

**GENERAL CONDITIONS OF SALE AND DELIVERY**  
of the Audipack Group of companies  
established in Moerkapelle (The Netherlands)  
(1 January 2006 rev.)

**Article 1: In general**

1. Unless otherwise agreed to in writing, the present conditions apply to all quotations, requests, announcements and agreements of the Audipack general partnership - hereafter to be referred to as Audipack - including the execution. These conditions pertain to all agreements whereby Audipack act as service provider, all purchase and sale contracts for items that Audipack have entered into, as well as all mixed agreements.
2. Deviating conditions are only binding for Audipack when Audipack's Executive Board has agreed to these expressly in writing and on occasion.
3. The client is any natural or legal person to whom Audipack have directed an offer and/or order confirmation, or with whom any agreement has been entered into as referred to in article 1.1.

**Article 2: Offers**

1. The offers, made in whatever shape or form, and the information that can be found in Audipack's publications are without any obligation and are revocable. Information from printed matter, issued on behalf of Audipack, can be subject to changes, without Audipack being obliged to give notice of this.
2. The prices that Audipack have quoted are excluding V.A.T., freight charges, insurance costs and possible delivery costs, unless notifications in writing provide the contrary.
3. The offer is based on the specifications and any additional information provided by the client, unless expressly stated otherwise.
4. All time limits mentioned in the offer are only made for Audipack and should not be considered by the client as firm dates. Acceptance of an offer is always revocable, even when it contains a time limit. All dates provided by Audipack should only be considered as target dates.

**Article 3: Prices**

1. Agreed prices are based on exchange rates, the costs of materials, transportation, wages, taxes and levies, import duties and other factors that determine the price, all valid on the day the agreement is concluded.
2. Audipack is entitled at all times to adjust the prices without prior notice, also after the order confirmation, or after a special offer insofar as these prices refer to a special offer, in the event that any increase of price determining factors takes place as mentioned in the first paragraph of this article, even when this takes place pursuant to foreseeable or unforeseeable circumstances when the agreement was concluded. In the event that the stipulated price is increased by more than 10% within three months after entering into the agreement, the client is entitled to dissolve the agreement. Audipack shall notify the client of this price increase as soon as possible and including specifications. The payment of a possible extra charge, pursuant to this article, shall take place simultaneously with the payment of the principal amount or respectively its last term.
3. The provisions from paragraph 2 also apply when the price changes that are mentioned therein originate from the suppliers, resulting in an adjustment of their prices with regard to Audipack.

**Article 4: Conclusion and contents of the agreement**

1. An agreement only becomes effective through confirmation in writing from Audipack's board and/or their attorneys-in fact who have the power to do so in accordance with the trade register. Possible additional agreements or changes that are made at a later stage only come into effect when Audipack's board has confirmed these in writing and the client does not raise any objections to them in writing.

2. The date of dispatch or confirmation shall count as the conclusion date of the agreement. A consignment note or invoice sent by Audipack is also considered as a confirmation with regard to the contract of sale, which includes the items mentioned on the consignment note or the invoice.
3. Agreements with - or statements from - Audipack's subordinates are not binding, insofar as they have not been confirmed in writing. All employees, who do not hold power of procurator, in accordance with the trade register, are considered to be subordinate staff members in this regard.
4. In the event of changes and /or cancellation of the order, the client is still bound to his order irrespective of the reason for the change and/or cancellation, including circumstances beyond one's control, and irrespective of Audipack's acceptance of the reason, and shall be obliged to reimburse the losses that Audipack have incurred; costs already incurred, loss of profit, loss of interest and the like. The loss of profit that is referred to is deemed to amount to at least 15% of the purchase amount. Audipack retain the right to prove and claim a higher loss amount.

#### **Article 5: Delivery**

1. Unless otherwise expressly agreed upon, an agreed delivery term is only an approximate and can never be considered as a firm date. Audipack are not liable for deviations in the stated delivery terms, for whatever cause, and therefore the client is obliged to accept the items bought even in the event of deviations in the delivery term. Exceeding the delivery term never entitles the client to compensation, nor to dissolve or change the agreement, nor to non-compliance with any obligations resulting from this agreement.
2. A possible contractual penalty that has been expressly stated on exceeding the delivery term is not payable in the event that the excess is the result of circumstances beyond Audipack's control.
3. The delivery term has been determined with the expectation of being able to work under the same conditions as when the offer was made and with the assumption that the necessary materials shall be delivered in time by third parties.
4. Without prejudice to paragraph 1 of this article and unless otherwise expressly agreed to in writing, a delivery term shall only become effective after the specified order has been accepted by Audipack in writing and all information necessary for the execution are in Audipack's possession in writing, and in the event that partial or complete advance payments have been stipulated, only after these payments are in Audipack's possession.
5. Audipack enters into each agreement under the condition that the client appears to be sufficiently creditworthy. Audipack is entitled to demand off the client, to Audipack's satisfaction, that he provides sufficient security to cover his obligation to Audipack. Audipack is entitled to suspend the execution of the agreement until the required security has been provided.
6. Unless otherwise agreed upon, the delivery takes place ex Audipack's factory/warehouse. Items to be delivered are transported completely for the account and risk of the client, unless otherwise agreed to in writing.
7. In the event of a sales and delivery agreement, Audipack is free to deliver a part of the order - if that part is ready - or to wait for the complete order to be ready. In the event of partial delivery, the client is bound to pay the invoices relating to this in compliance with the provisions of article 9.
8. If it has not been expressly agreed to that the delivery shall take place from stock, Audipack is entitled to deliver from stock of third parties. With regard to the sizes, colours, weights and other characteristics of all materials, Audipack retains the right to use the standard margin as is customary with the manufacturer responsible for the manufacturing.

#### **Article 6: Drawings, calculations, designs and the like**

1. Audipack expressly retains all (intellectual) rights in relation to drawings, calculations, models, designs and the like that they have issued. They remain Audipack's property, even though costs have been charged for them. They only commit Audipack when they have been included into the agreement in writing, or when they are expressly and specifically referred to in the agreement.
2. The documents mentioned must not be copied, handed over to third parties, made available for inspection or made known without permission in writing from Audipack. All documents must be returned to Audipack when called upon to do so.
3. Failing to comply with the provisions of this article shall render the party in default liable to pay a penalty of € 11,450 (in words eleven thousand, four hundred and fifty Euro), such action not being open to judicial moderation without notice of default being required.

#### **Article 7: Risk**

After leaving the warehouses of Audipack or their supplier, the items to be delivered are for the risk of the client. The client is liable for all damages that may occur during the transport of the items, or to the items, including without limitation fire and water damage, theft and embezzlement, among other things. The client must insure himself thoroughly against the aforementioned risks. For the issue of items of which they retain the right of ownership pursuant to article 14, Audipack is entitled to demand proof that the insurance referred to in the previous sentence has been taken care of by the client.

#### **Article 8: Guarantees and complaints**

1. With due observance to the restrictions stated hereinafter, Audipack guarantees the soundness and quality of the items that they have produced, materials used and replacement parts, as well as the adequate execution of the activities or services during a term of six months at the most, after delivery ex factory/warehouse, or after carrying out the activities or services. For items that have not been produced by Audipack, the guarantee conditions of the manufacturers in question are applicable.
2. The guarantee does not include the consequences of normal wear and tear or injudicious or incorrect use. Each guarantee expires the moment changes are made to the items delivered by Audipack, other than those made by Audipack or with Audipack's approval in writing. Defects, which are the result of mistakes that have been made by the client or third parties, do not fall under our guarantee, including incorrect installation or assembly, and omitting maintenance. The guarantee for delivered items and used materials is limited to defects in material and workmanship. Products that fall under the guarantee must be delivered to Audipack, unless otherwise agreed to. Audipack can refuse to honour the guarantee in the event that the products that fall under the guarantee have not been paid for; namely falling far outside the agreed payment term.

#### **Article 9: Inspection and complaints**

1. The items are sold in the condition that they are in.
2. The client is obliged to immediately inspect and/or examine the items delivered and/or the activities/services carried out at the moment of delivery.

3. Complaints must be filed in writing and as soon as possible, but at the latest within 8 days after delivery or installation or completion of the activities or services, or - in the event of non-visible defects - within 8 days after the defects have been discovered or could be reasonably discovered, but in any case at the latest within 30 days after delivery. Damage incurred during transportation, if observable, must be reported in writing within 8 hours to Audipack and indicated on the carrier's consignment notes. If the terms mentioned above are exceeded, each claim against Audipack expires in that case.
4. In the event that Audipack have considered a complaint to be well-founded with regard to the items delivered, Audipack's liability is at all times limited to (I) repair of the item(s) concerned (II) replacement and/or (re)delivery of (a) sound item(s) or replacement of defect parts (III) reimbursement of the purchase amount - all at Audipack's own discretion. Audipack do not have to compensate any loss, except when this loss is due to gross negligence or intention from Audipack.
5. In the event that Audipack have considered a complaint to be well-founded with regard to activities/services performed or carried out, Audipack retain the right to carry out or perform these activities/services in the correct manner within a reasonable term. Audipack do not have to compensate any loss, except when this loss is due to gross negligence or intention from Audipack.
6. Filing a complaint does not release the client from his obligations to Audipack, nor is the client entitled to suspend these obligations.

#### **Article 10: Liability**

1. Audipack's liability is limited to pay what they have agreed to, pursuant to these conditions. All Audipack's liability for any (other) form of loss, including additional compensation in whatever shape or form, compensation of consequential loss or loss of profit, is excluded unless the loss can be directly attributable to gross negligence or intention from Audipack and the client proves in addition that he is absolutely not at fault in this respect. Audipack is never liable for losses due to delays, due to loss of data, due to exceeding the delivery terms as a result of changed circumstances, loss as a result of insufficient cooperation, information or materials provided by the client - including a loss that can occur as a direct or indirect consequence of the violation of a patent, licence or other third party's rights, as a result of data issued by the client or its use.
2. The client binds himself to indemnify Audipack against any third party compensation claims of whatever nature against Audipack, and is liable for all costs resulting from them.
3. No liability can be accepted for any advice given by Audipack, or on their behalf. The client indemnifies Audipack against all third party claims that have been based on the advice set out.
4. Audipack's liability shall be limited at all times to the amount paid out in the case concerned, under Audipack's business liability insurance, insofar as any liability on the part of Audipack can be determined.
5. The condition for events giving rise to any compensation is that at all times the client must report the damage to Audipack in writing, as soon as is reasonably possible.

### **Article 11: Payment**

1. Payment must take place within fourteen days after the invoice date, without discount or set-off, at the offices of Audipack or a third party to be appointed by them. However, Audipack retain the right to only deliver to certain clients subject to a shorter term of payment. Audipack is entitled, in the event that they consider this necessary, to require additional security from the client as regards payment of the agreed price.
2. Irrespective of other indication/mention from the client, his payments shall in the first instance be offset against the charges that Audipack have incurred due to the collection and/or the retention of their claim(s), and subsequently on the interest that the client is obliged to pay and finally on the longest outstanding invoices/debts.
3. When exceeding the term of payment, the client owes Audipack an interest amount of 2% per month - or a part of the month - pertaining to the complete invoice amount from the date due. Article 6:119 paragraph 2 of the Civil Code is applicable mutatis mutandis.
4. When any obligation of the client is not fulfilled, or not fulfilled in time, the client owes Audipack the extra judicial collection costs, from the moment Audipack entrust a third party with the handling of the case. These costs shall be calculated according to the digressive collection rates of the Netherlands Bar with a minimum of € 454 without prejudice to Audipack's right to claim higher extra judicial collection costs, in the event that these have been incurred. In the event that proceedings have taken place between Audipack and the client, whereby the client has been ordered to pay the costs, the client shall owe Audipack all costs that Audipack have incurred for legal assistance, including also the amounts that the Judge has not granted.
5. Discount for cash or early payment shall not be given, unless expressly agreed to in writing. Besides the principal amounts relating to services and deliveries, the extra costs and interest described in the conditions as referred to in this article, Audipack is entitled to claim all costs from the client which have been caused due to a breach of contract.
6. In the event of non- payment of a payable amount, suspension of payments, an application for suspension of payments, bankruptcy or winding-up of the client, or when the client's movable or immovable property is seized, Audipack shall retain the right to cancel the agreement or cancel the part concerned which still had to be executed on that date without judicial intervention and without being obliged to pay any compensation. Consequently, Audipack retain the right to cancel work that has not been carried out yet - without judicial intervention and without being held liable to any compensation - and consequently not to have to carry out work that has not been carried out yet, also to reclaim the items that have not been paid for, without prejudice to the obligations agreed to and Audipack's right to convert the agreement into an agreement for alternative compensation in the event of negligence. Each claim that Audipack have made in the above-mentioned cases is chargeable to the client and is immediately due and payable.

### **Article 12: Several liability**

Everything - payment or otherwise - that Audipack is entitled to in relation to the obligations that result from any contract of sale or these conditions, without expectations, is jointly payable by the owner, managing directors, or whoever has the authority to dispose of property with regard to the items, irrespective of whether they have issued the orders to Audipack for the delivery of items or services in their own name and/or for their own account, or for the account of third parties on the understanding that performance by one releases the other.

**Article 13: Circumstances beyond one's control**

1. Without prejudice to any of Audipack's other rights, Audipack are entitled to suspend the execution of the agreement or to dissolve the agreement partially or completely through a written statement, at Audipack's own discretion, without being liable to pay any compensation or otherwise, in the event that they are hindered in the execution or timely execution of the agreement, due to circumstances beyond one's control. This does not affect the client's obligations to pay for the items already delivered and the costs already incurred.
2. Circumstances beyond one's control mean in this respect each circumstance that is not attributable to a fault on Audipack's behalf, nor is for the account of Audipack by law, legal act or generally accepted practice - even when it was already foreseeable at the time the agreement was concluded - as a result of which the compliance and/or timely execution of the agreement can not be required anymore in accordance with the requirements of reasonableness and fairness, including in any case war, revolution, danger of war, civil war, riot, industrial action, workmen lockout, transportation difficulties, fire and/or failures within Audipack's company or with one or more of their suppliers, delayed delivery of materials ordered in time, raw and ancillary materials or parts, flood, storm, wind-spout, hail, rain, mist, frost, snow-fall, glazed frost, traffic interruptions, interruption in the supply of energy or drinking water, government measures, failures in communication means or (computer) equipment from Audipack or from third parties whose services Audipack use, theft, loss of property or destruction and/or damage to company means or data.

**Article 14: Retention of title and transfer of ownership**

1. All delivered items remain the property of Audipack until the client has met all his obligations to Audipack with regard to the agreement concerned or obligations relating to it. Until that moment, the client is deemed to have Audipack's items on loan. Therefore he may not further sell, pledge or forward the items delivered. He is deemed to keep the items for Audipack for no consideration, so that Audipack, except owner, also remains the possessor of the items through the client.
2. In the event of non-compliance or inadequate compliance, Audipack is irrevocably authorised by the client to reclaim the items that Audipack have delivered, without any notice of default and if necessary after dismantling.  
Products that have been specifically manufactured for the client shall remain completely for the account of the client, insofar as they can no longer be used by Audipack.

**Artikel 15: Applicable law and disputes**

Dutch law is applicable to all agreements that Audipack have entered into, as well as to the obligations resulting from them. All disputes resulting from, or relating to these conditions and the legal relationships that have arisen between the parties, shall be in the first instance only adjudged by the competent judge in Rotterdam, unless Audipack prefers to turn to the competent judge in the place or area where the client's business is registered or to another competent judge.