

## **General sales conditions of GYS SAS Relative to the production of GYS China**

### **Article 1: Definitions**

In the present document « General Sales Conditions of GYS SAS relative to the production of GYS China », the following terms shall have the following meaning:

Vendor: GYS SAS, having its registered office in Saint Berthevin – Laval ;

Manufacturer: GYS China, having its headquarter in Shanghai ;

Buyer: The natural or legal person who has given instructions to the Vendor to supply goods.

Conditions: The present General Sales Conditions.

### **Article 2 : General**

1. In as far as parties have not mutually agreed in writing to deviate from them, the Conditions shall be applicable to each offer or contract of or with the Vendor.
2. General conditions of the Purchaser only apply if it has been agreed upon in writing that they shall be applicable to the contract between the parties, to the exclusion of these Conditions.

### **Article 3 : Offer and acceptance**

1. Provided not otherwise set forth in the relevant offer, all offers of the Vendor are made without any obligation.
2. All details and illustrations included in offers, price lists, brochures and/or advertising material are approximations only and cannot give cause for damages or dissolution of the contract.
3. If an offer contains an offer without engagement which is accepted by the Purchaser, the Vendor shall be entitled to withdraw the offer within two working days of receipt of notice of acceptance thereof.

### **Article 4 : Conclusion of the contract**

1. A contract to supply goods is deemed to have been concluded when an order of the Purchaser has been accepted or been confirmed by the Vendor in writing. The order confirmation is deemed to give a correct and full representation of the contract.
2. For the supply of goods for which according to their nature and extent no offer and/or order confirmation is sent, the invoice is also considered to be an order confirmation, which is also deemed to give a correct and full representation of the contract.
3. Supplements to and/or amendments of the contract shall be announced by the Purchaser to the Vendor in time and in writing and shall only have effect if these supplements and/or amendments have been accepted by the Vendor in writing.

### **Article 5 : Term of delivery**

1. The delivery time stated by the Vendor is an approximation only. Exceeding of the delivery times does not entitle the Purchaser to damages, dissolution of the contract or non-compliance with any obligation on the part of the Purchaser flowing from the contract.
2. In the event of any delay occurring as a result of force majeure as referred to in article 11, the delivery time will be extended. The Purchaser shall be notified of this with the least possible delay.

### **Article 6: Delivery and risk**

1. Delivery shall be effected "FOB Shanghai". The Vendor shall provide the packaging at his own expense.
2. Acceptance of the goods by the carrier for dispatch to the Purchaser shall be considered as evidence that the goods were in good condition, unless the consignment note provides evidence to the contrary.

### **Article 7 : Transport**

1. Unless otherwise agreed upon, the Purchaser shall bear all costs and risks attached to the

- carriage of the goods to the destination to be determined by the Purchaser.
2. If the Vendor takes care of the carriage of the goods, it shall have discretion to select the means of transport and be the one to conclude at the Purchaser's expense those contracts which are required for carriage to the place of destination indicated by the Purchaser to the Vendor.
  3. The Vendor takes care of the export formalities. The Purchaser is obliged to obtain at his own expense and risk an import permit or any other official licence and to comply with all the customs formalities for the importation of the goods and, where necessary, their transit through another country.
  4. The Purchaser is obliged to settle all dues, taxes and other official levies as well as the costs of the customs formalities owing upon importation and, where necessary, their transit through another country.
  5. The Vendor is obliged to provide every assistance to the Purchaser at the Purchaser's request and expense in order to obtain an export and/or import permit or any other official license and to comply with customs formalities. The costs hereof shall be paid to the Vendor at her first request.
  6. The Vendor is not obliged to enter into a contract of insurance with regard to the goods to be carried. The Vendor shall at the request of the Purchaser provide the necessary information to conclude the contract in question.

#### **Article 8 : Prices**

1. Unless otherwise agreed upon the prices referred to in offers, quotations, price lists and contracts are based on delivery « FOB Shanghai », exclusive of VAT.
2. If the prices, which are referred to in offers, quotations and price lists are increased through whatever cause, including exchange rate variations, prior to the contract having been concluded, the Vendor shall be entitled to increase the price mutatis mutandis.
3. All extra costs which the Vendor has to incur as a result of a delay in the delivery that are due to the Purchaser shall be borne by the Purchaser.

#### **Article 9 : Payment conditions**

1. Unless otherwise agreed upon, the Purchaser shall pay
  - 50% on order confirmation
  - 50% on date of FOB availability... the price and the other amounts owing pursuant to the Conditions and/or the contract, without being able to invoke discount, setoff or deferral
2. The Purchaser is neither entitled to deduct any claims asserted by him nor to set them off against any claim of the Vendor relating to goods supplied.
3. The Purchaser shall at the request of the Vendor at all times and irrespective of the payment conditions agreed upon be liable to provide security for the settlement of the amounts to be paid in pursuance of the contract. The security offered will have to be such, that the debt with any interest due and costs is adequately covered and that the Vendor will without experiencing any trouble be able to realize the security. Any security that has become insufficient shall at the Vendor's request be replenished up to an adequate amount in security.
4. If the Purchaser does not pay within the terms agreed upon, he will be deemed to be in default ipso facto and the Vendor shall without any notice of default being required be entitled to charge to the Purchaser the legal interest on the invoice amount.
5. If the Purchaser defaults in paying any amount due to the Vendor, all the other claims which the Vendor has on the Purchaser shall be immediately due and payable, without notice of default being required. From the day on which the sum falls due, the Purchaser shall owe an amount in interest based on the provisions contained in the previous paragraph to the Vendor on the aggregate amount of all the claims.
6. Upon both in and out-of-court collection the Purchaser shall besides the principal sums, interest and court costs, also owe the collection costs payable which amount to 15% of the outstanding principal sum with a minimum of EUR 230

#### **Article 10 : Retention of title**

1. All goods delivered by the Vendor remain the property of the Vendor up to the time that full payment of all the amounts owing to the Vendor by the Purchaser in pursuance of the underlying contract(s) and/or previous or subsequent contracts of a similar nature, including loss, damages, costs and interest as referred to in article 9 paragraph 5, has been effected.
2. Without prejudice to the other rights vested in her, the Vendor shall be irrevocably empowered by the Purchaser upon the latter not fulfilling or not timely fulfilling his obligations vis-à-vis the Vendor, to take back the goods supplied by her without any notice of default or judicial intervention being required.

#### **Article 11 : Force majeure**

1. All circumstances outside the control of the Vendor, of whatever nature - even if those circumstances were already to be foreseen at the time the contract was entered into - as well as in so far not already having been provided for:
  - Molestation, mobilization, war and risk of war, civil war, riots;
  - Fixing of quotas or other government measures ;
  - Industrial action, sit-down strike, lockout;
  - Storage and/or transport difficulties, whether or not under one's own management;
  - Stagnation through winter stop and other weather influences;
  - Fire, explosion, water damage, floods;
  - In- and export restrictions, defective machines, power failure, illness of personnel;
  - Other serious breakdowns in the company of the Vendor;
  - Non-performance, late performance or improper performance by third parties - brought in by the Vendor for the implementation of the contract with the Purchaser and/or on which parties the Vendor is otherwise dependent - of their obligations towards the Vendor, for whatever reason, as a result of which the Vendor cannot, cannot timely, or cannot make the requested delivery without, in her opinion, burdensome extra efforts and/or costs, shall constitute force majeure for the Vendor.
2. In case of force majeure the Vendor is entitled to unilaterally dissolve the contract with the Purchaser, in its entirety or in part, this by a mere announcement to the Purchaser and without judicial intervention being required and without liability for any damages arising from whatever grounds.
3. In the event of force majeure the Purchaser shall not be entitled to dissolve the contract with the Vendor, in its entirety or in part, and the Purchaser shall not be entitled to sue for damages.

#### **Article 12 : Complaints**

1. By complaints shall be understood all grievances submitted by the Purchaser with regard to the quantity, quality, finishing and/or soundness of the goods supplied.
2. The Purchaser shall in respect of externally visible defects submit a complaint in writing within five days of the goods having arrived at the place of destination, stating the nature of the defect, failing which will cause any claim against the Vendor to be extinguished.
3. Complaints with regard to invisible defects shall be made in writing within five days after the defect was or could have been discovered, stating the nature of the defect. If an invisible defect manifests itself more than two months after the arrival of the goods at the place of destination indicated by the Purchaser to the Vendor, any claim against the Vendor shall extinguish.
4. In the event of an, in the opinion of the Vendor justified complaint, the Vendor shall have discretion to choose between dissolution of the contract in question, in its entirety or in part - without legal intervention - pro rata crediting, or remedying the defects free of charge and with due observance of the provisions contained in the following paragraph. The Vendor shall be entitled to reconsider her choice.
5. With the exception of an, in the opinion of the Vendor justified complaint, the carriage and storage of the goods which are to be transferred for repair, modification or any other work, to

any workshop or storage place to be indicated by the Vendor, shall be at the Purchaser's expense and risk.

6. With the exception of an, in the opinion of the Vendor justified complaint, any parts or materials to be replaced shall revert back to the Vendor and be returned to the Vendor on the directions of the Vendor by the Purchaser free of charge.
7. Complaints regarding specific deliveries do not exempt the Purchaser from his obligation to pay for those or other deliveries, nor shall they entitle the Purchaser to setoffs or compensation.

#### **Article 13 : Liability and indemnity**

1. The Vendor shall be liable only for the fulfillment of her obligations in the events and in such manner as described in article 12. Any other liability for indirect and/or direct loss suffered by the Purchaser shall be excluded.
2. If the Vendor in spite of this, for whatever reason, is liable to compensate any loss, the Vendor shall only be liable for alternative compensation, i.e, reimbursement of the value of the failed performance. The value is the net invoice value of the item in question.
3. Any liability on the part of the Vendor for any other form of loss is excluded, including punitive damages in whatever form, compensation for indirect loss or consequential loss or loss on account of lost income.
4. The Purchaser indemnifies the Vendor, her staff, either employed by or on behalf of her, for all claims from third parties for compensation of any loss suffered by them, caused by or related to deliveries originating from the Vendor.
5. All defense measures which the Vendor may derive from the contract concluded with the Purchaser to fend off her liability for the conduct of one of her subordinates or a third party brought in by her vis-à-vis the Purchaser, may be invoked by the subordinate or third party vis-à-vis the Purchaser as if the subordinate or third party were a party to the contract him/herself
6. All terms which are stipulated by third parties vis-à-vis the Vendor, may also be argued by the Vendor vis-à-vis the Purchaser.

#### **Article 14 : Dissolution**

1. In case the Purchaser does not fulfill his obligations arising from the contract or does not fulfill them on time, in case he went into liquidation, in case he files a petition for suspension of payments, in case the Purchaser is a partnership and is being dissolved, in case he proceeds to wind up his business or in case his goods are attached in their entirety or in part, the Vendor shall be entitled to consider the contract or the part of it that has not yet been implemented dissolved by the mere lapse of the term stated or by the mere occurrence of one of the circumstances mentioned, without notice of default and without judicial intervention being required. Furthermore the Vendor shall be entitled to claim back the transferred though unpaid goods from the Purchaser without prejudice to the Vendor's right to compensation of costs, losses and interest.
2. The Purchaser waives the right to repudiate the contract.

#### **Article 15 : Rules on the settlement of disputes**

1. To all contracts to be concluded by the Vendor French law shall at all times be applicable.
2. The applicability of the United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11 April 1980 is excluded in respect of all contracts to be concluded by the Vendor.
3. All disputes regarding the conclusion, the interpretation or the implementation of the contracts, shall be settled by the court competent to take cognizance of the matter of the District in which the Vendor has her registered office, which is the Laval, Commercial Court.

#### **Article 16 : Translation**

In the event of contrariety or difference in the interpretation between the French text of the Conditions and a translated version of them, the Conditions in the French language shall prevail.