

## PRONIC SA

170, Rue des Techniques - 74970 MARIGNIER Cedex - France

### TERMS AND CONDITIONS OF SALE

(REV January 1<sup>st</sup> 2006)

Any order placed by a purchaser implies its acceptance of these general terms and conditions of sale which are applicable from the issue of its order in whatever form it may be and notwithstanding any stipulations to the contrary featuring in its own general conditions of purchase

The fact that PRONIC does not, at a given time, invoke any of these general terms and conditions of sale, cannot be interpreted as a renunciation of the right to their subsequent invocation.

#### 1. GENERAL POINTS

The information carried in the catalogues, brochures, price lists and diagrams is provided by PRONIC for information only, and it reserves the right to carry out any modification, at any time and without prior notice, except from the moment at which PRONIC expressly accepts the customer's order, as stated below.

Terms for taking an order: all orders must be the subject of a written form. The order is subject to written acceptance by PRONIC on a document stating a reference number.

#### 2. PREPARATORY STUDIES AND PLANS

Unless they themselves are the subject of a sale agreement, preparatory studies and documents of any kind issued or sent by PRONIC remain in its full ownership and must be returned to it on request. Under no circumstances may they be communicated nor carried out without its written permission. PRONIC does not guarantee the conformity of the items sold for any use whatsoever, its duty of guidance is restricted exclusively to the characteristics of the articles manufactured and sold by it.

Any purchaser or user desiring to obtain specific results not covered by our recommendations must take the advice of certified professionals to determine the items to be used for the purpose.

Under no circumstances may any theoretical diagrams or dimension calculations produced by PRONIC to provide price estimates be deemed to be a plan for the finished installation.

#### 3. PRICE

Prices are always quoted exclusive of tax, net of any discount. The sending of a price list does not constitute a firm quotation, as our prices may be amended without prior notice.

The applicable prices are those current at the time when the order is received.

Unless specified to the contrary, a quotation only remains valid, in terms of both content and price, for a period of three months.

An administrative fee of 10€ can be made on any order for a total of less than 100€ net before tax.

#### 4. DELIVERY TIMES

4.1. Delivery times are given for information only and without obligation on the part of PRONIC. Unless stipulated to the contrary, delivery times run from the last of the following dates:

- a) The date of acceptance of the order by PRONIC,
- b) The dates of receipt of the deposit by PRONIC if the contract stipulates one before the goods are supplied.

4.2. Unless stipulated to the contrary, the delivery time has been complied with if the goods leave PRONIC's factory or if PRONIC notifies the purchaser that the goods are available, at the latest by the end of the period set according to the conditions in Paragraph 4.1.

4.3. PRONIC will have 30 days' grace from the end of the contractual delivery period.

4.4. If, following the end of the period of grace described in Paragraph 4.3, the equipment is still not delivered and unless PRONIC's lateness is justified by a case of "force majeure", a late fee of 0.5% of the total order, applicable by decade of lateness, can be invoiced to PRONIC by customer, and will be considered as compensation for amounts due by the customer.

4.5. If the purchaser does not collect the items at the place and on the date stated in the contract and on condition that its lateness is not due to an act or omission by PRONIC, the purchaser will nonetheless be required to make the payments provided for in the contract as if the items had been delivered. Under these circumstances, when the items have been tailored to individual needs, the vendor will store them at the purchaser's expense and risk.

#### 5. DELIVERIES

Delivery results in an invoice.

The items delivered and sold will not be taken back unless agreed and accepted in writing by PRONIC.

#### 6. TRANSPORT

Disputes or complaints regarding the condition of the goods on arrival may only be taken into consideration if the purchaser has recorded its reservations or formulated a complaint supported by evidence to the carrier within 3 days of the effective transfer of the disputed goods and this by registered letter with acknowledgement of receipt. The prior agreement of PRONIC is essential for any return of goods.

#### 7. COMPLAINTS

Complaints regarding transport must be made in accordance with custom and practice to the carrier with a copy sent to PRONIC.

Complaints regarding quality will only be accepted if they are expressed in writing within two weeks of the arrival of the goods at their destination.

In the event of a complaint acknowledged by us to be justified, our liability will be limited to replacement of the part acknowledged as faulty; no claim for compensation will be accepted under any circumstances.

The goods which are the subject of a replacement must be returned in full to our factory, unless otherwise stipulated.

Any exchanges or returns will be at the purchaser's expense.

## 8. TRANSFER OF OWNERSHIP – REPOSSESSION

In accordance with the provisions of Law No. 80-335 of 12 May 1980 re-enacted by Law 85 – 98 of 25 January 1985, we retain ownership of the goods sold until payment in full of the total price, both principal and interest, or, when the price is paid by cheque or draft, until such time as they are fully cleared. In the event of partial deliveries and when these are the subject of separate payments, the goods will remain our property until full payment of the total order.

The purchaser is authorised to resell the goods supplied within the context of the normal operation of its business but it may not pledge them, nor transfer their ownership in the form of a guarantee. Authorisation of resale is withdrawn automatically in the event of receivership or liquidation. Until the price has been paid in full, the purchaser must mark clearly the goods supplied. In the event of resale, the purchaser undertakes to pay the vendor the outstanding balance of the price immediately. However, in the event that the resale takes place when the purchaser has not fully paid for the goods, the purchaser will transfer to us all the outstanding debts owing to it arising from the resale to the third party purchaser and this independent of whether the goods subject to retention of ownership are sold after finishing or not. The purchaser undertakes to send to us, on request, the names and addresses of the purchasers and the outstanding balance of the price owed by them.

In the event of seizure of these goods by a third party, the purchaser will be required to inform us immediately.

Failure to pay any outstanding invoice on the due date may result in action for repossession of the goods. We may require, by registered letter with acknowledgement of receipt, without loss of any of our rights, the return of the goods at the purchaser's expense and risk.

These provisions do not provide an obstacle to the transfer to the purchaser, on delivery, of the risk of loss and deterioration of the goods sold and any damage they might cause. The purchaser is obliged to insure the goods sold subject to reservation of ownership. If the goods insured were to be damaged, we would be substituted in the rights of the purchaser as regards the insurance indemnity.

## 9. PAYMENT

Complaints regarding any goods supplied whatsoever will not release the purchaser from paying the invoices at their due date.

The payment period for invoices starts on departure from the factory gates.

Unless by exceptional agreement, our deliveries are payable in cash within 10 calendar days. Payment of invoices cannot be delayed or refused on any pretext whatsoever, even in the event of a dispute.

Failure to pay a single bill or a single invoice at its due date will result in repayment by acceleration and render all outstanding amounts due to our company payable immediately, even those which are not yet due.

In accordance with the law of May 15<sup>th</sup> 2001, every late payment can conduct to a penalty from the 1<sup>st</sup> day after due date. Penalty will be applied to all outstanding amounts with

an interest equal to the last official ECB (European Central Bank) interest rate, increased by 7 points of percentage.

In the event of non-payment by the due date, PRONIC will be able to suspend the dispatch of the other goods ordered by the same customer without prejudice to any damages which might be claimed. Any major change to the purchaser's financial or economic circumstances even after partial fulfilment of the orders may lead to a review of the terms of payment for them.

## 10. AMENDMENT OF ORDER

Any amendment of order must be approved by return of written acceptance from PRONIC.

In the event of a change to the purchaser's circumstances, notably in the event of death, incapacity, winding up or alteration of the company, the mortgaging of its buildings, a charge on its business, etc., PRONIC reserves the right, even after partial fulfilment of an order, to require guarantees or to cancel the remainder of the order placed in the name of the purchaser in question.

## 11. GUARANTEES

Whatever the circumstances, the guarantee is limited to the replacement of parts assessed as defective by PRONIC and can only apply if the product has not undergone any alteration, has been stored and used in accordance with the manufacturer's instructions and used normally, for the purpose for which it was intended.

Labour and transport or replacement costs remain the purchaser's responsibility.

Under no circumstances can PRONIC be liable for damages due to prejudice suffered by the purchaser or user.

Except where a special agreement exists, the items are guaranteed for one year from the date of their handover, against any design, material or manufacturing defects.

The repair, alteration or replacement of a part during the guarantee period cannot result in an extension to the guarantee period for the item. In the event that the spare part has been supplied following a claim under the guarantee, this part is guaranteed for a period equal to the remainder of the guarantee period.

The presence of faults or defects does not give the purchaser the right to suspend its payments. If the purchaser does not fulfil its payment obligations, the vendor will have the right to refuse to remedy the above-mentioned faults and defects.

## 12. JURISDICTION

**For all disputes, the courts of Bonneville will have sole jurisdiction, even in the event of proceedings against the guarantor, multiple defendants and notwithstanding any clauses to the contrary.**

**Our drafts and the acceptance of a payment outside Bonneville will not constitute either novation or exception to this clause attributing jurisdiction.**

## 13. SPECIAL AGREEMENTS

All special agreements, as well as any exception to any of these general terms and conditions must be the subject of a special agreement in writing. Any of the general terms and conditions not expressly amended or revoked in this special agreement will retain their full and entire effect.