

# Terms and conditions of sale

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## ARTICLE 1 – SCOPE

The present Terms and Conditions shall apply to all Products offered for sales by ADDEV MATERIALS CONVERTING, LLC (hereinafter referred to as « AMC »).

The term 'Product(s)' designates the items, articles, software or services that are the object of the offer and/or of the sales contract.

Products which are subject to complex services or perfecting activities are likely to be submitted to a special contract, at AMC sole discretion.

Such terms and conditions of sale supersede any other terms and conditions of Purchase notwithstanding any printed or hand-written exclusion.

In case of conflict between the terms of the offer, the terms of the sales contract, the order accepted by AMC and the present Terms and Conditions, the said documents shall prevail in the following order:

- The order accepted by AMC,
- The sales contract,
- The offer,
- The present Terms and Conditions

They shall apply to all AMC clients whatever their status: manufacturer, OEM, resellers, users or others.

They cannot be accepted conditionally nor submitted to reserves or requirements and any exemption shall only be given by AMC by writing.

## ARTICLE 2 – ORDERS

Purchase orders become effective only after a written acceptance duly dated and signed by AMC.

AMC is not liable for its agents' commitments except after express written acceptance.

AMC keeps the right to refuse any order not complying with its usual delivery units with regard to processing costs.

Orders below \$150 (excluding tax) are submitted to additional charges amounting to \$25.

No order can be withdrawn, either in part or totally, except AMC withdrawal prior acceptance. In case of accepted withdrawal of an order, previously borne expenses can be invoiced.

*All orders are* subject to a 10% +/- of order quantity.

Any additional or complementary order requires a written amendment and a new express confirmation by AMC.

## **ARTICLE 3 – PRODUCT SUPPLIED BY THE CLIENT**

When product, items or accessories are supplied by the client, the latter agrees to deliver them carriage paid within deadline and in the quantities requested by AMC, with a sufficient surplus being calculated by the latter to cover losses during manufacturing process. Clients must conform precisely to the sizes and tolerances specified by AMC. Any possible faults regarding the goods supplied will be borne by the client.

## **ARTICLE 4 – EXPORT CONTROL**

Purchaser shall inform AMC of special export control rules applicable to the territory of delivery.

Any resale, export or re-export of products purchased from AMC shall comply with all national or multinational export control laws and regulations, including USA sanction programs and United Nations embargo resolutions. The Purchaser alone shall be responsible for all consequences that might result from non-observance of the said rules and regulations.

AMC shall not be obliged to deliver or export products, if prohibited by above mentions provisions or until required authorizations have to be obtained.

## **ARTICLE 5 – DELIVERY**

Deliveries have to be made in accordance with the order with the exception of quantitative tolerances as mentioned in the confirmation orders.

Delivery dates provided by AMC only become effective after the transmission of all information and documents needed to perform orders.

A delay shall not, in any case, give ground for cancellation of orders nor penalties (unless provided for in the sales contract or order). Nor Shall, AMC be liable, in any case, for damages caused by late delivery.

For tooling, the manufacturing lead times are counted as from the receipt of the order accompanied by all of the items or information necessary to its performance.

Delivery dates are postponed by:

- Any late communication by Purchaser of any information required to perform orders
- Any failure by Purchaser to fulfil its obligations, especially with regard to payments in due time.

If a credit line is granted to purchaser, AMC is only bound to deliver ordered products until the credit limit is reached.

Products may be delivered according to the INCOTERM ICC 2010 agreed on the order confirmation sent. If no INCOTERM is provided for, sales are deemed to be EXW, AMC premises, INCOTERM ICC 2010, the packing up remaining a matter of AMC.

Transfer of risks occurs at the time of delivery to the Purchaser, or to its representative (carrier or other). If no delivery can occur or if the delivery is delayed, not resulting from AMC failure, products are handled and stocked at the Purchaser own costs and risks, and without the said storage resulting in any modification of the payment and guarantee period.

## **ARTICLE 6 – RECEIPT OF PRODUCTS**

Purchaser shall check at receipt the compliance of the delivered products with the order

Purchaser cannot refuse to accept products unless a prior claim is formalized and accepted by AMC. No claim relating to the quality or the value of the delivered Product, or to its non-conformity to the shipping document, will be accepted if it reaches AMC more than 5 (five) days following the date of delivery of the Product.

If the transport is in charge of AMC, Purchaser shall make all necessary reserves against the carrier, to preserve AMC rights.

Purchaser shall issue a copy of the aforesaid reserves to AMC.

Purchaser shall provide any supporting documents regarding alleged materials defects or lack of conformity.

Purchaser shall help AMC to check the defects or to remedy them.

The absence of reserves concerning the apparent nature of the delivery constitutes a presumption of conformity in AMC's favour.

## **ARTICLE 7 – PRODUCTS RETURN**

No Product may be returned without AMC prior and written authorization.

Purchaser shall provide with each return elements and documents allowing AMC to assess the origin and the causes for such returns.

Purchaser agrees on giving access to its premises to AMC to the same purpose.

Products shall be returned DAP named delivery place INCOTERM ICC 2010, unless otherwise provided.

Purchaser undertakes to properly pack products according to means warranting their security for transport and handling.

Any cost incurred by AMC in connection with the return of the products shall be borne by Purchaser.

## **ARTICLE 8 – PRICES**

AMC prices list shall be firm, exclusive of any taxes and duties, customs, insurance, transport and packaging, costs. Prices are those applicable at the date of the order receipt by AMC and may be reviewed in reference to variation in materials prices set by Supplier.

This provision shall apply to orders which include successive deliveries.

## **ARTICLE 9 – CONDITIONS OF PAYMENT**

Unless otherwise provided, invoices shall be paid within net 30 calendar days, in dollars, to the AMC branch which has issued the invoice.

Merchant fees of 3% will apply to any credit card payments.

In the absence of payment of any due invoice, within the above-mentioned time period, AMC is entitled to require the payment of any debt owned on Purchaser, even if it is not due yet.

Any unpaid invoice shall produce interests without any prior notice.

Any claim regarding an invoice shall be submitted to AMC within 10 days as of its receipt, to enable it processing before the payment deadline expiry.

Without prejudice to any AMC right or remedy, any amount not paid within 30 days shall bear interests from the end of the above-mentioned delay at a rate equal to the interest rate applied by the Federal Reserve Bank at its most recent operation of refinancing increased by 10% points or at least three times the legal interest rate applicable in US. The applicable rate for the first semester of the year concerned shall be the FED Bank rate in force on 1 January of that year and, for the second semester of the year concerned, the applicable rate shall be the rate in force on 1 July of that year.

In addition to the aforesaid penalties, any late payment automatically gives rise to the payment by the Customer of a lump sum indemnification of 50\$ for collection costs.

An additional indemnification may be claimed when it is proven that the collection costs exceed that amount.

Business proposals can be submitted to communication of accounts, financial or legal documents and if need be, prior securities.

AMC keeps the right to bind, at any time or even after partial delivery, its contractual performance with cash payment or warranties, even in case of successive delivery, whatever terms of payment initially agreed, without any obligation to justify its decision.

Any default in the payment entitles AMC to take the Products back, without any prejudice or damages regarding the loss of value.

Should the Purchaser fail to pay the invoices price, AMC would be entitled to charge, on the sums recovered pursuant to a legal action, an additional indemnity amounting 15 % of the said sums, besides interests and expenses.

## **ARTICLE 10 – TITLE TO PROPERTY**

AMC shall keep the whole property of the Products until full and effective payment of sale price as well as interests and accessories. The Purchaser agrees not to dispose of the Products in any way whatsoever until this condition is met in full.

Payment shall only be deemed to be effective after encashment by AMC.

AMC has the right to take the goods back if the goods are not paid on due date.

Before complete payment, Purchaser shall immediately inform AMC of any compulsory liquidation, receivership, seizure or any other measure taken by a third party on the products subject to transfer of ownership. In the event of compulsory liquidation, suspension of payment or in the case of any similar event, AMC shall be entitled to claim the products and keep the sums which have already been paid as penalty clause.

## **ARTICLE 11 – WARRANTY/LIABILITY**

As in general, AMC is not the manufacturer of products it sells, its warranty cannot exceed the scope for warranties granted by its own suppliers, such warranties being available upon request.

Warranty shall only apply if Purchaser has fulfilled all its obligations, and especially has complied with the conditions of payment.

Any defect, including latent defect, as well as errors in the size, shall only give Purchaser the right to a replacement of the products, without any further indemnification.

Replaced products are EXW, AMC branch, INCOTERM ICC 2010.

The aforesaid warranty does not apply in the event of misuse or fair wear and tear.

In the event of any direct damage, AMC liability shall not exceed the purchase value of the products which have suffered or caused damages.

Additionally, AMC cannot be held liable for any indirect, damages resulting for, but not limited to, a loss of profit, of clientele, of production or any similar loss whatsoever, and whether or not the said damage is caused by fault committed by AMC. The Purchaser waives any right to call on them.

## **ARTICLE 12 – TERMINATION**

In the event of the cancellation or suspension of an order, in total or in part, and not fault is committed by AMC, Purchaser is liable for any cost sustained by AMC in order to obtain payment of products and tooling, with no prejudice of any damages which AMC is entitled to claim. A termination statement of account shall be negotiated to take account of justified expenditures incurred by AMC as of the date of termination.

## **ARTICLE 13 – FORCE MAJEURE**

In case of any "Force Majeure" event resulting in products distribution disruption by AMC, AMC will not be liable for this disruption and the subsequent delays or absence of service, and so for the full duration of the "Force Majeure" event and its consequences.

The term "Force Majeure" designates any event beyond the control of AM, unpredictable and irresistible, of any nature whatsoever, having the effect of making it impossible to execute the order, temporarily or definitively.

If the case of "Force Majeure" exceeds 3 months, the Parties shall meet in order to consider whether and on what terms they can either modify the sales contract or the order in order to adapt it to new circumstances arising from the event of Force Majeure, or agree on its termination.

A "Force Majeure" event shall be considered as any event whatsoever its nature, beyond reasonable control of any Party such as but not exclusively: national disaster, war, riots, strikes in transport, strikes or lock out of manufacturer's plants or in AMC subsidiaries, legal provisions likely to affect significantly the manufacture or distribution of products or the performance of services.

## **ARTICLE 14 – APPLICABLE LAW AND JURISDICTION**

The Parties certify that they have the power to compromise and agree that all disputes arising out of or in connection with the Contract (including its validity and termination) and which could not be solved by an amicable settlement shall be settled upon the Rules of Conciliation and Arbitration of the International Chamber of Commerce to the jurisdiction of any federal courts in Pennsylvania.

French law shall be applicable.

## **ARTICLE 15 – GENERAL**

AMC is a member of the group of companies whose holding company is ADDEV SAS and accordingly AMC may perform any of its obligations or exercise any of its rights under the Contract by itself or through any other member of ADDEV SAS group.