

## Article 1 – Basis of order and acknowledgment

The contract is subject to these terms and conditions to the exclusion of all other terms and conditions (including any terms and conditions Buyer purports to apply in any Contract).

A Contract shall not be effective until Ateliers Bigata has issued written acknowledgment and acceptance of such Contract (notwithstanding any earlier confirmation of receipt). Ateliers Bigata may in its sole discretion decline any purchase order placed by the Buyer.

Minimum order quantities and minimum Contract values, where necessary, may apply at Ateliers Bigata's discretion.

The Buyer shall ensure that the terms of its purchase order or request are complete and accurate.

No charge or modification of Contracts issued shall be allowed after acceptance by Ateliers Bigata unless authorized by a Change Order delivered by the Buyer and accepted in writing by Ateliers Bigata.

## Article 2 – Description and specification of the goods and services

The description, part numbers and/or specification of the Product and/or Services shall be set out in Ateliers Bigata's quotation or Ateliers Bigata's acceptance of the Contract. All drawings, descriptions, weights, dimensions, etc. and advertising issued by Ateliers Bigata (for example, in Ateliers Bigata's catalogues or price lists) are issued to provide an approximate idea of the Product or Services described in them and do not form part of the Contract unless expressly stated in the Contract or otherwise agreed to in writing by Ateliers Bigata.

The Buyer shall determine the suitability of the Products for Buyer's use and/or application. The Buyer shall be solely responsible for the accuracy of the Buyer's designs, drawings, specifications and other data supplied to Ateliers Bigata by the Buyer, even if Ateliers Bigata examines, inspects, studies or comments to the Buyer regarding any such designs, drawings, specifications or other data.

## Article 3 – Delivery and acceptance

Ateliers Bigata will arrange for the Carrier to transport the Product or Buyer Property at the Buyer's risk and cost, and delivery will take place when the Product or the Buyer Property is made available to Carrier at Ateliers Bigata's facility.

Delivery dates are estimates only and time is not of the essence. Ateliers Bigata will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly of the Product or Buyer Property, nor will any delay entitle the Buyer to terminate or rescind the Contract.

If for any reason the Buyer does not take delivery, or Ateliers Bigata is unable to deliver such Product or Buyer Property on time because the Buyer has not provided appropriate instructions, documents, licences, authorizations, etc., then such Product or Buyer Property will be deemed to have been delivered and risk shall pass to the Buyer. Ateliers Bigata may at its option :

-store such Product or Buyer Property until actual delivery whereupon the Buyer will be liable for all related costs and expenses (including without limitation storage and insurance) ; or

-reallocate or sell such Product or Buyer Property at the best price readily obtainable (after providing not less than thirty (30) days prior written notice to Buyer). Ateliers Bigata may charge the Buyer for any shortfall below the Contract price or account to the Buyer for any excess (after deducting all reasonable survey, repair, storage and selling expenses).

The Buyer shall promptly notify the Carrier of any damage to, loss from or non-receipt of any Product or Buyer Property if transportation has been arranged by or on behalf of the Buyer within three days, excluding holidays, after delivery by the Carrier. Ateliers Bigata shall not be liable for any such damage, loss or non-receipt.

The Buyer may arrange for testing and inspection of the Product before shipment at Ateliers Bigata's facility. If the Buyer has conducted such inspection, Ateliers Bigata shall not be liable for any claim made after shipment in respect to any defect in the Product which would have been apparent upon such inspection.

Ateliers Bigata may, at its option, make partial shipments of Product and invoice the Buyer for each shipment individually in which case each delivery shall constitute a separate contract. Failure by Ateliers Bigata to deliver any one or more of the shipments in accordance with these terms and conditions or any claim by the Buyer in respect of any one or more shipments shall not entitle the Buyer to repudiate the whole Contract or refuse to accept subsequent shipments. The Buyer shall accept any early delivery.

The Buyer will be deemed to have accepted the Product as being in accordance with the Contract, Ateliers Bigata shall have no liability for any defect or failure and the Buyer shall be bound to pay the price unless :

-within 14 days of the date of delivery of the Product, the Buyer notifies Ateliers Bigata in writing of any defect apparent upon inspection of the Product to conform with the Contract ; or

-the Buyer notifies Ateliers Bigata in writing of any failure of the Product to conform to the Contract within a reasonable time where the defect or failure would not be so apparent within 14 days of the date of delivery.

## Article 4 – Passing of risk and title

The risk in Products or Buyer Property shall pass to the Buyer on delivery as set forth herein.

Full legal, beneficial and equitable title to the Products shall remain vested in Ateliers Bigata (even though they have been delivered and risk has passed to the Buyer) until :

-payment in full, in cash or cleared funds, for all the Products has been received by Ateliers Bigata ; and

-all other money payable by the Buyer to Ateliers Bigata on any other account or under the Contract or any other contract or order has been received by Ateliers Bigata.

Until full legal, beneficial and equitable title to and property in the Products passes to the Buyer :

-while the Products are in the custody of the Buyer, Buyer has to bear all the risks in the Products, for any reason whatsoever, even in cases of force majeure, acts of God or acts of third parties. The Buyer must store the Products at its premises and insure them, at no cost to Ateliers Bigata, and keep them clearly identifiable as belonging to Ateliers Bigata ;

-Ateliers Bigata may, on demand and without prior notice, repossess and resell the Products if any of the events specified in Article 11 occurs or if any sum due to Ateliers Bigata from the Buyer is not paid when due and for this purpose, Ateliers Bigata, its employees, agents and sub-contractors will be entitled to unrestricted access to any premises where any of the Products are situated.

Ateliers Bigata hereby authorises the Buyer to use and/or sell the Products in the normal course of the Buyer's business and to pass good title in the Products to its purchasers, if they are purchasers in good faith without notice of Ateliers Bigata's rights.

This right shall automatically cease on the occurrence of any event set out in Article 11 and/or if any sum owed to Ateliers Bigata by the Buyer is not paid when due. If the Buyer sells the Products or Services prior to paying the full price thereof the Buyer shall hold the proceeds of sale on trust for Ateliers Bigata.

Ateliers Bigata's rights and remedies set forth herein are in addition to and shall not in any way prejudice, limit or restrict any of Ateliers Bigata's other rights or remedies under the Contract or in law or equity. Ateliers Bigata shall be entitled to maintain an action against the Buyer for the price of the Products or Services notwithstanding that legal, equitable and beneficial title to and property in the Products or Services has not passed to the Buyer.

Title to the Buyer Property shall at no time pass to Ateliers Bigata unless the Buyer specifically agrees otherwise in writing, or Article 3 or Article 12 apply.

Risk in the Buyer Property shall pass Ateliers Bigata on delivery to Ateliers Bigata and remain with Ateliers Bigata at all times while in Ateliers Bigata's possession or control.

#### **Article 5 – Contract price**

The price charged in respect of Product or Services supplied shall be the price that is current at the date of delivery. Ateliers Bigata reserves the right to adjust prices where necessary before a Contract is accepted notwithstanding the prices stated in any price list or quotation. Ateliers Bigata shall not normally perform Services until the Buyer has confirmed its agreement to the estimated price.

Ateliers Bigata reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Product or Services to reflect any increase in the cost to Ateliers Bigata which is due to any factor beyond Ateliers Bigata's control (such as, without limitation, any increase in the costs of labour, materials, or other costs of manufacture of supply) ; any change in the quantities of the Product or Services requested by the Buyer ; or any delay or cost caused by any instructions of the Buyer or failure of the Buyer to give Ateliers Bigata adequate information or instructions.

Unless otherwise agreed in writing, the price for the Product or Services shall be exclusive of any taxes (including sales tax) or levies and the Buyer will pay all costs and charges in relation to packaging (other than standard packaging), loading, unloading, carriage, freight and insurance, where appropriate.

#### **Article 6 – Payment terms**

Payment for the Products and/or Services is due 30 days after the date of Ateliers Bigata's invoice. Ateliers Bigata may issue a separate invoice for each Contract or for each shipment (if more than one) under a Contract. The Buyer shall pay the amount stated in Ateliers Bigata's invoice in the currency required by the invoice in immediately available funds, without any deduction whether by way of set-off, withholding, counterclaim, discount, abatement or otherwise. Payment must be made to Ateliers Bigata at the address or account stated on the invoice.

In the event that there is a deterioration in the financial capacity of the Buyer, Ateliers Bigata reserves the right to revise payment terms at any time and to request guarantees, security, stage payments or cash in advance for the Products and/or Services. Ateliers Bigata may, at its discretion, refuse or limit deferred payment terms to the Buyer.

Ateliers Bigata may agree to accept payment for the Products and/or Services by credit card provided that the Buyer shall in addition to the price of the Product or Services pay any charge levied by the credit card company in respect of such transaction.

Notwithstanding any other provision, all payments payable to Ateliers Bigata under the Contract shall become due immediately upon termination of this Contract for whatever reason.

If any sum due from the Buyer to Ateliers Bigata under the Contract or any other order is not paid to Ateliers Bigata on or before the due date for payment, then all sums then owing by the Buyer to Ateliers Bigata or any affiliate of Ateliers Bigata shall become due and payable immediately and, without prejudice to any other right or remedy available to Ateliers Bigata, Ateliers Bigata and any affiliate shall be entitled to :

-cancel or suspend performance of the Contract or any other contract or order placed with Ateliers Bigata or any affiliate including suspending deliveries of the Product, Services or any other goods until arrangements as to payment or credit have been established which are satisfactory to Ateliers Bigata ; and/or

-require the Buyer to pay for Products of Services prior to shipment from Ateliers Bigata's place of business ; and/or

-charge the Buyer interest calculated on a daily basis on all overdue amounts (both before and after judgment) until actual payment at the European Central Bank Offered Rate prevailing from time to time (or such other rate which is legally permissible) until payment is made in full.

#### **Article 7 – Warranty**

Ateliers Bigata warrants that the Products furnished hereunder shall, at the time of delivery, be free from defects in material and workmanship. Services shall be performed with reasonable skill and care.

If the Buyer submits to Ateliers Bigata reasonable written details (on Ateliers Bigata's prescribed form if required) establishing a breach of the warranty set forth above, Ateliers Bigata's liability for failure of any Product or Service to comply with the foregoing shall be limited to replacing or repairing that Product found to be defective within twelve months of delivery for Overhauled Units and within six months of delivery for Repaired Units, and/or to re-performing the Services. Such Product will be repaired or replaced, at Ateliers Bigata's option, or Services re-performed, without charge, and re-warranted for the remainder of the original warranty period.

Ateliers Bigata shall pay all reasonable return packaging and transportation costs of a valid warranty claim. Ateliers Bigata is not liable for the removal of Products from, or installation of the Product into, any other property to which it may be attached or incorporated.

Ateliers Bigata may require the Buyer to deliver back Product or materials which have been replaced and legal title to the replaced Product shall revert in Ateliers Bigata.

Ateliers Bigata's performance of one of the above options shall constitute an entire discharge of Ateliers Bigata's liability for breach of the warranty.

For Product that is returned under warranty and is tested and no fault found, Ateliers Bigata will be entitled to reimbursement from the Buyer for reasonable charges incurred for transportation, testing and evaluation.

For any Product not manufactured by Ateliers Bigata, the Buyer shall only be entitled to the benefit of any warranty or guarantee given by the manufacturer to Ateliers Bigata, to the extent that it is assignable by Ateliers Bigata to the Buyer.

Ateliers Bigata shall not be liable under the warranty in any of the following circumstances : Products or parts thereof which have been modified, altered, installed, used or serviced other than in conformity with Ateliers Bigata's applicable specifications, manuals, bulletins or instructions, or which shall have been subjected to improper installation, misuse or neglect ; Products that have not been maintained and operated in accordance with Ateliers Bigata's instructions ; normal wear and tear, wilful or accidental damage, harsh environment, experimental running ; Products or parts thereof furnished by Buyer or acquired from others at Buyer's request and/or to Buyer's specifications, and use of components not manufactured by or authorized by Ateliers Bigata in the Products ; Products which are expendable in nature, such as, but not limited to, diodes, transistors, o-rings, tyres, flexible hoses, seals, igniter plugs or fuses ; Product with a stated shelf life or 'use by' date, if such shelf life has expired or 'use by' date has passed ; tooling purchased or made for the purpose of manufacturing the Products ; the Buyer or its customer fails to afford Ateliers Bigata a reasonable

opportunity to inspect the Products or Services performed ; the price for Products or Services, or any other goods or services supplied by Ateliers Bigata or its affiliates, has not been received in full.

Minor deviations from specifications which do not affect performance of the Products shall not be deemed to constitute defects in materials or workmanship or a failure to comply with the specifications referred to herein. The need for regular overhaul of warranted equipment shall not constitute a defect or failure under this warranty.

There are no other warranties, conditions or terms, express or implied, including warranties of merchantability or satisfactory quality or fitness for a particular purpose.

#### **Article 8 – Exclusion and limitation of liability**

These terms and conditions set out the entire liability of Ateliers Bigata (including any liability for the acts or omissions of its sub-contractors) in respect of Products or Services supplied by Ateliers Bigata and any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

Nothing in these terms and conditions shall exclude or limit Ateliers Bigata's liability for death or personal injury caused by Ateliers Bigata's negligence or for fraudulent misrepresentation or for any liability that cannot legally be excluded or limited. Any limitation or exclusion of liability shall apply to the extent permitted under applicable law.

Ateliers Bigata shall not be liable for any economic loss of whatever nature (whether or not such loss or damage was foreseen, direct, foreseeable, known or otherwise), including loss of anticipated profits, loss of actual profits (direct or indirect), loss of anticipated savings, loss of business, or for any indirect, special or consequential loss or damage howsoever caused or any losses arising as a result of any third party bringing a claim of any nature whatsoever.

Subject to Article 8 above, the total aggregate liability of Ateliers Bigata arising out of or in connection with the performance or contemplated performance of the contract whether for negligence or breach of contract or any cause whatsoever shall in no event exceed the price paid by the Buyer for the product or services giving rise to the Buyer's claim. Notwithstanding any other terms and conditions of the contract. Ateliers Bigata shall have no liability for the use by the Buyer of component parts in the product which are not manufactured by or authorised by Ateliers Bigata.

#### **Article 9 – Subcontracting, assignment and third party rights**

The Buyer shall not be entitled to assign, charge, subcontract or transfer the Contract or any part of it without the prior written consent of Ateliers Bigata.

Ateliers Bigata may assign, charge, subcontract or transfer the Contract or any part of it to any person, including its affiliate companies, without the consent of the Buyer.

Other than affiliates of Ateliers Bigata, a person who is not a party to the Contract (including without limitation any employee, officer, agent, representative or sub-contractor of either party) shall not have any right to enforce any term of the Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of Ateliers Bigata and the Buyer.

Without prejudice to the intention of the parties to give no rights to the third parties under the Contract., any term of the Contract can be varied and the Contract can be cancelled or terminated without the consent of any third party who might benefit from its terms or have enforceable rights under the Contract.

#### **Article 10 – Force majeure and other events excluding the liability of Ateliers Bigata**

Ateliers Bigata shall not be held liable for delay or failure in shipment or delivery of the Products or Services due to any cause beyond the reasonable control of Ateliers Bigata, including, without limitation, war, fire, flood, strikes or other labour disturbance, accidents, natural disasters, Act of God, governmental order or requirement, interruption, obsolescence or shortage of materials, transportation facilities or energy supply, or events beyond the reasonable control of its suppliers or subcontractors and Ateliers Bigata shall be excused from deliveries to the extent that deliveries may be prevented or delayed by any of the foregoing events. During any such event as listed above, Ateliers Bigata will endeavour in good faith to allocate deliveries fairly among its buyers but expressly reserves in its discretion, without liability to the Buyer, the final determination of determination of deliveries to be made. If said event as listed above continues for a continuous period in excess of ninety (90) days Ateliers Bigata may terminate the Contract without liability by sending a registered letter with return receipt to the Buyer.

#### **Article 11 – Contract cancellation, breach of contract and insolvency**

The Buyer may only cancel a Contract (or any part of a Contract) which Ateliers Bigata has already accepted, with Ateliers Bigata's prior agreement in writing and provided the Buyer indemnifies Ateliers Bigata in full in terms established by Ateliers Bigata. Cancellation charges may apply to such cancellation including but not limited to : all amounts due under the Contract in respect of work performed and/or Products delivered up to the date of cancellation, including all applicable overhead and profit ; any sums which have been paid by Ateliers Bigata or become payable as a result of the cancellation to its subcontractors and supply chain to procure all or any part of the Products or Services for the Buyer's requirements including all applicable overhead and profit ; the cost of any work, materials and tooling incurred by Ateliers Bigata, including initial costs, overhead, profit and preparatory expenses allocable thereto, used exclusively by Ateliers Bigata to supply the Products and Services ; any non-recurring engineering and project investment costs not paid by the Buyer or recovered by Ateliers Bigata under the Contract ; the costs of setting and paying any losses, damages or claims arising out of the termination of work and reimbursing any other reasonable and proper sums suffered or incurred by Ateliers Bigata solely in connection with or resulting from the cancellation of the Contract including without limitation overhead and the profit Ateliers Bigata would have earned under the Contract.

The Buyer shall pay Ateliers Bigata all cancellation charges within thirty (30) days of the date of Ateliers Bigata's demand.

In the event the Buyer commits a breach of any of its obligations under the Contract and fails to remedy such breach within a period of 14 days ; or the Buyer fails to make payment under the Contract when due, or suspends payments or is unable to pay its debts as they fall due ; or the institution of any proceedings by or against the Buyer, voluntary or involuntary, in bankruptcy or insolvency or for the appointment of an administrator, administrative receiver, receiver or trustee or an assignee for the benefit of creditors of the business or property of the Buyer ; or the Buyer suffers or undergoes an analogous procedure in the country in which the Buyer established ; or the Buyer ceases, or threatens to cease, to carry on business ; or Ateliers Bigata reasonably believes that any of the above events is about to occur in relation to the Buyer, then Ateliers Bigata shall be entitled to cancel this Agreement forthwith by written notice without prejudice to any rights arising prior to said cancellation. The Buyer shall pay cancellation charges as set out in this section.

#### **Article 12 – Care and use of the buyer property**

It shall be the Buyer's responsibility to ensure that any tooling and/or material issued free of charge and other Buyer Property delivered to Ateliers Bigata by the Buyer or on its behalf is safe and suitable for manufacture of or incorporation into Products or for the Services to be performed in accordance with all regulatory guidelines and procedures.

Ateliers Bigata shall use the Buyer Property solely for the purpose of the Contract and shall at the Buyer's expense maintain the Buyer Property in good order, condition and repair while it is in Ateliers Bigata's possession or control.

On completion or termination of the Contract, unless otherwise directed by the Buyer in writing, Ateliers Bigata shall return the Buyer Property to the Buyer. If the Buyer does not collect or accept delivery of such Buyer Property, Ateliers Bigata may, after giving not less than thirty (30) days' prior written notice, take reasonable steps to sell such Buyer Property at the best price readily available and account to the Buyer for any excess after deduction of all reasonable storage and selling expenses.

Without prejudice to any other rights and remedies which Ateliers Bigata may have under the Contract, Ateliers Bigata shall, in respect of all debts owed by the Buyer to Ateliers Bigata, have a general lien on any of the Buyer Property in Ateliers Bigata's possession and Ateliers Bigata shall be entitled after thirty (30) days' prior written notice to the Buyer to dispose of such of the Buyer Property as Ateliers Bigata thinks fit and to apply any proceeds of sale towards the payment of such debts.

#### **Article 13 – Export and governmental compliance**

Each party agrees to comply with all applicable governmental regulations as they relate to the import, export and re-export of information and/or Products and/or Buyer Property. Without limiting the foregoing, the parties shall not disclose or deliver any information or Products and/or Buyer Property provided hereunder in any manner contrary to any applicable export laws and regulations. The parties acknowledge that these laws and regulations impose restrictions on import, export and transfer to third countries of certain categories of information and Products, and that licences from the applicable regulatory agency may be required before such information and Products and/or Buyer Property can be disclosed or delivered hereunder, and that such licences may impose further restrictions on use and further disclosure or delivery of such information and Products and/or Buyer Property.

Ateliers Bigata shall not be liable for delays or refusals by governmental authorities or other authorities to grant licences or approvals, nor for suspension or revocation thereof, nor for changes in export classification. Buyer must deliver requested information, including end-user information, necessary for export licences to be granted.

#### **Article 14 – Notices**

Unless otherwise provided by law, any notice to be given under the Contract shall be sufficient if it is in writing, for the attention of the President and Chief Executive Officer of the other party, or otherwise as directed by each party from time to time, and delivered personally, or via registered or certified mail (postage prepaid with return receipt requested) (with a request for confirmation in a manner typical to the communication types listed previously). Notice shall be deemed sent and received on the date of actual receipt at the other party's principal place of business.

#### **Article 15 – Intellectual property rights**

Any intellectual property rights (including, without limitation, patents, registered and unregistered designs, trade marks and service marks (registered or not) and copyright and any applications for them) in the Products or Services or in any moulds, tools, designs, drawings, or production data owned by Ateliers Bigata or created by Ateliers Bigata in the course of the performance of the Contract or otherwise used in the manufacture of the Products or the provision of the Services shall remain Ateliers Bigata's property unless otherwise expressly agreed by Ateliers Bigata. Ateliers Bigata grants, on full payment for the Products and Services the non-exclusive right for the Buyer and bona fide purchasers from the Buyer to use, for the operation of the Products or Services for their intended purpose only, any software supplied with, or embedded in, the Products and Services, and technical manuals and instructions relating to operation and maintenance of the Products and Services. The Buyer hereby grants to Ateliers Bigata a non-assignable, non-exclusive, royalty-free licence to use any intellectual property rights (including, without limitation, patents, registered and unregistered designs, trade marks and service marks (registered or not) and copyright and any applications for them) owned by the Buyer to the extent necessary for Ateliers Bigata to supply the whole or any part of the Products or Services in accordance with the Contracts. Except as expressly stated herein, nothing in the Contract shall be deemed to have given the Buyer a licence or any other right to use any of the intellectual property rights of Ateliers Bigata unless otherwise expressly agreed by Ateliers Bigata.

#### **Article 16 – Confidentiality**

The Buyer and Ateliers Bigata shall each keep confidential and shall not, without the prior written consent of the other, disclose to any third party or otherwise make public the terms or existence of the Contract or any other confidential or sensitive information of the other.

The Buyer agrees that it will not exhibit Ateliers Bigata's Product, advertisements or price lists relating to any of Ateliers Bigata's Product or Services without the prior written consent of Ateliers Bigata.

#### **Article 17 – General**

Nothing in the Contract shall create, or be deemed to create a partnership or joint venture or relationship of employer and employee or principal and agent between the parties.

The rights and remedies of Ateliers Bigata in respect of the Contract shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by Ateliers Bigata nor by any failure of or delay by Ateliers Bigata in ascertaining or exercising any such rights or remedies. The waiver by Ateliers Bigata of any breach of the Contract shall not prevent the subsequent enforcement of the Contract and shall not be deemed to be a waiver of any subsequent breach of that or any other terms and conditions.

If at any time any one or more of the terms of the Contract or any part of one or more of these terms and conditions is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from the Contract and the validity and/or enforceability of the remaining terms and conditions of the Contract shall not in any way be affected or impaired as a result of that omission.

The Contract sets out the entire agreement and understanding between the Buyer and Ateliers Bigata in connection with the sale of the Product or Services and shall supersede and replace all documentation previously issued by Ateliers Bigata or the Buyer. In case of conflict, agreed terms appearing on the face of the Contract shall take precedence over these terms and conditions, and these terms and conditions take precedence over any other documents referred to in the Contract.

Headings are for reference only and shall not affect the interpretation of these terms and conditions.

#### **Article 18 – Law and jurisdiction**

The Contract shall in all respects be construed according to and governed by the laws of the jurisdiction in which Ateliers Bigata is located, or if Ateliers Bigata is organised under the French laws. All disputes shall be referred to and resolved by binding arbitration in TRIBUNAL DE COMMERCE DE BORDEAUX – 19 Place de la bourse – 33064 BORDEAUX CEDEX - FRANCE.

All required documents have to be issued in English language.