

General Conditions of Sale

GENERAL TERMS AND CONDITIONS OF SALE SMART LABELS, TAGS, INTERFACES AND RELATED PRODUCTS

ARTICLE 1 – SCOPE AND EFFECT

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1.1 Unless otherwise stated in a written agreement, all orders placed by the Buyer with TAGSYS SA (acting in its own name and in the name of any and on behalf of all legal entities and companies directly or indirectly controlled by TAGSYS SAS, hereinafter referred to as «TAGSYS») for the purchase of radio frequency (RF) smart labels and tags (hereinafter collectively referred to as "Tags"), and/or of RF interfaces or Tag related products (hereinafter collectively referred to as "Tag Readers"), manufactured and/or distributed, sold or marketed by TAGSYS, shall be governed by these General Terms and Conditions of Sale. Tags and Tag Readers shall hereinafter be collectively referred to as "Products".

These General Terms and Conditions of Sale are supplemented or amended by specific product terms as set forth in the respective product data sheets (hereinafter referred to as the "Product Data Sheets"), including without limitation, specific warranty terms. Buyer recognizes that it has received a copy of all TAGSYS' Product Data Sheets which are relevant to Buyer's orders hereunder and Buyer agrees with their terms. Product Data Sheets are incorporated herein by reference so that any reference to these General Terms and Conditions of Sale shall be deemed to include a reference to said Product Data Sheet.

1.2 Notwithstanding anything to the contrary or any additional or supplementary terms stated in the Buyer's Conditions of Purchase, the placement of any order by the Buyer with TAGSYS is considered as an acceptance of these General Terms and Conditions of Sale..

ARTICLE 2 - QUOTATIONS

2.1 All quotations made by TAGSYS to the Buyer shall be valid for a period of 30 days from the date they

are made unless otherwise specified in the quotation. The delivery time stated in a quotation is only an indication and starts on the later of the following two dates:

- the date on which all the information, documents and other elements required to process the orders are received by TAGSYS, or
- the date of acknowledgement of receipt of the order by TAGSYS.

2.2 Prices are based on the supply of Products produced according to the provisions of the corresponding quotation. Should the Buyer desire to make any substantial change to said provisions, such as but not limited to changes to the specifications or the delivery schedule, then TAGSYS reserves the right to re-quote. Without prejudice to Section 2 above, the written acceptance by the Buyer of TAGSYS' latest quotation is required before TAGSYS can proceed.

ARTICLE 3 - ORDERS

3.1 Orders acceptance

TAGSYS will accept an order by acknowledging receipt of the same to the Buyer. Said acknowledgement of receipt will specify the registration reference and the scheduled date of delivery.

The order form, the appropriate acknowledgement of receipt, and the General Terms Conditions of Sale shall form the Contract between TAGSYS and the Buyer. No order shall be deemed to have been accepted until an acknowledgement of receipt has been issued by TAGSYS.

The minimum invoice amount accepted by TAGSYS shall be 500 Euros (or 500 USD).

The minimum ordered quantity accepted by TAGSYS for Tags shall be as set out in the TAGSYS' price list.

3.2 Cancellation of order

3.2.1 By the Buyer:

All orders placed by the Buyer shall be deemed to be firm and binding. If the Buyer cancels an order before the scheduled date of delivery, it shall pay to TAGSYS as damages, 100% of the value of the order, if the order is cancelled less than 4 weeks before the scheduled delivery date. The damages shall amount at least to 50% of the value of the order, if the order is cancelled more than 4 weeks before the scheduled delivery date.

3.2.2 By TAGSYS:

TAGSYS reserves the right to cancel or suspend all or part of an order if the Buyer does not comply with any of its obligations, in particular where payment or supply of information, documents and other elements required to process the order are concerned.

ARTICLE 4 - PAYMENT

All prices are quoted "Ex Works", manufacturing site, France or Malaysia, pursuant to the Incoterms issued by the International Chamber of Commerce, version of January 1, 2000. Prices are, net of all taxes and all other duties required by the relevant authorities.

The cost of TAGSYS standard packaging is included in the price. All specific packaging shall be charged separately to the Buyer.

ARTICLE 5 - TERMS OF PAYMENT

5.1 TAGSYS' invoices shall be paid to TAGSYS in full amount at thirty (30) days net as from their date of issuance.

TAGSYS reserves the right to vary the terms of payment should the Buyer have a bad credit line, and the Buyer shall then comply with these new terms of payment.

Any discount payment shall request TAGSYS' prior approval.

5.2 TAGSYS shall be entitled, without prejudice to any other right or remedy, to an interest for late payment at the 3 months LIBOR rate of due date majored by 3 percent per annum until outstanding invoice(s) is (are) paid in full without waiver by TAGSYS of its right to immediate payment. Such interest shall be calculated from the due date for payment thereof to the date of actual payment. Interests received by TAGSYS are net of withholding tax, if any.

In addition, TAGSYS shall have the right not to make any further delivery, pursuant to the corresponding order or to any other order, until full payment with interests is received from the Buyer by TAGSYS.

5.3 The fulfilment of TAGSYS' obligations shall not be subject to any Bank financial warranty.

With regard to Euro compliance, TAGSYS' liability shall be limited to the implementation and follow up of the European Central Bank conversion rules.

ARTICLE 6 -RETENTION OF TITLE

TAGSYS shall retain title to the Products even after delivery to the Buyer, until the order has been fully paid for. Should the Buyer fail to pay, TAGSYS may claim back the Products supplied without prejudice to any other right or damages.

ARTICLE 7 – DELIVERY AND TRANSFER OF RISKS

All Products shall be delivered to Buyer, "Ex Works", manufacturing site, France or Malaysia, pursuant to the Incoterms issued by the International Chamber of Commerce, version of January 1, 2000.

The Buyer shall bear all risks with respect to the Products from the time the same are put at the carrier's disposal according to the Ex Works Incoterms ICC 2000.

However, in the case the Buyer does not give any instruction to the contrary at the time of placing the order, TAGSYS may contract for carriage at the Buyer's risk and expense.

The Buyer shall take out all necessary insurance to indemnify TAGSYS as owner of the Products against any loss or damage thereto.

ARTICLE 8 - WARRANTY

8.1 - Standard Warranty provisions

Warranty period for all Tags but 370L-DL and 370L-HL Tags: TAGSYS warrants that Tags supplied to Buyer shall comply with their functional specifications for a period of one year as from the date of delivery thereof to the Buyer.

Warranty period for 370L-DL and 370L-HL Tags: TAGSYS warrants that 370L-DL Tags supplied to Buyer shall comply with their functional specifications for a period of three year as from the date of delivery thereof to the Buyer.

Warranty period for Tag Readers requiring installation by TAGSYS: TAGSYS warrants that the Tag Readers supplied to Buyer shall comply with their functional specifications for one year from the date of signature of the installation certificate;

Warranty period for Tag Readers which do not require installation by TAGSYS, TAGSYS warrants that the Tag Readers supplied to Buyer shall comply with their

specifications for one year from the date of delivery thereof to the Buyer.

This warranty shall only apply to Products which have been manufactured according to TAGSYS' standard process.

TAGSYS' warranty is strictly limited to (at TAGSYS' sole option):

- the replacement of Tags, or
- the replacement or repair of Tag Readers, or
- the refund of the price paid by Buyer for the defective.

provided that the Products are confirmed as defective by TAGSYS, and being understood that TAGSYS will replace defective Tags only if the total accumulated rate failure exceeds, during the warranty period, 1500 ppm (pieces per million).

Defective Products must be returned to TAGSYS in their complete original packaging, provided such original packaging is available, following TAGSYS return procedures. If the original packaging is not available, the Buyer shall ensure that the Products are returned to TAGSYS in a packaging that adequately protects said Products. No Products shall be returned if the acceptance number relating to the return procedure is missing. All Products shall be returned, at Buyer's expense, with a report from the Buyer stating the complete details of the alleged defect.

Buyer shall notify TAGSYS of any defects affecting the Products within 15 working days after the same are discovered.

This warranty does not cover:

- Engineering samples and early access products.
- Products which have been damaged by the Buyer or which have been stored under conditions which do not comply with TAGSYS specifications or normal use.
- Products submitted to abnormal conditions (mechanical, electrical, thermal), abnormal conditions being defined as any conditions exceeding the ones stated in the product specifications.
- Products which are incorrectly adjusted or defective when this results from use in excessive operating conditions (sundry temperatures, voltage and supply limits) as defined by TAGSYS, or from an incorrect choice of application by the Buyer.
- Products modified by the Buyer or anyone other than TAGSYS, including, without limitation, configuration and adjustment modifications.

- Products which are incorrectly installed or integrated by the Buyer or anyone other than TAGSYS.

- Damages caused by products, devices or systems not supplied by TAGSYS or by events of force majeure, such as but not limited to acts of God Damages which have not been reported to TAGSYS within 15 days as from the date on which they were discovered by Buyer.

The Products are not intended to be incorporated into, or used in connection with life saving or life support devices or systems or any related products. If Buyer or a third party incorporates the Products into, or uses the same in connection with life saving or life support devices or systems, or any related products, TAGSYS expressly excludes any liability for such use.

The remedies provided in this Section are in lieu and to the exclusion of all other remedies, obligations or liabilities on the part of TAGSYS for damages, whether in contract, tort or otherwise, and including but not limited to, damages for any defects in the Products or for any injury, damage, or loss resulting from such defects or from any work done in connection therewith or for consequential loss, whether based upon lost goodwill, lost resale profits, impairment of other goods or arising from claims by third parties or otherwise.

TAGSYS disclaims any express warranty not provided herein and any implied warranty, guaranty or representation as to performance, quality and absence of hidden defects, and any remedy for breach of contract, which but for this provision, might arise by implication, operation of law, custom of trade or course of dealing, including implied warranties of merchantability and fitness for a particular purpose.

These warranty terms are subject to any specific warranty provision that may apply to certain TAGSYS' Products as such terms are defined in the respective product data sheets.

ARTICLE 9 - ACCEPTANCE

9.1 Upon delivery of the Products, the Buyer may perform acceptance tests, provided such tests have been previously agreed upon between the Buyer and TAGSYS (hereinafter referred to as the "Acceptance Tests").

If one batch of Products does not pass in all or in part the Acceptance Tests, the Buyer shall inform TAGSYS by registered letter with acknowledgement of receipt to be sent no later than 15 days after the Buyer has received the Products. Minor defects not affecting the operational use of the Products shall not give rise to rejection of the Products concerned. Once this 15 day period has expired, if no claim is received by

TAGSYS, all Products shall be deemed to have been definitively accepted.

In case of rejection of the Products pursuant to this Section, TAGSYS will issue a return authorisation number. Buyer shall indicate said number in the delivery form to return the whole refused batch.

It is expressly stated that any claim concerning a batch of defective Products shall only be accepted by TAGSYS if each of the following four conditions are met:

- for each batch of Products considered as defective, the exact reason for their rejection must be given together with the results of the relevant tests. Samples of alleged defective Products may be required by TAGSYS for analysis purposes.
- the batch of defective Products must be returned in complete original packaging, in good condition, at the Buyer's expense.
- the Products should not have been damaged in any way (in particular during storage, inspection).
- the Buyer shall not have made any alteration to modification to the Products.

Should the rejected Products prove to have failed the Acceptance Tests, TAGSYS shall replace such rejected Products free of charge and within a reasonable time.

9.2 The provisions of Article 9.1 shall not apply to Products which have been submitted to an acceptance test at TAGSYS premises and which consequently are deemed to comply with the specifications, no return shall be accepted for these Products.

9.3 TAGSYS reserves the right to consider an order settled if the maximum positive or negative variation is 2% of the ordered quantity.

9.4 TAGSYS shall invoice the Buyer for the actual quantities supplied.

9.5 For custom products this variation may be of +/- 10%.

ARTICLE 10 - MAPPING / APPROVAL FOR CODING

The memory of the Tags supplied by TAGSYS is programmed according a pre-defined "mapping". It describes the way in which the data are to be coded in the memory of the Tags. The detail of this mapping is described in the Tags Technical Specifications.

The Buyer can receive partially or completely programmed Tags. In case of a specific request for electrical personalization of the Tags from the Buyer which will have to be accepted by TAGSYS, one or several "OK FOR CODING" forms (Tags proofs) will be issued by TAGSYS.

Each of the Tags proofs once signed by the Buyer and without any further formalities shall formally release TAGSYS from any liabilities for the work carried out prior to the said signature. In case the Tags proof does not comply with the required coding and instructions of

the Buyer, TAGSYS shall proceed to the required corrections. If, at the request of the Buyer, there is no final proof, TAGSYS shall be released from any liability.

ARTICLE 11 - CUSTOMIZATION AND MARKING

11.1 Customization

The customization of a Tag or a Tag Reader is negotiated case by case and must be accepted by TAGSYS before any order is placed with TAGSYS.

The quality of the work depends to a large extent on the schedule agreed between TAGSYS and the Buyer when the order is placed. For all schedule changes which are due to the Buyer (for example because of delays in supplying the necessary information, documents, materials or other elements to TAGSYS), which disrupt the work schedules and may cause errors and increase the cost price, TAGSYS reserves the right to request an appropriate additional payment.

Any customization of a Tag or of a Tag Reader will be implemented by TAGSYS provided the Buyer and TAGSYS have agreed on all the specific terms and conditions which will apply to such customization, including but not limited to pricing adjustments, delivery schedules, respective rights of either Party, intellectual and industrial property rights.

11.2 Marking

Products may carry a visible number which proves their final Quality acceptance and which allow traceability during the warranty period. Buyer accepts such marking.

Moreover TAGSYS reserves the right to engrave "TAGSYS" or the TAGSYS logo on all the Tags and Tag Readers.

ARTICLE 12 – LIABILITY LIMITATIONS

12.1 Except for delayed delivery which commands the application of liquidated damages pursuant to Section 12.2 below, the aggregate liability of TAGSYS to Buyer, however arising, including but not limited to liability arising out of contract, tort, breach of warranty, claims by third parties or otherwise, shall not in any event exceed the price effectively paid by Buyer for the Products or services which gave rise to the claim. TAGSYS shall not be held liable for indirect, incidental, special, consequential or punitive damages. Without limitation, the following damages shall be considered as indirect or consequential damages and

will not give rise to any liability hereunder: loss of revenue, loss of opportunity, loss of goodwill, loss of clients, loss of profits, business disruption, loss or inaccuracy of data, deprivation of enjoyment or other economic loss, even if TAGSYS has been advised of the possibility of such damage. This limitation of liability shall not apply to death or personal injury resulting from negligence.

12.2 If TAGSYS fails to meet the delivery schedule acknowledged by TAGSYS for reasons exclusively due to TAGSYS, TAGSYS shall for any delay exceeding a grace period of fifteen (15) working days, pay to the Buyer as liquidated damages, the amount of 0,2 % of the price of the delayed batch of Products per full week of delay. Such liquidated damages shall not exceed 4 % of the price of the delayed batch of Products. Any claim for penalties hereunder shall be made by written notice to TAGSYS within a maximum sixty (60) days as from the delay giving rise to such penalties, failing which any right to penalties or other compensation for said delay shall irrevocably lapse.

Without prejudice to the foregoing, penalties may either be paid to Buyer or set-off against any future TAGSYS' invoice, at TAGSYS' sole option. Aforementioned liquidated damages shall be the Buyer's exclusive remedy for any damages suffered as a result of such delay and shall be in full satisfaction of TAGSYS' liability therefore, provided however that the payment of liquidated damages shall not relieve TAGSYS from its obligation to deliver the Products or from any other obligations.

ARTICLE 13 – INTELLECTUAL PROPERTY RIGHTS

In addition to the provisions of Article 11 above, any Intellectual Property Right belonging to TAGSYS at the time of placing the order, and any Intellectual Property Right resulting from any development, adaptation, modification, enhancement, improvement of any kind, performed by TAGSYS subsequently to the order, shall be the exclusive property of TAGSYS.

"Intellectual Property Rights" means any creation, invention, patent, petty patent, software, registered design, copyright, design right, know-how, trade or service marks (filed or not), or any similar right in any part of the world and shall include any application for such patent, petty patent, trademark or design or similar registrable rights in any part of the world. Intellectual Property Rights include any and all industrial property rights or right to apply for title thereof.

ARTICLE 14 – INDEMNIFICATION FOR INFRINGEMENT OF THIRD PARTY'S RIGHTS

TAGSYS shall defend, at its own expense, any action brought against the Buyer or at its option settle any claim by a third party, to the extent that such action or claim alleges that TAGSYS' Products, as delivered by TAGSYS to Buyer, infringe a third party's patent or intellectual property right, PROVIDED that the Buyer :

- notifies TAGSYS promptly if any infringement is alleged, and
- makes no admission without TAGSYS' written consent, and
- assists TAGSYS to conduct all negotiations and litigation, if requested by TAGSYS.

In the event that any Product is held by a final court decision to constitute an actual infringement of a third party's patent or intellectual property right, TAGSYS shall at its own costs and at its sole option, either obtain the right for the Buyer to continue using the Product or to replace or modify the Product so that it becomes non-infringing.

Should none of the above solutions be commercially possible to implement in TAGSYS' judgment, the Parties agree that TAGSYS will reimburse the Buyer of the sums paid by the Buyer to TAGSYS for the Product at the date of the court decision referred to above, in full satisfaction of TAGSYS' liability.

TAGSYS' defence and indemnification obligations hereunder only apply with respect to infringement of third party intellectual and/or industrial property rights by the structure of the Product, as delivered by TAGSYS to Buyer, or the inherent Product functionalities implemented solely by the Product, irrespective of the use of such Product and the applications implemented by Buyer. TAGSYS shall have no liability to the Buyer with respect to any claim of infringement (a) which arises with respect to the use of the Product by Buyer; ; or (b) which results from the compliance by TAGSYS with, or the use by the Buyer or, any element, specifications methods imposed or requested by the Buyer; or (c) which results from the modification of the Product by anyone other than TAGSYS or the combination of the Product or any part of it (including but not limited to the software, any circuit, system or device) with any product, hardware, software, firmware, system or other element whatsoever not supplied by TAGSYS.

This section sets forth TAGSYS' entire liability with respect to any and all claims of misappropriation and infringement of third party's intellectual and/or industrial property rights.

ARTICLE 15 - CONFIDENTIALITY

The Buyer undertakes to keep confidential and not to disclose or transfer to any third party in any way whatsoever, part or all of the documents, data or information of whatever nature or kind, disclosed, transmitted or made available by any means to the Buyer by TAGSYS, and relating to the Products or any other proprietary or confidential information of TAGSYS.

ARTICLE 16 - FORCE MAJEURE

TAGSYS shall not be considered as liable for late delivery or failure in the performance of its obligations, for reasons beyond its reasonable control such as but not limited to fire, flood, earthquake, war, strikes and lock outs, inability to obtain raw materials, any unpredictable manufacturing problem and any other unforeseeable and/or unavoidable event.

TAGSYS shall send to the Buyer written notice stating the delay and cause thereof, within at least 15 days as from the dates of the occurrence of the force majeure event.

ARTICLE 17 – APPLICABLE LAW - JURISDICTION

The supply contract(s) entered into between TAGSYS and the Buyer pursuant to these General Terms and Conditions of Sale shall be governed by and interpreted in accordance with the laws of France, to the exclusion of any conflicts of laws provisions.

Any dispute arising out of or in connection with this supply contract or any subsequent supply contract between the TAGSYS and the Buyer, including, without limitation, with respect to its formation, validity, construction, performance, expiration or termination, shall be referred first, by notice in writing, to a senior representative of each party who shall meet and endeavour to resolve the dispute between them within 15 days of such notice. The joint written decision of those senior representatives shall be binding upon the Parties. Any dispute arising out of or in connection with the validity, construction, performance or termination of this supply contract or any subsequent supply contract between TAGSYS and the Buyer, which cannot be settled amicably pursuant to the procedure set forth above, will be submitted to the exclusive jurisdiction of the Tribunal de Commerce of Paris, France.

ARTICLE 18 - SEVERABILITY

Each provision herein is severable from the entire General Terms and Conditions of Sale, and in the event

that any provision is declared invalid or unenforceable, the parties shall endeavour to replace such provision by a provision which is valid and enforceable and reflects to the extent possible the original intent of the parties. The invalidity or unenforceability of a provision shall not affect the validity or enforceability of the other provisions herein contained, which shall remain in full force and effect.

ARTICLE 19 – OTHER STANDARD TERMS AND CONDITIONS

Purchase orders shall be binding as to the products and services ordered and shall be governed by these General Terms and Conditions of Sale. Other terms and pre-printed terms on or attached to any Buyer's purchase order shall be void.

