

## 1 PURPOSE

1.1 **Scope of work.** The present General Terms and Conditions of Sales (hereinafter "GTCS") define the terms and conditions applicable to any Order. Every Order rightfully implies from the Purchaser (i) the acceptance of these GTCS, (ii) the respect of the legal and regulatory provisions, (iii) the renoucement to its own general conditions of purchase.

1.2 **Order of priority.** The documents shall prevail in the following order: (i) the Offer; (ii) the GTCS; (iii) the Order; (iv) any annex or other document referred to.

1.3 **Generalities.** The GTCS can be adapted, by specific conditions of sales, if the specificities of the transaction allow it.

## 2 DEFINITIONS

**"Acceptance"** means the written acceptance without reserve of the Order by NEXEYA FRANCE.  
**"Delivery"** means the reset of the Products to the Purchaser by NEXEYA FRANCE.  
**"Delivery"** means the putting at disposal of the Provisions ordered by the Purchaser at the factory gate.  
**"Force Majeure"** means any unpredictable, irresistible and exterior to the Parties event.  
**"Offer"** means any documents constitutive of a commercial proposal (with any change related to), including without limitation the commercial, technical and financial documents, sent by NEXEYA FRANCE to the Purchaser with the GTCS.  
**"Order"** means any purchase order placed by the Purchaser concerning the Products.  
**"Parties"** means indistinctly the Purchaser and/or NEXEYA FRANCE, given the context.  
**"Price"** means the price of the Order, without any taxes and free from any pecuniary debt.  
**"Products"** means any software, programs, tools, systems, data or other materials made available by NEXEYA FRANCE to the Purchaser in the course of the performance under these GTCS, including, but not limited to, the software and its documentation, as well as any information, materials or feedback provided by the Purchaser to NEXEYA FRANCE relating to the software and its documentation.  
**"Purchaser"** means any moral or physical person, of any nationality, who orders to NEXEYA FRANCE.

## 3 OFFER – ORDER

3.1 **Validity duration.** The Offer is valid for 30 days from its sending by NEXEYA FRANCE.

3.2 **Issuance.** The Orders shall be addressed to NEXEYA FRANCE in writing. NEXEYA FRANCE retains the right to refuse the Orders of an amount inferior to 150 € taxes not included.

3.3 **Acceptance.** For lack of any Acceptance or denial, with reservations or not, in Writing by NEXEYA FRANCE within ten (10) days from its receipt by NEXEYA FRANCE, the Order or the proposal of change of the Order shall be considered as denied.

**Modifications.** Any modification of the Order shall be subject to an amendment.

## 4 CHANGES AND DEROGATIONS

4.1 **Changes.** Each Party can submit propositions of change of the Products to the other Party. NEXEYA FRANCE shall not be committed by conditions, reservations or obligations addressed by the Purchaser, without a prior written acceptance. The changes directly consecutive to (i) a change in the national and international laws, regulations and standards, or (ii) the changes due to obsolescence shall be the object of a derogation request and be charged upon the Purchaser. Each change shall be subject to a quotation issued by NEXEYA FRANCE. The acceptance of the change by NEXEYA FRANCE depends upon the acceptance of the quotation by the Purchaser. The Parties hereby acknowledge that the updates of drawings, technical control specifications, manufacturing processes are not changes.

4.2 **Derogations.** Any requests for derogation from the Purchaser addressed during the performance of the Order shall be notified in writing to NEXEYA FRANCE as soon as possible. In case NEXEYA FRANCE accepts the aforementioned derogation, the Price shall be renegotiated and the Purchaser shall bear any consequence (financial, material and technical) generated by such a derogation. NEXEYA FRANCE shall not be liable for any consequences resulting from any delay incurred by a lack of agreement upon the Price.

## 5 PRICE – INVOICE - PAYMENT

5.1 **General.** Euro is the only currency, invoicing and payment currency.

5.2 **Taxes.** Taxes, excises, or other governmental charges are to be charged to the Purchaser at their calculated amount at the date of issuing of the invoice.

**Prices.** The Prices indicated in the Offer have been established with respect to the economic conditions prevailing at the date of submission of the Offer, for the validity duration of the Offer. Beyond this period, they shall be revised.

5.3 **Invoicing.** The invoice related to each delivery shall be established in 2 originals. Each invoice shall concern one sole Order and mention its reference number, its designation, the chapter's reference, the reference numbers and the dates of the delivery slips which the invoice relates to.

5.4 Each invoice shall apply to a sole Order and mention its reference and designation. The Purchaser shall not be entitled to deny the payment of a whole invoice for a contest on part of this invoice.

5.5 **Payment.** The payment period of the invoices shall be 30 days net date of issuing of the invoice. By default, NEXEYA FRANCE could invoice from the date of the delivery or on presentation of a *proforma* invoice as part of a first business relation or for punctual orders. The payment shall be done on the bank account designated by NEXEYA FRANCE.

5.6 **Late penalties.** Each late payment shall be rightfully followed by the application of (i) a late penalty, payable from the day following the date of payment indicate on the invoice, equal to 5 times the legal interest rate multiplied by the Price and (ii) an indemnity for recovery costs of 40 euros.

## 6 PACKAGING, DELIVERY AND ACCEPTANCE

6.1 **Incoterm.** The delivery shall conform to the INCOTERM 2010 defined in the Order. Without any other precision in the Offer, the Supplier shall make the delivery FCA.

6.2 If, in title of the specific conditions of sales, NEXEYA FRANCE is responsible for the transportation of the Products to the place agreed upon with the Purchaser, NEXEYA FRANCE commits to perform this transportation in the standard conditions of security of persons and properties.

6.3 **Packaging.** The Party responsible for the packaging shall comply with the applicable regulations and with the state of the art.

The Product shall be delivered with the documentation necessary to its good use, its storage and its maintenance, and with a delivery slip (placed in a waterproof envelope), mentioning the reference of the Order. This slip can be accompanied with a declaration of conformity to the Order, duly stamped by authorized staff of NEXEYA FRANCE.

6.4 **Delivery and late delivery penalties.** In the case of partial Deliveries, the rights and the obligations of both Parties described hereunder in this article apply separately and independently for each partial Delivery.

By default of any contrary mention in the Offer, NEXEYA FRANCE is not bound by any Delivery period.

NEXEYA FRANCE should not be liable for Delivery delays (i) if the payment conditions have not been respected by the Purchaser; (ii) if the information of all kind related to the performance of the Products have not been transmitted by the Purchaser on time; (iii) in case of Force Majeure. In case of Delivery delay by NEXEYA FRANCE, a period of grace of 30 days is granted by the Purchaser. From the 31<sup>st</sup> day of delay, the Purchaser shall be entitled to apply a withholding penalty equal to 0,5% of the Price of the Products delayed by delay day. The total amount of this penalty shall not exceed 5% of the Price of the Products delayed. The Purchaser renounces to all recourse, right or claim against NEXEYA FRANCE in title of the aforementioned delay.

6.5 **Acceptance.** The Purchaser shall notify NEXEYA FRANCE in writing of any damage to the Products suffered during the transportation within a three-day period from the Delivery. The alleged damages shall be noticed upon off-site and on-site by the duly mandated representatives of NEXEYA FRANCE within an eight-day period from the Delivery. No claim against NEXEYA FRANCE shall be admissible in title of a damage suffered by a Product during its transportation in case of non-respect of any of these formalities.

## 7 TRANSFER OF RISKS AND OWNERSHIP

7.1 **Risk.** The transfer of the risks upon whole or part of the Products is effective as per the applicable Incoterms.

7.2 **Documentation.** The Purchaser is solely responsible for the communication of data necessary to perform the Products. The Purchaser guarantees the accuracy of these data.

7.3 **Ownership.** The transfer of ownership shall occur upon full payment of the Products and any related penalties owed by the Purchaser under the Order. Therefore, it is hereby understood that NEXEYA FRANCE retains the ownership upon all Products until their integral payment. Should the Parties agree on a transfer of ownership at the Delivery of the Products, then the Purchaser shall be liable toward NEXEYA FRANCE of all damages cause to said Products.

## 8 QUALITY MANAGEMENT

8.1 **General.** NEXEYA FRANCE commits to fulfil its obligation of performance of the Products with respect to the state of the art.

8.2 **Control.** Any request for inspection of NEXEYA FRANCE's premises will be subject to a 15 days prior written notice. NEXEYA FRANCE reserves the right to refuse such a request with justification. A schedule and modalities of the inspection will be agreed upon by the Parties.

## 9 STOP-ORDER / CANCELLATION OF ORDER – RETURN OF PRODUCTS

9.1 **Stop-order.** A stop-order of all or part of the Order for any reason not related to NEXEYA FRANCE's failure shall be notified with a 30-days prior written by the Purchaser to NEXEYA FRANCE. Then, NEXEYA FRANCE will: (i) cease any operation related to the performance of the Order, (ii) address the Purchaser with an inventory with all relevant documents about the progress of the Order (iii) establish, on the basis of this inventory an invoice, (iv) claim compensation for any damage and loss suffered due to the stop-order. If the stop-order period exceeds three (3) months, NEXEYA FRANCE shall be entitled to terminate all or part of the Order.

9.2 **Cancellation.** No cancellation of Order shall be possible without the prior written consent of NEXEYA FRANCE. Should NEXEYA FRANCE accept such cancellation, then NEXEYA FRANCE will: (i) cease any operation related to the performance of the Order, (ii) address the Purchaser with an inventory with all relevant documents about the progress of the Order (iii) establish, on the basis of this inventory an invoice, (iv) claim compensation for any damage and loss suffered due to the cancellation.

9.3 **Return.** The Purchaser shall return Products to NEXEYA FRANCE under the following conditions:

- The concerned Products have not been subject to final inspection in factory
- The motivation of the return shall be explained for each returned Product
- The return shall be done with the initial packaging, in good conditions, to the expenses of the Purchaser
- Without prejudice to the foregoing alinea, the Purchaser shall return the material as initially Delivered to it.

NEXEYA FRANCE retains all rights related to the acceptance of the Products' return. In the case NEXEYA FRANCE accepts the return of Products, it retains the right for each returned Product to take all clearing measures, including, but not limited to, the repair, the reimbursement, the exchange whatever be its form.

## 10 WARRANTY

10.1 **Legal and conformity warranty.** NEXEYA FRANCE warranty (i) that the Product is conform to standard practice and to state of the art, (ii) the Product against any vice or defect, whether the it results from a design, production, material or workmanship defect, (iii) that the Product conforms to the technical specifications defined in the Order and to the specifications, plans and models prescribed, and (iv) that the Product is in accordance with the use which the Purchaser destines it.

10.2 **Commercial warranty.** The duration of the commercial warranty shall be specified in the Offer or, by default, it shall be 12 months factory return from the delivery of the Products. In title of this warranty, NEXEYA FRANCE shall, at its own discretion, (i) replace the deficient Product, (ii) make it proper to its provided use or (iii) reimburse the Price paid by the Purchaser.

**10.3 Enforcement of the warranty.** Notwithstanding the foregoing, the aforementioned warranty does not cover for instance the defects caused by Products by an unappropriated / non recommended / excessive use of these Products, should such use occur during its transportation, maintenance, exploitation or storage. The Purchaser shall notify within a 2 days period from its arising any defect of normal operation as part of the normal use of the concerned Products. Notwithstanding the foregoing, the warranty request and NEXEYA FRANCE's solution to answer such request does not suspend nor extend the initial warranty period. The warranty will cease to apply if the Purchaser takes on its own any action on a Product covered by the aforementioned warranty.

## 11 CONFIDENTIALITY

11.1 Each Party commits to keep confidential, for the duration of the Order and for 5 years after its termination and/or cancellation, the data, regardless of their nature and form, which it could have been granted access to by the other Party during the negotiations or the performance of the Order. Each Party commits, except with prior written agreement from the other Party, not to (i) disclose any confidential data to third parties, (ii) use the confidential data to reproduce or allow the reproducing by third parties of the Products, of similar products or derivatives ones, or for any goal other than the performance of the Order. This obligation is of result. Each Party commits to disclose the confidential data provided by the other Party only to those of its employees needing it to perform the Order. Each Party assumes toward the other Party the respect by its employees and subcontractors of the confidentiality of the aforementioned data. Each Party assumes toward the other Party the respect by its employees and subcontractors of the confidentiality of the aforementioned information.

11.2 The Purchaser grants NEXEYA FRANCE the right to use its logo and to mention the purpose of the Order in any advertising document, whatever be its support.

## 12 INTELLECTUAL AND INDUSTRIAL PROPERTY

**12.1 Background IPR.** Each Party shall retain the whole ownership of its background knowledge, such as, but not limited to, the know-how, data (process, methods, algorithms, specifications...), software, titles and intellectual and industrial property rights, owned or controlled by this Party prior to the Order or obtained, created or elaborated independently of the performance of the Order. In the case that the use of the background knowledge of the Purchaser should be necessary to the use or the manufacturing of the Products, the Purchaser shall grant NEXEYA FRANCE a non-transferable and limited to the scope and duration of the Order licence.

**12.2 Foreground IPR.** NEXEYA FRANCE owns the whole property of the results of the studies, developments and/or services performed in title of the Order, including, but not limited to, all inventions, documents, software, materials, information, data, know-how and knowledge, whether technical or not, elaborated or obtained by NEXEYA FRANCE during and in relation with the performance of the Order (hereinafter "the Results"). However, in the case the applicable law would award the Purchaser the ownership of the Results, the latter shall grant NEXEYA FRANCE, for free and for the duration and countries concerned, the ownership of the Results.

**12.3 Infringement.** NEXEYA FRANCE holds the Purchaser harmless from any third party claims about infringement of intellectual property rights protected in France and related to the Products used or delivered to the Purchaser in accordance with the Order, with respect to the following cumulative conditions:

- The Purchaser shall notify NEXEYA FRANCE of any such claim within thirty (30) days from the receipt by the Purchaser of the notification of the claim.
- The Purchaser shall recognize in writing the right for NEXEYA FRANCE to take all measures which would seem appropriate for NEXEYA FRANCE to clear the claim.

The warranty against forgery of intellectual property rights does not apply in the following cases: The infringement results from (i) the use of components from the gross market for which NEXEYA FRANCE has not obtained similar warranties from its own supplier, (ii) the combination or the association of Products with any other article, machine or process, or from any change of whole or part of the Products resulting from an action of a person other than NEXEYA FRANCE and without its prior written agreement, and (iii) for the infringements related to the whole or part of the Products carried out, developed or modified in compliance with a conception or requirement from the Purchaser.

To prevent any infringement, NEXEYA FRANCE may, at its discretion: (i) obtain any license necessary to use the Products, (ii) modify or replace any incriminated Product to avoid further infringement, or (iii) if such a solution is impossible because of economic or technical reasons, recover and reimburse the incriminated Product at the then market price.

## 13 LIABILITY AND INSURANCE

**13.1 General liability.** NEXEYA FRANCE shall be liable for the performance of the Order, including the works subcontracted to a third party. NEXEYA FRANCE shall not be liable, directly nor indirectly, for any kind of damage caused to properties and/or persons, and resulting from the respect of the instructions given by the Purchaser to perform the Order.

**13.2 Third party liability.** Each Party shall personally assume all direct or indirect pecuniary consequences of its incurred by physical, material or immaterial damages caused to third parties during the performance of the Order and any related additional.

Except with the prior written consent of NEXEYA FRANCE, the Products cannot be used in survival and artificial life support equipment or for any other use of the Products which defects

could lead to endanger the human life. NEXEYA FRANCE hereby declines any liability and obligation for the whole damages possibly resulting from the infringement of the rules of use.

## 13.3 Liability between the Parties.

**Concerning physical damages:** each Party shall personally assume all the consequences of the accidents suffered by its directly or indirectly employed staff, and renounce, on its behalf and those of its subcontractors, entrepreneurs and suppliers which the Party gives an undertaking for, to all recourses against the other Party for any damage caused to its staff (subject to their personal rights, those of their assignees and those of the social security or similar institution). In case of any recourse or claim introduced to the other Party for the aforementioned damages by the aforementioned persons, the Party which employs directly or indirectly the staff shall hold the other Party harmless from the aforementioned recourse or claim.

**Concerning material damages:** NEXEYA FRANCE will not be liable for any damages to property resulting from any cause whatsoever. This limitation applies to all products and services performed during and after the warranty period. In no case shall NEXEYA FRANCE be liable for any damages resulting from loss of data, loss of use or loss of revenue or profit and NEXEYA FRANCE further disclaims any and all liability for indirect, incidental, special, consequential, punitive, or other similar damages.

**13.4 Liability limitation.** The total amount of the aggregate liability of NEXEYA FRANCE resulting from the Order, whatever be their causes, shall be limited to the amount actually paid by the Purchaser to NEXEYA FRANCE for such Order.

**13.5 Insurance.** NEXEYA FRANCE shall own and maintain an insurance policy sufficient to cover the risks and liabilities incumbent upon it.

## 14 EXPORT CONTROL

14.1 The Products, some of their components or data delivered to the Purchaser (hereinafter the "Deliverables") are potentially submitted to French and/or foreign export control regulations (hereinafter the "Export Regulations"). The Parties assume that the respect of the Export Regulations constitutes a substantial obligation of NEXEYA FRANCE.

14.2 NEXEYA FRANCE shall (i) identify prior to the performance of the Order the Deliverables submitted to the Export Regulations, (ii) immediately notify the Purchaser with any evolution of the Export Regulations, (iii) provide the Purchaser all necessary information about the application of the Export Regulations and (iv) notify the Purchaser with any need of assistance required to conform to the Export Regulations.

14.3 In the case the Deliverables are to be delivered in France and the Purchaser possesses the French nationality, NEXEYA FRANCE shall provide the Purchaser with all necessary information related to the Deliverables.

14.4 In the case the Deliverables are to be delivered out of France and/or the Purchaser does not own the French nationality, the Purchaser shall provide NEXEYA FRANCE with all necessary information required by the Export Regulations and the competent administrations for the obtaining of export authorizations. NEXEYA FRANCE will request the export authorizations based on the information provided by the Purchaser. NEXEYA FRANCE shall not be liable in any manner for the inaccuracy, the imprecision or the incompleteness of such information. NEXEYA FRANCE shall not be liable in any manner for a denial of export authorization from the competent administrations.

## 15 TERMINATION

In the case NEXEYA FRANCE should not comply with its obligations, and after a formal notice with acknowledgement explaining the motivation and the breaches, remained unsuccessful for 30 days, the Purchaser shall be entitled to terminate the whole or part of the Order. The Purchaser shall notify NEXEYA FRANCE with the date from which it will, in the presence of NEXEYA FRANCE, establish a statement of the progress of the Products. The Price owed by the Purchaser to NEXEYA FRANCE shall be calculated pro rata of the amount indicated in the Order.

## 16 TRANSFER OF THE CONTRACT – SUBCONTRACTING

16.1 The Purchaser shall not, in main or secondary title, sell, transfer or subcontract its rights and obligations under the Order, for free or for a fee, without the prior written agreement of NEXEYA FRANCE.

16.2 On the other hand, NEXEYA FRANCE has the right to sell or transfer, in whole or in part, its rights and obligations to a third party, including its subcontractors, for the whole or part of the Order.

## 17 APPLICABLE LAW – JURISDICTION

These GTCS and the Order are governed by the French law. Any dispute or claim related to the interpretation, the performance and/or the cancellation of the Order, which could not be resolved amicably by the Parties within a period of 30 days from its arising, shall be decided upon by the Commercial Court of Paris.

In ....., the .../.../20...  
On behalf of the Purchaser: