

GENERAL TERMS OF SALE of FACNOR

The only authentic terms of sales are those written in French.
Applicable as of 01/01/2019

ARTICLE ONE - FORMATION OF THE AGREEMENT

1.1. Application

These conditions cancel and replace the previously applicable conditions and define the terms of execution as well as the conditions under which the sales between FACNOR and its customers are concluded.

Any other document issued by FACNOR and particularly catalogues; brochures and advertising are only informational and indicative in value.

It is agreed by the parties that sales shall be carried out at all times under the conditions described below: The provisions hereof may not be amended by contrary stipulations contained, in particular, in the general conditions of purchase of the customer or any other structure in relation to the customer, or any other document without the express written agreement of the parties. Consequently, the order made by a customer implies the unreserved adherence of this latter to these general conditions of sale unless individual conditions are expressly granted by FACNOR to the customer. The French version of the general conditions of sale prevails over any translation that is made of it.

They shall apply regardless of the nature of the products ordered. The fact that FACNOR does not, at any given moment, enforce one of these conditions cannot be interpreted as waiving the right to subsequently enforce any of the said conditions.

The cancellation of one clause of these conditions shall not affect the validity of the conditions as a whole.

1.2. Consent

1.2.1. Offer

1.2.1.1. Our offers, for specific products, requiring a quote, are only valid where they are accepted within the validity period that appears therein.

1.2.1.2. FACNOR reserves the right to refuse any order for an invoiced amount of less than 75 euros ex VAT. Under this amount, below this value, an administrative fee of € 15 may be required.

1.2.1.3. Any offer made by FACNOR shall only become definitive after an acknowledgement of receipt of the customer's order in written form from FACNOR.

1.2.2. Acknowledgement of receipt of the order

It may be issued in accordance with the forms and uses in force in commercial matters and particularly by written document (letter, fax, e-mail). In any event, the absence of written complaint within 48 hours of the acknowledgement of receipt shall imply confirmation of the order by the customer.

1.3. Cancellation

Any request for the cancellation of an order for any reason whatsoever may be examined subject to the payment of a 15% (fifteen percent) compensation of the net price excluding tax of the order (excluding transport).

Any request to cancel an order for any reason whatsoever shall not be considered after 48 hours from acknowledgement of receipt of the order.

1.4. Specifications

The customer undertakes to communicate to FACNOR its specifications for the realization of specific services. This written document must be sufficiently explicit to allow FACNOR to calculate its commercial proposal.

The customer undertakes an obligation of information in relation to our company and undertakes, in particular: to transmit any useful document or information (drawings, studies, chart, security limitations...). Furthermore, where, in the course of the realisation of the services, the customer is requested by FACNOR to give its agreement (validation of prior study, manufacture order ...), it must give its response within a week in writing. In the absence of response, the agreement shall be deemed to have been obtained and without reservation.

ARTICLE TWO – COMPETENT JURISDICTION AND APPLICABLE LAW BEFORE THE COMPETENT JURISDICTION

2.1. Competent jurisdiction

The parties expressly agree that the competent Court shall be the Court of Commerce of CHERBOURG, FRANCE, even in the event of joinder of third parties or multiple respondents.

2.2. Applicable law

It is agreed by the parties that the law applicable to the contractual relations between FACNOR and its customers is French law. Nevertheless, this law shall only be applicable to these relations where there is no corresponding provision in these general conditions of sale. The reference language for the contractual relations, and in the event of a dispute, shall be French.

ARTICLE THREE – SOLD GOODS

S.A.S. FACNOR reserves the right to make at any time any modification it deems necessary to its reels, furlers, sail systems, batten sail systems, riggings, sail items, without prior notice.

General terms of sales SPARCRAFT applicable as of 2019-03-01

ARTICLE FOUR – DELIVERY

4.1. Terms / Delivery minimum

Delivery is made by delivery to a carrier. FACNOR reserves the right to refuse any delivery of products for an invoiced amount of less than 75 euros ex VAT (cf .article 1.2.1.2).

4.2. Delivery time

The delivery periods are only given by way of information and as an indication. Any overshoot of the delivery period shall not raise payment of penalties and/or damages and interest. Any delay in relation to the delivery time initially provided cannot justify cancellation of the order.

.However, if in the case of a formal undertaking signed by SAS FACNOR to meet strictly the delivery deadline, the reels, furlers, sail systems, deck fittings and rigging elements were not delivered by the agreed date for any other cause than a force majeure event, the sale could then be terminated to the exclusion of any other compensation or damages payable by SAS FACNOR.

Shall be considered as cases of force majeure exempting S.A.S. FACNOR from its duty to deliver: bad weather; fire; accidents; strikes; war.

4.3. Receipt or collection

The FACNOR products, regardless of the transport conditions, are forwarded / shipped at the risk and peril of the customer. In consequence, the customer shall bear all risks that the products may be exposed to, or cause, from the time of delivery of the products. It is the customer's responsibility in the event of apparent defects or missing products in the delivered reels, furlers, batten sail systems, fittings, sail rigging elements to make all necessary reserves with the carrier upon reception on the transport receipt. Such reserves should be confirmed in an out of court document or by registered letter with acknowledgment of receipt to the carrier within three days of the date of receipt of the reels, furlers, batten sail systems, fittings, sail rigging elements. Without prejudice to the arrangements to be made by the customer with the carrier as described above, any claim of any kind relating to the reels, furlers, batten sail systems, fittings, sail rigging elements shall be accepted only if made in writing by registered letter with acknowledgment of receipt sent to SAS FACNOR. The complaint should be made within forty-eight hours of receipt of reels, furlers, batten sail systems, fittings, sail rigging elements by the customer.

Where the dispatch is delayed for a reason depending on the will of the customer, the products, after notification to the customer, shall be stored or handled at its cost, risk and peril, and FACNOR declines any liability subsequent to this delay and which it is expressly agreed shall never give rise to indemnity.

Where, for any reason whatsoever and prior to the operations of assembly or implementation, FACNOR delivers on one or several shipments, of all or part of the equipment, materials and tools necessary for the installation, these shall be under the custody and responsibility of the customer with all the legal consequences thereof. This stipulation in no way amends the payment obligations of the supply and does not constitute a renewal.

4.4. Return

No product delivered may be returned by the customer to FACNOR, without the prior express and written agreement of this latter. The return costs shall only be payable by FACNOR where a visible defect is actually noted by this latter. Only the transport company chosen by FACNOR shall be authorized to carry out this return.

4.5. Replacement

Where a visible defect or deficiencies are actually noted by FACNOR, the customer may only request the replacement of the non-compliant products and/or the supplement supplied to make up the deficiencies, but may not seek any indemnity or the termination of the order. Any complaint made by the customer under the conditions and in accordance with the terms described above shall not suspend the payment period of the products ordered.

ARTICLE FIVE - TRANSFER OF RISKS

The transfer to the customer of risks concerning the ordered products shall take place upon their collection or delivery to the transport company, as mentioned in article 4.1

ARTICLE SIX – PRICES AND PAYMENT

6.1. Prices

The prices of the products are those appearing on the pricelist, order confirmations or quotes drawn up by FACNOR for the valid duration thereof. Unless otherwise expressly agreed with the customer, these prices are deemed to be ex-works.

6.1.1. Invoicing

Once the order **has been executed** according to the deadlines **indicated on** the acknowledgment of receipt, the material will be invoiced as soon as it is ready to be shipped.

6.2. Payment period

6.2.1. The invoices are payable cash without discount. Only the actual collection of the bills of exchange shall be considered to be full payment under the terms of this article, except any way of payment agreed for commercial exchange.

6.2.2.

6.2.2.1.

The payment of the reels, furlers, batten sail systems, fittings, sail rigging elements ordered by customers who already have an account opened with S.A.S. FACNOR shall be made no later than thirty days after the date of their delivery. Only the actual cashing of the drafts shall be deemed to be full payment within the meaning of this Article. For any cash payment a discount in the amount of 0.5 % before taxes shall be granted.

6.2.2.2 The payment of products ordered by new customers or customers who do not have an account opened with FACNOR shall be made in cash against repayment or before dispatch.

6.2.3. Late payment interest

Any amount outstanding on term shall automatically give rise to penalties paid by the client in accordance with the provisions of article 33 of the ordinance of December 1, 1986, as amended by Act of 92-1442 dated 31 December 1992. Such penalties are set to 2% per month on the net duty-free price of the goods.

Any amount not paid upon maturity shall, after notice has been served unsuccessfully, give rise to payment by the customer of late payment interest equal to three times the legal rate of interest.

6.2.4. Suspension of orders in progress

In the event of late payment FACNOR may suspend all the orders in progress without prejudice to any other right of action.

FACNOR shall have the option, at any time, either before the execution of the agreement or during it, to require from the customer a satisfactory guarantee of recovery of its debts without having to justify this decision. In the event of failure to supply the said guarantee FACNOR may terminate the agreement, without prejudice to all the damages and interest payable by the customer, where appropriate.

6.3. Payment guarantee - Property reservation clause

6.3.1. In accordance with Law No. 80.336 of 12 May 1980, FACNOR expressly reserves the right to retain the ownership of the products sold until the date of their complete payment in principal, costs, interest and accessories. However, the risks are transferred upon delivery.

6.3.2. In the event of termination of the payments or of non-payment of all or part of a single instalment, the customer is formally forbidden from continuing to sell the products for which the price has not yet been paid and cashed.

6.3.3. From the moment that the customer leaves an instalment unpaid in whole or in part, FACNOR, without losing any of its rights, may demand the restitution of the entirety of the products corresponding to the customer orders not yet actually paid and collected, the parties agreeing on an express contractual indivisibility between all the orders in these circumstances. The payments made by the customer, regardless of the imputation that this latter subsequently gives to them, and even where their amount corresponds exactly to the amount of one of the invoices, shall be attributed by priority to the application of this clause and, by derogation from Article 1253 of the Civil Code, expressly accepted by the two parties, to the invoices that correspond to products that have already been resold. Application by invoicing shall be completed to the extent of the resale of the reels, furlers, batten sail systems, fittings, sail rigging elements under the invoice.

6.3.4. For the duration of the reservation of ownership, the products sold must be insured by the customer against any risk of damage incurred by the said property. In the event of partial loss, the customer shall undertake the reinstatement of the said products at its cost. The insurance indemnities shall be paid directly by the insurance company to the customer after written agreement by FACNOR. In the event of total loss, the settlements arising from the insurance company shall be acquired by FACNOR by subrogation without prejudice to any claim or action that may be brought against the customer by FACNOR.

6.3.5. In the event of cessation of payments, voluntary liquidation, collective proceedings, negotiated settlement or declaratory judgement against the customer, this latter must advise FACNOR of this without delay so that an identification and an inventory of the products sold but not yet fully paid for and cashed can be drawn up and the reservation of property clause can be applied where appropriate.

6.3.6. FACNOR can also claim from the sub-purchasers the price or part of the price of the products sold by FACNOR to the customer with a property clause and that have not been fully paid or cashed or compensated in a current account between the customer and sub-purchasers. To exercise this right, the customer undertakes to supply to FACNOR without delay and on the first request by it, all useful information concerning the sub-purchasers of the products sold by its departments excluding any further compensation or damages, possible carriage costs being borne by the customer. Defects and deterioration caused by natural wear or by an external event (assembling not in conformity with the technical instructions of FACNOR SAS, defective maintenance, abnormal use or in competition, ...) or by a modification of the reels, furlers, batten sail systems, fittings, sail rigging elements not provided for or specified by SAS FACNOR are excluded from the warranty. Similarly, the guarantee shall not apply to apparent defects, which the customer should claim according to the terms of Article 4.3.

ARTICLE SEVEN - GUARANTEE

7.1. Contractual Guarantee

The products sold by FACNOR are guaranteed against any defect of material or manufacture for a period of one year from the date of delivery. Under this guarantee the only obligation falling to FACNOR shall be the free

repair or replacement of the product or of the element that is acknowledged to be defective by its services, to the exclusion of any other indemnity or damages and interest, with any shipping costs to be borne by the customer. Any acceptance or intervention under the guarantee must be the subject of prior written agreement from FACNOR. Defects and deterioration caused by normal wear and tear, by an external event (assembly that does not comply with the technical instructions of FACNOR, defective maintenance, abnormal use or in competition, instance of *force majeure*...) or by a modification of the product that is not provided for or specified by FACNOR, shall be excluded from the guarantee. Likewise, the guarantee shall not apply for visible defects that the customer must invoke under the conditions of Article 4.3.

7.2. Legal guarantee

Under the guarantee against hidden defects FACNOR shall only be bound to repair or replace the defective product, to the exclusion of compensating any other loss, the costs of transport and installation remaining payable by the customer.

7.2.1. Place of guarantee

In case we recognize take under guarantee a repair or prevention, the intervention will have to take place exclusively at one of our official dealers. The transport of the product to the dealer is payable by the customer. The list of FACNOR dealers is available on request.

7.2.2. Obligations of the customer

The use of the products as they are or in combination with other products or goods shall be done at the risk and peril of the customer. FACNOR may not under any circumstances be liable for defects and deterioration of delivered products resulting from abnormal or non-compliant conditions of storage, conservation and sales subsequent to the delivery of these products.

7.2.3. Exclusions

The following are excluded from the abovementioned guarantee:

- The cost for masting and dismasting, lifting, stocking and transporting the products and any spare parts.
- The possible costs and damages resulting from the inability to use the boat and its materials, which remain in any case payable by the customer or the user.
- The damages or problems listed hereafter as well as their consequences : the normal wear and tear, the fissures, cracks or discoloration of the paint or the anodization, the damages resulting from : transformations and modifications, or repairs even partial carried out without authorisation from RDMFACNOR, from not complying with the maintenance recommendations stated in the assembly manuals, from not complying with the rule book, from a careless, rash, abusive or abnormal use, from taking part in regattas, races, attempts to set or break records, from failing to take obvious protective measures, from an accident or disaster like explosion, fire , flooding, storm, lightning, riot, theft, clash, from stocking conditions or inappropriate transport.

7.2.4. Force majeure

In the event of an instance of force majeure, fortuitous event or an external cause, particularly due to fires, floods, total or partial strikes, companies bankruptcies, constraints on travel, voluntary degradation, theft, changes in the regulations, impossibility of obtaining raw materials, ruptures in energy supply, malfunctioning or interruptions of electrical or telecommunications networks ... FACNOR shall be released, as of right and without indemnity, from its obligation to deliver from the date when the events arise, and undertakes to give the customer notice of this as swiftly as possible.

ARTICLE EIGHT - CONFIDENTIALITY - INTELLECTUAL PROPERTY

8.1.FACNOR and the customer mutually undertake to observe the strictest confidentiality regarding everything that they might learn during performance of the obligations included in the orders or quotes. The parties undertake not to communicate to third parties, except where there are legal obligations, data or information that they have learned due to the obligations of this agreement. They undertake to ensure strict observance of this obligation by their staff and employees.

8.2. The studies, plans and documents of all kinds delivered or sent by FACNOR shall remain its property. They must be delivered upon request by it. FACNOR retains the intellectual property of its plans, which may not be communicated or executed without its written authorization.

8.3. The parties expressly acknowledge that any use, reproduction, representation, adaptation or translation of the intellectual property rights attached to all the creations of FACNOR, and particularly photographs, drawings, graphics... must be the subject of a separate transfer in favor of the customer.

8.4. The customer expressly acknowledges that FACNOR has the right to invoke, for publicity purposes, the status of creator of the designs thus produced in all documents aiming at promoting the activity of our company with third parties. FACNOR shall also be free to show in these advertising documents, or to indicate to any third party, the company name or any other distinctive sign of the customer after execution of the mission.

8.5. The customer may mention the name FACNOR in its media concerning designs produced by FACNOR in the execution of the order or of the quotation.

ARTICLE NINE – LIABILITY

The liability of SAS FACNOR shall be limited to only direct physical loss or damage caused to the client resulting from a duly proven fault attributable to SAS FACNOR.

Under no circumstances shall SAS FACNOR be liable for any of the following (but not limited to) loss or damage caused by SAS FACNOR: immaterial and/or indirect damage, such as loss of operations, production, profits, contracts or of revenue; unavailability of Supply and/or Service or of any other equipment; third party claims, lost earnings, damaged company image, commercial prejudice.

In any event, SAS FACNOR's total cumulative liability from all causes may not exceed €100,000.

Beyond the foregoing limitations and exclusions, the Client hereby waives, both on his own behalf and on behalf of his insurers, all rights to claim any compensation for damages from SAS FACNOR that may be caused by the latter, and the Client shall also hold harmless SAS FACNOR for any claim, complaint or conviction involving the latter.