

GENERAL CONDITIONS OF SALES PHOTALIA SAS / VERGNET SA

Article 1 - Preamble

The purpose of these General Conditions of Sale (GCS) is to define the contractual obligations of PHOTALIA/VERGNET and of the Customer relating to the sale of Supplies by PHOTALIA/VERGNET. The term "Supplies" refers to any products and services.

The fact that PHOTALIA/VERGNET does not rely on one or more provisions of these GCS shall not constitute a waiver; PHOTALIA/VERGNET shall always be entitled to demand their application.

Any order of Supplies implies unreserved application by the Customer and its acceptance of these GCS, which prevail over any other document of the Customer, and in particular over all general conditions of purchase.

Article 2 - General provisions

Any document other than this document is for information purposes only, with PHOTALIA/VERGNET reserving the right to make any changes thereto.

Proposals, offers and quotes are only valid for the month following the date on which they are established, unless otherwise stated in the proposal, offer or quote.

Article 3 - Conclusion of the Contract

No order shall be deemed accepted until it has been the subject of an acknowledgement of receipt.

The Contract is composed, by order of precedence, of the special conditions accepted by PHOTALIA/VERGNET and by these GCS, to the exclusion of any other document.

Any amendment to PHOTALIA/VERGNET's proposals will only be deemed accepted when it is expressly stated in its order confirmation.

Article 4 - Scope of Supplies

PHOTALIA/VERGNET's Supplies are expressly defined in the Contractual Documents. It is the Customer's responsibility to ensure, taking into account the characteristics of the Supplies, that all conditions are met to enable the implementation and safe use of the Supplies.

Article 5 - Changes during the Contract

Any amendment to the Contract which may be requested by the Customer, after PHOTALIA/VERGNET has sent the acknowledgement of receipt, must be expressly accepted by PHOTALIA/VERGNET.

Any amendment to the Contract accepted by PHOTALIA/VERGNET will be the subject of a written agreement between the parties, which will establish the new conditions of the Contract.

In case of refusal of the change by PHOTALIA/VERGNET or disagreement by the Customer on the changes related to such amendment, PHOTALIA/VERGNET shall refer to the terms of the original Contract and will only supply the corresponding Supplies.

Article 6 - Prices

The prices and information shown in catalogues are provided for information purposes only. The prices are fixed by the rates in force on the date of the Contract.

They are expressed in Euros, excluding VAT, loading, transport, insurance, customs duties, taxes and charges of any nature.

Article 7 - Terms of payment

The terms and conditions of payment are defined in the special conditions of each Contract. The invoice mentions the payment due date. Otherwise, payments shall be made by bank transfer to the place indicated on the invoice 30 days net from the invoice date. Deposits are always payable in cash. The terms of payment cannot be delayed for reasons not attributable to PHOTALIA/VERGNET.

Except if particular conditions specify something else, the Customer will pay a down payment of 50% upon any order over 5000€, and of 100% below PHOTALIA/VERGNET reserves the right to require stricter payment terms and/or bank guarantees. Failure to pay an invoice on its due date shall automatically result, without prejudice to any legal action that PHOTALIA/VERGNET may take against the Customer, in:

- the immediate payability of any amount due under the Contract,
- the suspension of ongoing work or deliveries,
- late penalties at the rate of 0.5% per full week of delay, excluding tax, of the Supplies not yet paid, and a flat-rate fee of 40 Euros for recovery costs. If these costs are higher, PHOTALIA/VERGNET reserves the right to request an additional fee on presentation of supporting documents.

Article 8 - Deadlines

The Supply deadlines are specified in the special conditions. Compliance with deadlines constitutes a best efforts obligation.

Deadlines only start to run from the date of issue of the acknowledgement of receipt by PHOTALIA/VERGNET.

PHOTALIA/VERGNET is released as of right from any commitment relating to deadlines and the Customer may have to bear the financial consequences in the following cases:

- a) failure and/or delay by the Customer in the transmission of any necessary data or test parts in accordance with contractual requirements,
- b) non-compliance by the Customer with the terms of payment,
- c) failure and/or delay in the provision of the places of performance of the Contract,
- d) failure and/or delay in obtaining licences and/or administrative authorisations by the Customer.

Article 9 — Force majeure

PHOTALIA/VERGNET's obligations under the Contract will automatically be suspended, without formality, and it will be released from all liability in case of the occurrence of a force majeure event, as defined by French case law, i.e. and event which is unforeseeable, irresistible and outside of the control of the party who invokes it.

Article 10 - Late penalties

In case of a delay attributable to PHOTALIA/VERGNET, PHOTALIA/VERGNET may pay penalties equal to 0.5% per full week of delay of the price, excluding tax, of the Supplies not yet delivered, with a maximum of 5% of the price, excluding tax, of the Contract. These penalties constitute valid discharge.

Article 11 - Delivery

Delivery is deemed made when the Supplies are made available in the premises of PHOTALIA/VERGNET or its subcontractors, according to Incoterm 2010 Ex Works. In the event where the Customer does not take delivery on the date of availability, the Supplies are stored at the expense and risk of the Customer, and PHOTALIA/VERGNET's liability cannot be incurred for any reason whatsoever. These provisions do not alter the payment obligations.

Modifiée par : TGO	Vérifiée par : FMU	Approuvée par : MRI	Certification Qualité
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Article 12 - Packaging

Packagings are transferred to the Customer and are not recovered by PHOTALIA/VERGNET.

Article 13 -Acceptance of Supplies

13.1 - Acceptance in the premises of PHOTALIA/VERGNET or of its subcontractors

When acceptance is to take place in the premises of PHOTALIA/VERGNET or its subcontractors, it is up to the Customer to attend or to be represented.

In the event where the Customer does not attend the acceptance operation, the Supplies shall be deemed accepted by both parties and may be delivered. Acceptance will give rise to the establishment of an acceptance report certifying the compliance of the Supplies with contractual requirements.

13.2 - Acceptance in the Customer's premises

The acceptance of Supplies may take place on the Customer's site. This condition has to be part of particular conditions. The purpose of this acceptance is to check the conformity of the Supplies with contractual requirements. It may not challenge the conformity check validated by the acceptance report established in the premises of PHOTALIA/VERGNET or of its subcontractors.

In all cases, acceptance cannot be refused for minor defects which do not prevent the operation of the Supplies.

Article 14 -Transfer of ownership

PHOTALIA/VERGNET reserves ownership of the Supplies sold until full payment of the price.

The Customer must immediately inform PHOTALIA/VERGNET of the seizure, requisition or confiscation of the Supplies for the benefit of a third party, and take all safeguard measures to enforce PHOTALIA/VERGNET's property rights in case of intervention of a creditor until the date of transfer of ownership.

In case of non-payment of the price on the due date, PHOTALIA/VERGNET may immediately notify the cancellation of the sale by registered letter with acknowledgement of receipt, subject to any damages it may claim. In this case, the Customer hereby authorises PHOTALIA/VERGNET and any person designated by it to enter the premises where the Supplies are located, during working hours, in order to remove them.

Article 15 - Transfer of risks

Notwithstanding the provisions of Article 14, the risks relating to the Supplies are transferred to the Customer on delivery, according to the Incoterm defined in Article 11.

Article 16 - Warranty

16.1 - Defects giving rise to the implementation of the warranty

PHOTALIA/VERGNET undertakes to remedy all operating defects resulting from a defect in the design, materials or execution of the Supplies within the limit of the following provisions. The warranty commitment only applies to Supplies under the Contract, excluding wear parts and consumables.

PHOTALIA/VERGNET's warranty does not apply:

- to anomalies in supplies, products or parts supplied by the Customer, and in case of a design imposed by the Customer,
- anomalies due to fortuitous or force majeure events, and for replacements or repairs which result from accidents, abrasion, corrosion, normal wear of Supplies or their components, their deterioration due to negligence, lack of supervision or maintenance and misuse of the Supplies,
- in case of use for operations and/or with elements or parts not provided by PHOTALIA/VERGNET's technical specifications, misuse by the Customer or by a third party,
- in case of repair, modification, addition, alteration, disassembly or reassembly of mechanical, electrical or electronic connections not performed by PHOTALIA/VERGNET.

16.2 - Duration and starting point of the warranty

The warranty period, unless otherwise specified, is twelve months from the date of delivery within the meaning of Article 11 above, or if an acceptance operation is provided for in the special conditions, on the date of acceptance.

If the Customer starts to operate the Supplies before the date of acceptance, the warranty period will start to run from the date of operation of the Supplies.

In any event, the warranty period may not be more than eighteen months from the date of delivery as defined in Article 11. The repair, modification or replacement of parts during the warranty period may not have the effect of extending the warranty period.

16.3 - Customer's obligations

In order to rely on the benefit of the warranty, the Customer must notify PHOTALIA/VERGNET, immediately and in writing, of any defects in the Supplies and provide all proof thereof. It must give PHOTALIA/VERGNET every facility to verify these defects and to remedy them. It is understood that the performance of repairs under this warranty may not result in an interruption of the operation of Supplies. The cost of PHOTALIA/VERGNET's interventions carried out at the Customer's request under the warranty which prove not to be covered by the warranty shall be borne by the Customer.

The Customer must perform backups of its programming, and PHOTALIA/VERGNET cannot be held liable in case of loss of data.

16.4 - Terms of exercise

Once notified, PHOTALIA/VERGNET must remedy the defects and reserves the right to modify the Supplies, if necessary, to meet its obligations. The costs relating to the transportation of Supplies will be borne by the Customer.

Work under the warranty obligation is performed in PHOTALIA/VERGNET's premises after the Customer has returned the defective Supplies and/or parts for repair or replacement, at the choice of PHOTALIA/VERGNET.

Nevertheless, if the customer requires that the repair takes place in the Customer's premises or those of its end customer, PHOTALIA/VERGNET will intervene on the basis of an estimate, established by PHOTALIA/VERGNET and approved by the Customer, including the labour cost corresponding to this repair, as well as the time spent in preliminary works or in operations of dismantling and reassembly of elements not included in the Supply in question and necessary due to the conditions of use or setting-up of the Supply. The costs of travels and stays will be invoiced to the Customer.

For warranty operations, PHOTALIA/VERGNET will provide its warranty service during its normal working hours and working days. Travel and accommodation costs will be charged to the Customer. Parts replaced free of charge are returned to PHOTALIA/VERGNET at the Customer's expense and become the property of PHOTALIA/VERGNET.

16.5 - Warranty limitations

These limited warranties set forth herein are expressly in lieu of and exclude all other express or implied warranties, including but not limited to, warranties of merchantability, warranties of fitness for use or application, warranties of non-violation of third party rights, including but not limited to, intellectual property rights, and all other obligations or responsibilities of PHOTALIA/VERGNET. Unless otherwise provided by local laws or regulations, PHOTALIA/VERGNET shall have no liability whatsoever in case of injury or damage to any person or tangible property, or for any loss or damage resulting from any cause whatsoever arising from or related to the Supplies. PHOTALIA/VERGNET shall not be liable under any circumstances for incidental, indirect or special damage, regardless of the cause, even if

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PHOTALIA/VERGNET is notified in advance of such damage. Loss of use, loss of profits, loss of pictures, loss of production and loss of income are therefore specifically, but without limitation, excluded.

16.6 - In the case of photovoltaic modules integrated or not in a more global Supply, any specific guarantee possibly granted by the manufacturer of modules could only be carried by the aforementioned manufacturer. VERGNET, beyond duration announced in the article 16.2 and more generally the conditions of the present Article 16, does not substitute itself for the obligations of the module manufacturer, even in case of bankruptcy of this one.

PHOTALIA/VERGNET's responsibility under the warranty is strictly limited to the obligations defined in this Article.

Article 17 - Provision of equipment

If any equipment, owned by PHOTALIA/VERGNET, is made available to the Customer, the latter shall assume full responsibility for such equipment, and undertakes only to use it for the needs of the Contract in accordance with safety rules, and to preserve it and return it in its original condition upon the request of PHOTALIA/VERGNET.

Article 18 - Intellectual property - Confidentiality**18.1 - Intellectual property**

The intellectual property rights relating to any documentation such as quotes, proposals, studies, software, plans, designs, diagrams and more generally to all documents handed over or sent by PHOTALIA/VERGNET, remain the exclusive property of PHOTALIA/VERGNET. These quotes, proposals, studies, software, plans, designs, diagrams and documents shall in no circumstances be communicated to third parties or reproduced or used directly or indirectly for other purposes without PHOTALIA/VERGNET's prior written permission. Acceptance of the order only grants the Customer a right of use for the operation of the Supplies. No provision of the Contract shall be construed as transferring any intellectual property rights to the Customer (trademark, patent, know-how, literary and artistic property, etc.).

A software licence does not imply the transfer of any intellectual property right on the software to the Customer. Subject to the applicable legal provisions, any decompiling, reverse engineering, modification or creation of derived software by the Customer, or by its customers, agents, distributors or licensees, is strictly prohibited.

PHOTALIA/VERGNET undertakes to hold the Customer harmless against any claim relating to the infringement of an intellectual property right in France by PHOTALIA/VERGNET's Supplies. PHOTALIA/VERGNET will defend the Customer provided:

- that it has promptly notified such claim to it in writing,
- and that PHOTALIA/VERGNET has sole control of the defence and all negotiations for a settlement.
- PHOTALIA/VERGNET will not be responsible for an infringement claim in the following cases:
 - the combination, implementation or use of Supplies with equipment, data or software not supplied by PHOTALIA/VERGNET,
 - a modification of Supplies by the Customer,
 - with Supplies being carried out according to instructions or specifications or on the basis of a model provided by the Customer.

18.2 - Confidentiality

The Customer undertakes to keep confidential all information it may receive or come to know, whether in writing, orally or first hand, during the performance of the Contract. It shall refrain from communicating all or part of said information to third parties in any way whatsoever and from using it for purposes other than the performance of the service under the Contract. It guarantees compliance with this commitment by the members of its staff.

These provisions are applicable for a period of ten years after the end of the service or expiry of the Contract, except for knowledge which is or subsequently falls in the public domain.

Article 19 - Checks on end use

The Customer undertakes to obtain the legal authorisations for Supplies subject to checks on the end use, due to their nature or intended purpose, for which PHOTALIA/VERGNET shall not incur any liability.

Supplies may not under any circumstances be re-exported, contrary to the export control provisions of the country of origin of their manufacture.

Article 20 - Assignment

The Contract is concluded on a strictly personal basis, and cannot be assigned without PHOTALIA/VERGNET's prior written consent.

Article 21 - Liability

Notwithstanding any clause to the contrary, PHOTALIA/VERGNET will not compensate any indirect damage and any non-material damage including, but not limited to, loss of income, loss of profits, operating losses, financial costs, loss of orders, commercial disorders of any nature, etc., and the Customer waives both in its name and on behalf of its insurers any claim against PHOTALIA/VERGNET and its insurers.

With the exception of gross negligence by PHOTALIA/VERGNET and compensation for physical injury, the total liability of PHOTALIA/VERGNET is limited, for all causes, to an amount capped at the amount of the Contract, excluding taxes.

Article 22 — Suspension

In case of suspension and/or termination of the Contract by the Customer for reasons not attributable to PHOTALIA/VERGNET, the Customer undertakes to reimburse the costs and expenses incurred by PHOTALIA/VERGNET resulting from such suspension and/or termination, and PHOTALIA/VERGNET will benefit from an adjustment of the contractual deadlines. In addition, PHOTALIA/VERGNET will be compensated for any damage suffered due to such suspension and/or termination.

PHOTALIA/VERGNET may terminate all or part of the Contract without prejudice to its rights and without incurring its liability vis-à-vis the Customer in the event where the Customer fails to comply with its contractual obligations.

Article 23 - Applicable law - Jurisdiction

The applicable law is French law. In the event of a dispute and failing an amicable settlement, the Commercial Court of Orléans shall have sole jurisdiction, even in the event of the introduction of third parties or when there are several defendants.