

§1 Scope of validity

The following General Terms and Conditions apply to all business relationships between XAL SARL, 10 Rue Pecquay, 75004 Paris, France, (hereinafter called 'Seller') and its Customers. The version valid at the time of the conclusion of the contract is applicable. Even if acknowledged, variant, opposing or supplementary general business conditions will not become an integral part of the contract, unless their validity is expressly agreed to in writing by the Seller.

§2 Conclusion of Contract

(1) All Seller's quotations are without obligation and subject to confirmation. A contract is only concluded when the Seller issues a confirmation of order or makes a delivery after receiving an order from the Customer. An order from the Customer always represents a binding offer. The Seller reserves the right to decline an order, for example upon evaluation of the Customer's creditworthiness.

(2) Specific Customer's instructions, i.e. with regard to delivery dates, discounts or the like, shall not be binding until explicitly confirmed by the Seller in the confirmation of order. The Seller creates catalogues on- and offline and any other sales documents, lists and drawings, as well as weights and measurements with the adequate care, but reserves the right to subsequently correct errors.

(3) The Seller reserves the right to partial or non-performance of a contract in case of the Seller's incorrect or improper deliveries by suppliers. In this case, the Seller undertakes to inform the Customer without delay and any compensation will be reimbursed.

§3 Reservation of title

(1) Notwithstanding delivery and the passing of risk, property in and title to the goods, including full legal and beneficial ownership, shall remain with the Seller until full payment of the price of (a) all goods and/or services which are subject of the contract and (b) all other goods and/or services supplied by the Seller to the Customer under any contract whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between the Customer and the Seller.

(2) The Customer shall be entitled to transform the goods or to incorporate them in a new product or products. In that case the Seller reserves the legal and equitable title to the final product or products into which the goods are incorporated or mixed. The Customer shall store the final products separately and property of these products shall remain with us until full payment will have been made to us for the goods.

(3) The Customer may sell the goods in the normal course of his business but on condition that the Customer, in a fiduciary capacity as bailee of the goods, and for so long as he has not fully discharged his debt to the Seller, shall hold and pursue claims for the proceeds of their sale equal to the price of the goods for and on behalf of the Seller. The Customer shall fully pursue such claims and if necessary shall recover the sums due by legal process. The Customer shall if so required by the Seller, allow the Seller to conduct in the Customer's name legal proceedings in respect of the monies due on the sale of the goods. Any sums recovered by us as a result of such proceedings (including sums accepted by the Seller in settlement thereof whether or not equal to the sums claimed) shall be applied to the payment of the monies due to the Seller from the Customer and then to the reasonable costs incurred by the Seller in the course of such proceedings. Prior to the sale of the goods, the Customer shall, so far as reasonably practicable, store the goods separately from similar goods of the Customer, mark the goods as our property and shall not remove, obliterate or in any manner alter any label, mark or other means we may have of identifying the goods.

§4 Prices and Terms of Payment

(1) The prices and the terms of payment stated in the Seller's order confirmation shall apply. To all prices quoted and all extra expenses, the Seller adds the legally applicable value added taxes. Should the Seller's costs increase by the time of delivery, the prices can be recalculated on a pro rata basis. The prices stated shall apply net ex works.

(2) The Seller shall be entitled to request a payment in advance if there is reasonable doubt about the Customer's creditworthiness or for other legitimate reasons.

(3) Customers are committed to paying the invoice amount within 14 days with no deductions after the date of the invoice. Payments shall be made free of charge to the Seller's payment office in the agreed upon currency (EURO unless otherwise stated). Differing terms and conditions of payment have to be agreed to in writing by the Seller. In case of delays in payment by the Customer, the Seller shall be entitled to charge an annual rate of interest of 12% for the duration of the delay. Furthermore, Customers undertake to reimburse any amount paid or expenditure arising from the collection of receivable, e.g. the dunning fees and collection charges or other costs incurred for any necessary legal measures.

(4) The Seller may accept cheques but is not obliged to do so. If paying by cheque, payment shall only be deemed effected after the account has been credited.

(5) Customers shall only be entitled to a right of set-off provided that their counter claims have been judicially determined or are uncontested and acknowledged by the Seller. The retention of payments for counter claims shall be excluded.

(6) All and any claims shall become due immediately, should the Customer default payment or if the Seller becomes aware of circumstances suitable to reduce the Customer's creditworthiness. In this case the Seller shall be entitled to make any outstanding deliveries only against advance payment or to withdraw from the contract after setting a reasonable extension period.

§5 Delivery and Transfer of Risk

(1) As far as the scope of delivery is concerned, the Seller reserves the right to change the design and equipment of the goods delivered due to technical reasons or in compliance with legal or official requirements.

(2) Unless otherwise agreed in writing with the Seller, the terms and dates of delivery are provided to the Customer as a point of reference only and are not binding. The exceeding of a delivery time, by any possible cause, will not be a cause to claim an indemnification and cannot clear the Customer of his obligation. The Seller shall be

held free and harmless against all liability in the event of force majeure, strikes, lock-outs, and similar conditions. The Seller has the right in such circumstances to terminate the contract without the buyer being entitled to claim any compensation.

(3) The Seller shall have the right to make partial or advance deliveries and to settle payments.

(4) Goods ready for shipment must be called off immediately, otherwise after 14 days following the notification for the readiness for dispatch, the Seller is entitled to store them at the risk and cost of the Customer.

(5) Failing express agreement, the Seller's premises shall be the place of performance for the delivery. The risk of damage or loss of the goods passes to the Customer upon notification to the Customer that the goods are ready for collection or upon handing over the goods to the carrier or any other person or company charged with transporting the goods.

§6 Warranties

(1) Seller's warranty obligation towards Customers shall only apply to defects that appear when observing the applicable operating conditions and putting the item to normal use. In particular, the warranty does not apply to defects resulting from any circumstances for which the Customer or third parties are responsible. No warranty is granted by the Seller for wear and tear or minor defects of the surface. Any warranty obligation of the Seller shall come into effect only if the installation was carried out by a professional. Light devices and parts subject to wear as well as used products shall not be covered by the warranty. Similarly, the Seller shall not accept any warranty, when accepting repair jobs or reworking or modifying old as well as third-party goods.

(2) The Customer is obliged to examine the delivered goods with regards to defects within a reasonable time and shall report obvious defects to the Seller in writing within a week of receiving the goods; otherwise the assertion of warranty is excluded. Hidden faults must be reported in writing within a week of discovery. Customers bear the full burden of proof that all the conditions for a claim are met, especially for the defect itself, for the point in time when the defect is established and that the defect is reported in time. For those defects covered by the Seller's warrant obligations, the Seller shall be entitled to choose to offer either to rectify the defect or provide a replacement. The Seller shall be given the time necessary to examine and remedy the defects or supply replacement parts or equipment, as applicable. The costs and risks of transporting the good to and from the repair center must be borne by the Customer. For the rectification of defects on the Customer's premises, any travel costs are borne by the Customer. Any removal of a defect or other warranty remedy shall not result in a renewal of the warranty period. The Seller shall only refund costs for remedying a defect, undertaken by the Customer or by a third party, if the Seller has given his written consent. The period of warranty is one year as of the delivery of the goods. Even within this period, the seller has no warranty obligations if the Customer is in arrears with payments.

§7 Liability

(1) Outside of the scope of product liability law, the Seller's liability is limited to malicious intent or gross negligence.

(2) Liability for slight negligence, compensation for consequential and financial losses, savings not achieved, loss of profits, lost data, losses of interest, and for damages resulting from claims made by third parties against Customers are ruled out.

§8 Termination

(1) Should the Seller fall behind with deliveries through gross culpability, Customers are entitled to declare their withdrawal from the contract in writing by a registered letter addressed to the Seller after expiry of a reasonable period of grace of at least 30 days.

(2) Customers provided that for no wider legal right of withdrawal applies, are entitled to withdraw from a contract with the Seller's explicit consent within 45 days from the issue date of the delivery note against payment of a cancellation fee of 20 % of the order value. After this 45 days period, Customers have the right to withdraw from a contract within another 45 days against payment of a cancellation fee of 40 % of the order value. Because of the administrative effort the cancellation fee amounts at least EUR 20,-. After the expiration of 90 days from the issue date of the delivery note, withdrawal from a contract is not admissible. Withdrawal is excluded for NANO-Articles (including STADIO, PICO, MICRO, JUST, etc.), trade goods, for articles, which are explicitly marked as excluded from withdrawal in the catalogue, and if a customised product (including customised cuts) was manufactured by the Seller for the Customer. Customers are obliged to return any deliveries on their own costs to the Seller. The difference between cancellation charge and order value will only be credited to the Customer if the goods are returned in undamaged condition. The right to assert a claim for actual damage in a larger amount is reserved.

(3) Without prejudice to other legal rights of rescission, the Seller shall be entitled to rescind the contract in particular (a) if either, after the conclusion of the contract, some circumstances occur whereby the fulfilment of the contract is no longer costeffective or even impossible under the terms agreed upon, or (b) in case the delivery, for reasons that are the responsibility of the Customer, cannot be carried out or is further delayed even after a reasonable period of grace set by the Seller. The Seller reserves the right to claim further damages.

§9 Disposal of packaging waste

Unless otherwise required by law, all legal obligations concerning disposal of packaging waste remain with the customer.

§10 Final provisions

(1) If any provisions of the contract with the Customer, including these General Terms and Conditions, are or become ineffective, in full or in parts thereof, the validity of the other provisions shall not be affected. In this event the parties are obliged to replace a completely or partially invalid provision with one that most closely corresponds to the intended purpose of the original provision.

(2) Any dispute will exclusively be judged in accordance to the French Laws and by the courts of the judicial district of Paris (France).



§11 Data Protection

(1) The protection and safety of the customers' data is important to the Seller. The seller processes customer data only according to data protection law, with legal basis and for adequate purposes, especially to fulfil contracts and other legal obligations. Details are contained in the Data Protection Information of the Seller, which constitutes an integrated part of these Terms and Conditions.

(2) Customers enjoy data protection rights, especially the rights to access information, rectification, erasure, restriction of processing, data portability, to object and lodge complaints. Further information is contained in the Sellers [Data Protection Information](#).