

LUSIMAT
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GENERAL TERMS AND CONDITIONS OF SALE

PRELIMINARY PROVISIONS

The United Nations Convention on Contracts for the International Sale of Goods (Vienna - 1980) and its amendments are excluded from the present general terms and conditions and are not applicable.

The purpose of the present general terms and conditions of sale (hereinafter referred to as the "GTC") is to define the conditions applicable to the sale of LUSIMAT products (hereinafter referred to as the "Products"). They shall apply to all purchases made from LUSIMAT by any BUYER having the status of trader.

On placing the order, the BUYER of the LUSIMAT Product acknowledges that he/she has been fully informed of the content of the present terms and conditions and acknowledges the submission of the sales contract to French law.

The parties hereby agree that the present GTC shall prevail over any other purchase terms or clauses appearing in the correspondence or commercial documents of the BUYER, except with the specific written agreement of the two parties prior to the order.

Any contrary contractual provision or general term or condition of purchase shall, unless it has been expressly accepted, therefore be unenforceable as against LUSIMAT regardless of when such provision was brought to its attention.

It is agreed that the nullity of a contractual provision shall not give rise to the nullity of the rest of the contract.

LUSIMAT reserves the right to modify the GTC at any time.

Unless otherwise agreed to the contrary, the general terms and conditions of sale applicable to the parties are those in force at the date the order is placed by the BUYER.

1. FORMATION OF CONTRACT – ORDERS

1.1. PLACING OF ORDERS :

LUSIMAT reserves the right to refuse any order, in its totality or in part, whenever justifiable grounds for refusal exists and without prejudice of trade practices of this activity or other legal provision or regulation that might apply. Orders are final as of written confirmation by LUSIMAT. The establishment by LUSIMAT of pro forma invoices, rates or any other document issued before the written confirmation of the orders by LUSIMAT cannot be regarded as an undertaking by LUSIMAT to supply any of the Products mentioned on those documents.

In the absence of a written confirmation by LUSIMAT of the orders, the issuing of irrevocable standby letters of credit within the meaning of the Uniform Customs and Practice 600 of the International Chamber of Commerce or any advance payment made by the BUYER do not constitute a undertaking on behalf of LUSIMAT to supply the Products for a value corresponding to the amount of the aforesaid letters of credit or of the aforesaid advance payments.

1.2. MODIFICATION OR CANCELLATION OF ORDERS:

Modifications or cancellations of orders by the BUYER will only be taken into consideration by LUSIMAT if they are in writing and received by LUSIMAT at least 3 working days before the dispatching of the Products in stock and at least 10 working days before the dispatching of Products made to order. In the event that the BUYER cancels an order without respecting the above conditions, LUSIMAT reserves the right to demand 30% of the amount of the confirmed initial order net of tax as a penalty, in addition to retaining any down-payment which may have been made.

1.3. UNAVAILABILITY OF PRODUCTS :

The products are sold within the limit of stocks available.

In the event of temporary shortage, LUSIMAT reserves the right to fix delivery quotas according to the volumes ordered by its BUYERS. The unavailability of a Product resulting from a halting of production, a shortage or any another circumstance outside the control of LUSIMAT shall have no effect on the rest of the order, and shall not in any way whatsoever incur the liability of LUSIMAT.

In the event that the Product requested is unavailable, LUSIMAT shall inform the BUYER as soon as possible. A Product of an equivalent quality and price must then be offered to the BUYER. If the BUYER refuses the substitute product, LUSIMAT shall refund any sums paid for the unavailable Product within a maximum period of 3 (three) months.

2. PRICE – PAYMENT TERMS - PENALTIES.

2.1 The Products are billed on the basis of the price in force on the day of delivery.

Unless otherwise specified, prices are in euros Ex-Works (EXW) LUSIMAT warehouses (Incoterms CCI 2010), not including charges, taxes and duties payable.

LUSIMAT may modify its rates after informing the BUYER in writing 15 (fifteen) days before the date on which the aforesaid modification takes effect. These modifications do not modify in any way the prices of the products which have already been subject to a confirmation of order by LUSIMAT.

Unless there is any express stipulation to the contrary agreed on by LUSIMAT and the BUYER, payment of invoices sent by LUSIMAT must be made within 30 days of the date of issue of the invoice. Due to the contract of sale being subject to French law, the time limit for the maximum payment that can be agreed by derogation in relation to the Terms and Conditions of sale between LUSIMAT and the BUYER may not exceed the limits imposed by French laws in force at the date of order. All sums outstanding on their due date will automatically and without prior formal notice give rise to the invoicing by LUSIMAT to the BUYER of late payment interest at the interest rate applied by the European Central Bank in its most recent refinancing operation, plus 10 (ten) percentage points calculated on a *pro rata temporis* basis, as well as the fixed collection charge of 40 € per invoice (article L441-6 of French code de commerce).

All additional collection charges of any nature whatsoever for outstanding payments are borne by the BUYER. Any compensation for damage suffered by LUSIMAT, whatsoever its nature, will where appropriate be invoiced. The mere presentation of the means of payment constituting an obligation to pay does not constitute a payment within the meaning of the present article; the sums involved must be effectively cashed by LUSIMAT.

Non-payment of just one single invoice gives rise to the requirement of full and immediate payment without prior formal notice of all sums due by the BUYER to LUSIMAT, even those which are not yet due.

LUSIMAT may, furthermore, in the event of total or partial non-payment at the due dates, suspend any delivery of the Products until payment is received or may require any form of guarantee of payment for future orders from the BUYER without prejudice to any other rights and remedies available to LUSIMAT.

2.2. If the economic situation of the BUYER so justifies, LUSIMAT reserves the right to modify the payment terms for pending orders by requiring guarantees or immediate full payment prior to delivery.

2.3. All initial orders placed by new customers shall be paid immediately and in full on pro forma invoice. The delivery will then be made once full payment is made. No discount will be granted for advance payment.

3. DELIVERIES – TRANSFER OF RISKS AND TRANSPORT – FORCE MAJEURE – HARD SHIP

3.1 Unless otherwise specified, the Products are put at the disposal of the BUYER Ex-Works (EXW) LUSIMAT warehouses (Incoterms © CCI 2010), LUSIMAT informs the transporter appointed by the BUYER that the goods are ready for transport.

Delivery times are set out for information purposes on the purchase order and delayed or partial deliveries cannot give rise to any claim for damages or any cancellation of the order. If the delivery is delayed for any cause which is outside the control of LUSIMAT, it will be regarded as having been carried out on the agreed date. In any case, the delivery within the deadlines is only operative where the BUYER's obligations towards LUSIMAT have been met.

The order may be cancelled by LUSIMAT in the event of:

- express refusal by the BUYER to take delivery thereof;
- non-payment of the price or of the remaining amounts due on delivery

The BUYER must inform the transporter that the load must be verified before departure and that in the event any defects are found, the transporter must set out in writing the precise nature of the issue on the transport documents or refuse to accept the goods.

On reception of the Products, the BUYER should only accept the Products delivered after having itself checked in the presence of the transporter, that they show no signs of inappropriate storage in terms of the nature of the Products, deterioration, damage, modification, evidence of missing elements or theft, and that the weight corresponds to that stated on the shipping documents.

If the delivered Products are not in conformity with the information provided on the shipping document, or have undergone deterioration, damage or modification or in the event of missing elements, the BUYER must immediately draw up a declaration of nonconformity, describing in full the precise nature of the loss or damage on the transport document and confirm in writing to the transporter, by registered letter with acknowledgement of receipt within 3 (three) working days of delivery of the Products. A copy of said letter should also be sent to LUSIMAT at the same time.

The BUYER will be held liable for any damage suffered by LUSIMAT due to the non-observance of this procedure.

3.2 Subject to any contrary agreements, the transfer of the risks to the BUYER is carried out in accordance with the Incoterms © CCI 2010 EXW during the handing-over of the Products to the transporter, regardless of the retention of title clause. The delivery of the Products by LUSIMAT to the BUYER is considered to have taken place at the time of the hand-over of the Products to the transporter.

Regardless of the terms of sale and transport, the BUYER agrees to take out insurance cover of at least equal to 110% of the invoiced value of the goods for all the risks that may occur with the Products as of the handover date of the Products to the transporter. The BUYER must be able to provide LUSIMAT, should it so request, with all any documents proving that such insurance has actually been taken out.

The BUYER agrees not to sell, even at a discount, damaged or deteriorated Products or Products having undergone any modification. All aforementioned products must be destroyed if they are not recovered by LUSIMAT. Such destruction shall be carried out at the expense of LUSIMAT in the presence of representatives authorized by LUSIMAT or proven by sending LUSIMAT proof of the destruction of the Products concerned (photos, reports, bailiff's acts). The amount paid by the BUYER for the aforementioned products will be refunded by LUSIMAT within a maximum period of 3 (three) months.

3.3 LUSIMAT is released from its obligation to deliver in the event of unforeseeable circumstances and force majeure having the effect of delaying the execution of this obligation, without this being reasonably controlled or prevented, or making it substantially more burdensome. These situations include but are not limited to:

- o total or partial strike,
- o closure of factory,
- o interruption to transport,
- o fire,
- o technical accident affecting the smooth running of the facilities,
- o difficulty of supply due for example to a shortage of raw materials,
- o delays caused by a subcontractor or a supplier,
- o pandemic
- o inability to pass on a substantial increase in the price of raw materials or labour,

The situation of force majeure has the effect of suspending the obligations of LUSIMAT for the duration of the event. If the situation of force majeure persists beyond 1 (one) month, each of the Parties may, subject to prior notification, terminate the unexecuted part of the order. The termination will be without compensation to either side, the prepayments corresponding to the unexecuted part of the order and that may have been paid by the BUYER being returned to it. In case of force majeure, no logistical penalty can be imposed to LUSIMAT by the BUYER.

LUSIMAT is also released from its obligation to deliver in the event of a significant and unplanned increase in orders.

3.4 According to the provisions of article L441-17 of the French Commercial Code, a contract between LUSIMAT and a BUYER may provide for the fixing of penalties in case of non-fulfilment of contractual commitments in the field of logistics, but it must provide for a sufficient margin of error with regard to the volume of deliveries provided for by the contract. There must also be sufficient time to inform the other party in the event of a contingency.

The penalties possibly imposed on LUSIMAT by the BUYER cannot exceed an amount corresponding to a percentage of the purchase price of the concerned Products. They must be proportionate to the prejudice suffered with regard to the non-performance of contractual commitments.

The proof of the breach must be brought by the BUYER by any means. LUSIMAT has a reasonable time to verify and, if necessary, to contest the reality of the corresponding grievance.

It is forbidden to automatically deduct from the amount of the invoice issued by LUSIMAT, the penalties or rebates corresponding to the non-respect of a contractual commitment.

The BUYER cannot demand from LUSIMAT a delay of payment of the penalties mentioned in the article L441-17 of the Commercial Code, lower than the delay of payment that it applies as from the reception of the Products.

3.5 If a change of circumstances that was unpredictable at the time of conclusion of the contract makes its execution excessively burdensome for a party who had not agreed to assume the risk, that party may request a renegotiation of the contract with the other

contracting party. It continues to perform its obligations during the renegotiation process. In the event of refusal or failure to negotiate, the parties may agree to the termination of the contract on the date and under the conditions that they determine, or by mutual agreement ask the judge for its adaptation. In the absence of agreement within a period of 6 (six) months, a party may ask the judge to review the contract or to end it, on the date and under the terms and conditions that it sets.

4. RETENTION OF TITLE.

The goods which are the subject matter of this contract are sold to the BUYER with a clause expressly making the transfer of the title thereof subject to payment in full of the entire purchase price (including all related costs and expenses).

Failure to respect any of the payment terms gives rise to a claim for recovery of the goods. It is however hereby agreed and specified that the simple handing-over by a trader of a title creating an obligation to pay does not constitute a payment within the meaning of the present clause and the original receivable of the seller against the BUYER shall remain due with all the guarantees related thereto including retention of title until said commercial paper has actually been paid.

The BUYER is however authorized to resell the Products for the normal needs for his trade; however, in the event of non-payment by the BUYER of only one of the invoices of LUSIMAT at the date of its expiry, this authorization will automatically cease.

5. CONFORMITY -LIABILITY-WARRANTY.

5.1. Conformity

The BUYER must make a close examination to assess the conformity (nature, quality) of the Products at the time of their reception and/or their use. Where the Products delivered by LUSIMAT are not in conformity with the information set out in the order sent by the BUYER, the BUYER must, within 5 (five) working days from the date of reception of the Products, send a demand to LUSIMAT for the recovery or replacement of said Product by registered letter with acknowledgement of receipt. The sending date will be considered as proof of the date of sending.

A response from LUSIMAT must be forthcoming within the 5 (five) working days from the reception of the request for recovery or exchange sent by the BUYER. It is agreed that the BUYER shall not in any event return the Products without having first obtained the written consent of LUSIMAT, which may choose to either replace the Products, or issue a credit note in favor of the BUYER.

The BUYER shall prove the existence of any defects or anomalies of the Products claimed. The BUYER shall enable LUSIMAT to carry out any verification it deems worthwhile on the premises and during normal opening hours.

Products will only be taken back if they are in a good condition and in their original packaging and only, in any event, if their recovery has received the express prior consent of LUSIMAT. In this case, they will be taken back at the going rate as of the dispatch date. LUSIMAT guarantees the conformity of the Products sold in their original packing with the required specifications.

LUSIMAT shall under no circumstances be held liable in the event of the improper use of the Products, notably but not restrictively as a result of the following:

- Loss of identity of the Product due to a modification to its original state (especially physical) as a result of acts by the BUYER and/or end user. Any claim in respect of a Product having undergone any additions by the BUYER and/or end user which by this act change its original characteristics will not be eligible.
- Improper and/or erroneous use of the Product or imprudent use or which does not conform to the norms of the profession.
- Damage to the Product following storage under non adapted conditions.

6.2 The liability of LUSIMAT is expressly limited to the purchase price of the quantity of Products in connection with which the claim is made. Moreover, LUSIMAT cannot be held liable for material and/or immaterial damages, consecutive or not (e.g. in particular loss of profits, loss of income, etc.) undergone by the BUYER or a third party, except in case of gross negligence or willful misconduct.

Defects that are not reasonably detectable must be reported within 5 (five) business days of their detection but in any event no more than 6 (six) months after receipt of the Product(s).

The fact of the BUYER not claiming within the time limits specified above is considered an absolute and unconditional waiver of its right.

6. CONFIDENTIALITY

Each of the Parties undertakes to keep confidential, any information of a technical, commercial, financial or other nature received from the other party orally, in writing or by any other means of communication, during the negotiation and/or the execution of any order. This obligation of confidentiality shall apply for the entire duration of execution of the order and for 5 (five) years after its completion or termination, for whatever reason. It does not apply to general information known to the public and of public knowledge.

7. PERSONAL DATA - GDPR

All processing and uses of personal data comply with all pertinent local regulations concerning the protection of personal data, in particular the stipulations of French Act No. 78-17 on Information Technology, Data Files and Civil Liberties (DPA) dated 6 January 1978, amended, and the EU General Data Protection Regulation or "GDPR" (EU 2016/679). Our confidentiality charter can be supplied by mail or email upon request submitted to our company.

8. EXTENDED PRODUCER RESPONSIBILITY

LUSIMAT is subject to the principle of EPR or Extended Producer Responsibility and its unique identifier is FR312863_01ILND.

9. NO WAIVER - VALIDITY

The failure to exercise at any time, a right recognized under present GTC, or of not requiring the performance of any provision of the aforesaid GTC may not under any circumstances be interpreted as an express or tacit waiver of the right to exert the aforementioned right in the future, or of the right to require the strict performance of the undertakings given in the present agreement.

If any provision of the present GTC is declared void by a court, administration or authority, such a decision shall not affect the validity of the other provisions of the present GTC whatsoever.

10. GOVERNING LAW

This Agreement constitutes the entire Agreement and understanding between the Parties and supersedes all previous agreements, understandings and undertakings in such respect, and all obligations imposed by law even if they conflict with the express provisions of this Agreement.

French Law shall alone govern relations between LUSIMAT and the BUYER, with the exception of its conflict of laws rules.

11. JURISDICTION

ANY DISPUTES ARISING FROM THE PRESENT AGREEMENT, REGARDLESS OF THEIR NATURE, ARE SUBJECT, ACCORDING TO THE WILL OF THE PARTIES, TO THE JURISDICTION OF THE BORDEAUX TRIBUNAL DE GRANDE INSTANCE. These TERMS AND CONDITIONS are drafted in English and if they are translated into one or more foreign languages, only the English text is valid in the event of litigation.