

General conditions of sale 2010

1. Contract Formation

1.1. Informations

Any indications given by Vauconsant of whatever the nature, including but not limited to prices, performance, technical features, dimension, or support whether in the form of a catalogue, technical documentations, oral or written information, or on any website are for illustrative purposes only.

1.2. Contract formation

In accordance with L441-6 article of the commercial law, these general conditions of sale constitute the legal basis of the agreement between us.

Any order placed with Vauconsant is worth acceptance, without reserve, of these general conditions of sale, despite any contrary stipulations of the Purchaser, except any contrary particular provision has been expressly written and accepted by Vauconsant.

1.3. Responsibility for the final recipient

Insofar as the equipment purchased is professional electric and electronic equipments (DEEE) subject to the Decree n° 2005-829 of the July 20, 2005 transposing the directive 2002/96/CE from the January 27, 2003, it is agreed that the Purchaser holding this equipment will ensure, except if contrary to convention, the financing and the organization of the waste disposal resulting from this equipment, under the conditions defined in articles 21 and 22 of the aforesaid Decree. The Purchaser must in particular, in accordance with the Decree :

- ensure that the selected treatment, evaluation and destruction of the DEEE are carried out in installations fulfilling the lawful technical requirements
- ensure the appropriate treatment of the materials and components of the DEEE
- ensure that information concerning the disposal and the treatment of this waste will be transmitted to any later purchaser

In the event needed by Vauconsant, the Purchaser will send to Vauconsant the documents establishing that it has fulfilled, for this equipment, all the obligations which have been transferred to him under the sale contract. If the Purchaser fails to send these documents, it will be deemed responsible for any non performance of the obligations, and Vauconsant will be entitled to an indemnity in respect of any damages for which it is liable because of this non performance.

2. - Research – Projects – Drawings

2.1. Property

The studies and documents of any nature given or sent by Vauconsant always remain its sole property.

Vauconsant completely reserves its intellectual property rights of its projects, which cannot be communicated, nor used without its prior written authorisation.

2.2. Responsibility

The Purchaser warrants to Vauconsant that the contents of the plans, drawings or models which it provides, do not use the intellectual property rights ownership or know-how of a third party and further warrants its capacity to use such contents without contravening a contractual or legal obligation.

The Purchaser agrees to indemnify Vauconsant in respect of the direct or indirect consequences of any action or civil or penal liability resulting in particular from a counterfeit action or an unfair competition action.

2.3. Obligation of the applicant

If Vauconsant would have engaged some research expenses especially on request, the applicant commits himself to pay the cost of this research if not followed by an order.

3. Inspections - Tests - Reception

3.1. Inspections - Controls

If the contract envisages it, the Purchaser has the right to carry out an inspection of the material during its manufacture, after agreement with Vauconsant in respect of the date of visit and the names of the representatives elected for this visit.

The contract sets of the extent of the inspections, controls and the programme.

3.2. Tests - Tests prior to delivery

If the contract envisages it, tests prior to delivery are carried out in the workshops or the warehouses of the manufacturer.

4. Delivery

Delivery is ex-works from our factory.

4.1. Transport - Insurance

The transport clauses are to be interpreted in accordance with the INCOTERMS of the International Chamber of Commerce in force at the day of the contract.

Except where expressly and in writing agreed to the contrary, whatever the destination and the conditions of sale, the delivery is considered complete when equipment is available in the factories or warehouses of Vauconsant. This date also marks the start of the period of guarantee.

The transfer of the risk takes place in the factories, depots or warehouses, even when the price includes assembly or re-assembly expenses on the customers site or when there are partial deliveries and whatever the indications stipulated on the purchase orders or invoices such as free delivery in station, on the junction, to quay, on residence, etc

Consequently the Purchaser or recipient bears the risk in the goods, even where they are dispatched "for free", and the Purchaser or recipient is responsible to obtain, under its own responsibility, all the necessary formalities to safeguard its rights in the event of transport damage or loss, and in particular to make all possible reserves (by correctly formulating them on the receipt of delivery) when receiving the goods.

The recipient or the Purchaser is invited to read carefully our delivery form. He has a 48 hours deadline from the receipt of the goods to issue detailed reserves, by registered letter with acknowledgement of delivery addressed to the conveyor (a copy has to be sent to Vauconsant). After this 48 hours period, the expenses of refunding and/or repairing will be on the recipient or the Purchaser.

We shall insist particularly on the importance of this procedure which is source of litigations when non respected, and invite our Purchasers to insist in the same way on their recipients and site managers (when delivery is made at their own customer address).

4.2. Material storage

If the direct handing-over of the material to the Purchaser is delayed for a cause beyond the control of Vauconsant, and if this last agrees to it, the material is stored and handled if it is necessary, on the expenses and risks of the Purchaser.

Vauconsant does not assume any responsibility for the losses or damages caused, except for those which are directly caused by itself or its employees. Any other responsibility is excluded.

4.3. Delivery period

The deadlines have an indicative purpose only and consequently do not have strict obligatory character. The Purchaser, in the event of non-observance of the lead times, does thus not have the right to ask for the execution or the modification of conventions.

If penalties have been agreed between the parties, those cannot be in any event, higher than 0,5 0/00 of the value of the contract (net of tax) of the material not delivered within the agreed lead time, per working day of delay from the fourth week of delay, Vauconsant always profiting from a three week grace period. The total of the penalties can never exceed 5% of the total value (net of tax) of the material not delivered.

The compensation of the Purchaser for delay is thus ensured by the system of penalties, and has contractual, final, legal tender and is exclusive and in place of any other compensation.

Vauconsant is automatically released from any engagement relating to the delivery periods :

1. If the terms and conditions of payment have not been respected by the Purchaser
2. If the information to be given by the Purchaser has been received at the appropriate time
3. In case of major force or events, such as lockout, strike, epidemic, war, requisition, fire, flooding, machinery accident, rejection of the important parts being manufactured, interruption or delay in transportation or all other causes provoking a total or partial delay for Vauconsant or its suppliers, and more generally all causes independent of the will of Vauconsant.

Vauconsant will use its best endeavours to keep the Purchaser informed, in good time, of the causes and events set out above.
4. The system of the penalties does not release the Purchaser of any of his contractual obligations, particularly those concerning the payments.

5. Terms of payment

The prices are indicated in Euros, exclusive of VAT, packed material, not installed.

5.1 Modes of payment

For a first order :

Deposit of 30% when order is placed. The outstanding balance with 30 days of receipt of an invoice.

For all further orders, and except if stipulated otherwise in the contract:

Bank draft within 30 days of end invoicing month.

5.2 Delay or defect

Without prejudice to any other right of action, Vauconsant can refuse to sell and/or cancel or suspend any or all pending orders in the event of the failure of the Purchaser to any of its obligations, in particular, in the event of non or delayed payment, unless this purchaser provides sufficient financial guarantees or a cash payment.

Any amount not paid at the deadline stipulated on the invoice is subject to the application of delay interest equal to the rate most recently quoted by the European Central Bank plus seven points.

These penalties will be payable, without a recall being necessary. The amount of this delay interest will be automatically ascribed to all given, discount, rebates or reductions due by Vauconsant.

5.3 Requirements of guarantee and payment

Any deterioration of the credit of the purchaser could justify the requirement of guarantees, or cash payment or payment by bank draft, before execution of the placed orders.

It will be in particular the case if a modification occurs in the purchasers capacity, in his professional occupation (or if it is a company : in the Executive Managers or the status of the company), or if a transfer, lease, charge or mortgage, and has an unfavourable impact on the credit of the Purchaser.

5.4. Reserve property

Full title of the delivered goods is reserved to Vauconsant until the full payment of the price and its accessories has been received by Vauconsant.

From the delivery, within the meaning of the 4.1. above, the Purchaser assumes the risks of loss or deterioration of the equipment as well as the responsibility for the damage which they could cause.

6. Guarantees and Responsibility

6.1. Guarantee

Our products have a 6 months guarantee for the electric material (except the bulbs, indicators and fuses) and a 1 year guarantee for all the other materials.

Within the guarantee, the Purchaser must send back to Vauconsant the defective parts. The return to Vauconsant of the parts considered to be defective will lead to a credit note or the sending of an identical part, other than any other allowance or damages.

Transport and labour costs remain on the Purchaser.

The Purchaser is advised to advise his customers not to store equipment but intend to commission immediately after delivery, and this applies particularly for refrigerating and electric material.

The guarantee does not extend to the usury caused in consequence of defects or of bad maintenance from the materials nor to the damage caused by the shocks or a misuse of the materials.

The guarantee also excludes for incidents holding with fortuitous or force majeure cases, with causes which could not be identified, or ascribed to the action of the Purchaser for any :

Bad installation, facts related to the use (behaviour, maintenance not in conformity with the booklet of maintenance, unqualified personnel, etc), modification of the equipment, repair carried out apart from the conditions specified hereafter, wear-parts, etc.

If the complaints of the Purchaser have involved an action from Vauconsant out of the limits set by its obligations of guarantee, Vauconsant will have the possibility to invoice the Purchaser for the engaged cost in accordance with its tariffs of repairs.

6.2. Responsibility

The responsibility of Vauconsant is strictly limited to the obligations defined above and it is of express convention that Vauconsant will be held with no compensation.

In no circumstances, will Vauconsant have to compensate the Purchaser in respect of immaterial or indirect damages such as : trading losses, loss of profit, loss of opportunity, commercial prejudice, and loss of earnings.

In any event, the civil liability for Vauconsant, on all causes except for the physical injuries and for fraud or the wilful default, will not exceed the total amount of the contract.

The Purchaser and his insurers give up any recourse against Vauconsant and his insurers beyond the limits and exclusions set out above.

7. Applicable right - Attribution of jurisdiction

All the sales concluded by Vauconsant are subject to French law.

All disputes which could lead the executions of these below conditions will be submitted to the Courts of Nancy which will be qualified for all litigations, even in the event of call in guarantee, of plurality of defendants or contrary competence clause stipulated on the letters or other documents of the Purchaser.