

# GENERAL TERMS AND CONDITIONS OF SALE

## 1. INTERPRETATION

- Buyer: The person, firm or company who purchases the Goods from the Company.  
Company: DAXI S.A.  
Contract: Any contract between the Company and the Buyer for the sale and purchase of Goods.  
Goods: Any goods or services agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

## 2. APPLICATION OF TERMS

- 2.1. Any special conditions contained in the Company's quotation shall take precedence over these Conditions.
- 2.2. Subject to Condition 2.1, the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.3. No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract.
- 2.4. These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a duly authorized representative of the Company.
- 2.5. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing shall exclude or limit the Company's liability for fraud.

## 3. DESCRIPTION

- 3.1. The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.
- 3.2. All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

## 4. DELIVERY

- 4.1. Unless otherwise agreed in writing by the Company, delivery of the Goods shall be EXW Jumet (2ème Rue Zone Industrielle 20), Belgium (Incoterms 2010).
- 4.2. The Buyer shall take delivery of the Goods within 7 days of the Company giving it notice that the Goods are ready for delivery.
- 4.3. If the Buyer fails to accept delivery:
  - (a) risk in the Goods shall pass to the Buyer;
  - (b) the Goods shall be deemed to have been delivered; and
  - (c) the Company may store the Goods until delivery, and the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.4. Time for delivery shall not be of the essence. If no dates are so specified, delivery shall be within a reasonable time.
- 4.5. Where delivery takes place at premises specified by the Buyer, the Buyer shall provide at the point of delivery and at its expense adequate and appropriate equipment and manual labour for loading the Goods.
- 4.6. The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.7. Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro-rata Contract rate against any invoice raised for such Goods.

## 5. TITLE

- 5.1. The Goods are at the risk of the Buyer from the time of delivery.
- 5.2. Title to the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
  - (a) the Goods; and
  - (b) all other sums which are or which become due to the Company from the Buyer on any account.
- 5.3. The Buyer's right to possession of the Goods shall terminate immediately if he is declared bankrupt or insolvent, makes an arrangement with his creditors, enters into liquidation, has a receiver or administrator appointed, a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or the equivalent of any of the above in any applicable jurisdiction.

## 6. PRICE

The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

## 7. PAYMENT

- 7.1. Unless stated otherwise, payment of the price for the Goods is due in full, in Euro and in cleared funds within 30 days from the date of the invoice.
- 7.2. The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an equal amount to be paid by the Company to the Buyer.
- 7.3. If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 4% above LIBOR from time to time.

## 8. QUALITY

- 8.1. The Company warrants that on delivery and for a period of 12 months from the date of delivery, the Goods shall be of satisfactory quality and reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of the Company.
- 8.2. The Company shall not be liable for a breach of warranty unless:
  - (a) the Buyer gives written notice of the defect to the Company, within 10 days of the time when the Buyer discovers or ought to have discovered the defect; and
  - (b) the Company is given a reasonable opportunity after receiving the notice of examining such Goods.
- 8.3. The Company shall not be liable for a breach of warranty if:
  - (a) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if none) good trade practice; or
  - (b) the Buyer alters or repairs Goods without the Company's written consent.
- 8.4. Subject to Conditions 8.2 and 8.3, if any of the Goods do not conform with the warranty the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, at the Company's expense, return the Goods or the part of such Goods which is defective to the Company.
- 8.5. If the Company complies with Condition 8.4 it shall have no further liability for a breach of warranty in respect of such Goods.
- 8.6. Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 12 month period.

## 9. LIMITATION OF LIABILITY

- 9.1. Subject to Condition 9.3:
  - (a) the Company's total liability arising in connection with the performance or contemplated performance of the contract shall be limited to the Contract price; and
  - (b) the Company shall not be liable to the Buyer for any indirect or consequential losses, including but not limited to loss of profit, loss of business, or depletion of goodwill.
- 9.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3. Nothing in these conditions excludes or limits the liability of the Company for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability or for fraud or fraudulent misrepresentation.

## 10. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the fulfilment of its obligations due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials. If the event in question continues for 90 days or more, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

## 11. GENERAL

- 11.1. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 11.2. The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Belgian law and the parties submit to the exclusive jurisdiction of the Courts in the district of Charleroi.