

TERMS AND CONDITIONS OF SALE v20190718

1. General information and enforceability

The purpose of these terms and conditions is to govern the relations between AMECO SARL, with registered office at 2, Route de Bissen L7759 Luxembourg (Luxembourg Commercial Registry: B11671) and its customers ordering products and services. Only our conditions of sale will apply; we do not recognise any customer terms and conditions. Any other agreements will only be applicable for the particular case agreed between the parties. The various declarations of our representatives are not enforceable against us, unless we have expressly confirmed this in writing. By placing an order, the customer acknowledges having read these terms and conditions and accepts them without limitation or reservation.

2. Quotes

Unless we have confirmed this in writing, our quotes and other statements are non-binding in all respects. We reserve the right to withdraw or modify, without notice, the conditions of sale and prices specified in our quotes, as well as the characteristics of equipment indicated in our documents.

3. Contract formation

The order binds the customer and constitutes a contract. The sale may only be terminated with our agreement. Any costs resulting from this cancellation will be borne by the customer.

4. Delivery

Delivery times for equipment or services are provided for information purposes only, without any obligation on our part, unless otherwise stated in writing. The start of the delivery period indicated by us presupposes the timely and compliant fulfilment of the buyer's obligations (including the provision of equipment and parts by the buyer, where applicable), as well as the resolution of any technical questions. Failure to observe the stipulated time limits cannot be invoked to claim damages or termination of the contract. The delivery and shipment of goods is carried out at the customer's expense and risk. No returns may be made without prior agreement. Unless otherwise specified in our order confirmation, the place of delivery will be our head office. We reserve the right to carry out split deliveries and handling. The buyer is obligated to verify and collect the object of the sale at the agreed place of delivery, within 8 days of receiving the notice of provision. The buyer will be responsible for all storage costs which may be incurred due to a failure by the buyer to comply with its obligations under these terms and conditions.

The seller may not be held responsible for any delays in delivery or supply due to a failure to supply or late provision of parts or equipment to be delivered by the customer itself.

5. Force majeure

The seller is exempted from the obligation to deliver in the event of force majeure, that is to say for any reason beyond its control or where the event is partially beyond its control (inter alia: strikes; delay in delivery or bankruptcy of its own suppliers; embargo; fires or other natural disasters; epidemics; pandemics; illness affecting more than 15% of the seller's staff within a period of two consecutive months; or a lack in the supply of materials, equipment, fuel, or energy, etc.). The seller is not required to prove the unpredictability and inevitability of the disruption. The seller cannot be held responsible for any delay in delivery, unless this is due to gross negligence or an intentional act on its part.

6. Transfers and risks

As soon as the goods have left AMECO SARL's site or have been handed over to the carrier, they are transported at the buyer's risk. The current version of Incoterms will apply for export sales.

The customer assumes the risks associated with handling, unloading and reloading as well as any internal transport of goods deposited at our premises at the customer's request.

7. Price

Our prices are exclusive of reductions or any other discounts. Unless otherwise stated on the order confirmation, our prices are understood to be "free carrier – ex works (FCA = EXW)" and without packaging. VAT at the legal rate is not included in our prices; it will be entered separately on the invoice at the rate in effect on the invoice date. The price of labour is invoiced in accordance with the work performed. Unless otherwise agreed, prices are based on purchase prices, salaries, staff costs, social contributions, public charges, transport costs, the applicable index rate, insurance premiums and other costs in effect at the time of express acceptance of the quote. In the event of an increase in one or more components of the cost price or of the modification of the order by the customer, the seller has the right to adapt the sales price. Unless otherwise stipulated, the prices specified in our quotes are valid for 60 days.

8. Payment

The payment conditions are established by AMECO SARL. If no other deadline is indicated on the invoice, it will be payable within 30 days. In the event of early payment, no discount may be deducted from the amounts due, except with our prior written consent. It is agreed between the customer and AMECO SARL that if an invoice is not paid by the due date, all sums remaining due by the buyer will become immediately and automatically due. Invoices not paid on their due date will automatically bear interest at the EURIBOR rate (3 months) + 8. % from the due date, automatically and without any formal notice being necessary, without prejudice to any other damages. Any reminder or formal notice will be re-invoiced as costs of up to €50. If judicial recovery is necessary, a minimum of €1,000 in legal fees will be charged to the customer. In the event of failure to comply with the agreed payment period, the seller is entitled, inter alia, to cancel some or all pending orders and to refuse to make any other delivery without cash payment or another satisfactory payment guarantee, or to terminate the contract. We reserve the right to request a deposit of 20% of the order value.

9. Invoicing complaints

Any dispute relating to the invoice must be made in writing by registered letter with acknowledgment of receipt within 15 days.

10. Retention of title

By way of derogation from Article 1583 of the French Civil Code, all equipment sold remains the property of AMECO SARL until full payment of the price, including the related receivables, has been received. During the term of AMECO SARL's retention of title, the customer bears all risks of loss or deterioration, even if this occurs as a result of an unintentional act or force majeure. The buyer has the right to assign, transform, or assemble the goods under retention of title, provided that the receivables are effectively transferred to the seller.

Equipment invoiced to the customer but stored by the customer in our premises remains the property of the customer. All risks of handling, unloading and reloading, as well as any internal transport, will be borne by the customer.

11. Conformity of goods and warranty

AMECO SARL makes no warranty of any kind beyond that expressly stated in writing below. The seller nevertheless guarantees that the goods sold will be free from any material defect and that they are in perfect condition. The seller's warranty is given on condition that all seller's instructions relating to the products are strictly observed. All warranty will not apply to goods that have been subject to misuse, negligence, accident, damage, improper installation or maintenance, or goods altered or repaired by anyone other than the seller or its authorised representatives. Where goods have been transformed or processed in any manner by anyone other than the seller, the warranties expressed hereunder will be limited to the goods in their original condition. The buyer will examine the products as soon as reasonably practicable after delivery. The buyer will issue the seller with a full description of any incomplete or missing delivery, loss or damage during carriage, or if the products fail to comply with the seller's warranty or order confirmation (in quantity, quality and/or conformity) within 15 days after it becomes aware of or reasonably should have become aware of the above-mentioned defects and, in any case, before the earlier of:

(i) 180 calendar days from the date of delivery,

(ii) 15 calendar days after the products have been used or transformed. Failing this, the buyer will be deemed to have waived the right to claim these defects.

The seller cannot be held responsible for defects detected after subsequent transformation outside of the seller's premises.

Insofar as it is demonstrated to the seller's satisfaction that the products fail to comply with the quality guaranteed by the seller, or with the seller's order confirmation, the latter will be given the opportunity to remedy such defects in kind. Should the seller not wish to or be unable to do so, the latter may replace the products or refund the price paid by the buyer, at the seller's sole discretion (or the seller may simply refund a reasonable portion of the purchase price, in particular where the value of the product has depreciated for reasons outside of the seller's control, or if the product has been used or transformed). Goods will not be returned to the seller without its permission. When warranty services must be carried out outside of Luxembourg, the travel fees and subsistence expenses of the seller's employees and agents will be borne by the buyer.

Replacement products are governed by these conditions, which include the seller's warranty. Products considered to be non-compliant with the contract will, as far as possible, be kept for inspection by the seller and, if replaced or if a refund is made, will be returned to the seller (at the seller's expense) if the latter so requires.

The seller's warranty will not apply to second choice material, remainder stock, samples, or to goods sold as obsolete or sub-standard, nor will it apply if the alleged defect is attributable to any equipment the buyer may have provided to the seller to be incorporated into the product or during the process of their production. The seller will not be required to examine the buyer's equipment before their use in processing or prior to their incorporation. Any models or samples presented to the buyer are mainly intended to demonstrate the type of product or the quality thereof, and are not intended to guarantee that these products will be exactly of the same nature. No agent, employee or representative of the seller has the authority to contractually bind or represent the latter in matters of warranty relating to such goods. Any affirmation or concession that may be made in this area in violation of the foregoing may not be considered as part of the sales contract and will not be enforceable.

12. Limitation of liability

AMECO SARL will not be liable (on a contractual basis or otherwise, and irrespective of any negligence or other act, fault or omission of the seller, its employees or its agents) for any consequential losses (including loss of goodwill, business or profit), damages, expenses, installation or labour costs, directly or indirectly arising from the sales contract, the handling or use of the product sold (whether used alone or in combination with other products), or for any other cause relating thereto. The seller does not guarantee the performance of the products for any purpose whatsoever. All products are sold "as is". In any event, the seller's responsibility is expressly limited to the replacement of the products (in their original condition on the day of dispatch) or, at the seller's sole discretion, repayment to the buyer of a sum not exceeding the purchase price, ex-works and excluding VAT.

13. Customer authorisations and obligations

The customer undertakes to obtain any authorisation, permit or information that may be necessary for our services, or for the delivery or installation of certain goods or services.

14. Miscellaneous

Throughout the duration of commercial relations, the customer undertakes to inform us within 10 calendar days of a change to its name or VAT identification number.

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15. Termination clause

AMECO SARL reserves the right to pursue the contract's termination in the event of the customer's failure to perform any of its obligations. The contract will be terminated 15 days after the delivery of a prior formal notice by the seller and any goods must be returned without further formality. In case of recovery of goods, the customer must compensate the seller for the decrease in value suffered by these goods, including through use and normal wear and tear, deterioration or destruction, and the costs of recovery, as well as providing payment for any use of the goods, according to standard market prices. The seller is entitled to use the part of the price already paid by the customer as compensation, with the buyer only being entitled to demand repayment if the seller has been compensated for any damage suffered.

16. Separability clause

If any provision of these terms and conditions is declared null or partially invalid, the other clauses will retain their full force and effect. The parties will replace the invalid provision by one that is valid and applicable, whose commercial purpose is as close as possible to the provision to be replaced. The same will apply in the event that these terms and conditions should be found to contain any deficiency in their provisions.

17. Competent jurisdiction

Our head office is the place of the contract's performance. These conditions of sale as well as all legal relations between the seller and the buyer are governed by Luxembourg law. For all disputes arising from this contract, only the courts of the judicial district of Luxembourg are competent.

Only the French terms and conditions of sale are authentic.

Bissen, 18th of July 2020