

EOLYS RESSOURCES & ENERGIES GENERAL TERMS AND CONDITIONS OF SALE

1 - GENERAL

These General Terms and Conditions set out the rights and obligations of both parties: EOLYS and its distributor customers. In accordance with Article L441-6 of the French Commercial Code, these General Terms and Conditions form the legal basis of the contract for all provisions that have not been specifically and expressly agreed. They void any contrary clauses expressed in any way by the customer if EOLYS has not accepted them in writing. The placing of any order or the acceptance of an offer is deemed to constitute acceptance of these General Terms and Conditions.

2 - CO-OPERATION OF THE PARTIES

Any change in operating conditions that may be necessary as a result of bringing the equipment into operation will be the responsibility of the customer.

3 - STUDIES AND PERFORMANCE

3.1 Intellectual property

All drawings, studies, specifications, technical documents, photos or quotations handed over to the other party are furnished as a loan and for the purpose of assessing and discussing EOLYS's sales proposal. They cannot be used by the other party for other purposes or disclosed to a third party without the prior consent of EOLYS.

EOLYS retains all material and intellectual property rights over the documents loaned. These documents will be returned to EOLYS on first request.

Furthermore, EOLYS studies which substantially modify the specifications and improve the value of the product remain its exclusive property and cannot be disclosed, performed or reproduced without its written authorisation.

Payment for studies will not entail any transfer of any intellectual property right to the contractor. Any transfer of intellectual property will be recorded in a written contract.

3.2 Confidentiality

The parties are mutually bound by a general duty of confidentiality with respect to any kind of oral or written confidential information on any medium (discussion reports, drawings, electronic data interchange, activities, installations, projects, know-how, products, etc.), which is exchanged in connection with the preparation and performance of the contract except for information which is generally publicly known and information which becomes publicly known otherwise than through the fault or actions of the customer.

Therefore, the parties agree:

- to keep any confidential information strictly secret and, in particular, not to disclose or communicate, in any way whatsoever, directly or indirectly, all or part of such confidential information, to any person whatsoever, without the prior written authorisation of the other party;
- not to use all or part of such confidential information for purposes or activities other than the performance of the contract;
- not to make a copy or imitation of all or part of such confidential information.

The parties agree to take all necessary measures to ensure compliance with this confidentiality duty, throughout the entire duration of the contract and including after the expiry thereof, and vouch for compliance with this duty on the part of all of their employees. This duty is an obligation to achieve a given result ("*obligation de résultat*").

The customer warrants that at the time of entering into the contract, the content of drawings and specifications and their conditions of implementation do not use the intellectual property rights or know-how held by a third party. It warrants that it can freely dispose of the latter without breaching any contractual or statutory obligation.

The customer will hold EOLYS harmless from the direct or indirect consequences of any action for damages resulting, in particular, from infringement or unfair competition proceedings.

3.3 Offer - prices - order and performance

Prices are stated in euros, exclusive of VAT and customs duties, and "ex works", unless otherwise specifically indicated in the contract. The price corresponds exclusively to the services specified in the offer. Unless specifically indicated, offers and quotations remain valid for a period of two months. After this period, the price specified in the quotation may be updated taking into account production costs. Unless otherwise agreed by the parties, repairs, technical assistance, maintenance, upkeep, training as well as additional supplies or supplies delivered during assembly will be charged as extras without the need for additional invoices.

EOLYS has the right to consider that an order or a letter of intention constituting an order pending the formal order will not be accepted until the customer has been sent a document in which it accepts the order or acknowledges receipt thereof and until the order deposit is paid.

EOLYS may, on this document, legitimately mention changes or amendments to the order and to the contract.

Once the order has been accepted by EOLYS, the contract cannot be cancelled or modified for any reason whatsoever, unless expressly agreed by EOLYS and, in this case, the customer will compensate EOLYS for all costs incurred and for all direct and indirect consequences resulting therefrom. In addition, the deposit already paid will be retained by EOLYS.

4 - DELIVERY, TRANSPORT, CUSTOMS, INSURANCE, etc.

4.1 - Terms

Unless otherwise specified, delivery is deemed to have been made once the goods are delivered to EOLYS's factories. Risks are transferred accordingly to the customer at the time of delivery, without prejudice to EOLYS's right to rely on the retention of title clause or to exercise its right of retention.

Unless otherwise specified, prices are exclusive of VAT for equipment in EOLYS's factory and all operations relating to transport, insurance, customs, maintenance, delivery to site will be carried out at the risk and expense of the customer. It is, in all cases, the responsibility of the customer to check shipments on arrival and to exercise, where applicable, its remedies against carriers.

4.2 - Delivery periods

Unless otherwise specified, delivery periods start from the date of payment of the deposit and from the date of final acceptance of the order by EOLYS.

4.3 - Late delivery

Delays cannot under any circumstances justify the cancellation of the order or the termination of the contract. If penalties have been specified, these cannot be imposed until the customer has given formal notice to pay and payment has still not been made one month later. In any case, these penalties cannot exceed 5% of the value (excluding VAT) of the equipment concerned in the workshop or in the warehouse. Furthermore, such a penalty will only be owed if the delay is attributable to the fault of EOLYS and if it has caused actual harm which both parties have jointly observed and will have the nature of a lump-sum penalty in full discharge, such that no other sum may be claimed on this ground from EOLYS.

EOLYS is automatically released from any commitment relating to contractual periods in the event of breach by the customer of contractual obligations, particularly where terms of payment have not been observed or in the presence of a force majeure event as described in Article 8.

5 - TECHNICAL REGULATIONS:

Turbines are manufactured in compliance with standard 61400-2.

6 - PAYMENT

6.1 - Terms of payment

Due dates and terms of payment will be determined in the contract.

Failing that, and by way of reference terms, the following terms apply: 30% deposit paid in cash at the time of the order with the balance payable 8 days before collection of equipment. The payment due dates agreed by the parties cannot be postponed for a reason for which EOLYS is not responsible, even if the event on the basis of which the due dates concerned are determined is postponed. If a performance bond is agreed by the parties, and in accordance with the French Law of 16 July 1971 which is public policy, the relevant amount cannot exceed 5% of the total price excluding VAT.

6.2 - Payment dates

The contractually agreed payment dates cannot be called into question unilaterally by the customer for any reason whatsoever, including in the event of dispute. Early payments may be made without discount unless specifically agreed. In the event of payment by draft, acceptance must take place within seven days of it being sent.

6.3 - Late payment

In accordance with Article L441-6, 12th paragraph, of the French Commercial Code, as resulting from the French Economic Modernisation Act no. 776 of 4 August 2008, any late payment will be subject to the application of late payment interest at the most recent refinancing rate applied by the European Central Bank plus ten points. Any late payment of a payment owed will, if EOLYS sees fit, bring about the acceleration of the contractual payment and all sums due will become immediately payable.

If EOLYS exercises one and/or the other of these provisions, this will not prevent it from exercising the retention of title clause contained in Article 7. In the event of late payment, EOLYS has a right of retention over the equipment.

6.4 - Change in customer's situation

If the customer's situation worsens and this circumstance is observed by a financial institution or evidenced by a significant late payment or where its financial situation differs substantially from the figures supplied, delivery will only take place in return for actual payment. In the event of the sale, assignment, pledging or transfer of the customer's business or of a substantial part of its assets or its equipment, EOLYS reserves the right and without notice:

- to accelerate payment and, therefore, to demand that any sums outstanding for any reason whatsoever are immediately payable
- to suspend any shipment
- firstly, to declare the termination of all contracts in progress and, secondly, to retain any deposits received and documents held until any compensation is determined.

The invoice will mention the date and place of payment.

7 - RETENTION OF TITLE

EOLYS retains title over the equipment delivered until actual payment is made of the full price both in terms of principal and incidental charges. Failure to make any payment when due may bring about an action to reclaim the title to such equipment. Nevertheless, with effect from handover, the customer assumes the risks of loss or damage to such equipment as well as liability for any damage that it may cause. If an action to reclaim title is brought, the deposits that have already been paid will be retained by EOLYS by way of compensation, without prejudice to the possibility of obtaining full compensation for its loss.

8 - UNFORESEEABLE CIRCUMSTANCES AND FORCE MAJEURE

8.1 - Unforeseeable circumstances

If an event beyond the control of the parties alters the equilibrium of the contract such as to make it harmful for one of the parties to perform its obligations, the parties agree to negotiate in good faith an amendment to the contract. Such events include, in particular: change in the price of raw materials, change in customs duties, change in exchange rates and change in laws. In the absence of agreement, the parties will turn to conciliation before the President of the competent commercial court acting as arbitrator.

8.2 - Force majeure

Neither of the parties to this contract may be held liable for delay or default in the performance of any of their obligations hereunder if such delay or default is the direct or indirect result of a force majeure event such as:

- occurrence of a natural disaster
- earthquake, storm, fire, flood, etc.
- armed conflict, war, conflict, attacks
- industrial dispute, total or partial strike affecting EOLYS or the customer
- industrial dispute, total or partial strike affecting suppliers, service providers, carriers, postal services, public services, etc.
- mandatory order by the public authorities (import ban, embargo)
- operating accidents, breaking of turbines, explosion
- supplier shortage.

Each party will immediately inform the other party about the occurrence of a force majeure event that has come to its attention and which, in its view, is capable of affecting the performance of the contract.

9 - WARRANTIES AND LIABILITY

In all cases, EOLYS's obligations are determined on the basis of the contract, which sets out all relevant specifications applicable to the equipment to be installed, in any respect whatsoever.

9.1 - Warranty right

EOLYS agrees to rectify any operating fault caused by defective manufacture, materials or performance, subject to the provisions below. EOLYS's obligation does not apply in the case of a fault caused either by materials supplied by the customer¹. EOLYS guarantees the supply of a wind turbine according to the order placed between the parties. Therefore, EOLYS does not act in the capacity of general contractor or engineering contractor, since these are services that EOLYS does not provide. It is the customer's duty to identify what is supplied by EOLYS and what is not supplied by EOLYS.

EOLYS products are therefore parts of a greater whole whose interactions EOLYS cannot control.

9.2 - Duration and starting point of the warranty

Unless specifically stated, this warranty only applies to faults that emerge during a period of five years (warranty period). This period only applies where the products are used according to the provisions defined by the parties. The warranty period starts from the day of delivery. If delivery is postponed owing to the customer's fault, the warranty period will nevertheless start from the delivery date initially envisaged. Unless otherwise specified, the warranty is limited to the repair or replacement of defective parts. Only spare parts supplied, modified or reworked by EOLYS are warranted and only during the warranty period for the main equipment.

9.3 - Customer's obligations

In order to rely on these provisions, the customer will notify EOLYS immediately and in writing of faults that it ascribes to the equipment and will provide evidence of the existence of such faults. It will give EOLYS every opportunity to observe such faults.

9.4 - Liability

EOLYS's liability is strictly limited to the obligations thus defined and, except in the case of personal injury or gross negligence, it is expressly agreed that EOLYS will not be required to pay any compensation, including for moral prejudice or consequential damage such as, in particular, loss of profit, loss of use or income, third party claim for noise disturbance and/or pollution, etc.

9.5 - Warranty and liability exclusions connected to the customer

Any warranty or liability is also excluded for incidents resulting from acts of God or force majeure as well as for replacements or repairs which result:

- from normal wear and tear of the equipment,
- from damage or accidents caused by negligence, lack of supervision or maintenance and
- from abnormal use of such equipment.

Any work carried out by the customer on the equipment: modifications, repairs, addition of spare or reworked parts, and any testing of equipment and/or installation on the equipment without the express consent of the latter will cause any liability or warranty to be invalidated. [EOLYS] will not be bound by any contractual warranty, statutory warranty or contractual liability if the conditions for the operation of the facility by the customer do not comply strictly with one or more of the following points:

- EOLYS's instructions and, in particular, the installation and maintenance handbook,
- professional standards in force in the customer's profession,
- the safety and environmental rules applicable to the customer,
- the periodic checks recommended by EOLYS or by regulation,
- the use of the turbine as initially envisaged.

Any modification of equipment at the customer's initiative that may cause safety conditions to be altered will result in the invalidation of the declaration of conformity with standard IEC 614002- handed over by EOLYS. The replacement of a part by a part which is not an original one thus having repercussions on the safety of the installation will also result in the invalidation of the above declaration.

The warranty will also be excluded if the customer fails to make any payment due.

10 - INSURANCE

Since it is expressly agreed that risks are transferred to the customer as soon as the equipment leaves EOLYS's premises, [the customer] undertakes, from that moment onwards, to be covered by insurance for such equipment. This insurance will contain a waiver of recourse by the customer and its insurers against EOLYS and its insurers.

11 - DISPUTES

The parties agree to try to resolve their disagreements amicably before referring the matter to the competent court.

Failing that, any disagreement or dispute relating to the contract will fall under the exclusive jurisdiction of the courts having jurisdiction over the area where EOLYS's registered office is situated, even in the event of a guarantor joinder or where there is more than one defendant.

Date and customer signature preceded by the declaration "read and approved".

Company stamp:

¹ [Translator's note: Sentence seemingly incomplete].