

## **SUMELEC Group**

### **GENERAL TERMS AND CONDITIONS OF SALE OF GOODS (GTCS)**

#### **1.- DEFINITIONS**

The following general conditions of sale shall apply to all sales by SUMELEC. In this document concerning the General terms and conditions of sale (from now on GTCS) the following words shall have the following meanings:

"Seller" means SUMELEC or any company belonging to SUMELEC Group, which shall appear in the offer or any document resulting from the application of these current GTCS.

"Buyer" or "Purchaser" means any legal or natural person who buys Goods from the Seller or with whom the seller transacts.

"Goods" or "Products" means the articles, spare parts or set of items subjected to the contract, as described within the GTCS, and, in that case, in the Seller's order confirmation, to be supplied to the Buyer by the Seller.

"Manufacturer" means the third party producing/manufacturing the Products or Goods or develops the Services on Sumelec's behalf, which are sold, distributed and supplied by Sumelec, or if required the distribution channel establishes in each particular case.

"Delivery" means completion of transactions (delivery and receipt). Products/Goods are to be made available on Ex-Works Seller's conditions.

#### **2.- SCOPE**

These GTCS shall apply to all contracts/agreements for the sale of Goods or Services provided by third parties by the Seller to the Buyer, excluding all other terms and conditions referred to, offered or relied on by the Buyer whether in negotiation or at any stage in the dealings between the parties, including any standard or printed terms tendered by the Buyer, unless the Buyer specifically states in writing, separately from such terms, that he wishes such terms to apply and this has been acknowledged by the Seller in writing.

Any offer, agreement or contract subscription, means the Buyer/Purchaser's renouncing his or her general conditions of purchase and/or any other stipulation/provision, and therefore, acceptance of the current GTCS.

All orders shall be placed in written and are subjected to the Seller's explicit acceptance/approval.

The present GTCS shall be considered to have been communicated to the Buyer as of the time the Buyer has received the Seller's offer, attaching/including these GTCS.

Alternatively, the GTCS are considered reported to the Buyer, if (1) the Buyer has previously received them in the course of his or her commercial relationship with the Seller, and therefore being considered accepted by the Buyer at all costs when his or her order is placed, if (2) the Buyer has been informed and noted (either by mail or email) of the link to these GTCS on Sumelec's website the moment the Buyer receives these offers.



The Seller may update and/or modify the information within the present General Conditions of sale any time without prior notice, hence it is recommended to check/verify them periodically.

In case the competent Courts declare any provision of these GTCS null, this shall not affect the remaining provisions of these GTCS which will remain in force. In this case, the parties will negotiate and try to reach an agreement within an alternative article, which replaces the repealed provision, and whose intentions and content is as similar as possible to the latter.

### **3.- DELIVERY TIME/PERIOD**

The Seller shall do his best to deliver the Products/Goods and Services within the established delivery time, which constitutes an estimate and has non-binding character whatsoever, thus the Seller does not guarantee, under no circumstances, meeting these deadlines.

Unless the Seller is responsible for gross negligence or willful misconduct, the delivery period expiration shall not entitle the Buyer to demand damages or compensation, to refuse delivery of the Products, or to suspend the performance of any obligation, in particular, the obligation to pay, or even to demand its termination.

The time limit shall run from the date on which the offer is accepted by the Buyer and the Seller complies with his obligations. The delivery times shall be understood as extended for as long as circumstances of force majeure, which may suspend or hamper the works, and/or any other circumstances attributable to the Seller and/or third parties, including without limitation, delay in the payment date or non-compliance of contractual obligation, in which case the delivery times shall be understood as prolonged for as long as the reasons causing that delay are resolved.

### **4.- RISKS AND TRANSFER OF OWNERSHIP**

Unless the contract specifies otherwise, the conditions upon delivery will be EX-WORKS Seller.

The Seller Will notify the Buyer regarding the availability of the goods within the delivery period. The Buyer Will inform within ten (10) days of notification, both the name of the carrier as well as the loading conditions. If the Buyer fails to comply, the risk shall pass to the Buyer from the day the material is found ready for shipment, and (i) the Seller shall be entitled to store the products at the Buyer's expense and risk by charging the Buyer for storage charges a minimum of 0.5% of the invoice amount for each week or fraction thereof, (ii) the price of the products shall be deemed immediately due and payable. After a period of one (1) month after the date on which the price has expired, the Seller may reasonably dispose of the products without notice to the Buyer for the purpose of recovering any costs and losses which may have been incurred, without prejudice to the Buyer's obligation to pay.

The Seller expressly reserves ownership of the Products, which shall remain its property until Buyer complies with the full payment of the agreed price. Should the Buyer file for bankruptcy, he shall refrain from including the aforementioned Products in his assets and shall inform the Seller immediately.

The Buyer is obliged to proclaim the existence of this reservation of title to whoever proceeds in any event. The Buyer shall be obliged to keep the Products in his possession with all due diligence and care and insure them against all possible risks at his own expense.

Consequently, the Buyer shall refrain from any act of disposition, assignment or encumbrance, by any title, in respect of the goods as long as any amount of the payment remains outstanding

In the event that the Buyer sells the Products, the Seller may claim payment from the new Buyer, even if the sale has been added to other products.

It is agreed that the Buyer may not avoid the restitution of the goods at the first request submitted by the Seller applicable to this reservation of title. If this assumption is not met, the Buyer may face a sanction relating to a claim for damages for abusive resistance.

## **5.-PRICE**

All prices are net prices, VAT, taxes, duties or charges excluded, which will be afterwards reflected in the invoice within the corresponding rates. Unless otherwise stipulated in writing between the Buyer and the Seller, the prices of the supply do not include the costs of packaging, transport, loading and unloading, insurance, customs at the Buyer's expense and risk, and will be subject to an additional charge on the selling price.

As a general rule, in case of exiting offers prior to the order confirmation, the offered prices would be valid for one (1) week, and these shall be considered fixed prices as per the payment conditions specified in the offer throughout the duration of this period.

If the costs or materials used by the Seller in execution/manufacturing of the Products underwent modifications or changes after the date the offer was addressed to the Buyer by the Seller, the latter may pass on such an increase in price to the Buyer upon notice. In such a case, the Buyer may proceed to cancel the order, without any liability of either party against the other party, within seven (7) days after receiving such notice. In the event that the Buyer would accept the increase in price within the aforementioned seven (7) day period, the new price shall be deemed to be accepted by the parties for all purposes.

## **6.- PAYMENT CONDITIONS**

These conditions shall be subject to what is stated in the Seller's offer, or in the subsequent order confirmation (if necessary). In the event that these documents do not indicate anything in this respect, they will be subject to the provisions as per Law 15/2010, of the 5th of July, amending Law 3/2004, of the 29th of December.

All invoices issued by Seller shall be deemed to be approved and compliant unless the Buyer discloses its disagreement in writing to Seller within seven (7) days of receipt thereof.

In case of partial deliveries, the Seller shall be entitled to invoice and demand payment of each partial delivery and to issue partial invoices; and the Buyer shall be obliged to pay such invoices following these GTCS.

The payment date will be the actual date that the Seller shall receive the payment.

If the amount due has not been paid by the due date, the Buyer shall pay the Seller the corresponding monthly interest in accordance with the Directive 2000/35/EC of the European Parliament and of the Council, of the 29th of June 2000, by which measures are established to combat late payments in commercial operations, from the date established for payment until payment is received in full, and without prejudice to any other right corresponding to the Seller, including the right to collect any judicial and/or extrajudicial costs that may be incurred to recover the amounts owed.

The payment period is an essential condition, so if the Buyer defaults on its payment obligations, does not pay on time or in full, the Seller will be entitled to suspend any commitment or obligation arising from the Agreement until the Buyer meets his obligations, or even to terminate the Agreement, and all without prejudice to the Seller's

right to collect damages suffered by late execution or even non-execution of the Agreement.

In the event of agreeing to payment in installments, a failure to pay a single installment contractually fixed shall result in the early maturity of the entire debt.

Furthermore, in the event of payments, staggered provisions/deliveries, the non-payment of delivery shall give the Seller the right of retention on future deliveries.

In these cases, installment payments, should the Buyer waiver the first payment does not entitle him to retract the/his order. However, in the event of cancellation of the order due to personal reasons, any advance payment shall remain Seller's property as compensation for damages caused.

The Buyer's declaration of bankruptcy or the judicial or extrajudicial liquidation or, generally, any modification of its legal status that could affect its solvency in any way, will entitle the Seller to immediately demand all credits referred to the Buyer's delivered and unpaid goods.

## **7.- RESOLUTION/SETTLEMENT**

In those cases where the Buyer fails/breaches to carry out any of his obligations or there is reasonable doubt as to whether it will perform these obligations, the Seller shall be entitled to terminate the contractual agreements. He shall also be entitled to recover his title to the Products, without detriment to the Seller's rights, in particular the right to receive full compensation for the damage suffered, including the collection of all judicial and extrajudicial costs. Furthermore, the Buyer shall pay the Seller all amounts due or outstanding which shall be considered due and payable outright in these proceedings.

The Buyer shall not be authorized to terminate the Agreement except after payment of all amounts due up to that moment to Seller, including amounts not yet due, as well as any damages that the Seller may suffer.

## **8. CONSPICUOUS/APARENT DEFECTS**

The Buyer shall notify the existence of apparent defects to the Seller within 72 hours of delivery.

It is understood by conspicuous or apparent defects, those referred to lack in the number of pieces in the Products or defect in the quality or condition of the Product, which can be noticed by the Buyer through ocular inspection or a minimum control in the products' reception of the products.

If the claim is not made within the period indicated above, it will be understood that the goods have been received in perfect conditions.

## **9. WARRANTY**

The Seller, in his capacity as distributor or head supplier, supplies the Products or Services with the Manufacturers' warranty and is committed to address any claim covered by the warranty to the manufacturer, provided that the claim has been notified in writing to the Seller within 48 hours after it has been detected or when it should have been detected.

The Manufacturer's warranty for each product shall be communicated by the Seller in writing in the tender, in the sales contract, or upon delivery of the Product at the Buyer's request.

The Buyer undertakes to address its claim to the Manufacturer under the terms of the warranty and in no case to the Seller who will not be liable in any case for product defects attributable to the Manufacturer.

The Seller shall not be liable for any loss, damage of any kind resulting from initial supply, delivery delays in products or services, or substituted or repaired products.

In no event shall the Seller be accountable towards the Buyer or any third party for direct, indirect or consequential loss or damage resulting from or in connection with the subject of this contract, including accidents to persons, damage to property other than the subject of the contract or profit loss. Any commitment and obligations of the Buyer resulting from the existing guarantees with his customers which exceed the above and which have not been accepted by the Seller specifically in writing shall be on the Buyer's behalf.

The Seller shall refrain from placing any claims to the Manufacturer referring to improper use, replacement, repair, modification, conservation or alteration, or lack of maintenance, according with the maintenance instructions outlined by the Manufacturer.

The Seller shall provide the Buyer with the necessary information and documentation, including operating manual (if any), in order to exercise his duties, at the Buyer's request.

With regard to the warranty, the provisions of these GTCS shall prevail over any subsequent agreement that may contradict these.

## **10.- RESPONSABILITIES**

The Seller shall not be liable for any damages, including those caused to personnel and/or property of third parties, including the Buyer, his personnel or third parties.

In no event shall the Seller be held liable for indirect or consequential damages that may occur as a result of the supply, detailing in an instructive but not limited, the production loss, the profit loss, the downtime costs, the products' breakdowns or other parts or equipment other than the Products, from the Buyer or third parties, accidents at work or suffered by third parties, accidents and incidents against the Environment, etc..

The seller's full responsibility derived from the supply referred to any concept of any nature, is limited to the value of the supply that has originated the claim.

## **11.- INFORMATION AND INTELLECTUAL PROPERTY**

The intellectual and/or industrial property of the Seller's brand, the offer, the information attached, the Products, and/or the supplies, as well as the elements, plans, drawings, "software", etc...It is therefore expressly forbidden for the Buyer to use them for other purposes than the fulfillment of the order, as well as its total or partial copy or cession of use in favor of third parties, without the Seller's express prior consent.

All intellectual and industrial property rights arising from and/or related to data and/or documents provided or prepared by the Seller shall continue to be held by the Seller, unless otherwise agreed, not granting the Buyer any right or permit concerning the information or material transmitted.

The Buyer may not, without the Seller's prior written permission, modify, alter, cover, or omit brands or trade names of the Products.

## **12.- BUYER'S DRAWINGS AND DESIGNS**

Provided the Buyer specifies in writing the Products with a particular design, data or manner of manufacture, the Seller shall execute such provided if these have been accepted. In other cases, the Seller may modify the Products, provided that such modifications are not substantial or that these have been agreed with the Buyer, in which case such modifications shall not constitute a breach of contract or give rise to liability on the Seller's part.

Seller shall not be liable for any failure to perform or defective execution of Products if it is the consequence of errors, incompetence or other inaccuracies in the data and/or information, in its broadest sense, supplied by or on behalf of Buyer.

The Seller's examination of such data/information shall not, in any event, limit the Buyer's liability unless the Seller specifically assumes this responsibility this in writing.

The Buyer shall indemnify the Seller against all arising costs and damages of any kind as a result of the manufacture of the Product in accordance with the technical characteristics and information provided by the Buyer, or when infringement of patents, trademarks or models of industrial and intellectual property is incurred.

## **13.- TECHNICAL INFORMATION**

The scope of supply and product characteristics shall be specified in the order confirmation.

The weights, dimensions, capacities, technical specifications, characteristics and configurations relating to the Seller's products included in catalogues, brochures, leaflets, and technical literature are indicative and non-binding, except for those cases in which they have been explicitly accepted by the Seller.

## **14.- BUYER'S USE OF THE PRODUCT**

The Buyer shall be solely responsible and agrees to indemnify the Seller for any loss or damage incurred by the Seller as a result of the use of the Products differently to as stated in the instructions given by Seller or for another purpose other than for which the products were supplied.

The Buyer ensures the Seller:

- (i) that all legal requirements or authorizations of public bodies referred to the Products and the applications to which the Products are subjected will be complied with.
- (ii) that while the Products are in his possession or under his control, the Buyer shall comply with such requirements,
- (iii) that he shall endeavor that any purchaser of the Goods also complies with these requirements,
- (iv) that the Buyer shall indemnify the Seller for any liability arising out of or as a consequence of the failure to comply with such requirements.

## **15.- INSOLVENCY/BANKRUPTCY**

In the event the Buyer is declared insolvent, in an arrangement with creditors, in a controlled administration or similar; the dissolution, liquidation or transfer of all or part of his assets, the Seller may proceed to the resolution and termination of the agreements by written notice, without prejudice to the Seller's rights, such as receiving

full compensation for the damages suffered. In addition, the Buyer shall pay the Seller all amounts due or outstanding which shall be considered due and payable in these proceedings.

## **16.- LIMITS OF EXPORTS**

In the event that any of the Products supplied by Seller are subject to export control regulations, the Buyer shall refrain from exporting such Products either directly or indirectly, without the Seller's prior written authorization.

In this regard, the Buyer agrees and undertakes to notify the Seller of any sale to a company located in the United States and/or Canada, or which it may reasonably believe his Customer may introduce the Product into such markets.

## **17.- FORZE MAJEURE**

The Seller shall not be liable for defective or non-execution of any agreement, due to force majeure, in its broadest sense.

Force majeure means any circumstance beyond the Seller's control which prevents, the execution of all or any of the Seller's obligations towards the Buyer, temporarily or permanently and regardless of whether these circumstances were foreseen or not at the time of the conclusion of an order, agreement, contract, etc...such as, but not limited to: governmental measures, refusal, revocation or annulment of permits, business closure,

forced closure of a part of the whole the business, war or threat of war, fire, transportation problems, accident, labor disturbance, lack of personnel, embargoes, temporary or permanent non-delivery of samples, non-performance of services by third parties without regard to their cause, defects and/or breakdowns in material, machinery, systems and/or software and hardware, absence or lack of material with which the Products are manufactured.

If the Seller is unable to deliver as a result of force majeure, he shall have free choice to extend the delivery period during the period of force majeure or to terminate the Agreement, as well as to demand payment for the partial delivery, without being obliged to pay any damage or compensation to the Buyer.

## **18.- NOTIFICATIONS**

Any communication related to the current contract shall be made in writing in Spanish, the official language of the contract, and shall take effect within 24 hours after it has been sent by registered mail to the registered office of the parties.

## **19.- LAW AND COMPETENT COURTS**

All agreements covered by these GTCS, as well as any dispute or difference arising between the parties, would be subjected to the exclusive jurisdiction of the Courts corresponding to the jurisdiction of the Seller, and without prejudice to the Seller's right to call on any legal proceedings in any other competent jurisdiction.

The applicable law shall be that of the competent Tribunal to hear the dispute between the parties.



## **20.- PRIVACY POLICY**

The Seller will incorporate the personal data that the Buyer provides through forms, on-line applications, orders for products or services or through any other way in the client's file, as well as the data of the Buyer obtained through arrearage joint files and patrimonial solvency or any other legitimate means.

The Seller guarantees the adoption of the necessary measures to ensure the confidential treatment of such data and to avoid its alteration, loss, treatment or unauthorized access in accordance with the provisions of the current legislation. The Buyer who has registered data in the Seller's Customer file may at any time exercise the right to access, rectify and, where appropriate, cancel the personal data supplied to the Seller.

This gathered information may be used to communicate through e-mail, incidents, offers or news to the Buyer. When the Buyer provides his e-mail address to the Seller for the first time, he has the possibility of declaring that he does not wish to receive this type of information. The Seller will also include in his e-mail messages instructions on how to unsubscribe if the Buyer later decides that he does not wish to receive any more e-mails or commercial contacts.

The Buyer expressly authorises the entity to transfer the data included in the aforementioned file to the entities of the group for the fulfillment of purposes directly related to the functions for which they were requested. In the same way, he authorises the transfer of his sensitive data to associations that lend information services on patrimonial solvency and credit, to credit insurers hired by the Seller.