RCARRÉ
RÉSEAUX D'ENTREPRISE ET TÉLÉPHONIE

GENERAL TERMS AND CONDITIONS OF SALE AND OF THE PROVISION OF SERVICES

These terms and conditions shall apply in full to any order, agreement or contract entered into by Rcarré S.A., (hereinafter the "Company"), with its Clients in the Grand Duchy of Luxembourg or abroad, irrespective of the location of delivery or provision of the service. Where appropriate, they shall be supplemented by special terms and conditions that shall prevail in the event of a conflict with these terms and conditions. By signing or executing any document referring to these terms and conditions, the Client shall be deemed to have accepted them, and no exemption shall be granted without the express prior agreement of the Company. Any condition contrary to these general terms and conditions that is imposed unilaterally by the Client in its general terms and conditions of purchase or in any other document shall be unenforceable on the Company, regardless of when it may have been informed of it. The Company reserves the right to amend these general terms and conditions. Without prejudice to Article 2, the amended general terms and conditions shall be deemed to have been accepted by the Client provided that the Company has sent them to it beforehand and the Client has not disputed them within fifteen (15) days of such notification.

1. QUOTES, ORDERS AND EXECUTION

Quotes given by the Company shall be valid for fifteen (15) days from the date of issue. They shall be subject to revision in the event of a rise in raw materials costs, exchange rate fluctuations, changes to the original project currently in hand or any other circumstance beyond the Company's control.

Any order placed with the Company shall be firm and binding for the Client as soon as the Company receives an order form, or any other medium constituting an order. The Client acknowledges that it has made its commercial decision (i.e., any decision relating to ordering, purchasing or leasing goods and services from the Company) in full knowledge of the facts, after having been duly informed by the Company of the advantages and limitations pertaining to the products and services delivered. The Company shall take all reasonable steps to execute the order by the agreed delivery date.

The fact that a product may be unavailable as a result of being out of stock, or a delay in providing a service, shall not result in the overall order being cancelled and shall not entitle the Client to claim compensation from the Company. Deliveries and services shall be deemed to have been accepted by the Client and validly executed if the Client does not dispute such execution within five (5) business days of such deliveries or provisions of services.

2. PRICES, INVOICING AND PAYMENT

In the event of any changes after the order was placed or after the date on which the contract was drawn up in exchange rates, applicable taxes or the prices charged by constructors or publishers, the Company reserves the right to adjust the sale price accordingly.

Hourly rates, agreements and sundry costs shall be indexed automatically, based on the current retail price index. Invoices shall be issued in euro and are payable within thirty (30) days.
Prices are net of VAT and any other taxes, which will be invoiced in addition.
The Company reserves the right to require invoices to be paid by direct debit, to demand down payments and/or to assign its debts to a factoring firm.

If an invoice has not been paid by the due date, the Company may demand immediate payment of all outstanding invoices. In addition, late payment interest at the rate of 1.5 times the legal interest rate shall be applied eight (8) days after serving notice without satisfactory response. If payment is not received within the above deadline, the Company may claim from the Client, without prejudice to any proceedings costs (even those of high amounts) that may be awarded by a court pursuant to article 240 of Luxembourg's new civil procedure code (Nouveau Code de Procédure Civile), flat rate compensation set at 15% of the principal due including VAT, with a minimum of EUR 1,500.00, unless the Company can demonstrate that the recovery costs not included in the expenses it incurred as a consequence of the late payment were higher. Late payment may also result in orders being suspended and goods reclaimed, as described in Article 7 (Retention of title cause). Invoices not queried within eight days of receipt shall be deemed to have been accepted. The Client may not claim a change of address as an excuse for missing the query deadline. In any event, the Client shall pay the undisputed amount of any disputed invoice.

3. DELIVERY AND TRANSFER OF LIABILITY

Delivery of the goods shall take place on the Company's premises, either by releasing them to the Client or to the haulier, by a release notice or by setting the goods aside for transport. Once delivered, the products shall become the responsibility of the Client, which shall then be liable for any risk of loss or damage and shall arrange for the necessary insurance. In the event of loss or damage resulting from transportation, the Client must take recourse against the haulier. If the Client fails to accept the delivery of any product whatsoever, the Company shall be entitled to immediately invoice the cost of the products, together with any other cost incurred as a result of the Client failing to take up the delivery in a timely manner.

The delivery, service or intervention times indicated by the Company are always indicative times based on a projected typical delivery time. No compensation shall be payable to the Client if these deadlines are not met, and no order may be cancelled without the express agreement of the Company. If one or more of the products ordered are out of stock, the Company may deliver and invoice products that are available.

Haulage and travel costs are set out in a separate table, which the Company shall send to the Client.

4. WARRANTY

The Company expressly indicates that in its capacity as a reseller, it is the intermediary between the manufacturer/publisher and the Client, and that the products sold by the Company are therefore guaranteed under the terms and conditions laid down by the manufacturer and sent to the Client. To claim against this warranty, the Client must inform the Company immediately in writing, in any form, of the problems it has detected. It may not, however, suspend the payment of any amounts due, cancel a sale or terminate a leasing agreement as a result. The warranty granted by the Company shall exclude loss of data under any circumstances.

a) Warranty on equipment sold or leased

The warranty does not cover equipment sold or leased if it has not been used or maintained in a responsible manner by the Client and/or has been modified, transformed, repaired or dismantled, even partially, by any person outside the Company. Nor is the equipment covered by the warranty if the damage was caused by the Client, and in particular as a result of equipment supplied by the Company being connected to equipment of another origin, or used in an environment that does not conform to the specifications (temperature, humidity, corrosive or dusty atmosphere, fluctuating voltage, etc.). For equipment that has been sold, the Company's warranty obligation is limited exclusively to replacing and/or repairing the defective parts of the equipment sold and the labour required to replace and/or repair said defective parts. In addition to postage and travel costs, all other services, including (but not limited to) reconfiguring equipment, configuration, reinstalling software (including operating systems), reinstalling applications and/or drivers, integration, updates and data transfer, etc. are expressly excluded from the warranty. These services shall be invoiced at the Company's hourly rate in force on the day they are performed. The repaired or replaced parts shall be guaranteed for the remaining period of the original warranty. The Company shall be under no obligation to lend replacement equipment while the defective equipment under guarantee is being repaired or replaced. For leased equipment, the Company undertakes to replace and/or repair defective parts in a timely manner. If the Company has lent equipment to replace equipment in repair or maintenance, this equipment has been lent on a strictly temporary basis and must be returned immediately on request. The Client may not claim compensation of any kind.

b) Software warranty – updates

Regardless of whether software has been sold or leased, the Company offers no express or implied warranty as regards its quality, market value or suitability for a particular use. The Company does not guarantee the uninterrupted or defect-free operation of the software. The Company's sole obligation in respect of software defects shall be limited, at its own discretion, to replacing the defective software, or refunding the purchase price instead of replacing it. The Company offers no warranty in the event of incompatibility or malfunction occurring after a software update, whether at the express request of the Client or as part of a maintenance agreement, and whether performed by the Company, the Client or automatically. In addition to postage and travel costs, all the services required to restore the Client's system, including (but not limited to) reconfiguring equipment, configuration, reinstalling software (including operating systems), reinstalling applications and/or drivers, integration, updates and data transfer, etc. shall be invoiced at the Company's hourly rate in force on the day they are performed.

5. LIMITATION OF LIABILITY

Unless expressly stipulated to the contrary, the Company's obligations shall constitute best-endeavour obligations. The Client shall choose the equipment, applications, services and resources it requires independently and on the basis of the objectives that it seeks to achieve. It shall be responsible for executing the computer applications that it uses and the IT security policy, evaluation methods, audits and business continuity plan that it wishes to put in place or that it may be required to supply to the authorities to which it is subject. The Client shall be responsible for the results obtained when using the equipment, applications, services and resources, and for the decisions it makes on whether or not to follow recommendations regarding procedures and operations that are specific to the activities of its business.

The Company shall not be required to pay compensation for indirect or intangible damages such as loss of production, loss of operation, loss of opportunity, loss of data or financial or commercial or other damages that may be the direct or indirect consequence of damage incurred following the installation, use or malfunction of the goods delivered. The Company shall not be held liable for damage resulting from a delivery problem, damage to goods, a backup failure, a failure to implement updates, damage linked to technical non-conformity, incompatibility between equipment, vulnerability with respect to the telecommunications line, a breach in the firewall, equipment obsolescence or damage due to an external cause beyond the control of the Company, or force majeure. The Client shall be solely responsible for making backups of its operating systems, applications and data on a regular basis and, in any event, before any technical intervention. Any compensation payable to the Client shall be limited to the price excluding VAT of the damaged product delivered or the service provided. Any action or claim of any kind whatsoever that may be made against the Company shall be time-barred after one (1) year.

6. SUBCONTRACTING

Without prejudice to Article 11.2, the Client acknowledges and accepts that certain solutions and services can only be provided by combining the Company's services with those of service providers or subcontractors, such as, inter alia, telecommunications and internet service providers, data centres and IT services providers. The Company reserves the right to subcontract all or part of its services to one or more third parties and to change subcontractor at any time, provided that the services are at least equivalent and have no impact on the Client. When the Company subcontracts a service requiring the processing of personal data on behalf of the Client, as mentioned in Article 11 subparagraph 2 of these terms and conditions, the Company shall request the prior written consent of the Client before recruiting or replacing service providers, in accordance with article 28 subparagraph 2 of the General Data Protection Regulation (EU) 2016/679 (hereinafter the "GDPR").

7. RETENTION OF TITLE

The Company shall retain title to the products sold until the price has effectively been paid in full. The risk linked to the products sold shall transfer to the Client when the product is released to the haulier, irrespective of the date of transfer of title. If the price of the products (principal and interest) has not been paid in full, the Company may take back the products from the Client's premises at any time. The Company may also take back goods that have not been paid for from secondary purchasers, or demand direct payment for the goods from them. The Client may not pledge the products as collateral, exchange them, or transfer their ownership as a guarantee until they have been paid for in full.

8. CLIENT'S OBLIGATIONS

The Client shall be bound by an obligation to cooperate with the Company to ensure that the products and services are effectively supplied. In particular, it shall send the Company, under its own responsibility, any documents, licences, authorisations and information that the Company has indicated as being necessary for the performance of its task. It shall put the Company in contact with all persons concerned by the object of its task and shall appoint a single contact person to coordinate it. It shall provide the Company with all the equipment it requires to perform its task (office, PC, connections, access to installations, electrical power, etc.) and shall take all necessary steps to back up its own data.

The Client shall be responsible for ensuring that intellectual property rights are complied with and that the designs, products and software that it chooses to install or have installed on its systems by the Company are used lawfully. The Client shall refrain from reproducing or copying them by any means whatsoever or forwarding them to third parties without the express authorisation of their authors. Under no circumstances shall the Company be held liable for the Client's unauthorised use of software. The Client undertakes to compensate the Company for any and all damages resulting from the unauthorised use of designs, products and software on the part of the Client.

Under a leasing agreement, the Client shall ensure that it uses the leased equipment responsibly and in an environment that conforms to the specifications. It shall pay for maintenance and any necessary repairs, and shall not claim a reduction in the rental cost or the termination of the agreement. It undertakes to insure the leased equipment at its own expense for the entire term of the leasing agreement. It shall return the equipment at its own expense and under its own responsibility, in its original packaging and in good working order, subject to normal wear and tear after being used by technically competent operators. If the Client fails to return the equipment for any reason whatsoever, it shall refund the Company the equivalent value, plus a flat fee equivalent to three months' rent. The Company shall retain title to the leased equipment (equipment and software) for the entire term of the leasing agreement. Lease payments are payable in advance. Any period that has begun shall be payable in full. Non-payment of one lease payment on its due date may result in the automatic termination of the leasing agreement, the Company taking back the leased equipment and a demand for lease compensation equivalent to all the lease payments still due. The Client shall never pledge the leased equipment as collateral, exchange it or transfer its title.

The Client alone shall determine its purposes and methods with respect to processing the personal data for which it is responsible. Should the Client consider subcontracting the processing of personal data, it is incumbent upon it to select a subcontractor offering adequate guarantees in terms of implementing the requisite technical and organisational measures, in accordance with article 28 subparagraph 1 of the GDPR.

Insofar as personal data that the Client is responsible for processing is subcontracted to the Company, the Client hereby declares that it has complied with all legal obligations in relation to the protection of personal data and, as a consequence, in particular that it has:

- ensured, insofar as all or part of the personal data whose processing is subcontracted to the Company has already been subcontracted to a third party, that this third-party subcontractor offered adequate guarantees in terms of implementing the requisite technical and organisational measures in accordance with article 28 subparagraph 1 of the GDPR;
- provided its clients with information regarding, inter alia, the duration for which data will be kept, clients' rights to access, rectify and delete data, and clients' rights to restrict or object to the processing of their personal data, in accordance with the provisions set forth in articles 13 to 21 of the GDPR;
- implemented an internal policy, as well as appropriate technical and organisational measures, to ensure that it can demonstrate to the supervisory authorities at any time that its processing of personal data is compliant with the requirements set forth in articles 24 to 26 of the GDPR;

In the event that a service ordered by the Client requires the written consent of its clients as regards the processing of the sensitive personal data referred to in article 9.1 of the GDPR, the Client undertakes and guarantees that it will obtain the written consent of its clients before sending the aforementioned data to the Company, in accordance with article 7 of the GDPR.

The Client shall hold the Company harmless for any damage that it may suffer as a consequence of a failure on the part of the Client to meet its obligations in terms of the processing of personal data.

9. TRANSFER

Without prejudice to the Company's right to subcontract all or part of its services to a third party, neither party may transfer, sub-license or otherwise reallocate one of its rights in respect of an order, agreement or contract without the prior written consent of the other party. Such consent shall not be refused or delayed without good reason; however, nothing shall obstruct or limit the Company's right to transfer, sub-license, reallocate or otherwise sell any of its rights or obligations to its subsidiaries or sister companies.

10. NON-SOLICITATION

During the performance of an agreement and for six (6) months after its termination, the Client shall refrain from contacting or hiring a member of the Company's personnel with responsibilities relating to the performance of the agreement without the prior written consent of the Company.

11. PROCESSING OF PERSONAL DATA

11.1. By the Company

Subscription to a sale, service or agreement is subject to the Company collecting personal data from the Client when the processing of such data is a prerequisite for conducting the business relationship or fulfilling legal obligations. This data may be processed, saved and archived by the Company, and shared with third parties, in the context of achieving a legal and legitimate aim pursued by the Company or by the third party to which the data will be disclosed, in particular in relation to the management of client records, the management of agreements, the provision of client services, the management of the business relationship, detecting, preventing and fighting against fraud, statistical research, the management of disputes and debt recovery, and payment for services.

Personal data disclosed by the Client may be used by the Company for the purposes of direct marketing (sales campaigns, personalised advertising, etc.) in order to inform the Client about its activities, products and services, unless the person in question objects to the processing of their personal data for profiling or direct marketing, in accordance with the provisions set forth in articles 21 and 22 of the GDPR.

11.2. By one of the Company's subcontractors

When the service ordered by the Client requires the processing of particular personal data pertaining to its clients to be subcontracted to the Company, the Client must enter into an agreement with the Company setting out, inter alia, the required details of the planned data processing including the duration, nature and objective of the processing, the type and sensitivity of the data entrusted, categories of person affected, access authorisation, security requirements, limitations on transfer outside of the EU, etc., in accordance with article 28 subparagraph 3 of the GDPR.

Details of the Company's policy in respect of the processing of personal data is available on the Company's website at www.rcarre.com

12. CONFIDENTIALITY

The Client is aware and accepts that the Company and its subcontractors may have access to confidential information in connection with the tasks entrusted to it. The parties shall take all reasonable measures to comply with the strict confidentiality of the information to which it has access and shall not disclose it to any third party without prior consent.

13. COMPLAINTS HANDLING

If the Client has a complaint, it can contact the Company using the contact form available on its website at www.rcarre.com or by post. The complaints handling procedure is described in greater detail on the Company's website at www.rcarre.com.

14. NULLITY

The nullity of any clause or part of a clause in these terms and conditions shall not affect the other clauses or parts of clauses. Where possible, the relevant clause or part of a clause shall be replaced by a valid provision with equivalent effect.

15. JURISDICTION AND APPLICABLE LAW

The sales agreements are subject to Luxembourg law. In the absence of an amicable settlement, any dispute arising shall be subject to the exclusive jurisdiction of the courts of Luxembourg.