

# GENERAL TERMS OF SALES

## 1 - SUBJECT

Any Purchase Order placed implies the acceptance of our General Terms of Sales described hereunder. Unless special agreement written by us, any other provision shall be considered as null and void.

## 2 - PRICES

For all goods, our prices are exclusive of VAT, packaging included, Ex Works. For any order of a total amount, excluding taxes and shipping costs, of less than 500 euros (five hundred euros); a fee of 45 euros (forty five euros) will be applied as "service fee for minimum order".

## 3 - LEADTIME

The delivery leadtime is given in good faith as an indication and its non-observance shall not lead to the cancelation of the Order or any penalty.

## 4 - SPECIAL PRODUCTS

For any modification on a standard product of our catalogue, an extra cost shall be applied.

## 5 - TERMS OF PAYMENT

Our invoices are established on the date of shipment. They are payable to SAUMUR according to the following terms:

- Any invoice lower or equal to 230 € incl. VAT shall be paid by bank transfer upon receipt of invoice.
- at 30 days net date of invoice, by bank transfer.
- No discount shall be applied for down payments or early payments.

- All new customers shall proceed to a prepayment by bank transfer.

In case of late payment, we reserve the right to suspend any delivery until the complete payment of due amounts, or to cancel pending orders, without prejudice to any claims. Moreover, any delay in payment shall automatically and without prior formal notice lead to the payment of interest charges corresponding to 1,5 % per month.

By express agreement and unless postponement requested on time and accepted by us, the non-payment of our invoices on the due date fixed will lead to:

- the immediate payment of all sums remaining to be paid;
- the intervention of our Legal Department;
- the immediate payment, as damages and penalty clauses, of a compensation corresponding to 1,5 % of the due sums, besides the legal interests and the possible judicial expenses, as well as a fixed amount of compensation of 100€.

## 6 - RETENTION OF TITLE

Our goods remain our entire property until their full payment.

Despite the retention of title clause, the client shall bear all transport risks as well as the risks that may occur after receipt of the goods.

He shall be insured accordingly, and bear all charges.

On the context of normal exploitation of his establishment, the client is authorized to resell the delivered goods, but he may not pledge them or transfer the ownership as a guarantee. In case of resale, he shall assign to us all amounts receivable at his profit created by the resale to a third buyer. The authorization of resale shall automatically be withdrawn in case of suspension of payment by the buyer.

If the goods supplied contain other goods that do not belong to us, we shall acquire the co-ownership of the new equipment in the proportion of our rights. In case of any exterior intervention to take possession of the goods, the buyer shall inform us immediately.

The client acknowledges that in case of total or partial default of payment at the due date, or in case of his placement in receivership or liquidation, and eight days after a simple notification by registered letter remained without effect, he shall immediately return the goods to the company

ERCOGENER and pay to ERCOGENER a penalty of 15 % of the agreed price per month of detention. In case of disagreement about the modalities of goods restitution, it shall be obtained by means of an Order of the Referee given by Mr President of the Commercial Court of Angers.

## 7 - TRANSFER OF RISKS

The goods remain our property until their full payment. Any claim for damage or loss of part or the totality of goods shipped shall be done in written form with a registration letter to be sent to the carrier and the supplier, within forty-eight hours after the delivery.

## 8 - SHIPMENT COSTS

Our prices are established Ex-Works factory or warehouse.

The shipment costs are invoiced as an extra.

Whatever the method of shipment, all transport risks are at the recipient's own risks. The recipient shall then verify the content of his package upon reception and make the required reserve claims with the carrier in case of damage within the time limit and the conditions stated in article 105 of the Commercial Code.

## 9 - CLAIMS

Claims shall not constitute an obstacle to the rules. They must be sent within three (3) working days after receipt of the material. After this period, no claim will be accepted.

Claims related to the quality of delivered products shall be sent to ERCOGENER through a formal and indisputable notification within eight (8) days after delivery.

## 10 - RETURN OF MATERIAL

Any material shall be returned only with our written approval. A credit note shall be established only after inspection of the returned material in our offices and, in any case, shall correspond to an amount equal to 10 % of the value considered in correct condition. This amount shall be higher if the condition of the returned material justifies it.

## 11 - CANCELATION

The cancellation or suspension of an order shall be valid only with our consent and our written agreement stating the terms of compensation of the costs already incurred.

The termination of the contract involves the compensation for ERCOGENER of an amount estimated depending on the status of advancement of the contract, as well as the loss of profits and the copyright interests at the legal rate.

## 12 - WARRANTY

Provided that the product(s) was properly used and maintained in good conditions, ERCOGENER warrants the hardware and software parts of the delivered products during twenty four (24) months after the date of shipment. Batteries shall not be covered by the warranty.

If a Product supplied by ERCOGENER does not comply with the warranty described above, ERCOGENER shall have to repair or replace the product, or reimburse the price paid for the product returned during the warranty period, provided that:

a - ERCOGENER is immediately notified in a written form about the non-conformity of the Product with a detailed explanation of any alleged defect.

b - The alleged defective Product is returned to ERCOGENER after written acceptance through a return authorization document (RMA) at the client's risks and expenses.

c - The distribution products have a manufacturer warranty.

d - If the product is found to be defective, ERCOGENER shall have a reasonable time to repair or replace the Product, or to credit the client's account for the price paid for the Product,

after receipt of the Product.

The material under warranty returned after a repair shall be shipped back with carriage-paid for Metropolitan France or with carriage-due for other destinations.

## 13 - DISCLAIMER OF WARRANTY

The warranty shall not apply in the following cases: wrong use of the material, material transformed or already repaired by someone else than ERCOGENER, abnormal use, non-respect of installation or care instructions, installation non-compliant with the rules and security, destruction by mechanical shock, corrosion, overvoltage or other phenomenon.

ERCOGENER disclaims any liability for the integration of its products into systems when these systems are contractually beyond its control.

The seller shall not under any circumstances be responsible for any direct or indirect consequences, both on persons and goods, and no compensation can be claimed to him in any way whatsoever, including for the loss of use.

## 14 - AFTER-SALES SERVICE

During 3 months after the shipment date, the client shall have access to technical support from ERCOGENER.

This technical support shall be limited only to the problems linked to ERCOGENER Products. It shall not be a support for the integration of ERCOGENER products in equipment.

After the warranty period, any repair can be done in our offices as follows:

- shipment of material (transport paid by customer)
- quotation for repair or attestation of non-reparable material sent to the customer.
- after acceptance of the quotation by the customer, shipment of the repaired material.
- if the material is non-reparable: approval for destruction of the material or shipment of material not repaired (transport paid by customer).

## 15 - ASSIGNMENT OF JURISDICTION

The election of domicile is made in our headquarters. In case of dispute linked with the interpretation, execution of these Terms, sole jurisdiction is attributed to the Commercial Court of Angers, whatever the place of delivery, the accepted method of payment, and even in case of guarantee call or plurality of defendants.

## 16 - STUDIES AND PROJECTS

always keeps the entire hardware and intellectual ownership of projects, studies, drawings and any document provided to the buyer before or after the sale, shall it be concluded or not. The buyer is prohibited from performing them, copying them even for his own use, and disclosing them to any person, especially to the competitors of ERCOGENER. He is the guarantor of the fulfillment of these obligations by his employees or his partners. These documents shall be sent back to ERCOGENER as soon as the material is delivered or, if the purchase order is not placed, within 2 months after their remittance and, in any case, upon any request of ERCOGENER. As well, ERCOGENER is the exclusive owner of any patent, model or process which could be obtained from these studies.

## 17 - INTELLECTUAL PROPERTY

ERCOGENER shall acquire the sole and entire property of results and studies specifically developed, or making part of a specific Purchase Order, of works carried out within the scope of this Agreement and/or Purchase Orders, including source codes, compilers, schemas, designs, models, technical documentation, user guides, instruction sheets, process, etc. and/or any element of knowledge necessary to obtain the Products. ERCOGENER shall keep the entire and exclusive intellectual property of all programs, source codes, compilers, schemas, designs,

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models, technical documentations, user guides, instruction sheets, process, etc., already existing before a specific study, for the add-on and updates of these elements.

As the global solution proposed to the Customer is based upon software blocks owned by ERCOGENER, a right of use, based on a non-transferable license shall be granted to the Customer using the solution developed for the Customer. The price of this license shall be included in the selling price.

In case of change of the project or product scope, ERCOGENER may ask a financial compensation for the use of its soft.

The Customer shall nevertheless recognize the exclusive right of ERCOGENER to use the results of this study for the manufacturing of its Product depending on Customer needs.

In the case where these results and studies would be subject to industrial protection, only ERCOGENER shall be able to submit any request of industrial property title, in its own name and at its own expense.

Unless written approval from ERCOGENER, the Customer shall commit not to use for manufacturing purposes, nor to disclose or transfer to a third Party, partially or totally, with or without compensation, the results and studies linked to a specific Purchase Order and/or specifically related to the Products, as well as any document and information related to the execution of this Agreement and Purchase Orders.

Unless written approval from ERCOGENER, the Customer shall commit not to reproduce out of Purchase Orders scope, and not to ask or allow the reproduction of Products, as well as the documentation related to Products and/or Services supplied by ERCOGENER.

The subcontractors shall be subject to the same obligations as the ones defined in this article and the Customer shall commit to stipulate these obligations in all purchase orders placed to its subcontractors.

The execution or the termination of this Agreement and/or Purchase Orders shall not discharge the Customer from the obligations of this article.

## 18 - PRODUCTS EVOLUTION

ERCOGENER reserves the right to improve at any time the specifications, content, design, brand, labeling and packaging of its Products if ERCOGENER considers these modifications as necessary or recommended, provided that an upward compatibility is maintained. ERCOGENER shall commit to maintain the marketing of a Product during six (6) months after the written notification of this Product end of life.

Upon written notification of the end of life, ERCOGENER commits to provide the documentation and technical samples necessary to the developments and tests related to the product change. After this notification, the Customer shall have one (1) month to place a firm Purchase Order for its last needs. ERCOGENER shall not be obliged to apply these modifications on Products already delivered.

In case of minor change (software adjustment, replacement of component) on a Product, four (4) months (development and tests) shall be respected between the change notification, with the supplying of documentation and technical samples, and the definitive switch to the new Product.

An end of life shall not under any circumstances be announced during the initial period as defined in paragraph 19 of this Agreement.

## 19 – REGULATORY CONSTRAINT (ROHS, CE, ..)

ERCOGENER shall not be responsible for the end use of the product, and for the associated regulatory constraints. It shall be the duty of the client to ensure that ERCOGENER products are compatible with the end product constraints.

All ERCOGENER Products have been developed in accordance with all proper rules. They have all gone through specific validations.

ERCOGENER shall not be able to ensure the legal

provisions application whose respect involves the precise knowledge of this final destination. ERCOGENER shall then be released from any liability.

The client agrees that the Products shall be used in MtoM applications.

Audio and video data shall not be included in ERCOGENER MtoM Products scope. Otherwise, the client may be exposed to Fees and Royalties according to operators' rules.

## 20 - LIMITS OF LIABILITY

In no event shall ERCOGENER be responsible for any loss of profit, loss of use, incidental and indirect, and any damage without exception even if ERCOGENER could have been informed about such damage possibility.

The Customer shall not under any circumstances hold ERCOGENER responsible in case of action by a third Party, including the end customer.

## 21 - FORCE MAJEURE

ERCOGENER shall not be responsible for any failure or delay in performance due to causes beyond ERCOGENER control. Shall be considered as a force majeure case, any event which is:

- Independent from the will of the Party bringing it up,
- Unpredictable and
- Whose effects are irresistible,

preventing the execution of all or part of contractual obligations, excluding these events, making the execution only more difficult or more expensive.

The following elements shall be considered as force majeure events, and this, including but not limited to: war or state of war, civil wars, insurrections, riots, fire, explosions, natural disasters (floods, earthquakes), epidemics or quarantine restrictions, acts of public authority, governmental priority, requisitions, national strikes. ERCOGENER may postpone the delivery date during a period equal to the delay caused by such an event. Due to possible events mentioned above, in case of Product shortage, ERCOGENER shall commit to allocate the available production to the client in proportion to the volumes made before the force majeure event and after a case-by-case analysis of the crisis scenarios.

## 22 – NON-SOLLICITATION OF EMPLOYEES

Unless previous written approval, each Party (ERCOGENER and the customer) shall commit not to hire or make work, directly or indirectly, or through a third Party, any collaborator of the other Party carrying out the work of this Agreement and its possible amendments, even if the initial solicitation comes from the collaborator himself.

This commitment shall be valid during the whole period of this Agreement and its amendments and during twenty four (24) months after the end of the last works. In case of non-respect of this commitment by a Party, this Party shall provide to the other Party a compensation fixed at fifty thousands (50 000) euros per concerned collaborator, without prejudice to any other rights of compensation and reparation.

## 23 – APPLICABLE LAW

The Sales agreement shall be governed by and construed in accordance with the laws of France.

Any conflict or controversy arising between the Parties linked or not with this Agreement, during or after the Term of this Agreement, shall be solved by arbitration in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

The Parties shall use their best efforts to solve by direct negotiation any dispute that could arise between them in relation with this Agreement.

Any dispute arising from the non-execution or the interpretation of this Agreement that would be not solved by direct negotiation shall be submitted to the Commercial Court of Angers.

## 24 - RIGHTS OF COMMUNICATION

The Parties shall have the right to mention the existence of this agreement without mentioning its scope. The Parties shall consult in a fair and reasonable way before any publication mentioning the other Party.