

SALE TERMS & CONDITIONS
APEX TOOL GROUP S.A.S.

1. FIELD OF APPLICATION

These sale terms & conditions apply to any order for a product ("Product") or equipment ("Equipment") or provision of services ("Services") placed with Apex Tool Group S.A.S. ("Apex") or resulting from an Offer from Apex ("Offer"). Any order implies unreserved acceptance by the client ("Client") of these sale terms & conditions. These conditions prevail over any other provision, despite any contrary stipulation appearing on any document from the Client, such as an order form, receipt of order, purchase terms and conditions or other document issued by the Client, whatever it may be and whenever it may be bought to Apex's attention. Any modification of these conditions is unenforceable against Apex, unless it has been expressly and previously accepted in writing by an authorised representative of Apex.

2. ORDER

Any order must be made in writing to Apex by any means, including letter, fax, e-mail and electronic exchange of documents (EDI).

No order based on a catalogue with Apex's current price-list or specific Offer from Apex during its period of validity, nor any contract between Apex and the Client, shall become definitive until the order has been expressly accepted by Apex in writing, by sending a confirmation of order, or by Apex starting to execute the order. Any order accepted is firm and final and must be honoured by the Client, which is bound to take delivery thereunder and to pay the full price.

No modification or cancellation of order may be effected without the prior agreement of Apex which reserves the right to refuse or accept it in return for reimbursement of any sum already spent for the execution of the original order. Cancellation of the order by the Client contrary to the provisions of this clause shall give rise to compensation, without prejudice to any sums paid, which shall belong to Apex.

3. LEAD TIMES

No delivery or completion period specified in the confirmation of order from Apex, the contract or the Offer shall start until the date when all the following conditions have been fulfilled:

- issue of the confirmation of order or signature of the contract;
- receipt of all the information (definitions, etc.), input (material, etc.) and authorisations due from the Client, which affect the start of execution.

The delivery period shall end, as appropriate, either on the date of delivery as defined in clause 4 or the date of acceptance as defined in clauses 8 or 9.

Delivery and completion periods are provided for information only and depend on the circumstances. They shall in no circumstances give rise to default penalties, damages, retention or cancellation of current orders, whatever the cause, significance or consequences thereof.

4. DELIVERY - COMPLETION - PROCEDURES

Delivery of Products or Equipment is made EX WORKS (EXW) to the place indicated in the confirmation of order from Apex or in the Offer.

Services are provided at the place indicated in the confirmation of order from Apex or the Offer.

5. GUARANTEE

Unless otherwise provided in the confirmation of order or the contract, Products or Equipment delivered by Apex benefit from a guarantee of proper operation for one (1) year from delivery. This guarantee is only valid provided that the Products and Equipment are used for the purposes for which they have been developed and in compliance with the instructions of APEX and professional practice.

6. TRANSPORT - TRANSFER OF RISK

Unless otherwise provided in the confirmation of order from Apex or the Offer, all sales are effected EX WORKS (EXW, INCOTERMS 2010), the location being stated in the confirmation of order or Offer. Transport, handling and insurance are payable by and at the risk of the Client, including where the Products or Equipment are remitted to the transporter by Apex and notwithstanding any reservation of ownership clause for the benefit of Apex. Products and Equipment travel at the risk of the Client. It is for the Client to report any findings and reservations to the transporter in the event of loss, damage or incomplete delivery by recorded delivery

letter or by extrajudicial deed within three days from receipt (art. L 133-3, French Commercial Code) and to inform Apex in writing as provided below.

7. PRODUCTS - RECEIPT - CONFORMITY - RETURNS

Signature of the delivery note confirms acceptance of the delivery of the Products. Without prejudice to any steps to be taken vis-à-vis the transporter, the Client must inform Apex by recorded delivery letter of any claim relating to the conformity of the products within eight (8) days of their receipt. After this period, no claim for non-conformity will be accepted by Apex and the delivery will be deemed to have been accepted.

Any return of Products not in compliance with the order must be made with the prior written agreement of Apex. Any return without such agreement shall not give rise either to a credit note or replacement. The return of Products accepted as non-compliant by Apex shall give rise, at Apex's option, to their reimbursement or replacement without charge, to the exclusion of any penalty for non-compliance or delay, compensation or damages. Any return is at the expense and risk of the Client.

Only Products in their original packaging, in fully saleable condition, unimpaired by any marking, shock, use, modification, etc. by the Client or a third party acting under its responsibility can be taken back. A reduction of 20 % on the amount of the returned product will be applied.

8. EQUIPMENT - ACCEPTANCE - ASSEMBLY - INSTALLATION - COMMISSIONING

Unless otherwise provided in the confirmation of order from Apex or the Offer, the assembly, installation and commissioning of Equipment are carried out by Apex, or by a subcontractor of its choice, acting under its responsibility.

The Client undertakes to provide access to the site, to provide without delay all authorisations for access and site rules, and to inform Apex of any obligations concerning its intervention on the site. Trials or acceptance tests are effected by Apex, at its option, in its own or the Client's workshops. The Client undertakes to provide, at its own expense, any consumables required for the trials and, where appropriate, any necessary parts of sufficient quality and quantity. Unless otherwise provided in the confirmation of order from Apex or the Offer, technical assistance with effective commissioning and maintenance of the Equipment are payable by the Client.

Acceptance of the Equipment is deemed to be definitive on signature of an acceptance report within eight (8) days following the end of its commissioning, or otherwise eight (8) days after the end of its commissioning, unless the Client has notified Apex within such period, by recorded delivery letter, of its express, detailed and reasoned reservations within eight (8) days following the end of commissioning. In such event, acceptance is deemed to be definitive once the reservations are lifted.

9. SERVICES - COMPLETION - ACCEPTANCE

Services shall be completed at the place and on the date indicated in the confirmation of order from Apex or the Offer. The Client undertakes to provide access to the site, to provide without delay all authorisations for access and site rules, and to inform Apex of any obligations concerning its intervention on the site. The Client undertakes to provide at its own expense any materials necessary for completion of the Services. The Services are deemed to be accepted eight (8) days after the end of their realisation unless the Client has notified Apex within this period, by recorded delivery letter, of its express, detailed and reasoned reservations.

10. PRICES - PAYMENT TERMS

Unless otherwise provided, the prices are those appearing in the Offer or in the Apex price-list catalogue, provided that the order is accepted or the contract concluded during their respective periods of validity. Prices are firm and stated in euros, ex-VAT. The prices of products are increased by €50 ex-VAT for the cost of administrative processing for any order under €200 ex-VAT. Unless otherwise provided in the confirmation of order or the contract, deliveries are EXW. Should other Incoterms be used and unless otherwise provided in the Offer or the current Apex price-list catalogue, sundry costs, such as packaging, transport, insurance, bank guarantees and Customs duty, may be added to the prices stated in the Offer or the Apex price-list catalogue.

Unless otherwise expressly provided in the confirmation of order from Apex or the Offer, payment shall be in euros, within fifteen (15) days from the date of invoice.

Any sum unpaid on its due date shall automatically entail the application of penalties of three (3) times the official interest rate and the payment of fixed compensation of 300 euros for the cost of recovery, plus reimbursement of any legal fees incurred for recovering any unpaid receivable. Non-payment of all or any part of the price on its due date shall automatically entail the immediate payability in full of any remaining sum owed to Apex by the Client, even if they are not yet due and whatever the means of payment contemplated.

In the event of delay or default in payment, after any reminder issued to the Client in any form or after a period of fifteen (15) days from the due date of payment, Apex shall be entitled to:

- interrupt the delivery and/or execution of all or any part of the order; and/or
- wholly or partially cancel it; and/or
- reclaim any Products and Equipment already delivered; and/or
- suspend any other delivery of Products or Equipment; and/or
- suspend any execution of Services.

Any exercise by Apex of any of the above options is without prejudice to the payability of any sum remaining from the Client and any late-payment penalty.

In the event of deterioration of the Client's credit, Apex may require guarantees or payment in cash.

11. PRODUCT GUARANTEE

Unless otherwise provided in the confirmation of order from Apex or the Offer, the Products are guaranteed against any material or manufacturing defect for a period of one (1) year from the date of delivery.

Under this guarantee, the only obligation upon Apex is, at its option, to replace or repair the Product or part acknowledged by Apex to be defective. To benefit from the Product guarantee, the Client must inform Apex in writing within eight days following the appearance of any defect which might activate the guarantee. After examination of the Product by Apex, written confirmation of activation of the guarantee is sent to the Client.

The Apex guarantee is excluded in the event of normal wear and tear, negligence, improper or abnormal use of the Products or use contrary to the instructions for use appearing on the Product notices.

12. EQUIPMENT GUARANTEE

Apex undertakes to remedy any defect in operation which appears during the period of 12 months inclusive from the date of acceptance of the Equipment or 3,600 hours, whichever occurs first. This period applies to use in compliance with the elements defined in the order and in any instructions for use.

The guarantee consists in the repair or replacement of parts, without charge for the Client. Only spare parts provided, modified or refashioned by Apex are guaranteed, and only during the period of guarantee for the principal Equipment.

To claim the benefit of this guarantee, the Client shall inform Apex, without delay and in writing, of the dysfunction of the Equipment and provide full evidence thereof. It shall provide Apex with facilities to investigate such dysfunction.

Any guarantee or liability is excluded in the following cases:

- in the event of dysfunction due to a design and/or operation imposed by the Client;
- normal wear and tear of parts and Equipment;
- deterioration or accident due to negligence or lack of supervision;
- non-compliance with any instructions for maintenance of the Equipment, the Client's rules of professional practice, periodical inspection recommended by Apex or by the regulations;
- non-compliance with any security and environmental regulations;
- improper or abnormal use of the Equipment;
- lack of skill by the user of the Equipment.

Any intervention by the Client or a third party affecting the Equipment (modifications, repairs, addition of non-original or

refashioned spare parts without the express agreement of Apex) will exclude Apex's guarantee and liability. The guarantee is also excluded in the event of, even partial, non-payment by the Client.

13. INTELLECTUAL PROPERTY

Studies, plans, drawings, documents, instructions, technical documentation and information of any kind, whether or not covered by an intellectual property right, provided by Apex to the Client for execution of the order, are and shall remain the property of Apex.

14. CONFIDENTIALITY

All information provided by Apex to the Client for execution of the order, including information on Products, Equipment or the content of Services, is confidential information. The Client, its agents and subcontractors, shall refrain from communicating or disclosing such confidential information to any third party and in particular to any competitor of Apex, or using it for their own purposes or otherwise than for the use of the Products and Equipment, throughout the period of contractual relations and for ten (10) years from the end of the execution of the order. The communication of confidential information to any third party shall entitle Apex to damages.

15. RESERVATION OF OWNERSHIP

Apex shall retain ownership of the Products and Equipment until full and effective payment of the price in principal, costs and incidentals. Provision of bills of exchange or any securities creating an obligation to pay shall not amount to payment under this clause. No payment can be considered as effective until the price has actually been received by Apex.

In default of payment on the agreed due dates, Apex shall be entitled, without prejudice to its right to terminate any current sale, to repossess the Products and Equipment from any premises or warehouse of the Client, at the Client's exclusive expense. In the event of seizure of the Products and Equipment or any other intervention concerning them by a third party, the Client shall immediately inform Apex thereof, to enable it to object thereto and to preserve its rights. The Client shall further refrain from pledging the property in the Products and Equipment or assigning it by way of guarantee, until the price has been fully paid.

Apex shall be entitled, forty-eight (48) hours after sending a formal notice to pay, directly or indirectly to draw up a list of the Products and Equipment in possession of the Client, which hereby undertakes to allow free access to its premises and warehouses for this purpose and always to enable the identification of Apex Products and Equipment.

16. LIABILITY

Apex's liability is strictly limited to the obligations specified in the confirmation of order from Apex or the Offer. Apex's liability is equally limited to direct material damage caused to the Client resulting from faults in the execution of the contract exclusively attributable to Apex, to the exclusion of non-material loss or damage, consequential or otherwise, and of indirect loss or damage, including loss of profit, business or income, third party claims, etc.

17. INSURANCE

The Client undertakes to insure against any risk associated with the Product or Equipment, as from delivery thereof.

18. FOREBEARANCE

The fact that Apex at any time waives any of these provisions shall not be interpreted as amounting to waiver at any future time.

19. NULLITY

No partial nullity of these sale terms & conditions shall entail their nullity as a whole.

20. APPLICABLE LAW - JURISDICTION

Any order placed with Apex is subject to French law. Any dispute concerning the formation and/or interpretation and/or conclusion and/or execution and/or termination of an order, the cessation of commercial relations or their consequences shall be within the exclusive jurisdiction of the Commercial Court of Melun (France).