

ARES

GENERAL CONDITIONS OF SALE

1.Conclusion of contract

In the absence of clause to the contrary, all offers made are without engagement. Engagements entered into between ARES or their agents and third parties only become valid upon written confirmation by ARES.

If the purchaser does not send in written observations within 10 days after the dispatch of the confirmation of order, he is deemed to accept the present conditions of sales. They exclude the application of the customer's general buying conditions.

2.Contracts

If specifications are not sent in within the time limit agreed upon, the contract may be cancelled by ARES either wholly or in part without previous notice, prejudice to all rights.

3.Time for delivery

Time for delivery begins to run as from the date of the confirmation of order, provided however that ARES received all specifications before this date.

Unless there is a formal clause to the contrary, time for delivery only has approximate value. No delay in manufacture or delivery can entail a responsibility for ARES. If the contract fixes a binding time for delivery, the purchaser will any be entitled to claim, in case of delay, the cancellation of the tonnage's not yet in the process of manufacture without claiming damages and only after having given ARES formal notice of default.

If the purchaser does not promptly comply with the terms of the contract as for example the opening of a credit, the production of certificates, the prepayment of an instalment etc., ARES is entitled to extend the times for delivery accordingly.

The date of dispatch of the goods from the supply plant is decisive in determining whether the time for delivery has been observed. If the goods cannot be shipped in due time without the fault of ARES, time for delivery shall be deemed to have been observed upon notification of their readiness for dispatch.

4.Force major and other delivery obstructions

Events of force major entitle ARES to postpone delivery during the time of the obstruction.

Either party may terminate the contract in whole or in part if, owing to this event of force major, the performance of the contract can no longer be reasonably requested from it.

The expression "force major" shall include all events which will render delivery considerably more difficult or impossible, e.g. official monetary or trade measures, strikes, lockouts, interruptions of operation (for instance fire, breakdown of machines or rolls, shortage of raw materials or energy), interruption of transport or shortage of means of transport, irrespective of whether such circumstances affect ARES plants or a third party.

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5.Quality, margins and acceptance

Offers and engagements are always to be understood, unless otherwise specified, for ordinary merchantable quality.

The measurement, weight and quality agreed upon are respected subject to the usual deviations or tolerances. The sale of declassified material is made under the exclusion of the guarantees.

ARES does not warrant the fitness of its products for a specific use without prior notice in writing of such use.

All costs of eventual acceptance or inspection are born by the purchaser.

6.Weighing

The invoiced amount shall exclusively be based on the weightings carried out by the works.

The exactness of the weights is proved without any possible contestation by the weight slips or weight certificates.

7.Dispatch

a) Generalities

From the moment the goods are delivered into the custody of the first carrier, but the latest from the very moment the goods leave the factory, they travel at buyer's risk, either for sales carriage paid, FOB, C&F, CIF or according to other incoterms.

ARES declines all responsibility as to the regularity and the quality of the means of transport by rail, road, sea or river.

In case of damage in transit or missing load, the purchaser shall comply with all necessary formalities to safeguard his rights towards the carrier.

Changes occurring in transport charges or customs duties after the confirmation of an order or a contract are for account of the buyers, either to their advantage or their disadvantage.

b) Land transport

*Sales ex works: Free at factory (taking away of goods)

The purchaser and his carrier have the entire and exclusive responsibility of the loading and the transport. The intervention of the work, loading according to the carrier's indications, is benevolent. As soon as the material has been prepared, the customer will be notified by ARES that the material is at his disposal. The customer has to take delivery of the material within 15 days; if he does not take delivery within this period of time, ARES is allowed to terminate the contract; this happens automatically 8 days after a formal, ineffective notice by registered letter. In this case ARES is entitled to a cancellation indemnity of 15 per cent of the value of the order without prejudice to all other rights.

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*Sales delivered free at destination : rail – road – river

All prices are to be understood:

- for normal transport conditions and for complete truck-and lorryloads;
- for normal shipping conditions, for normal and unhindered navigation in case of transport by river or sea.

All extra charges resulting from incomplete loads, big lengths or unforeseen circumstances will be charged to the buyers.

c) Sea transport

* Sales FOB

All sales FOB are to be understood according to the ways and customs of the port of shipment. The transit operations at the port will be carried out by the shipping agents appointed by ARES. The buyers or their agents have to give the shipping agents in due time precise instructions to avoid demurrage charges. Whenever, after goods have been forwarded upon such instructions, shipment is delayed, ARES and their agents may on their own authority at the expense and the risk of the buyers, adopt any measures they judge necessary for the safeguard of the goods. These charges as well as all extra charges such as charges caused by congestion, inadequacy of lifting appliances, lack of co-ordination between the various means of transport, strikes in the ports etc., are debited to the buyers in all cases where their forwarding instructions have been properly observed.

* Sales C&F or CIF

In the case of sale:

- C&F, ARES cover the freight for account of the buyers
- CIF, freight as well as insurance are covered for buyer's account by ARES

Insurance is being covered from the works the ordinary f. p. a. conditions unless otherwise agreed.

8.Destination Clause

Goods not expressly intended for export to non E. C. countries, shall not be exported unprocessed to such countries by the customer.

Goods expressly intended for export to non E. C. countries, shall not be delivered by the customer to E. C. countries. In case of resale, the buyer has to impose the foregoing provisions upon his customer.

If these provisions are infringed either by the buyer or by an eventual next purchaser, ARES will have the right to claim from the buyer an indemnity equal to the loss of profit and a penal sum amounting to thirty per cent of the sales price.

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9.Claims

Claims, in so far as they are not excluded by the present conditions of sale, must be presented in writing within 30 days from receipt of the goods.

If these claims concern material which has been transformed, there is a reason to presume that the defect is due to the transformation.

Whenever ARES accept a claim as justified, their maximum obligation can only consist in the replacement of the incriminated material and in no case do they accept liability for damages, reimbursement of expenses of any kind of indemnities.

Claims cannot be based on clauses shown on the sea or river shipping documents in connection with the aspect of the material.

The buyer has to prove the identity of the goods.

10.Monetary protective clause

In case any impediments should arise regarding the convertibility, transferability or forward selling at normal conditions of the currency agreed in the contract, ARES have the option either to suspend deliveries for the duration of such impediments or to propose to the buyer revised terms of payment, adapted to the new situation or else to simply cancel the undelivered part of the contract.

11.Terms of payment

a) The price becomes payable at maturity without discount.

If, due to the buyer, payment is not effect at the due date agreed upon, the price is payable at the moment the buyer is informed that the goods are ready for dispatch. If it was agreed between the two parties that the price is payable at the moment when shipment is made or on presentation of the shipping documents, and if delay or suspension of shipment not imputable to ARES occur, the total amount of the invoices becomes due at the latest 30 days from the and of the month during which the goods left the work.

Whenever payment is not effected at the due date agreed upon, the buyer will automatically and without formal notice have to pay interest charged from due date at the LIBOR rate of the contract currency plus 30 per cent of this rate, unless otherwise arranged; the buyer also has to pay loss of exchange in relation to the Belgian franc if ARES have suffered such loss by the delay. If the customer does not observe the terms of payment or if his financial situation deteriorates thus compromising the payment, ARES are entitled to require payment without delay before due date or sufficient guarantees. If the customer does not meet this request, ARES have the right to terminate the contract without formal notice or legal proceedings, without prejudice to its claim to compensation.

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b) All goods delivered shall remain the property of ARES until full payment of the price and all other eventual costs (taxes, interests, etc.).

The seller remains owner of the goods even if they are transformed and/or resold by the buyer. In this last case, the claim out of the resale shall automatically be assigned to the seller.

The risk of the goods are transferred to the buyer as from the moment referred to in article 7a).

The buyer has to meet the charges relating to the restitution of the goods.

c) If the buyer has claims against ARES and in view of compensation, the claims of ARES against the buyer will become due prematurely for the same amount and the same date then the debts of ARES.

Whenever ARES is creditor or debtor of the buyer, they are entitled to set off their claims, the claims of ARBED S.A., or of subsidiaries of at least 25% of the prementioned companies against the buyer's claims against TradeARBED, ARBED or one of the prementioned subsidiaries.

Neither different dates of maturity of mutual claims nor their different legal grounds, nature or agreed ways of payment (cash or bills of exchange) may impede these compensations.

Only discounted values will be set off.

12. Jurisdiction

The place of payment and jurisdiction is Luxembourg-City. ARES, however, reserve the right to bring any dispute with the buyers before the Law-Courts of the buyer's residence.

The legislation which is applicable will be that of the Grand-Duchy of Luxembourg with the exception of article 1135-1 of the Luxembourg Civil Code.

The application of the uniform laws uniform laws on international sale of movable and the conclusion of such contacts as well as the United Nation's Convention on international sales contracts of goods is excluded.