. WEBEN France SAS shall not be responsible for the mentioned circumstances if they occurred during a preexisting delay.
- 5.4. In case of delay in the acceptance from the customer or any infringement in its obligations, WEBEN France SAS will be in its rights, without any prejudices of its other rights, to store goods in an appropriate way towards any risks and at the expense of the customer. In case of storage by WEBEN France SAS, the storage fees shall be at 0,5% of the net purchase price of the goods to store for each week consumed. These storage fees shall be limited to 5% of the net purchase price unless the existence of much higher fees might be proven. In addition, WEBEN France SAS has the right to cancel the contract and/or request the payment of damages from the customer. Damages shall be at 15% of the net purchase price agreed, unless the customer might prove the damages suffered is minor or that they are no damages suffered at all. Without any prejudices of the damages fixed amount, WEBEN France SAS shall have the possibility to request compensation of the effective damage. In case of the termination of the contract after reception of the written intent purchase order, all engaged fees by WEBEN France SAS shall be invoiced to the customer.
- 5.5. Under any justified reasons, WEBEN France SAS might proceed to partial delivery in a reasonable form. In case of partial deliveries, WEBEN France SAS shall inform the customer in due time. WEBEN France SAS has the rights to invoice any additional delivery requested by the customer or necessary to the execution of the customer's schedule without any delay independent of WEBEN France SAS's will or actions.
- 5.6. Shipment risk shall be at the expense of the customer. In case of missing or damaged goods during shipment, customer shall express all the necessary reservations on the delivery note upon the reception of mentioned goods. These reservations shall be confirmed in writing within 5 days after delivery by recommended mail with notice of receipt.

**6. Transfer of risk of damage**

- 6.1. Obligations of WEBEN France SAS shall be limited to the provision of the goods and/or service, ready for delivery. Provision of the goods shall occur in EXW (Incoterm 2020) if no other conditions has been agreed. The risk transfer shall occurs at the provision of the goods and information that the goods are ready for delivery or when given to the person in charge of the shipment, at the latest when the goods is leaving the plant/storage, in case of direct delivery from the plant/storage of the supplier, even in case of partial delivery. First sentence shall be valid even for other prestation agreed. The risk transfer is regulated following the agreed Incoterm in the contract (Incoterm 2020).
- 6.2. Customer shall pick up the goods within 7 calendars days after receiving the information of the provision or the invoice. Delivery of the goods might occur only upon request of the customer and at its expense. Decision of the type of delivery shall be given to WEBEN France SAS, taking into consideration customer's interests.
- 6.3. Upon request, WEBEN France SAS might contract, at customer's expenses, any insurances requested by the customer.

**7. Reservation of proprietary rights**

- 7.1. WEBEN France SAS retains title and copyright with respect to any offer, drawings, test programs and other documents placed at the Customer's disposal by WEBEN France SAS. Such documents and programs shall not be disclosed to a third party unless WEBEN France SAS has given its written approval. If no purchase order is granted to WEBEN France SAS or if there is termination of the purchase order, drawings, and all other documents related to the offers shall be immediately returned to WEBEN France SAS, upon simple request.
- 7.2. WEBEN France SAS will reserve its proprietary rights in the object of delivery until the performance of every payment and the fulfilment of any other claims against customer hereunder. Any processing, conversion or working of the object of delivery, the connection or assembling thereof with other objects by customer or any third party shall be made for WEBEN France SAS's benefit. WEBEN France SAS shall be entitled to co-owner's rights with respect to such objects to the extent of the value of object of delivery.
- 7.3. Customer shall insure object of delivery against any insurable damage at its own cost. By submitting contract, customer assigns its demand for insurance services equivalent to the extent of contractual fee to WEBEN France SAS. Customer shall announce this to insurer and notify WEBEN France SAS thereof. Reconveyance shall implicitly be deemed to have occurred upon the performance of full payment and the meeting of any claims arising hereunder.
- 7.4. Customer shall have no right to pledge or assign object of delivery as security. Customer shall immediately report seizure, confiscation or endangering of property by any third party to WEBEN France SAS by sending the appropriate documents (e.g. seizure protocol). The costs of any intervention by WEBEN France SAS shall be borne by customer.
- 7.5. If customer is selling goods or services before the full payment of the selling price, customer assigns to WEBEN France SAS, upon the reception of purchase order, any receivables he hold upon the resale, this sale shall be settle at the amount of the first purchase order with a 10% guarantee for debt recovery. To that extent, it is irrelevant that customer has been selling goods and/or services to one or various purchasers and that this sale has been realized in relation with other goods which do not belong to WEBEN France SAS (with or without transformation of the good, and with or without incorporation of the goods in another good.). WEBEN France SAS will not fully recover the debt until customer fulfill properly its payment duties and any other obligations. Upon request from WEBEN France SAS, customer shall reveal the identity from its relevant debtors, notify them the assignment (to their own expense) and keep any income from the resale separate from its estate, for WEBEN France SAS.
- 7.6. If the value of secured claims provided for WEBEN France SAS exceeds by more than 15% the amount of the debt they have toward the customer, WEBEN France SAS is willing, upon customer's request, to give up additional amount.
- 7.1. If the legal system that apply to the goods do not plan any retention of title right, but allow to retain similar right on the goods, these rights will be considered as agreed between customer and WEBEN France SAS. Customer must take part of any measure WEBEN France SAS wish to take to protect its retention of title right or any other similar guarantee right linked to the goods. WEBEN France SAS may urge the customer, by injunctive order or any other legal measure, to conform to this obligation and to any obligation mentioned in article 6, without any reminder letter needed.



## 8. Installation and assembly; customer's contribution

- 8.1. In case of any installation and assembly, customer undertakes the following obligations at its own expense:
- 8.1.1. Provide the following in due time
    - 8.1.1.1. proper number of assistance staff (experts or helps) with proper tools.
    - 8.1.1.2. driving energy and water including the necessary connections to the place of use, heating and general lighting.
    - 8.1.1.3. at the place for assembly, assembly materials, tools, etc., suitable, dry, and lockable rooms of proper size for the storage of object of delivery, proper working rooms and rooms for stay for assembling personnel including any medical facilities. Customer shall take the necessary measures to protect assembling personnel and WEBEN France SAS's property.
    - 8.1.1.4. any protective clothing and security equipment necessary for the special conditions at the place of assembly and not applied in the activities of WEBEN France SAS.
  - 8.1.2. Prior to the start of assembly jobs, customer shall provide any necessary information regarding the location of any hidden electric lines, gas line, and water pipes or similar facilities as well as any necessary static data without any further request. As well, the delivery parts necessary for the start of job shall be on site, and every necessary preparatory jobs shall be achieved so the installation or assembly of structure can be started upon the arrival of assembling personnel, and it can be completed without interruptions.
  - 8.1.3. For any delay during the installation, assembly, or commissioning, due to a cause not attributable to WEBEN France SAS but within customer's risks, customer shall bare the expenses related to waiting time and additional travel costs needed.
  - 8.1.4. Customer shall certify the working hours of assembling personnel every week including every detail. Customer shall issue the certificate of the completion of installation or assembly of structure to assembling personnel without delay at the end of the service.
  - 8.1.5. WEBEN France SAS undertakes no liability for any work done by assembling personnel or any fulfilment partners provided by it if such work is not related to delivery or the installation or assembly of structure or is not done upon customer's instruction.
- 8.2. If WEBEN France SAS undertakes the installation or assembly in return for special accounting, the following provisions shall apply in addition to the provisions in section I herein:
- 8.2.1. Customer shall pay WEBEN France SAS the fees mutually agreed upon during the issue of contract for working hours, for any extra work, work done at night, on Sundays and holidays, for any work done on the weekly rest day (weekly rest period), or for supplement to be paid for shift work, or supplements to be paid for stand-by-duty and on-call-duty, or for work done under hard conditions and for planning and supervision. With respect to the holidays set forth by law, the legal provisions valid at WEBEN France SAS's seat shall be applied.
  - 8.2.2. The following costs shall be reimbursed separately:
    - 8.2.2.1. Travel costs, transportation costs of any hand tools and personal packages.
    - 8.2.2.2. Compensation for working hours, days of rest and holidays.

## 9. Warranty

- 9.1. Term of warranty shall be 12 months as of the transfer of risk of danger (Article 5 herein).
- 9.2. In case of the delivery of any defective goods, WEBEN France SAS may decide to repair them, proceed to a new delivery or a replacement. In case of goods which may be returned to WEBEN France SAS without any unreasonably high costs, defects shall be remedied at WEBEN France SAS's premises as given in Article 1 herein. Customer shall properly package goods and return them together with the appropriate fittings. If the object is not in the place of proper use, any extra costs of repair shall be borne by customer including particularly any increased transportation and travel costs.
- 9.3. While remedying of defects, customer shall provide WEBEN France SAS with the time and opportunity for fair assessment. Should customer refuse to do so, WEBEN France SAS shall not be in delay in remedying the defect and shall be exempted from the warranty for such defect or inadequacy.
- 9.4. Customer can remedy themselves of defects, or by a third party, and claim to WEBEN France SAS the reasonable reimbursement of their expenses if the repair shall be done urgently ( due to a safety danger, which must be notified immediately to WEBEN France SAS) or if WEBEN France SAS has given written agreement on the works (place and how to).
- 9.5. Among the repair costs of any defective or deficiently delivered product or deficient service or any direct costs incurred in the course of repeated delivery, WEBEN France SAS shall bear the costs of replacement spare parts including the delivery, removal and installation thereof and the costs of the delegation of any necessary personnel.
- 9.6. Any further claim for damages on the part of customer against WEBEN France SAS or the fulfilment partners thereof shall be excluded. Particularly excluded is indemnification for such damage that is not done on the object of delivery itself. This shall not apply to liability for any willful acts.

## 10. Exclusion of warranty and liability for inadequate performance

- 10.1. In case of hidden defects or deficient nature of goods, customer shall immediately inform by written WEBEN France SAS without delay. Otherwise, any claim for inadequate performance is excluded.
- 10.2. WEBEN France SAS excludes liability for any defects due to improper use, modifications or interventions made on product, or faulty assembly, repair, or maintenance by customer. This shall also apply in the case if customer or any third party uses any fittings not complying with the instructions given by WEBEN France SAS or any third parties. The above shall not apply in the case when customer can verify by defect report that the defect cannot be due to the above effects.
- 10.3. WEBEN France SAS will not undertake any liability for used products.
- 10.4. WEBEN France SAS's liability for damages and cost reimbursement related to breach of contract caused willfully, or impairing human life, physical well-being or health shall not be affected by the provisions of the present General Contractual Terms and Conditions.

## 11. Liability

- 11.1. WEBEN France SAS shall not be held liable in case of the simple carelessness of its organizational units, legal representatives, employees, or other fulfilment partners, unless this involves the violation of any material obligations set forth in contract. The following obligations set forth in contract include delivery and installation in due time and fully, the obligation of providing advice, protection and support customer to properly using the object of delivery, protect customer's employees or any third party from physical injuries, protect the lives thereof or protect customer's property from substantial damage. This provision shall not apply for such breach of contract, for which the liability cannot be validly excluded or limited.
- 11.2. Any indemnification for violation of any material contractual obligations shall be restricted to damages foreseeable at the time of contract conclusion and typically occurring and in this scope, unless this involves the intentional default, gross neglect, or any liability for willfully physical, life, or health damages, or for any warranty underwritten by WEBEN France SAS. Any claims of for damages shall become void within 12 months. Any claim for damages related to loss of stored data shall be excluded if the occurrence of damage could have been

avoided in case of proper data protection except if WEBEN France SAS has failed to provide customer with proper information about the methods of data protection.

- 11.3. If under legal base, WEBEN France SAS shall be held liable for damages, such liability shall be restricted to damage foreseen by WEBEN France SAS upon conclusion of contract as possible consequences of breach of contract or to damage that should have been foreseen taking into account any known circumstances or any circumstances WEBEN France SAS should have known by applying due professional care, and which fall within the competence of WEBEN France SAS. Otherwise, WEBEN France SAS shall only be liable for any indemnification for indirect or consequential damage, loss of profit due to the defect of the object of delivery, if the customer proves, that the occurrence of such damage has been foreseeable at the time of contract conclusion as the consequence of breach of contract.
- 11.4. The restrictions set forth in sections I-III, Article 10 herein shall appropriately apply to customer's claims for cost reimbursement.
- 11.5. WEBEN France SAS shall not be held liable in case of non-execution or delay in the execution of one of its obligations describe in the present General Terms and Conditions of Sales due to force majeure. Are defined as force majeure, any unforeseeable or unstoppable outside event in the sense of article 1148 of the French Civil Code.

## **12. Impossibility of performance Amendment of contract**

- 12.1. In case of impossibility from WEBEN France SAS or customer to fulfill its obligations of delivery or agreed prestation, general legal principles shall apply to them as follows:  
If impossibility of performance is attributable to WEBEN France SAS, customer shall have the right to claim damages. However, such damages shall be restricted to 10% of the value of the part of delivery or service that was not possible to be properly installed due to such impossibility of performance. Any further claim for damages on customer's part shall be excluded. However, this shall not apply in the case if WEBEN France SAS is held liable on account of willful conduct. This shall not affect customer's right of cancellation of contract.
- 12.2. If pursuant to the second sentence, section IV, Article 4 herein, the business importance or content of delivery or service is substantially modified or WEBEN France SAS's operation is materially affected by any unforeseen events, contract shall be modified accordingly in compliance with the requirements of mutual trust and goodwill. If this cannot reasonably be expected due to business considerations, WEBEN France SAS shall have the right to cancel contract. If it wishes to enforce its right of cancellation, it shall notify customer thereof without delay upon assessment of the importance of event even in the case if formerly, the extension of term of delivery was agreed upon with customer.

## **13. Competent court. Governing law.**

- 13.1. Any dispute arising directly or indirectly from the present General Terms and Conditions of Sales shall be governed by French law.
- 13.2. In the absence of friendly resolution, the litigation will be carried in front of the Commercial court of Valenciennes (France).
- 13.3. However, WEBEN France SAS reserves the right to have recourse to litigation at the headquarters' court.
- 13.4. French law is designed to apply in conflict situation of the contractual relationship of both parties, however, the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 shall not apply.

## **14. Integrity clause**

Both parties claim an honest practice of their commercial activity. Parties shall commit to avoid any corruption or any other criminal offence or illegal activity and take all measures necessary to this end.

## **15. Partial invalidity**

The invalidity or becoming invalid of any provisions herein shall not affect the validity of other provisions. Parties shall replace such invalid provisions with other provisions standing nearest to the business objectives of such invalid provisions.

**Last Update : 19/10/2020  
Romain BOURNET  
WEBEN France SAS**