

1. **DEFINITIONS**

The definitions below apply in these terms and conditions.

"Contract" shall be the Contract for the purchase and sale of the Goods incorporating these conditions.

"Goods" shall be the subject matter of the Contract.

"Purchaser" shall be any professional as is so designated in any quotations, correspondence or Contracts relating to the Goods in question.

"Seller" shall be ATI MATERIALS SAS.

2. **APPLICATION OF TERMS AND ACCEPTANCE**

Subject to any variation in accordance with these conditions the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Purchaser purports to apply under any purchase order, confirmation of order, specification or other document). No terms or conditions endorsed on, delivered with or contained in the Purchaser's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract. All quotations are given and all orders are accepted only upon the conditions of sale as set out herein unless expressly agreed otherwise by the Seller in writing and signed by an authorised representative of the Seller. No quotation given shall constitute an offer for sale capable of acceptance so as to create a binding Contract and each order or acceptance of a quotation received from any Purchaser shall be deemed to be an offer by the Purchaser to buy Goods subject to these conditions and shall require the Seller's acceptance before any Contract shall be deemed to have arisen. Each accepted order shall constitute an entire and separate Contract to which these terms and conditions shall apply. Where Goods are to be supplied from stock, such supply is subject to availability of stocks at the date of delivery. Any quotation is given on the basis that no Contract shall come into existence until Seller despatches an acknowledgement of order to Purchaser.

3. **PAYMENT**

The price for the Goods shall be the price agreed by the parties in writing. The price for the Goods shall be Delivery Duty Paid (DDP) unless otherwise stated. Where the Goods are sold DDP or under other commercial terms the definitions and rules in INCOTERMS® 2010 shall apply, except as expressly provided in the Contract. The price for the Goods is exclusive of the following charges which shall be paid by Purchaser to Seller in addition to the price (to the extent that such charges are paid or payable by Seller): all taxes which are in the nature of excise, sales, use, retailers or occupation taxes (including but not limited to value added tax) and freight, carriage and insurance. In addition, the price for the Goods is exclusive of their unloading which shall be carried out by the Purchaser at its own expense. Any additional cost incurred in packing or making any special test or inspection which is requested by Purchaser, and is in addition to those regularly supplied by Seller, will be added to the price as a special charge. Such tests and inspections will be made only at the place of manufacture before the date of shipment. Seller may at any time prior to delivery, increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of Seller, such as, without limitation, foreign exchange fluctuations, currency alteration or regulation or significant increase in the cost of labour, materials or other cost.

4. **PAYMENT**

Unless otherwise expressly stipulated in these conditions or otherwise accounts are due for payment not later than 30 days from the end of the month following the month of invoice. All payments shall be made by Purchaser to Seller in full without any deduction or set off whatsoever. If any payment is overdue Seller reserves the right to suspend any further deliveries and to charge interest on the amount due after as well as before judgement on a daily basis at the annual rate 2% above the Base Rate of Bank of England from time to time applicable until the amount due (including interest) is paid. If such rate is less than three times the French current legal interest rate, this latter rate shall apply. These late payment penalties shall become due automatically without any prior formal notice. Bank charges for dishonoured payments shall be borne by the Purchaser. The Purchaser must reimburse all expenses arising from legal actions to recover the sums due, including but not limited to attorneys', bailiffs' and any other officers' fees. Seller reserves the right at any time to demand full or partial payment before proceeding or proceeding further with an order. The Seller reserves the right where genuine doubts arise as to a purchaser's financial position to suspend delivery or performance of any order or any part or instalment without liability until payment has been provided. Time for payment shall be of the essence. All payments payable to the Seller under the Contract shall become due immediately on its termination despite any other provision. Purchaser shall not be entitled to set-off any sums owed to it by Seller against any payments due to Seller.

Regardless of the payment mode agreed on the acknowledgement of receipt, the payment shall only be deemed to occur when the Seller's bank account will have been credited with the price in full. Therefore, it is understood that the mere remittance of an instrument creating an obligation to pay, a draft, or any other document, does not constitute a payment within the meaning of this clause, and the original claim of the Seller on the Purchaser remains in force with all the accompanying payment guarantees, including retention of title as provided for in Condition 10 below, until Seller's bank account has been credited in full.

5. **DELIVERY**

Delivery of the Goods to Purchaser shall be made DDP, unless otherwise agreed in writing. Delivery of the Goods to a carrier for transportation to Purchaser shall constitute delivery to Purchaser and the carrier is Purchaser's agent for this purpose. Seller shall promptly obtain and deliver or tender to Purchaser, in due form, any documents necessary to enable Purchaser to obtain possession of the Goods from the carrier, but failure to do so is not a ground for rejection by Purchaser.

All stipulated shipment and delivery dates are approximated and in the event of a delay in shipment or delivery, the Seller shall have the opportunity to verify such delay as provided for by Article L. 442-618 of the French Commercial Code. Unless the delay in shipment or delivery is unreasonable taking into account the delivery date accepted by the Seller and without notice, Purchaser or its agent shall not have the right to reject the shipment or delivery. In any event, Purchaser or its agent shall not deduct from Seller's invoice any penalty following a late delivery without Seller's prior written consent.

Unless otherwise agreed in writing, the ordered or invoiced weight (the "Invoiced Weight") of Goods is to be construed as an estimate only such that the actual weight of a delivery may differ from the Invoiced Weight by not more than 10% of the Invoiced Weight without any rejection rights or other right or remedy accruing to the Purchaser.

If Seller's production or supply of the Goods is curtailed, suspended, or interrupted for any reason, deliveries hereunder may, at its option, be cancelled (the agreement to sell being deemed to be rescinded with respect to such deliveries) or may be prorated during the period of curtailment, suspension or interruption and thereafter resumed until delivery is made in full.

The taking of possession of the Goods by Purchaser shall constitute a waiver of all claims arising out of any delay in delivery by Seller.

6. **WARRANTY, LIMITATION OF LIABILITY**

To the fullest extent permitted by law, Seller makes no warranties express or implied, including, but not limited to any condition, warranty or term as to satisfactory quality or fitness for purpose except the following:

IN THE EVENT OF APPARENT DEFECT OR MISSING GOODS, ANY CLAIM, REGARDLESS OF ITS NATURE, WITH RESPECT TO THE DELIVERED GOODS, SHALL BE ACCEPTED ONLY IF PURCHASER NOTIFIES SELLER AND CARRIER WITH THE INDICATION OF THE APPARENT DEFECT OR MISSING GOODS AS WELL AS THE REFERENCES INDICATED ON THE PACKAGING OF THE GOODS IN QUESTION WITHIN (3) BUSINESS DAYS FOLLOWING THE DATE OF THEIR DELIVERY IN CONFORMITY WITH ARTICLE L. 133-5 OF THE FRENCH COMMERCIAL CODE.

SELLER WARRANTS TO THE PURCHASER THAT THE GOODS SHALL CONFORM TO THE AGREED UPON SPECIFICATION (S) FOR A PERIOD OF NINETY (90) DAYS AFTER DELIVERY OF THE GOODS TO THE PURCHASER. PURCHASER SHALL BE RESPONSIBLE FOR INSPECTING AND/OR TESTING THE GOODS TO DETERMINE THEIR SUITABILITY FOR THEIR INTENDED USE AND, IF APPLICABLE, SHALL NOTIFY SELLER THE NATURE OF THE FAILURE TO CONFORM WITHIN TEN (10) BUSINESS DAYS FROM THE DATE AN ALLEGED FAILURE TO CONFORM TO THE SPECIFICATION(S) IS DISCOVERED OR BY REASONABLE INVESTIGATION SHOULD HAVE BEEN DISCOVERED, CONSIDERING THAT SUCH NOTIFICATION SHOULD BE DONE WITHIN NINETY (90) DAYS UPON DELIVERY OF THE GOODS TO PURCHASER.

IF PURCHASER FAILS TO GIVE NOTICE UNDER THE ABOVE-MENTIONED CONDITIONS, ANY CLAIM OF BREACH OF WARRANTY OF NON-CONFORMITY WITH RESPECT TO SUCH GOOD SHALL BE WAIVED. GOODS CLAIMED NOT TO CONFORM TO THE SPECIFICATION(S) MAY ONLY BE RETURNED TO SELLER IN ACCORDANCE WITH SELLER'S RETURN POLICY.

WARRANTY IS EXCLUDED IN CASE OF ABNORMAL USE OR CONDITIONS (SUCH AS MISUSE, OVERUSE, NEGLIGENCE OR IMPROPER SERVICE) BY ANYONE EXCEPT THE SELLER OR IN CASE THE PURCHASER DID NOT COMPLY WITH ANY INSTRUCTION OF THE SUPPLIER.

IF THE GOODS DO NOT CONFORM TO THE SPECIFICATION(S) FOR THE TIME PERIOD SET OUT ABOVE, THE SELLER WILL AT ITS OPTION: (i) REPAIR OR REPLACE THE GOODS FOUND NOT TO CONFORM TO THE WARRANTY; (ii) TAKE SUCH STEPS AS THE SELLER DEEMS NECESSARY TO BRING THE GOODS INTO A STATE WHERE THEY CONFORM TO THE WARRANTY; OR (iii) TAKE BACK THE GOODS FOUND NOT TO CONFORM TO THE WARRANTY AND REFUND THE PRICE OF SUCH GOODS AND THE PERFORMANCE OF ANY OF THE ABOVE OPTIONS SHALL CONSTITUTE AN ENTIRE DISCHARGE OF SELLER'S LIABILITY UNDER THIS WARRANTY.

THE PROVISIONS OF THE FOREGOING WARRANTY ARE IN LIEU OF ANY OTHER CONDITION, WARRANTY OR OTHER TERM WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL. SELLER'S LIABILITY ARISING OUT OF THE MANUFACTURE, SALE OR SUPPLYING OF THE GOODS OR THEIR USE OR DISPOSITION WHETHER BASED UPON WARRANTY, CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE ACTUAL PURCHASE PRICE PAID OR PAYABLE BY PURCHASER FOR THE GOODS. IN NO EVENT SHALL SELLER BE LIABLE TO PURCHASER OR ANY OTHER PERSON OR ENTITY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES OR FOR LOSS OF PROFITS, LOSS OF DATA OR LOSS OF USE DAMAGES ARISING OUT OF THE MANUFACTURE, SALE OR SUPPLYING OF THE GOODS, HOWSOEVER CAUSED AND EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

UNLESS OTHERWISE AGREED BY SELLER, THE FOREGOING WARRANTY IS FOR THE BENEFIT OF ONLY THE PURCHASER AND IS NON-TRANSFERABLE AND NON-ASSIGNABLE EITHER DIRECTLY, INDIRECTLY OR BY OPERATION OF LAW. Purchaser, its employees, agents and representative shall not claim, represent, imply nor permit its customers, distributors, processors or others to claim, represent or imply that such

warranty extends or is available to persons or entities other than Purchaser and shall indemnify and save Seller harmless from all claims and actions of other persons or entities irrespective of whether such claims or action are based upon contract, tort, negligence, strict liability or otherwise. To the limit of its legal right to do so, Purchaser shall cause any third party to cease and desist from making any such representation. In the event of any resale of any of the goods sold hereunder in whatever form, Purchaser will include the following, or substantially similar, language in a conspicuous place in the agreement covering such resale:

"Warranties by manufacturers and sellers of goods sold hereunder are limited to such written warranties as may be applicable to the individual items sold hereunder, which warranties are limited to repair or replacement of the goods or to the refund of the purchase price at the manufacturer's or Seller's option and within the time limits specified."

7. **TECHNICAL DATA, ADVICE, SPECIFICATIONS**

Any technical data, production data, production estimates and performance figures, advice, drawings and specifications furnished by Seller with respect to Goods and/or services supplied and the use of such Goods and/or services is given without charge, does not create any warranties for which Seller would be liable and, to the extent permitted by law, Seller assumes no obligation or liability for any damages, consequential, incidental, special, liquidated, penal or otherwise, for such data, estimates, advice, drawings and specifications given or result obtained irrespective of whether claims or actions with respect to such are based upon contract, tort, negligence, strict liability, warranty, or otherwise. All of such data, estimates, figures, advice, drawings and specifications shall be given and accepted at Purchaser's risk. Catalogues, circulars and similar pamphlets of the Seller are issued for general information purposes only and shall not be deemed to modify the provisions hereof or create any warranties. In the event that Seller is providing goods hereunder that are experimental or are made by an experimental process, then Purchaser shall treat as confidential any technical data, specifications, and information of Seller relating thereto and will not disclose to others nor use the same for any other purpose.

8. **FORCE MAJEURE**

This agreement shall not be subject to rescission or cancellation by Purchaser in whole or in part by reason of, and Seller shall not be liable to Purchaser for any loss or damage incurred by Purchaser arising out of any failure of performance by Seller which results from any cause beyond its reasonable control. Such causes include but are not limited to fire, strike, inability to procure raw material, labour difficulties, government orders or regulations, insurrection not flood, epidemics, embargoes, quarantine restriction, war, acts of God, acts done or suffered to be done by Purchaser, computer system or software failures, acts, regulations or orders of civil or military authority or shortages or other delays or interruption of transportation, and inability to obtain necessary labour, materials, or manufacturing facilities, whether such cause affect Seller or the suppliers of Seller.

9. **CANCELLATION**

Purchaser may not terminate or cancel its order without the written consent of Seller and then, only upon payment of a cancellation charge representing Seller's cost in processing and preparing Purchaser's order.

10. **TITLE AND RISK OF LOSS**

Notwithstanding delivery of the Goods to Purchaser or Purchaser's agent, title to the Goods shall not pass to Purchaser until payment for the Goods and all other Goods agreed to be sold by Seller to Purchaser, payment for which is due has been received by Seller in full (in cash or cleared funds). All risk of loss or damage to the Goods shall pass to Purchaser from and after delivery of the Goods to Purchaser or Purchaser's agent.

The Purchaser shall make all the arrangements necessary so that the delivered Goods remain completely identifiable and designated as being the property of the Seller until payment of the price in full. Likewise, the Purchaser's accounts shall identify the Goods as the Seller's property as long as full payment has not been made and apply thereto the First In/First Out Principle.

In the event an unpaid Good cannot be individually identified at the Purchaser's premises, unpaid Goods shall be deemed to be any similar Goods still in the Purchaser's possession at the time the Seller exercises its rights towards them, being understood that Goods first delivered shall be deemed Goods first paid.

In case of seizure or any other intervention by a third party with respect to the Goods, the Purchaser must inform the Seller without delay so that it can oppose this action and preserve its rights.

In the course of normal operation of its business, the Purchaser may be authorised to resell, transform or mix the Goods delivered.

In the case of resale, however, the Purchaser agrees to inform the sub-purchasers that these Goods are under a reservation of title clause, and to notify the Seller of this transfer so that it may preserve its rights. If the Purchaser fails to pay for a Good eventually resold, the Seller shall be automatically allowed to pay itself on the resale price, therefore addressing a claim in this respect to the sub-purchaser. In case the unpaid Good would be mixed or incorporated into another product sold by the Purchaser, the Seller shall be automatically allowed to pay itself on the sale price of such product.

11. **EXPORT ORDERS**

All orders for export are subject to special export quotations.

12. **CREDIT APPROVAL**

Payment terms, work to be performed by Seller as set forth on the purchase order and shipments shall at all times be subject to approval of Seller's Credit Department and in case Seller shall have any doubt as to Purchaser's responsibility or if Purchaser fails to fulfil the terms and conditions of payment herein, Seller may decline to perform any further shipment or delivery hereunder, except upon receipt of satisfactory security including, but not limited to, full or partial prepayment. In the event of anticipatory breach by Purchaser, or the financial condition of Purchaser at any time does not in the reasonable judgment of Seller justify continuance of the work to be performed by Seller hereunder on the terms of payment originally specified, Seller may require full or partial payment in advance or may cancel any agreement and work then outstanding and Purchaser shall reimburse Seller for its cancellation charges.

13. **DEFAULT IN PAYMENT**

If Purchaser shall fail to make payments on this or any other agreement between Purchaser and Seller in accordance with the terms hereof or thereof, Seller may defer further shipments and defer rendering further services until such payments are made or, at its option, cancel this agreement with respect to any balance. If pursuant to this provision Seller defers any shipments or service or cancels in whole or in part this agreement, Purchaser shall be liable for and reimburse Seller for all damages, including any and all direct and consequential damages incurred by Seller by reason of such default or cancellation.

14. **NO WAIVER**

Failure of Seller to enforce any of the terms, conditions and limitations set forth herein shall not be construed as a waiver thereof or a waiver of any other terms, conditions and limitations herein, and the failure of Seller to exercise any rights arising from default of Purchaser, or otherwise shall not be deemed to be a waiver of such right or any other right. The terms, conditions and limitations herein may be enforced and the rights of Seller may be enforced at any time in whole or in part.

15. **ENTIRE AGREEMENT**

The Contract represents the whole agreement and understanding between Purchaser and Seller and supersedes all other agreements, proposals, negotiations, representations and understanding between the Purchaser and Seller relating to the subject matter of this Agreement. Purchaser acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Seller which is not set out in the Contract.

16. **PATENTS; TRADEMARKS; UNPATENTED INFORMATION**

If any Goods sold hereunder are to be prepared or manufactured according to Purchaser's specifications, Purchaser shall indemnify and save the Seller harmless against any claims or liability for patent or trademark infringement on account of such preparation or manufacture. Any unpatented knowledge or information concerning Purchaser's products, methods, or manufacturing processes which Purchaser may disclose to Seller incidental to the manufacture or sale of the Goods and/or performance of the services covered by a purchase order shall, unless otherwise specifically agreed in writing, be deemed to have been disclosed as a part of the consideration hereunder, and Purchaser agrees not to assert any claim, (other than a claim for patent infringement) against Seller by reason of Seller's use or alleged use thereof. The sale of Goods covered by a purchase order shall not expressly or by implication grant to Purchaser any right or license of any kind under any patent, patent application, or other industrial property right owned or controlled by Seller or its affiliates, but the foregoing shall not be understood to limit in any way the right of Purchaser to use and sell such goods, in the event that such goods, as sold hereunder, are covered by any such patent. There is no warranty that the use of any services, materials, goods, or information supplied by Seller hereunder are supplied free of the rightful claim or any third party by way of infringement of any patent right.

17. **GOVERNING LAW**

The Contract shall in all respects be governed by and construed in accordance with French law and Purchaser hereby submits to the non-exclusive jurisdiction of the Courts of Paris. Neither (i) the United Nations Convention on Contracts for the International Sale of Goods; (ii) the 1974 Convention on the Limitation Period in Contracts for the International Sale of Goods (the "1974 Convention"); nor (iii) the Protocol Amending the 1974 Convention done at Vienna, Austria, on 11 April 1980, shall apply in any manner to the interpretation or enforcement of the terms and conditions set forth herein to extent permitted by applicable law.

18. **INTERPRETATION**

Only the English language version of the Conditions shall be authoritative. The French language version of these Conditions is a courtesy translation of the English original.