

1. APPLICATION OF THE TERMS OF SALE

These terms of sale and all subsequent versions are freely available to everybody on the seller's internet site www.dsmith-kaysersberg.com. Placing an order invokes the purchaser's complete and unconditional acceptance of these terms of sale. They take precedence over those appearing in the purchaser's documents and, in the absence of express seller's acceptance, any contrary conditions set by the purchaser are incontestable to the seller.

Should one of these clauses be nullified, the other clauses remain valid.

2. ORDERS

2.1 Any order is analysed as a promise to purchase. Orders become firm when the seller has confirmed them in writing.

2.2 Any modification or cancellation of an order requested by the purchaser can only possibly be taken into consideration if it is given in writing at least 48 hours before the manufacturing of the goods. In case of modification of an order by the purchaser, the seller will be untied of the agreed initial deadlines. If the seller does not accept the modification or cancellation, any deposits paid will not be refunded.

3. DELIVERY

3.1 Terms. Unless otherwise indicated on the order, delivery is considered to have been made from the moment the goods are made available on the seller's premises. If their collection is the purchaser's responsibility, failure to collect the goods leads to the seller taking the necessary steps to store the goods at the purchaser's expense, or proceeding with delivery after official notification for removal of the goods.

3.2 Deadlines. Delivery deadlines are indicative unless a firm and imperative date has been agreed between the seller and the purchaser. In this case only, the purchaser can cancel the order for failure to respect dispatch deadlines, after official notification and excluding any right to compensation, penalty or order's cancellation.

4. TRANSFER OF RISK, ACCEPTANCE AND CLAIMS

4.1. The goods travel at the purchaser's risk. In the event of damage or loss, it is up to the addressee to make any reserves to the carrier, in compliance with article L 133-3 of the French commercial code. Failing that, the delivered goods will be considered accepted by the purchaser.

4.2. No action for non-conformity could be taken by the purchaser more than 30 days after the delivery of the goods.

5. PRICE and PAYMENT

5.1 Price. Industrial manufactures being specifics to each order, prices and potential reduction are fixed on estimate. Prices appearing on the seller's acknowledgements of receipt may be modified. Any tax or duty or other payment to be made with respect to the application of French regulations of those of an importing or transit country, are to be borne by the purchaser.

5.2 Terms of payment. Unless otherwise indicated on the invoices, these are payable cash on reception and with no discount.

If there is a discount, it will be deducted from the seller's taxable turnover, the amount of taxes to be recovered by the purchaser must be reduced by the amount of tax imputable to the discount.

5.3 Delay in payment or failure to pay. In the event of a delay in payment, the seller may suspend all current orders, without prejudice to any other type of action. Any sums unpaid on the due date given on the invoice will lead to the application of penalties for an amount equal to three times the legal interest rate. Penalties are due without official notification (article L 441-6 al 12 of French regulations of those of an importing or transit country).

In the event of failure to pay, forty eight hours after official notification has remained without response, the sale will be cancelled ipso jure, should the seller so wish, without prejudice to any other claims for damages.

When the payment is in instalments, failure to pay an instalment will lead to an immediate demand for payment of the whole debts, without official notification.

When delivery is split into several deliveries, failure to pay for a delivery gives the seller the right to suspend future deliveries, without official notification.

When the payment occurs after the due date, penalties will be calculated as from the due date until the date of effective payment. These penalties will be payable on reception of a notification informing the customer of the exact amount of which he will be debt.

5.4 Guarantee requirements. The seller reserves the right to request specific guarantees in the event of delayed payment or risk of insolvency (in particular advance payment, bank guarantee, statements of protest, liens or collateral taken out on the purchaser).

The purchaser's refusal to provide the requested guarantees may invoke the right to claim the goods under the conditions envisaged in the retention of ownership clause stipulated in this document. Current orders not yet delivered will be cancelled ipso jure, because of the customer's action and exclusively due to his fault. The customer will then be required to pay a cancellation fee equal to the value of the goods not yet delivered.

5.5. The penalty clauses appearing on the purchaser's commercial documents, as invoicing of lump penalties for delay or quality default, are non-opposable to the seller.

6. RETENTION OF OWNERSHIP AND SUBROGATION OF DEBT

6.1 RETENTION OF OWNERSHIP. THE SELLER RESERVES THE RIGHT TO OWNERSHIP OF THE GOODS DELIVERED BY HIM UNTIL PAYMENT OF THE PRICE HAS BEEN MADE IN FULL AND IN THE EVENT OF THE ISSUE OF CHEQUES OR BILLS OF EXCHANGE, UNTIL THEY HAVE BEEN CASHED.

DURING THE PERIOD OF RETENTION OF OWNERSHIP, THE RISKS HAVING BEEN TRANSFERRED TO THE PURCHASER ONCE THE GOODS ARE MADE AVAILABLE ON THE SELLER'S PREMISES, THE PURCHASER MUST INSURE THE GOODS AGAINST ANY RISK OF DAMAGE. THE INSURANCE POLICIES WILL INCLUDE DETAILS OF THE SELLER'S QUALITY AS OWNER. THE GOODS IN STOCK AT THE PURCHASER'S PREMISES ARE PRESUMED TO BE THOSE WHICH ARE UNPAID UNLESS OTHERWISE STIPULATED.

IN THE EVENT OF NON-PAYMENT (TOTAL OR PARTIAL) OF THE PRICE ON THE DUE DATE, THE SELLER MAY REQUEST THE RETURN OF ALL GOODS NOT YET FULLY PAID FOR, INCLUDING THOSE NORMALLY PAYABLE AT A LATER DATE, IPSO JURE AND WITHOUT FORMALITY. THIS RETURN, MADE AT THE PURCHASER'S EXPENSE AND RISK IS NOT ACCEPTED AS EQUIVALENT TO CANCELLING THE SALE. IN THE EVENT OF PROCESSING OF THE GOODS WITHOUT MATERIAL CONTRIBUTION, THE MODIFICATIONS MADE TO THE GOODS WILL BE SUPPOSED TO HAVE BEEN CARRIED OUT ON BEHALF OF THE SELLER. IN THE EVENT OF INCORPORATION OF NEW MATERIAL IN THE GOODS DELIVERED, THE SELLER WILL BE CO-OWNER OF THE GOODS FOR THEIR INITIAL VALUE.

6.2 Subrogation of debt. The purchaser is authorised to resell the goods delivered, in the course of his normal business. However, he then transfers to the seller all debts in his favour originating from resale to the third party purchaser (taker). The purchaser is authorised to recover his debts, even after transfer, without affecting the seller's right to recover his debts himself. However, the seller agrees not to recover the debts if the purchaser meets his payment obligations correctly. The seller may require the purchaser to keep him informed about the debts transferred to him and provide the names of debtors and all information necessary for recovery and that he supply the relevant documents and inform the debtors of the transfer.

When the goods delivered are resold with other goods which do not belong to the seller, or after processing, the purchaser's debt against the third party purchaser is held to be transferred for the price agreed between the seller and the purchaser. No dispensation can be accorded by the seller without proof of the purchaser's notification to the debtors of his subrogation to the seller for the amounts due.

7. RESPONSIBILITY

7.1. The seller takes the greatest care in the production, packing and delivery of the products. However, in the event of delay or manufacturing defects, duly recognised by the seller and except in respect of death or personal injury resulting from negligence, his obligation will be limited to the reparation of direct damage only and to replacing the defective quantities, including for the case of legal guarantee for hidden defects. In any case, the seller's liability shall exclude any loss of profit and any indirect or consequential loss or damage whatsoever. The purchaser's claim does not suspend the obligation of payment of the concerned goods.

7.2 The seller declines to accept any responsibility, particularly with respect to the content and veracity of information printed at the customer's request about the seller's products.

8. TECHNICAL CLAUSES

8.1. The seller reserves the possibility of having the product and its technical specifications evolving while preserving its performances. This lies within the scope of European Union's Directives related to the taking into account of environmental requirements in the design and the manufacture of packaging.

8.2. Unless there is a specific agreement between the purchaser and the seller, the technical conditions are detailed in the Common Practice Code for the Paper and Cardboard Commerce and Industry and in the Common Practice Code for Corrugated Board Industry. They will be supplied to any purchaser on demand.

9. DATA PROCESSING AND LIBERTIES

In accordance with the law "Data processing, Files and Liberties", N° 78-17 of 06.01.1978, the purchaser has the right to access and rectify named information concerning himself.

10. ATTRIBUTION OF JURISDICTION. APPLICABLE LAW. TRANSLATION.

IN THE EVENT OF FAILURE TO REACH A FRIENDLY SETTLEMENT, ANY LITIGATION WILL FALL WITHIN THE COMPETENCE OF THE COLMAR COURTS, WHICH HAVE SOLE JURISDICTION, EVEN IN THE EVENT OF A GUARANTEE APPEAL OR MULTIPLICITY OF DEFENDANTS.

THE APPLICABLE LAW IS FRENCH LAW.

The French version of these terms of sale prevails over any translation of them.

The French version is available at simple request.