



**GENERAL ACCESSORIES EXPORT SALES TERMS**  
*Rev. 0511ENG*

**ARTICLE 1: Application and enforceability of the General Accessories Export Sales Terms**

The fact for a customer having its registered offices outside of France ("the Client") of placing an order for the delivery outside of France of mobile phone accessories or multimedia accessories ("Products") sold by AVENIR TELECOM implies the entire and unreserved acceptance by the Client of these General Accessories Export Sales Terms (G.A.E.S.T.) and to any other then-current version of the G.A.E.S.T. up-to-date at the time of issuance of the order. These G.A.E.S.T. may be amended by AVENIR TELECOM from time to time. No special conditions can prevail over the G.A.E.S.T. without the formal written agreement of AVENIR TELECOM. Any conditions the Client may try to impose will, unless expressly agreed, be unenforceable on AVENIR TELECOM. The fact that AVENIR TELECOM does not enforce any of the provisions of these G.A.E.S.T. shall not be interpreted as a waiver to that right or of its future enforcement.

**ARTICLE 2: Purchase orders**

The prices applicable for orders made by the Client are those in force at the moment the order is accepted by AVENIR TELECOM. The formal acceptance of the order can also take the form of the shipping of the products.

The purchase orders shall be stamped and signed by an authorised representative of the Client and transmitted to AVENIR TELECOM via fax, or scanned and sent via email.

AVENIR TELECOM reserves the right to decline any order for any reason whatsoever at its sole discretion. Any shipment or advice of shipment in and of itself constitutes such acceptance, but an acknowledgement or other status update of a purchase order by electronic means does not constitute acceptance.

The Client may not cancel any purchase order prior to shipment. A purchase order accepted by AVENIR TELECOM is firm and may not be cancelled or amended by the Client, unless with the prior agreement of AVENIR TELECOM.

AVENIR TELECOM shall be entitled to vary the Products either by making changes in the functionalities, design, production or packaging of the Products as AVENIR TELECOM shall think fit or by the withdrawal of Products from its range of Products or by the addition to its Products of further Products.

**ARTICLE 3: Deliveries**

AVENIR TELECOM shall inform the Client of the estimated delivery date for the order of the Products upon receipt of the order and must use all reasonable endeavours to meet that delivery date. The date of delivery specified by AVENIR TELECOM is an estimate only and time for delivery shall not be of the essence and AVENIR TELECOM shall not be liable to the Client as a result of any delay in delivery.

Unless agreed otherwise, the delivery costs as payable by the Client are stated in the price lists as issued by AVENIR TELECOM.

**ARTICLE 4: Title - Risks**

Full legal title in the Products shall not pass to the Client until AVENIR TELECOM has received payment in full of all amounts due by the Client (including any interest accruing and owing to AVENIR TELECOM) in respect of all such Products. Until that time the Client shall have the power to deal with or use the Products as fiduciary bailee of AVENIR TELECOM and may sell the Products in the ordinary course of business but must not otherwise sell, mortgage, encumber or part with possession of the Products or allow any lien or encumbrance to arise over them.

The risks are transferred to the Client in accordance with the INCOTERMS rule (INCOTERMS ICC 2010 as published by the International Chamber of Commerce) chosen by both parties in the accepted purchase order. In the absence of a specific INCOTERMS rule agreed by the Parties, the risks are transferred to the Client as of the physical handover of the Products by AVENIR TELECOM to the carrier. As of then, the Client is responsible for all costs, duties and taxes associated with the products.

**ARTICLE 5: Reception**

On delivery of the Products, the Client shall, in the event of damaged Products or shortfall, make all necessary comments and, as appropriate, provide details of its reservations on the Delivery Note as submitted by the carrier. In any event, the Client must, within eight (8) working days following receipt of the Products, confirm its reservations by registered mail to the carrier. Within these same timeframe, the Client shall provide AVENIR TELECOM with a copy of the registered mail sent to the carrier.

Upon expiration of this eight (8) business day period, the Client shall be deemed to have irrevocably accepted the products.

**ARTICLE 6: Returns - Details**

The return of any Products must be formally agreed between AVENIR TELECOM and the Client in the form of a return form. Failing this, the Products returned by the Client shall be held available to it and can be collected within fifteen (15) days. After the said period, the products shall become the property of AVENIR TELECOM who may dispose of them and shall not be liable for any reimbursement or credit note in favour of the Client. In addition, as of the date of the formal return agreement by AVENIR TELECOM, the Client has a maximum period of six (6) business days to return the products to AVENIR TELECOM. Beyond this period, AVENIR TELECOM shall have the right to refuse the return and the Client cannot claim any credit note, reimbursement, or damages of any sort.

**ARTICLE 7: Return - Consequences**

Any products identified as damaged Products upon delivery and returned to AVENIR TELECOM in accordance with a return form shall at AVENIR TELECOM's option, be the subject of a replacement, a credit note or a reimbursement in favour of the Client, to the exclusion of any compensation or damages.

**ARTICLE 8: Warranty**

AVENIR TELECOM warrants that all Products will be free from defects in components and workmanship under normal use and will comply with any legal or other specification agreed for them.

The warranty provided under this article 8 applies for a period of 12 months from the date of delivery to the Client (the "Warranty Period").

The warranty period stated in this article 8 does not affect the statutory rights offered by European law to the end-users of the Products.

In the event that any Products delivered to the Client are discovered to be in breach in the warranty provided in this article 8 ("Defective Products"), within the Warranty Period, AVENIR TELECOM shall, at its option and subject to an inspection of the Defective Products confirming the breach of the above stated warranty, either replace or repair such Defective Products, or credit the Client's account with an amount equal to the original invoice price of such Defective Products within ninety (90) days after receipt of the Defective Products.

The Client shall collect and store all Defective Products it receives from customers during the Warranty Period and, at Client's own expense and risks, return them to AVENIR TELECOM in single deliveries no more than once per week.

#### **ARTICLE 9: Price - Payment**

The products are supplied at the price applicable at the time of the acceptance of the order by AVENIR TELECOM. The price lists can be modified at any time without notice. Unless otherwise agreed through the INCOTERMS rule chosen by the Parties, the prices are net, ex-works, including packaging, with the exception of special packaging charged as an extra. All taxes, duties, fees or other charges payable in application of French regulations, or those of the importing country or transit country are the responsibility of the Client.

Unless otherwise agreed by the Parties for a specific purchase order, the payment shall be made in advance, upon acceptance of the purchase order. Invoices are payable without discount and cannot be the subject of any deductions or offset on the part of the Client.

#### **ARTICLE 10: Late Payment**

If there is a delay in payment, AVENIR TELECOM can suspend all ongoing orders and/or refuse all new orders, without prejudice to any other claims. All unpaid due amounts will be lawfully subject and without formal notice to the payment of late payment interest in the amount of 8% per annum. This penalty will be applied as of the day following the due date as stated on the invoice until the full payment. The amount of this late payment interest will be lawfully attached against any receivables that may be owed to the Client by AVENIR TELECOM. In the event of a failure to pay, eight (8) days after formal notice remaining without effect, the sale will be lawfully cancelled as decided by AVENIR TELECOM which can request the return of the Products, without prejudice to any damages. When payment is in instalments, the non-payment of a due instalment results in the entire debt becoming immediately due and payable, without formal notice. In all the above cases, the amounts that will be due for other deliveries, or for any other reason, shall become immediately due of AVENIR TELECOM does not decide to cancel the corresponding orders. The Client must reimburse all costs incurred by any legal action to recover the amounts due and including court costs. Payments cannot under any circumstances be suspended or be offset without the prior written agreement of AVENIR TELECOM. Any partial payment will firstly be allocated against the non-preferential part of the debt, then against the amounts with the oldest due date.

In the event of the credit of the Client being deemed inadequate or deteriorating, AVENIR TELECOM reserves the right, even after the partial shipment of an order, to require the Client to provide all securities that AVENIR TELECOM deems necessary for the full execution of the commitments entered into, which the Client hereby accepts.

#### **ARTICLE 11: Liability**

In any case, AVENIR TELECOM cannot be held liable for the force majeure or act of God occurrences such as defined by Law and legal precedent, including all events beyond its express control and preventing the normal execution of the G.A.E.S.T.

In no event shall AVENIR TELECOM be liable for any losses including any loss of data, loss of business, loss of profits or revenues, or for any other indirect or consequential loss or damage whatsoever, whether occasioned by the negligence of AVENIR TELECOM or its employees or agents or otherwise, arising out of or in connection with any act or omission of AVENIR TELECOM relating to the manufacture or supply of the products, their resale by the customer or their use by any customer. The entire liability of AVENIR TELECOM shall be limited to an amount not to exceed the lower of (i) EUR 100,000 (one hundred thousand Euros) and (ii) the total price actually paid by the customer to AVENIR TELECOM over the 3 months preceding the date of the fact, action or omission under which AVENIR TELECOM's liability might be exposed. Nothing in these G.A.E.S.T. excludes or limits AVENIR TELECOM's Liability for (i)

death or personal injury caused by AVENIR TELECOM's negligence; or (ii) fraudulent misrepresentation.

#### **ARTICLE 12: Termination**

In the event the Client failing to fulfil any of its obligations, eight (8) days after formal notice remaining without effect, the orders can lawfully be cancelled, as decided by AVENIR TELECOM, and at the exclusive fault of the Client. In this case, the Client must immediately, on a simple request from AVENIR TELECOM, return at its cost all the Products delivered to it, whether payment is due or not, without prejudice to any damages that AVENIR TELECOM may be entitled to claim.

#### **ARTICLE 13: GOVERNING LAW - DISPUTES**

**THE RELATIONS BETWEEN THE PARTIES SHALL BE GOVERNED BY THE LAWS OF FRANCE.**

**ANY DISPUTE ARISING FROM THIS CONTRACT MUST, IN SO FAR AS POSSIBLE, BE SETTLED BY MEANS OF AMIABLE NEGOTIATIONS BETWEEN THE PURCHASER AND THE VENDOR. ANY DISPUTE THAT CANNOT BE SETTLED AMICABLY SHALL BE SUBMITTED TO THE TRIBUNAL DE COMMERCE OF MARSEILLE.**