

MHS Electronics Terms & Conditions of Purchase

1. General

These terms and conditions of purchase apply to any order of materials, equipment or services (hereinafter referred as to the «Goods») sent by MHS (hereinafter referred as to the «Purchaser») to the seller of Goods (hereinafter referred as to the «Seller»).

Any different or opposite provisions stated in the Seller's terms and conditions of sale or in any other Seller's documents (such as proposals, offers, return receipts, invoices, letters etc.) shall be inapplicable as the Seller agrees that the acceptance of the Purchaser's order (hereinafter referred as to the «Order») in any form, means express acceptance by the Seller without reserves, of all Purchaser's terms and conditions of purchase hereby stated and also Seller's express waiver to all its terms and conditions of sale. Any Order will be firm and enter a contract as soon as its confirmation sent by the Purchaser by fax, is received by the Seller. Any alteration to the present terms and conditions will not constitute an acceptance by the Purchaser unless a written agreement is signed by the Purchaser. Eventual specific terms and conditions agreed by the Purchaser can only alter the present terms and conditions when specific provisions are mentioned to do so, and cannot result in the waiver of other provisions of these terms and conditions.

Any reserve or additional term made to these terms and conditions by the Seller, do not apply to the sale of Goods unless agreed in writing and signed by the Purchaser.

2. Price

The sale price of Goods is the one stated on the Order. If the price is not stated on the Order, the Seller warrants to grant to the Purchaser its lowest prices.

The price includes all packaging costs and any other cost, tax, risk or expense involved in the implementation of the Order. No additional cost whatever it is, will be authorised, unless written agreement of the Purchaser to be specified on the Order. Exceptionally, the Order can state a clause of price modification to the benefit of the Purchaser, for change of economic conditions noted during the period of implementation of the Order, and in particular monetary fluctuations.

3. Invoicing

Except different conditions stated on the Order, invoices are to be paid within sixty (60) days following the delivery date of the Goods. The invoices will show the reference or number of the Order, the quantities and description of the delivered Goods, the date and reference of the delivery note and the prices in detail, and will be accompanied by all necessary documents or references. The interest rate for late payment, applicable the day after the payment due date stated in the Order, will not exceed one time and a half of the legal interest rate applicable in France and revised yearly by decree. In the event, sums are due by the Seller to the Purchaser, the Seller will promptly issue upon request of the Purchaser, a credit note corresponding to these sums, or will authorise the Purchaser to directly set off these sums against the payments due to the Seller. In the absence of response or contest by the



Seller within the month following the Purchaser's request for credit note, the acceptance of the Seller will be considered as obtained, and the Purchaser has the authorisation to deduct the requested sums from the payments which are due. If the Seller objects within the above mentioned delay, this deduction of sums will only take place after both parties have reached agreement. However, the Purchaser will be authorised to temporarily retain from payments due to the Seller, an amount equal to the sums in dispute, until both parties find a final agreement. Under no circumstances the payment of invoices by the Purchaser can be interpreted as an acceptance of the Goods delivered by the Seller.

4. Amendments and substitutions

The Purchaser will have the right to amend the Order without affecting the validity of the Order. The Seller will then have to inform the Purchaser without delay of any changes in the prices or time scale resulting from the modifications requested by the Purchaser and these changes will have to be agreed in writing by both parties within an endorsement to the Order or a new order to be signed by both parties. The Seller is not allowed to make or propose any changes or substitution of provision or delivery of Goods without a written agreement by the Purchaser.

5. Deliveries

Methods of delivery, and in particular the date and place of delivery, will appear on the Order. During the delivery of the Goods, the Seller will send to the Purchaser at the time of dispatch of goods, a delivery note in two copies, indicating (i) the date and the complete reference of the order form, (ii) full address of each warehouse of the dispatcher and consignee, (iii) a detailed description of the Goods, (iv) the total amount of boxes dispatched, (v) gross and net weights of each box, (vi) mode of transportation (vii) and the date of dispatch. The acceptance by the Seller of the Order implies its irrevocable commitment to respect the delivery dates and deadlines stated in the Order, and which cannot be amended without a written agreement by both parties. The delivery will be considered as performed when the Seller has delivered all the Goods of the Order with all accessories and documents involved. In the event the delivery is made (i) prior to the delivery date stated on the Order or (ii) in excess quantity compared to the quantity of Goods stated in the Order, the Purchaser has the right to return the Goods and any cost or risk will be supported by the Seller. Under no circumstances will the Seller charge for early delivery. The Seller will have to promptly inform the Purchaser in writing of any circumstances that could delay the full performance of the Order; this will not authorise the Seller to pretend to an extension of the delivery time. The Seller will have to make all reasonable efforts in order to reduce delivery delays and their consequences. Except for acts of god which are mentioned in article 17 hereafter, the Purchaser will have the right to cancel the Order and the Seller will have no right to any indemnity or compensation and without prejudice of the rights of the Purchaser to claim for damages or reparation of the losses resulting from late delivery. If the Seller has not delivered within the set deadline stated in the Order and that delay is not due to an act of god as specified in article 17 below, the Seller will be liable to penalties for the delay. These penalties start forty eight (48) hours after the delivery date stated in the Order. The penalty

rate applicable is 1% of the amount of the Order per day of delay within the limit of 10% of the total amount of the Order. These penalties will be automatically deducted from the sums due by the Purchaser to the Seller. In the event that delivery dates have not been stated on the Order, the Seller warrants to grant to the Purchaser its best delivery dates and deadlines.

Except when otherwise stated, the Seller will bear all risks, losses or damages in the transportation of Goods. In all cases, the Seller will have to provide an insurance covering the Goods until they have reached the Purchaser's location or any other destination stated by the Purchaser.

6. Packing and packaging

Except specific packing required by the Purchaser in the Order, the Seller will have to deliver the Goods in an appropriate packaging according to the type of Goods being delivered and the precautions to undertake for the protection of the Goods from bad weather conditions, corrosion, loading accidents etc. In all cases the Goods will be sealed, packed, marked and generally prepared for dispatch (i) in compliance with the commercial norms, (ii) acceptable by carriers for transport at low cost and (iii) adapted to ensure the safe arrival of the Goods to their destination. Any Product that is damaged at the time of delivery will be returned to the Seller and transport, taxes, and customs fees or any other costs encountered in the replacement by Goods which comply with the Order, will be borne by the Seller.

7. Inspection and refusal of Goods

During the performance of the Order, the Seller warrants that the Purchaser will have access to the Seller's premises in order to supervise manufacturing, or to give special instructions and to control and/or test the ordered Goods, by using the Seller's testing and control facilities. Conditions and methods of these inspections will be agreed in advance by both parties. In no circumstances, this inspection will limit the Seller's responsibility towards the Purchaser. In the event of delivery of Goods which do not comply with the Order or with any specifications or indications previously agreed by both parties, the Purchaser will have the right (i) to refuse the Goods and demand from the Seller the delivery of new Goods which comply with the Order, (ii) to accept the Goods and demand from the Seller an appropriate discount on the Goods's price or (iii) to cancel the Order.

Any refusal of Goods will have to be notified to the Seller promptly. At its own costs, the Seller will have to retrieve the delivered and refused Goods within eight business (8) days following the receipt of the refusal's notification. Beyond eight (8) days delay, the Purchaser will return the Goods to the Seller at the Seller's costs.

In the event the Seller cannot deliver new Goods which comply with the Order within eight (8) days following the receipt of the Purchaser's refusal notification, the Purchaser may order these Goods from other suppliers at the exclusive Seller's costs.

The acceptance of the Goods by the Purchaser cannot be used as an excuse by the Seller to limit the warranties stated in article 8 below.

8. Warranties



Unless stated otherwise by both parties, the Seller warrants for the duration of twenty four (24) months, that the furnished Goods (i) comply with all the specifications, schemes, drawing plans and any other data from the Seller or provided by the Purchaser and agreed to by the Seller or mutually agreed in writing by both parties, and with all details stated on the Order, (ii) are of precise manufacture and free from defect in their conception, manufacture and operation, (iii) are of good commercial quality. It is understood that the Seller is responsible for providing all parts required for the good operation of the Goods even when it is not specifically requested by the Purchaser. The warranty is effective from the date mentioned in the Order form. During the period of warranty, the Purchaser will have to notify in writing the Seller of any and all defects or misfunctions of Goods and the Seller will have to replace or correct the defect or the misfunction of the Goods without delay.

The Seller will agree to grant a new period of warranty of twenty four (24) months after each replacement, repair or correction occurred within the period of warranty, from the day the replacement, repair or correction has been successfully performed. If the Seller does not satisfy its commitment to replace, repair or correct the misfunction of the Goods, the Purchaser has the right (i) to replace, repair or correct by itself the Goods, at exclusive Seller's costs, (ii) to require a third party to replace, repair or correct the Goods, at exclusive Seller's costs or (iii) to obtain from the Seller a full refund of the purchase price of the Goods suffering defect or misfunction. The Seller warrants that the above mentioned warranties are additional to legal warranties and to those which are expressly agreed by the Seller other than the ones stated herein, and also to any other warranty, express or tacit, applicable to the said Order. These warranties will remain valid notwithstanding any inspection, test, acceptance or payment by the Purchaser or any termination or agreement by the Purchaser in connection with the Orders.

9. Transfer of risk and ownership

Except otherwise agreed by both parties, the transfer of ownership will be effective at the time of delivery of Goods to the Purchaser's location or to any other destination agreed by the Purchaser. Any clause of reservation of ownership by the Seller will be considered as invalid. The Seller will bear all risks of loss and damage to the Goods until they have reached the delivery location agreed by the Purchaser.

10. Data and software

For data (other than computer software) relating to an Order, the Seller grants to the Purchaser and all others acting on its behalf, a world wide, irrevocable and non exclusive licence for which the price is included in the price of the Goods, including a right to sublicense to Purchaser's customers and end users, in view of reproduction, disclosure, representation, distribution to public and exploitation, in particular for derivative works, by or on behalf of the Purchaser, in order to answer to the Purchaser, customers or end users needs. Regarding software delivered within the framework of these terms and conditions, the Seller grants to the Purchaser a world wide, irrevocable and non exclusive licence, the cost of which is included in the price of the Goods, including a right to sublicense to

Purchaser's customers and end users, for all above mentioned softwares including registered or patented softwares, in view of reproduction, disclosure, representation to public and their exploitation for any and all derivative works, by or on behalf of the Purchaser, in order to answer to the Purchaser's, customers or end users needs.

11. Ownership and confidentiality of information

Any scheme, plan, data, equipment or any other material and/or information provided (i) by the Purchaser, or (ii) by the Seller for which the cost is included in the price of the Goods, is considered to be confidential information, exclusive property of the Purchaser. The Seller undertakes to consider as confidential any material and/or information belonging to the Purchaser and disclosed for the purposes hereby, and to prevent their communication or disclosure to third parties, without the express agreement of the Purchaser.

All information disclosed by the Purchaser to the Seller in connection with this document, are exclusively reserved for the performance of the Orders and will be given back to the Purchaser at the end of the sale contract. No information provided by the Seller to the Purchaser is confidential and the Purchaser has the right to use it freely. The Seller shall not make or authorize any news release, advertisement or other disclosure which shall deny or confirm the existence of this order without the prior written consent of MHS

12. Intellectual or industrial property

The Seller warrants that the Goods are free from any third party's patent, drawing and model, copyright, trademark or any other intellectual and/or industrial property belonging to a third party. The Seller represents that it is the owner of all using rights, manufacturing rights, and sale rights of the Goods, and that the Purchaser will have the right to use and sell the Goods as he wishes. The Seller warrants and bears all costs including lawyers fees borne by the Purchaser, and all financial and economic consequences suffered by the Purchaser resulting from any litigation or claim relating to the infringement of a third party intellectual and/or industrial right.

13. Compliance with laws

The Seller represents to have full knowledge and to respect in all their aspects, the laws, decrees and regulations issued by any local or national authority, together with all rules and regulations issued by private or public organisations, in connection with its activities within the performance of the Order. The Seller will bear all financial and administrative consequences suffered by the Purchaser resulting from the non respect by the Seller, its employees, subcontractors or suppliers, of provisions of laws, decrees, regulations and other texts mentioned above. The Seller will provide the Purchaser with Goods respecting all safety standards and to this effect, the Seller will be the only party which shall know the standards applicable to the Goods, in particular for dangerous materials. In particular, the Seller shall provide to the Purchaser at the time of initial shipment or request a completed Material Safety data Sheet (OSHA Form 20 or equivalent). Such sheet shall contain all the





information necessary to comply with the federal Hazard Communication Standard and all applicable state regulations



14. Liability

The Seller will be solely responsible towards the Purchaser and any third party, for any and all damages to goods or other material damages, losses or prejudices resulting from the performance by the Seller, its employees, agents or subcontractors of the Seller's obligations in connection with the Order. The Seller will carry any appropriate insurance policy to cover all consequences of its responsibility which, as mentioned in the preceding paragraph, may be involved towards the Purchaser and/or any third party, and hereby accepts to defend and indemnify the Purchaser against all damages and other consequences attached to the responsibility of the Seller.

15. Termination

The Purchaser has the right to terminate any Order by registered letter with return receipt requested, without owing any indemnity to the Seller a) before receiving the Order's return receipt, or b) if one of the following events takes place: (i) the Seller fails to perform its obligation to deliver the Goods in the time stated in the Order, and the delay exceeds eight (8) days, without prior agreement by the Purchaser; (ii) the Seller fails to perform its warranty obligations; (iii) the Seller excessively delays its approval to changes in the Order, as defined in article 4 hereabove; (iv) the Seller fails to perform one of its obligations resulting from these terms and conditions, or from any contract between the parties, and does not cure the failure, within eight (8) days following receipt of the Purchaser's written notification notifying the failure; (v) the Seller is put into receivership or bankruptcy; (vi) an event due to an act of god as explained in article 17 below, and causing a delivery delay of more than two (2) months. In all cases, the termination is notified in writing by the Purchaser to the Seller via registered letter. In any case of termination resulting from the Seller's failure, the Purchaser may ask other suppliers to supply all or part of the non delivered Goods, at the exclusive Seller's costs. Moreover, unless otherwise agreed between the parties, the Purchaser has the right to terminate at any time, part or whole of the Order by registered letter with return receipt, without prior justification. Following this notification, the Seller must immediately stop all works relating to the cancelled Order and make all efforts to minimise the costs and losses resulting from the termination. The Purchaser then pays to the Seller and the Seller admits to accept, as final indemnity for all consequences resulting from the termination, the value of all the performances done upon Purchaser's request, such value to be calculated on reasonable basis according to the progress level, and based on the contractual price from which shall be deducted any advance payments, deposits or terms of payment.

16. Subcontracting

The Seller is not allowed to subcontract, directly or indirectly, at whatever level, the performance of whole or part of the Order, without previous written agreement by the Purchaser.



17. Act of god

Both parties are not to be held responsible for any delay or failure in the performance of their obligations resulting from any event or circumstance which is unforeseeable, unavoidable and unpredictable and which has nothing to do with their will, such as but not limited to accidents, facts of Prince, earthquakes, fires, floods, employment disputes, riots, civil wars, wars (declared and non-declared), governmental measures etc. The concerned party will send to the other party a written notification stating the delay and its cause as soon as possible after being informed of the cause of the said delay.

18. Governing law and jurisdiction

These terms and conditions are governed by French law. In the lack of amicable settlement between the parties, the parties agree to submit any dispute which may arise from the process, performance or interpretation of a contract which is executed in accordance with, or follows, or is the consequence of, these terms and conditions, shall be submit to the EXCLUSIVE JURISDICTION OF THE TRIBUNAL DE COMMERCE DE PARIS, FRANCE.

