

GENERAL TERMS AND CONDITIONS OF SALE

ARTICLE 1 – SCOPE AND EFFECT

1.1 Unless otherwise stated in a written agreement, all orders placed by the Buyer with VIATIS SA (hereinafter referred to as « VIATIS ») for the purchase of machines, parts, consumable and/or services (hereinafter referred to as « Products ») manufactured, distributed, provided, sold or marketed by VIATIS, shall be governed by these General Terms and Conditions of Sale.

ARTICLE 2 - QUOTATIONS

2.1 All quotations made by VIATIS to the Buyer shall be valid for a period of 30 days from the date they are made unless otherwise specified in the quotation. The delivery time stated in a quotation is only an indication and starts on the later of the following two dates (i) the date on which all the information, documents and other elements required to process the orders are received by VIATIS, or (ii) the date of acknowledgement of receipt of the order by VIATIS. Furthermore, any delay on the date of receiving the initial down payment (if any) will result in delay on the delivery time.

ARTICLE 3 - ORDERS

3.1 VIATIS will accept an order by acknowledging receipt of the same to the Buyer. The order form, the appropriate acknowledgement of receipt, and the General Terms Conditions of Sale shall form the Contract between VIATIS and the Buyer. No order shall be deemed to have been accepted until an acknowledgement of receipt has been issued by VIATIS.

3.2 Cancellation of order

By the Buyer: all orders placed by the Buyer shall be deemed to be firm and binding. If the Buyer cancels an order he shall pay to VIATIS as damages, 100% of the value of the order, if the order is cancelled less than 2 weeks before the scheduled delivery date. The damages shall amount at least to 80% of the value of the order, if the order is cancelled more than 2 but less than 4 weeks before the scheduled delivery date. The damages shall amount at least to 50% of the value of the order, if the order is cancelled more than 4 weeks before the scheduled delivery date.

By VIATIS : VIATIS reserves the right to cancel or suspend all or part of an order if the Buyer does not comply with any of its obligations, in particular where payment or supply of information, documents and other elements required to process the order are concerned.

ARTICLE 4 - TERMS OF PAYMENT

4.1 All prices are quoted in Euro and shall be delivered "Ex Works", Bôle (or Vauxmarcus), Switzerland, pursuant to the Incoterms 2000, excluding packaging and transportation. Prices are, net of all taxes and all other duties required by the relevant authorities, which have to be born by the buyer. For deliveries within Switzerland prices will be increased by the applicable VAT.

4.2 Payments must be made in accordance with the terms agreed upon. Unless other terms have been agreed and accepted by written by VIATIS, payment is to be made in the following instalments without any deduction on account : 1/3 as down payment by order and 2/3 upon readiness to deliver.

4.3 Invoices related to initial or progress payments shall be paid in full amount 30 days net to VIATIS as from their date of issuance.

Final invoices have to be paid in full amount 30 days net to VIATIS as from their date of issuance, providing that acceptable payment securities, equivalent to an irrevocable letter of credit in favour of VIATIS have been provided prior to the delivery of the Products. In case that such securities have not been provided, the final invoice is payable prior to the delivery of the Products. Any discount payment shall request VIATIS' prior written approval.

4.4 VIATIS shall be entitled, without prejudice to any other right or remedy, to an interest for late payment at the 3 months LIBOR rate of due date majoré by 5 percent per annum until outstanding invoice is paid in full without waiver by VIATIS of its right to immediate payment. Such interest shall be calculated from the due date for payment thereof to the date of actual payment. Interests received by VIATIS are net of withholding tax, if any.

In addition, VIATIS shall have the right not to undertake any further delivery, pursuant to the corresponding order or to any other order, until full payment with interests is received from the Buyer by VIATIS.

4.5 The fulfilment of VIATIS' obligations shall not be subject to any Bank financial warranty.

ARTICLE 5 -RETENTION OF TITLE

VIATIS shall retain title to the Products after delivery to the Buyer, until the order has been fully paid for. Should the Buyer fail to pay, VIATIS may claim back the Products supplied without prejudice to any other right or damages.

ARTICLE 6 – DELIVERY AND TRANSFER OF RISKS

The Buyer shall bear all risks with respect to the Products from the time the same are put at the carrier's disposal according to the Ex Works Incoterms 2000. In the case the Buyer does not give any instruction to the contrary at the time of placing the order, VIATIS may contract for carriage at the Buyer's risk and expense. The Buyer shall take out all necessary insurance to indemnify VIATIS as owner of the Products against any loss or damage thereto.

ARTICLE 7 - WARRANTY

7.1 - Standard Warranty provisions

Warranty period for machines: VIATIS warrants that the machines supplied to Buyer shall comply with their functional specifications for a period of one year as from the date of delivery thereof to the Buyer. Buyer shall notify VIATIS of any defects affecting the Products within 8 days after the same are discovered.

Warranty for consumable, parts and wear and tears parts : VIATIS warrants that the consumable and parts supplied to Buyer shall comply with their functional specifications. The Buyer shall inspect the consumable and parts at their delivery. Claim for defective consumable and parts have to be done in written form to VIATIS within 8 days from the date of part receiving.

VIATIS' warranty is strictly limited to (at VIATIS' sole option, provided that the Products are confirmed as defective by VIATIS) :

- the replacement of the consumable, or
- the replacement or repair of parts or machines, or
- the refund of the Products' value to the Buyer

Defective products must be returned to VIATIS in their complete original packaging, following VIATIS return procedures. If the original packaging is not available, the Buyer shall ensure that the Products are returned to VIATIS in a packaging that adequately protects said Products. No Products shall be returned if the acceptance number relating to the return procedure is missing. All Products shall be returned, at Buyer's expense, with a report from the Buyer stating the complete details of the alleged defect.

This warranty does not cover:

- Products which have been damaged by the Buyer or which have been stored under conditions which do not comply with VIATIS specifications or normal use.
- Products submitted to abnormal conditions (mechanical, electrical, thermal), being defined as any conditions exceeding the ones stated in the product specifications.
- Products which are incorrectly installed or integrated by the Buyer or anyone other than VIATIS.
- Products modified by the Buyer or anyone other than VIATIS, including, without limitation, configuration and adjustment modifications.
- Damages caused by products, devices or systems not supplied by VIATIS or by events of force majeure, such as but not limited to acts of God.
- Damages which have not been reported to VIATIS within 8 days as from the date on which they were discovered by Buyer.

The remedies provided in this Section are in lieu and to the exclusion of all other remedies, obligations or liabilities on the part of VIATIS for damages, whether in contract, tort or otherwise, and including but not limited to, damages for any defects in the Products or for any injury, damage, or loss resulting from such defects or from any work done in connection therewith or for consequential loss, whether based upon lost goodwill, lost resale profits, impairment of other goods or arising from claims by third parties or otherwise.

VIATIS disclaims any express warranty not provided herein and any implied warranty, guaranty or representation as to performance, quality and absence of hidden defects, and any remedy for breach of contract, which but for this provision, might arise by implication, operation of law, custom of trade or course of dealing, including implied warranties of merchantability and fitness for a particular purpose.

ARTICLE 8 – LIABILITY LIMITATIONS

8.1 EXCEPT FOR DELAYED DELIVERY WHICH COMMANDS THE APPLICATION OF LIQUIDATED DAMAGES PURSUANT TO SECTION 8.2 BELOW, THE AGGREGATE LIABILITY OF VIATIS TO BUYER, HOWEVER ARISING, INCLUDING BUT NOT LIMITED TO LIABILITY ARISING OUT OF CONTRACT, TORT, BREACH OF WARRANTY, CLAIMS BY THIRD PARTIES OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE PRICE EFFECTIVELY PAID BY BUYER FOR THE PRODUCTS OR SERVICES WHICH GAVE RISE TO THE CLAIM. VIATIS SHALL NOT BE HELD LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, SUCH AS, WITHOUT LIMITATION, LOSS OF REVENUE, LOSS OF OPPORTUNITY, LOSS OF PROFIT, BUSINESS DISRUPTION, LOSS OR INACCURACY OF DATA, DEPRIVATION OF ENJOYMENT OR OTHER ECONOMIC LOSS, EVEN IF VIATIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

8.2 If VIATIS fails to meet the delivery schedule acknowledged by VIATIS for reasons exclusively due to VIATIS, VIATIS shall for any delay exceeding a grace period of ten (10) working days, pay to the Buyer as liquidated damages, the amount of 0,2 % of the price of the delayed batch of Products per full week of delay. Such liquidated damages shall not exceed 4 % of the price of the delayed batch of Products. Payment of such sums shall be the Buyer's exclusive remedy for any damages suffered as a result of such delay and shall be in full satisfaction of VIATIS' liability therefore.

ARTICLE 9 - FORCE MAJEURE

VIATIS shall not be considered as liable for late delivery or failure in the performance of its obligations, for reasons beyond its reasonable control such as but not limited to fire, flood, earthquake, war, strikes and lock outs, inability to obtain raw materials, any unpredictable manufacturing problem and any other unforeseeable and/or unavoidable event. VIATIS shall send to the Buyer written notice stating the delay and cause thereof, within at least 15 days as from the dates of the occurrence of the force majeure event.

ARTICLE 10 – APPLICABLE LAW - JURISDICTION

The supply contract(s) entered into between VIATIS and the Buyer pursuant to these General Terms and Conditions of Sale shall be governed by and interpreted in accordance with the laws of Switzerland, to the exclusion of any conflicts of laws provisions and to the exclusion of the Vienna Convention on the International Sale of Goods dated 11th April, 1980. Any dispute which cannot be settled amicably will be submitted to the exclusive jurisdiction of the Civil Court of Neuchâtel, Switzerland.

ARTICLE 11 - SEVERABILITY

Each provision herein is severable from the entire General Terms and Conditions of Sale, and in the event that any provision is declared invalid or unenforceable, the parties shall endeavour to replace such provision by a provision which is valid and enforceable and reflects to the extent possible the original intent of the parties. The invalidity or unenforceability of a provision shall not affect the validity or enforceability of the other provisions herein contained, which shall remain in full force and effect.

ARTICLE 12 – OTHER TERMS AND CONDITIONS

Purchase orders shall be binding as to the products and services ordered and shall be governed by these General Terms and Conditions of Sale. Other terms and pre-printed terms on or attached to any Buyer's purchase order shall be void.