

# **Standard General Terms and Conditions of Sale DANI ALU for Professional Customers**

Version of 23/12/2021

PLEASE READ CAREFULLY THIS DOCUMENT BEFORE PLACING ANY ORDER

- **IMPORTANT - NOTICE TO CUSTOMERS**

THIS GENERAL TERMS AND CONDITIONS (HEREIN UNDER "GTC") GOVERN AND APPLY WITH NO RESTRICTION WHATSOEVER TO ANY RELATIONS BETWEEN DANI ALU COMPANY (HEREIN UNDER "DANI ALU"), SOCIETE PAR ACTIONS SIMPLIFIEE (A FRENCH SIMPLIFIED JOINT-STOCK COMPANY), WITH A CAPITAL OF 1.000.000 €, REGISTERED WITH THE COMPANIES REGISTER (RCS) OF LYON – FRANCE WITH THE NUMBER 314 406 646, HEADQUARTERED IN LIEU-DIT CLAPELOUP - SAINTE-CONSORCE (69280) – FRANCE, ON ONE HAND, AND ANY PROFESSIONAL CUSTOMER PLACING AN ORDER FOR DANI ALU PRODUCTS (OUTSIDE THE DANIALU.FR WEBSITE), ON THE OTHER HAND. PARTICULAR CUSTOMERS ARE NOT CONCERNED BY THESE GENERAL TERMS AND CONDITIONS. THE GENERAL TERMS AND CONDITIONS THAT APPLY TO PARTICULAR CUSTOMERS CAN BE CONSULTED ONLINE ON DANIALU.FR WEBSITE.

THE CUSTOMER ACKNOWLEDGES THAT ANY PURCHASE OF DANI ALU PRODUCTS IS MADE IN THE FRAMEWORK OF ITS PROFESSIONAL ACTIVITY AND WITH A DIRECT CONNECTION WITH SUCH ACTIVITY.

THE CUSTOMER IS ABOUT TO PLACE AN ORDER FOR ONE OR SEVERAL PRODUCT(S):

AT ANY EVENT, THIS DOCUMENT IS AN AGREEMENT BETWEEN THE CUSTOMER AND DANI ALU.

WETHER THE PERSON WHO PLACES THE ORDER IS THE CUSTOMER'S LEGAL REPRESENTATIVE, DIRECTOR OU AGENT, IN THE NAME OF WHOM SHE PLACES THE ORDER, SHE DECLARES THAT SHE HAS THE LEGAL CAPACITY TO BIND THE CUSTOMER.

THEREFORE, THIS PERSON ACCEPTS THAT THIS GENERAL TERMS AND CONDITIONS (GTC) WILL BE LEGALLY BINDING BOTH ON HER AND ON THE CUSTOMER THAT SHE REPRESENTS AND ON BEHALF OF WHOM SHE ACTS.

ANY ORDER PLACED IS FIRM AND IRREVOCABLE AND CONSTITUTES AN UNCONDTIONAL ACCEPTANCE BY THE CUSTOMER OF THESE GTC.

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## 1. SUBJECT MATTER

These GTC are intended to define the technical, legal, and financial conditions under which DANI ALU undertakes to supply to its CUSTOMERS the Products and the associated services, if any, ordered by the latest, in exchange of the payment of the indicated price (excluding any order placed on the danialu.fr website).

## 2. DEFINITIONS

- “CUSTOMER”: A natural or legal person acting in a professional capacity and purchasing the Products offered by DANI ALU.  
Are deemed to be acting in a professional capacity the private and public sector and social economy sector businesses, the liberal professionals and more generally any person holding a SIREN or equivalent (national business ID) number or acting for its professional needs.
- “Purchase Order”: A document with which the CUSTOMER places an order with DANI ALU. This document relies on the Quotation previously established by DANI ALU and integrates any negotiations between the Parties. The expression of the CUSTOMER’s agreement with the Quotation transferred by DANI ALU by any written means acts as a Purchase Order. Also, the sending of the Purchase Order by the CUSTOMER acts as an acceptance of these GTC, which will have been previously forwarded to the CUSTOMER by DANI ALU with the Quotation.
- “Order”: All the Products ordered by the CUSTOMER to DANI ALU.
- “Quotation”: Commercial proposal established by DANI ALU on the basis of the needs expressed by the CUSTOMER, describing the proposed Products to the CUSTOMER and the Order commercial implementation methods.
- “Party” or “Parties”: DANI ALU and the CUSTOMER are individually designated by the term “Party” and together by the term “Parties”.
- “Products”: Any goods offered for sale by DANI ALU: (i) according to the features and/or standard dimensions indicated by DANI ALU (herein under,

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“Standard Products”) or (ii) custom-made, according to the measurements communicated by the CUSTOMER in the Order (herein under, “Custom-made Products”).

## **3. GENERAL TERMS AND CONDITIONS ACCEPTANCE**

The GTC applying to the Order are those in force on the date of the Purchase Order and remain valid for the whole period required for the performance of the Order.

They are sent in their full version to the CUSTOMER with the Quotation. They will be deemed accepted with the signature of the Quotation or the sending of the Purchase Order by the CUSTOMER.

The CUSTOMER declares that it has taken note of and understood these GTC in their entirety, that it has accepted them unconditionally before placing the Order, and that he has waived the right to invoke his own conditions of purchase.

We recommend to the CUSTOMER to keep and to print them. DANI ALU may also communicate them to anyone making the request under their full version on the date of the request.

DANI ALU reserves the right to modify at any moment whatsoever these GTC. At any event, the applicable GTC are those in force on the date of the Purchase Order.

Under otherwise expressly stated, these GCT express all the applicable obligations between DANI ALU and the CUSTOMER and invalidate and replace any communications between the Parties before the placing of the Order.

Any deviation from these GTC will only be enforceable against DANI ALU if it has been duly accepted in a written and signed medium by the latest.

## **4. ORDER**

### **4.1. Common provisions for all the Products**

Any Order for Products is the subject of a Quotation established by DANI ALU on the basis of the CUSTOMER’s needs.

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The CUSTOMER returns to DANI ALU by any written means, including electronically, either:

- the signed Quotation and/or its explicit and written approval, these documents constituting, respectively, a Purchase Order,
- or a Purchase Order containing the terms of any validated negotiations between the Parties.

The resulting Order being final and irrevocable, any modification to it by the CUSTOMER will rely on DANI ALU's acceptance.

## **4.2. Specific provisions for the Standard Products**

The receipt of the Purchase Order by DANI ALU is considered as a placed Order and constitutes a firm and final sale.

For DANI ALU's CUSTOMER who regularly place Orders for Standard Products, the Parties may negotiate specific tariffs, which will be confirmed by e-mail, applying to the future Orders, without being necessary, by mutual agreement between the Parties, to establish a Quotation for every Order. The Orders may then be placed by the CUSTOMER by e-mail, such e-mail being deemed a Purchase Order, considering the regular relations between the Parties.

## **4.3. Specific provisions for the Custom-made Products**

Upon receipt of the Purchase Order by DANI ALU, the latest will conduct, on the basis of the needs expressed by the CUSTOMER, a study, and a layout plan. These elements will be submitted to the CUSTOMER, for validation.

The CUSTOMER will return to DANI ALU, by any written means, including electronically, an acknowledge of receipt of the Order duly signed, which will be deemed to be a firm and final commitment.

DANI ALU may communicate to the CUSTOMER the personal ID and passwords allowing:

- the consultation, in [danialu.fr](http://danialu.fr) website, of the aforementioned layout plans,

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- the transfer of the acknowledge of receipt for the Order and the validation of the Order in its personal area.

## **5. AVAILABILITY OF THE PRODUCTS**

The offers for the Products remain valid throughout the period of validity indicated in the Quotation.

For non-availability or stock shortage, certain announced deadlines may be extended.

In this case, DANI ALU will inform the CUSTOMER as soon as possible by e-mail or any other written means of the new availability dates. DANI ALU reserves the right to propose to the CUSTOMER an equivalent Product.

In the event of lack of available Products or if the CUSTOMER refuses to accept a new deadline or the equivalent Product proposed by DANI ALU, the CUSTOMER will be entitled to cancel its Order and to request its reimbursement.

## **6. ASSOCIATED SERVICES**

The CUSTOMER may request for the supply, by DANI ALU, of the services associated to the ordered Product(s) measurement, guidance, for the fitting, etc.), which will then be invoiced in addition, on the basis of the tariff in force on the date of the request.

## **7. PRICE**

The prices will be expressed in Euros excluding taxes and increased by VAT at the rate applicable on the date of the Order. They do not include the delivery costs. Therefore, the prices will be increased with the shipping costs applicable on the date of the Order, which will be borne by the CUSTOMER. Any tax, duty, or other sum to be paid under the French law or an importing or transit country law will be borne by the CUSTOMER.

The tariffs communicated to the CUSTOMER are those in force on the payment date.

The shipping costs invoiced in addition are indicated for reference only.

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## 8. TERMS OF PAYMENT

For any first Order placed with DANI ALU, the CUSTOMER will pay the price of the Order in full before launch of production. Under certain conditions and on DANI ALU's initiative, a partial advance payment may be agreed by DANI ALU. In this case, the advance payment will be paid by the CUSTOMER on the signature of the Quotation and/or made by bank transfer at the same time of the transmission of the Purchase Order or of its validation in the personal area. The balance of the price will, imperatively, be paid on receipt of the invoice.

For all the following Orders, an account indicating the applicable payment terms will be opened in the name of the CUSTOMER and the payment will be made on the basis of such conditions and the applicable legal provisions:

- cash payment;
- payment upon receipt;
- payment within a maximum term fixed to the 30<sup>th</sup> day following the receipt of the goods or the performance of the service (if no other term is indicated in the agreement);
- payment within the term agreed between the Parties: this term may be extended up to 60 days from the date of the issue of the invoice or to 45 days end of the month from the date of the issue of the invoice.

DANI ALU reserves the right to modify the payment terms in consideration of the outstanding amount granted to the CUSTOMER and of the existing financial data on the moment of the Order.

No discount will be granted in case of early payment.

The payments will be made, at the CUSTOMER's choice, via:

- bank transfer,
- bank check,
- bill of exchange.

The simple presentation of a commercial bill or of a check attached to a payment duty will not constitute a valid payment under this provision. Only the payment by due date will be considered as a payment; the CUSTOMER not being therefore anymore a debtor in relation of DANI ALU.

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The invoices will be systematically sent to the CUSTOMER by e-mail, to the e-mail address indicated by the CUSTOMER at the moment of the opening of the account, or by postal service, upon its request.

In the event default payment by due date, late payment penalties will be owed from the day following the payment date indicated in the invoice. A lump sum of 40 Euros will be added to these fees, for the recovery costs, as provided in Article L. 441-10 of the French Commercial Code (Code de commerce). These penalties will automatically apply to the amount to be paid up to 3 times the legal interest rate.

## **9. DELIVERY**

### **9.1. Terms of delivery**

The ordered Products will be delivered at the address indicated by the CUSTOMER as being the delivery address.

The ordered Products will be delivered by external providers specializing in the transport. The method of shipment and packaging of the Products shall be chosen by DANI ALU. The shipping costs will be borne by the CUSTOMER.

### **9.2. Deadlines**

The deadlines indicated are for reference only. They represent the period to estimate between the moment at which the Order has been placed and the shipping of the Product(s) (shipping time) to which the transporter's transit time will be added, subject to the availability of the Product.

Any delays in delivery will, at no event, entitle the CUSTOMER to any indemnity whatsoever or justify the cancelation of the Order, unless if they arise of the non-availability of the Product (Clause 5). No late penalty will be claimed to DANI ALU for any reason whatsoever.

### **9.3. Reservations**

The CUSTOMER will check the quality and the quantity of the delivered Products on the moment of the delivery, as well as reserve its rights, if needed, with the transporter, within the deadlines and in accordance with the conditions provided for in the French Commercial Code (Code de commerce). If no reservation has been

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entered by the CUSTOMER on the moment of the delivery, the Products delivered by DANI ALU will be deemed as complying with the Order.

DANI ALU will not accept any Product return that has not been authorised in advance by it.

## **10. GUARANTEES**

DANI ALU provides the following guarantees, excluding any other one.

The guarantee provided by DANI ALU for the ordered Products is limited to the following guarantees:

DANI ALU guarantees the conformity of the delivered Products to the characteristics of the ordered Products.

DANI ALU disclaims any legal guarantee for the CUSTOMERS of its same speciality as it.

For the other CUSTOMERS, the Products revealing a hidden defect will be subject, at the CUSTOMER's choice, to a replacement by a similar product, a credit note equal to the amount paid by the CUSTOMER, a total reimbursement if the CUSTOMER wishes to return the Product(s) or a partial refund if the CUSTOMER wishes to keep them.

At any event, DANI ALU's pecuniary liability for the defective Product(s) will be limited to the price paid by the CUSTOMER for the Product(s) at issue.

The Products offered by DANI ALU only comply with the standards and regulations indicated on their technical data sheet. It is the CUSTOMER's responsibility to ensure that the standards and regulations required by the country of destination are included in those indicated in the said sheet. In the event that the CUSTOMER exports the Products to countries not expressly covered by the standards and regulations indicated in their respective technical data sheets, the CUSTOMER must ensure that the standards and regulations required by the country of destination are compatible with those indicated in the said data sheet. DANI ALU declines all responsibility in the event that the CUSTOMER exports its Products to countries not listed in the technical data sheet, in particular as a result of compatibility problems or compliance with local regulations.



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## **11. RETENTION OF TITLE**

DANI ALU retains the title on the sold goods until effective payment of the total amount due.

In case of default payment, DANI ALU may take possession of its Products.

If the Products have been installed or transformed, the cancellation of the sale may be pronounced, notwithstanding any damages that DANI ALU may claim.

The transfer of risk of loss and deterioration of the DANI ALU's Products will take place when the Products leave DANI ALU's factory.

In the event of seizures or claims by third parties, the CUSTOMER is obliged to inform DANI ALU in writing without delay in order to enable it to assert its property rights.

## **12. INTELLECTUAL PROPERTY**

DANI ALU's sale of its Products does not imply any transfer or granting to the CUSTOMER of the intellectual property rights eventually associated to those Products, as the trademarks, logos, designs, patents, documents, components, visual presentations, or any other item associated to the sold Products.

## **13. LIABILITY**

DANI ALU is subject to an obligation of means for all its obligations provided for in these GTC.

The conformity of the Products delivered is assessed in relation to the plans, documents and information provided to DANI ALU by the CUSTOMER. DANI ALU shall in no case be held responsible for damages resulting:

- from an error caused by a lack of information or by erroneous information provided by the CUSTOMER;

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- from a delay caused by the CUSTOMER which would make it impossible for DANI ALU to respect the agreed deadlines or those prescribed by law;
- from a failure to make available to DANI ALU within the agreed time limits all the plans, data and information necessary for the manufacture of the Products.

DANI ALU will not be liable for the payment of any damages of any kind, whether direct or indirect which might be incurred by the CUSTOMER in connection, directly or indirectly, with the performance or underperformance of these GTC.

It is explicitly agreed by the Parties that indirect damages include, but are not limited to, the loss of turnover, customers, profits and computer data, the moral damage, etc.

The expenses incurred by the CUSTOMER are notably but not limited to the scaffolding, implementation costs, etc. are also excluded from any compensation.

At any event, DANI ALU's pecuniary liability for any defective Product(s) will be limited to the amount effectively paid to DANI ALU for the Order placed by the CUSTOMER.

## **14. CUSTOMER SERVICE**

For any request of information or claim, a Customer Service is made available to the CUSTOMER, from Monday to Friday, with the exception of public holidays, from 8:00 am to 18:00 pm (from Monday to Thursday) and from 8:00 am to 12:00 am (on Fridays) – Telephone number: 00 33 4 78 87 12 48.

The CUSTOMER can also send an e-mail to the following e-mail address: [contact@danialu.fr](mailto:contact@danialu.fr)

## **15. PERSONAL DATA**

When the CUSTOMER purchases a Product from DANI ALU, the latter, in its capacity of data controller, collects the following information, necessary for the CUSTOMER's identification and for the invoicing of the Product(s): e-mail address, password, civility, name, surname, telephone number, fax number, name of the company, SIRET/SIREN (national business ID) number, postal address, postal code, town and country and company's activity sector. Some of these data could be personal data within the

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meaning contained in the French Data Protection Act (Loi Informatique et Libertés) of 6<sup>th</sup> January 1978, as modified, and of the General Data Protection Regulation of 27<sup>th</sup> April 2016 (GDPR), as it is the case for the name and surname of the CUSTOMER's responsible individual, the e-mail address, etc. (herein under, the "Personal Data").

The Personal Data collected and processed by DANI ALU are needed for the performance of the sale agreement. The legal basis for such processing of the Personal Data is the performance of the sale agreement.

The Personal Data provided in the framework of the agreement will be processed with the following purposes:

- expedition to the CUSTOMER of the ordered Products;
- contacts with the contact person in the framework of the sale;
- production of invoices.

The collected Personal Data handled by computer processing are exclusively intended for DANI ALU and DANI ALU's partners use involved in the management of the sales.

DANI ALU's data centers are hosted in Europe (Germany and France). DANI ALU may also share the CUSTOMER's Personal Data with other DANI ALU's Group entities, as well as with their providers and contractors, in France or abroad, to fulfil the purposes hereinabove.

DANI ALU will not transfer the CUSTOMER's Personal Data to any third whatsoever, except if: (i) the data subject has previously agreed to the sharing of the Personal Data with third parties, or (ii) if the sharing of the Personal Data with the third party is needed for the supply of the ordered Products or services, or (iii) if a competent judicial or administrative authority requires DANI ALU to communicate to it the Personal Data.

The Personal Data will be kept by DANI ALU for the time strictly necessary for the fulfilment of the purposes hereinabove. After this time period, they will be kept in an anonymized form, for statistical purposes only, and they will not be used in any way whatsoever.

Under the terms laid down in the French Data Protection Act (Loi informatique et libertés) of 6<sup>th</sup> January 1978, as modified, and in the GDPR, the CUSTOMER is entitled to the following rights:

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- a right of access to its Personal Data, as well as a right of correction, limitation, cancellation, and portability of its Personal Data. These rights will be exercised upon DANI ALU, in its capacity of data controller, in accordance with the following rules;
- a right to object to the processing of its Personal Data having as its legal basis DANI ALU's legitimate interest, as well as, as the case might be, a right to object to the commercial prospection;
- a right to define general and particular guidelines concerning the use of its Personal Data post-mortem.

These rights will be exercised by contacting DANI ALU by e-mail sent to the following e-mail address: [contact@dania.lu](mailto:contact@dania.lu), or by sending a certified letter with acknowledgement of receipt to the following postal address: Dani Alu SAS, BP 32, PAE Clape-Loup, 69280 Sainte Consorce - France.

The CUSTOMER can contact the French Data Protection Authority (CNIL) if it considers that the protection of its Personal Data has not been ensured by DANI ALU.

### **16. PERSONAL DATA SECURITY AND TRANSFER**

DANI ALU undertakes to protect and safeguard the Personal Data. For this, DANI ALU follows a strict policy concerning the processing of Personal Data, subject to sanctions.

Considering DANI ALU's Group international dimension, the Personal Data may be transferred outside the European Union, to other DANI ALU's Group legal entities, or to their contractors and providers, including in countries where rules concerning the personal data protection differ from those in force in the European Union (notably, the United States of America and Africa), for the following purposes:

- commercial relation management;
- control and verification, notably of the respect of DANI ALU's Code of Conduct;
- products and shared services supply at DANI ALU's Group level;
- hosting and maintenance of DANI ALU's information systems.

In order to ensure an appropriate level of security and protection for the Personal Data, DANI ALU submits any Personal Data transfer to the previous supply of a range

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of guarantees, specifically contractual ones, in accordance with the applicable European rules.

### **17. CONVENTION ON EVIDENCE**

The Parties undertake to consider the documents they mutually exchange (including under an electronic format) as original documents with an evidence value between them.

By mutual agreement, the Parties accept that the future exchanges regarding the performance of these GTC may take place by electronic mail and more specifically by e-mail with acknowledgement of receipt.

The Parties agree that they will safeguard in the more appropriate and secure possible all the sent messages regarding the subject matter of these GTC.

The Parties are personally responsible of the archival storage of the issued and received documents, and more specifically for their own needs, in the taxes and accounting fields.

### **18. CONFIDENTIALITY**

The Parties undertake to consider as confidential any commercial, financial, technical, or other information exchanged in the framework of the performance of these GTC.

Therefore, each of the Parties undertakes not to use to its advantage or to a third party's advantage, and not to disclose to unauthorised third parties the confidential information and the important information regarding the other Party's know-how that the latest could have communicated to it or that it could have had access to in the framework of the performance of these GTC.

For this purpose, each of the Parties undertakes to take the following safeguard actions:

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- refrain itself from communicating to third parties, in any manner, all or any part of the information confidential by nature, even after the expiration or the termination of these GTC;
- ensure to take all the needed actions to guarantee that its employees respect the same obligations.

This undertaking will remain in force during two (2) years from the date of the Order.

## **19. FORCE MAJEURE**

Neither of the Parties will be liable for any delay, non-performance, or any other failure to respect its obligations concerning the Order and/or the guarantee if this default arises from a force majeure or fortuitous event.

Are expressly considered as fortuitous or force majeure events, besides those generally considered by the French Courts case-law, the partial or total strikes, internal or external to the company, the lock-outs, bad weather, the blocking of means of transport or supply, for any reason whatsoever, earthquakes, fire, storms, floods, water damages, governmental or legal restrictions, legal or regulatory modifications to the commercialisation forms, computer failures, the blockage of telecommunications, including the wired telephone network, mobile (GSM, GPRS, 3G, 4G...) or any other event independent from the Parties' express will preventing them from performing the present GTC under normal and/or reasonable conditions.

In the first instance, the fortuitous or force majeure event will suspend the performance of these GTC.

If the fortuitous or force majeure event persists for more than three (3) months, these GTC will be, unless otherwise agreed by the Parties, terminated ipso jure, no judicial decision or formal notice or previous notice being requested.

In that case, the Parties will not be liable for the partial or total non-performance of their obligations provided for in these GTC.

## **20. GENERAL PROVISIONS**

### **20.1. WAIVER**

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Any tolerance or renouncement in the implementation of their rights by any of the Parties, regarding the performance of all or a part of their undertakings provided for in these GTC, irrespective the frequency or the duration, will not constitute a modification of these GTC or generate, for the future, at the advantage for the other Party, a vested right or any nature whatsoever.

## **20.2. DIVISIBILITY OF THE CLAUSES**

The invalidity arising from the nullity, lapse or non-binding nature or unenforceability of any of the provisions contained in these GTC pronounced pursuant to a statute, a regulation, or a final decision of a court of competent jurisdiction will not mean the nullity, lapse or non-binding nature or unenforceability of the rest of the provisions contained in these GTC and will not affect any other contractual provisions, which will remain fully in force for both of the Parties.

In that case, the Parties will meet and decide, by their mutual agreement, to replace or modify the invalidated provision(s).

## **20.3. INDEPENDENCE OF THE PARTIES**

The Parties to these GTC remain independent professionals in the framework of the performance of the Order.

They acknowledge that they act and enter into this agreement in their own name and for their own account and that they are bound only under the conditions stated into these GTC. Neither of the Parties will be authorised to make any commitment in the name or on behalf of the other Party.

Furthermore, each of the Parties will be sole responsible for its actions and declares to take full responsibility for its own actions, allegations, commitments, services, products, and staff.

## **20.4. TRANSFER**

The contract may not be the subject of a total or partial assignment or transfer by one of the Parties without the prior written agreement of the other Party. The CUSTOMER

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shall not substitute any third party for the execution of all or part of its obligations under the present contract, except with the prior written agreement of DANI ALU.

### **20.5. SINCERITY**

The Parties declare sincere the undertakings taken by them in these GTC, that they will perform in good faith. For this purpose, they declare that they are not in possession of any element that, would it have been disclosed to the other Party before the execution of these GTC, would, to the best of their knowledge, have modified the other Party's consent.

### **21. GOVERNING LAW**

It is explicitly agreed by the Parties that these GTC will be governed by the French law.

### **22. JURISDICTION**

In the event that the CUSTOMER would not be a merchant, the general law rules will apply.

If the CUSTOMER is a merchant: excepting the provisions regarding the delivery and by express waiver to Article L. 110-4 of the French Commercial Code (Code de Commerce), any dispute by a CUSTOMER which is a merchant will only be raised within a one-year term from the occurrence of the disputed event.

IN CASE OF DISPUTE, EXCLUSIVE JURISDICTION IS CONFERRED TO THE "TRIBUNAL DE COMMERCE DE LYON" (COMMERCIAL COURT OF LYON), NOTWITHSTANDING MULTIPLIED DEFENDANTS, COLLATERAL OR EMERGENCY OR EX PARTE PROCEEDINGS.