

GENERAL CONDITIONS OF SALE
CONTRACT MANUFACTURING DEPARTMENT

OTB COSMETICS with a company capital of 415,720€

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Article 1 – Purpose and scope of application of the general conditions of sale

Any product order implies the unreserved acceptance by the customer and its full and whole adhesion to these general conditions of sale which take precedence over any other document of the customer and in particular over all general purchase conditions, except in the event of the explicit overriding agreement priorly acquired from the company OTB COSMETICS and this, at any given moment where the said document may have been brought to the attention of the latter.

These general conditions of sale are applicable to all sales of products made by the company OTB COSMETICS without the explicit agreement obtained prior to the order agreed upon in writing between the parties. Consequently, the order placement by a customer entails the unreserved adhesion of the latter to these general conditions of sale, except special conditions consented by writing by the company OTB COSMETICS to the customer (manufacturing agreement, order form or other).

Any document other than these general conditions of sale, namely catalogues, prospectuses, advertisements and notices, has a purely informative and indicative value and is not contractual.

Article 2 – Responsibilities

The company OTB COSMETICS will not be able to see its responsibility accused, for whatever reason, when it concerns the guarantee of product formulas, manufacturing, packaging or any other task, other than those within Article 8.6 below. The customer has the sole responsibility for the use of the products which it orders from the company OTB COSMETICS, for their marketing and their distribution (market entry, promotion, advertisement, etc.), for their use and for any damage which may result. The customer guarantees the company OTB COSMETICS all actions concerning the destination, destiny, safety and adequacy of the products for their intended use.

Article 3 – Tolerances, shrinkage and losses

For the sake of normal tolerance, the company OTB COSMETICS has the possibility to deliver 10% (ten percent) more or less of the quantities ordered, without this difference justifying a claim from the customer. This variation of quantity does not change the unit price or agreed tariff.

The customer providing all or part of the components necessary for the execution of the order accepts shrinkage based, on the one hand, on the type of component and, on the other hand, on the series, according to the values below. These values are given in percentages or in litres. Quantities of defected components agreed upon by the suppliers should be added.

	Quantity per manufacturing launch	
	≤ 12,500	> 12,500
Bottles	3%	2%
Pumps and caps	4%	3%
Stoppers	4%	3%
Boxes and sleeves	8%	3%
Labels	10%	5%
Tubs	3%	2%
Plastic tubes	4%	3%
Metal tubes	4%	3%
Prospectuses, notices and other printed wares	5%	3%

For delivery in barrels, liquid or powder, unitary loss: 3 (three) litres;

For perfumes: 4% (four percent) regardless of the series;

For other raw materials and packaging items: 3% (three percent) regardless of the series.

Article 4 – Tooling

For the realisation of snapshots and/or cylinders for the printing, the construction and/or the purchasing of special tools which are essential to the execution of a given order, the customer will be requested to make a financial contribution. This will be subject to separate invoicing, payable upon ordering. These tools may be used for other customers, except in the event of contradictory clauses. These tools shall be and will remain to be the exclusive property of the company OTB COSMETICS.

Article 5 – Copyright

The studies, analyses, quotes, formulae and other documents or information provided or sent by the company OTB COSMETICS to the customer remain the exclusive property, depending on the context, of the company OTB COSMETICS, the companies of the group to which the company OTB COSMETICS belongs or the suppliers of the company OTB COSMETICS, the sole copyright holders for these elements, and must be rendered to the company OTB COSMETICS upon its request and at the customer's expense.

The customer commits not to use these elements in any way which may jeopardise the copyrights of the company OTB COSMETICS or of the companies of the group to which the company OTB COSMETICS belongs or the suppliers of the company OTB COSMETICS and commits not to divulge them to third parties.

The customer guarantees the company OTB COSMETICS that the execution of its orders is done without violating any right (and notably any copyright) of third parties and does not constitute an act of disloyal competition and/or parasitism and, notably, that the brand does not counterfeit any brand of a third party. In the event of claims from a third party founded on the violation of a right (and notably a copyright) and/or an act of disloyal competition and/or parasitism committed by the customer, the customer commits to come to the aid of the company OTB COSMETICS and to the subcontractors of the company OTB COSMETICS in the defence of their interests. In the case where legal action is led against the company OTB COSMETICS and/or the subcontractors of the company OTB COSMETICS, alone or conjointly with the customer and/or any other person, the customer shall assume most recently and shall be held responsible for reimbursing the company OTB COSMETICS and/or the subcontractors of the company OTB COSMETICS the costs of proceedings, lawyers and advisors, as well as the sentences ruled against the company OTB COSMETICS and/or the subcontractors of the company OTB COSMETICS (principal, accessories, Article 700 of the French Civil Procedure Code, expenses, etc.) whether these sentences be handed down definitively or subject to appeal under the condition, in the latter instance, that they are provisionally enforceable. The customer may, if it wishes so, associate itself with the company OTB COSMETICS and/or the subcontractors of the company OTB COSMETICS, with the purpose of organising the defence of its own interests as well as those of the company OTB COSMETICS and/or the subcontractors of the company OTB COSMETICS.

Article 6 – Protection of personal data

The personal data communicated by the customer throughout the order are confidential and will be used by the company OTB COSMETICS only for the processing of orders and for the sending of mails or e-mails of information, in accordance with legal provisions in effect. The collection of personal data is necessary for the execution of the manufacturing contract linking the company OTB COSMETICS to the customer. The customer is required to provide his personal data, failing that, the company OTB COSMETICS will not be able to fulfill its contractual obligations.

The collected data are kept for the time of the commercial relationship and are intended for the legal and commercial services of the company OTB COSMETICS.

In accordance with Article 13 of the General Data Protection Regulation, the customer has the right to ask the company OTB COSMETICS for access to personal data, the correction or deletion of personal data, or a limitation of the processing pertaining to him, or the right to oppose the processing and the right to portability of the data. The customer can also determine the guidelines for the destiny of his data in the event of death. To exercise these rights, the customer will contact the company OTB COSMETICS by mail at the following address : Avenue du Général de Gaulle, 14200 Hérouville Saint-Clair, France.

The company OTB COSMETICS also has a data protection officer whose coordinates are: dpo@labogilbert.fr.

In the event that the company OTB COSMETICS does not comply with the request made by the customer, it shall inform the customer without delay of the reasons for its inaction and at the latest within one month of receipt of the request, and of his right to lodge a complaint with the Commission Nationale de l'Informatique et des Libertés, this period may be extended once.

Article 7 – Orders

7.1 Definition

By order, it should be understood to refer to any order concerning products addressed to the company OTB COSMETICS and accepted by it, accompanied by the payment of the sum eventually anticipated on the order form. Orders can be sent to the company OTB COSMETICS by post, fax or e-mail.

All orders must respect batch sizes, standards and multiples in force at the date of their placement.

The benefit of the order is personal to the customer and may not be transferred without the prior, explicit and written agreement of the company OTB COSMETICS.

7.2 Modification

Orders transmitted to the company OTB COSMETICS are irrevocable for the customer, except in the event of written acceptance by the company OTB COSMETICS.

All modification requests for the composition or volume of an order placed by a customer as well as all cancellation requests can only be examined by the company OTB COSMETICS if they have been submitted by writing (including fax) and have arrived in possession of the company OTB COSMETICS before the execution of the said order has begun (and notably before the components necessary for the execution of the order have been ordered).

If the company OTB COSMETICS does not accept the modification or cancellation of an order, which it is always entitled to do in any case, the deposits potentially paid may not be refunded to the customer and will be considered as a down payment.

In the case where the company OTB COSMETICS accepts a modification request submitted by a customer, the company OTB COSMETICS shall be relieved of the time constraints potentially convened for its execution.

Article 8 – Deliveries

8.1 Modalities

All deliveries are made by “Free Carrier” Hérouville Saint-Clair (14200 – France) in accordance with the terms of the FCA clause of the Incoterms® 2010 of the International Chamber of Commerce.

If necessary, the customer should immediately send the company OTB COSMETICS any document certifying the exit from the French metropolitan territory of each product delivery, in order for the said document to be able to be presented to the competent French authorities if required. Failing this, the customer alone shall bear all financial and fiscal consequences (penalties, fines, etc.) that the competent French authorities may impose due to the non-presentation of the said document.

8.2 Time Frames

The delivery time frames are provided by the company OTB COSMETICS on a purely informative and indicative basis, they notably depend on the order of arrival of orders, the product manufacturing time scale and the reference logistics deadlines in the profession. The company OTB COSMETICS is authorised to proceed to deliveries in a global or partial manner.

The company OTB COSMETICS endeavours to respect the delivery time frames which it provides depending on its component, energy or other acquirement possibilities from its suppliers, the availability of carriers, the respect from the customer of the payment conditions and the payment of deposits and the absence of cases of force majeure.

Delivery delays may not lead to any penalty or indemnity, nor may lead to the cancellation of an order.

However, if, 8 (eight) weeks after the indicated delivery date initially envisaged, the product has not been delivered for any reason other than a case of force majeure, the sale may thus be cancelled in full rights at the request of one of the parties, without a formal notice being priorly sent and without compensation. The

anticipated cancellation shall take effect on the date of the reception or, failing reception, the date of the first presentation of the registered letter with acknowledgement of reception notifying the decision to cancel the order, without either party being able to claim any compensation for this act, the penal clauses featuring on the commercial documents of the customer being unenforceable for the company OTB COSMETICS.

8.3 Storage

The company OTB COSMETICS shall freely store finished products for 15 (fifteen) days following the date on which they are made available and invoiced. Beyond this period, the company OTB COSMETICS may invoice storage costs according to the quarterly-defined bases.

8.4 Risks

The transfer to the customer of risks of product loss or deterioration, as well as risks of damage to which the products may be subject, is carried out once the products are loaded onto the carrier's lorry and exit the warehouses of the company OTB COSMETICS.

8.5 Transport

The products travel at the risks and peril of the customer, who should check their condition upon reception and, in case of any damaged or missing merchandise, should carry out all controls necessary with the carrier, by extrajudicial document or by registered letter with acknowledgement of reception, within the delay of 3 (three) days at most. A copy of the reservations shall be addressed simultaneously to the company OTB COSMETICS.

All deliveries and/or all delivered products which do not undergo the controls by extrajudicial document or by registered letter with acknowledgement of reception within the 3 (three) days following their reception with the carrier, in compliance with Article L.133-3 of the French Commercial Code, shall be considered as accepted by the customer.

8.6 Reception

Without harm to the dispositions to be taken by the customer with the carrier such as are described in Article 8.5 above, in the event of apparent defects or missing products, all claims, controls or disputes of any nature concerning delivery and/or delivered products will only be accepted by the company OTB COSMETICS if they are made in writing by registered letter with acknowledgement of reception within the deadline of 3 (three) days which is envisaged in the above Article 8.5.

It is at the liability of the customer to provide all proof concerning the existence of apparent defects or missing components observed, the company OTB COSMETICS reserving the right to proceed, directly or indirectly to any opposition and verification on-site.

No return of merchandise may be made by the customer without the prior, explicit and written agreement of the company OTB COSMETICS, notably obtained by fax or e-mail. Any product returned without this agreement will be made available to the customer and storage fees shall be invoiced to it until the complete recovery by its care. The fees and risks of returns will only be at the expense of the company OTB COSMETICS if an obvious defect is effectively observed by the latter or its mandatory agent.

Only the carrier chosen by the company OTB COSMETICS is cleared to carry out the return of the concerned products. The customer should therefore keep the products available for the carrier. The returned merchandise must be accompanied by a return form to be attached to the package and must be in the state in which they were delivered.

When, after control, an obvious defect or missing component is effectively observed by the company OTB COSMETICS or its mandatory agent and that this obvious defect or missing component is attributable to it, the customer may only request of the company OTB COSMETICS that the establishment of a credit note or replacement or reprocessing of the articles presenting an obvious defect and/or the complement to be added to compensate for missing components, at the expense and the choice of the company OTB COSMETICS, without the customer being able to claim any compensation or the cancellation of the order. In no case may the company OTB COSMETICS be considered as responsible for indirect damages.

Reception without controls having been carried out in the conditions of paragraph 1 above on products ordered by the customer covers all obvious defects and/or missing component; the customer therefore may not dispute any obvious defect or missing components in a counterclaim to defend itself in the event of a debt recovery process initiated by the company OTB COSMETICS.

The dispute submitted by the customer in the conditions and following the modalities described in this article does not suspend the payment by the customer for the concerned merchandise.

In no case may the company OTB COSMETICS be held responsible for events of destruction, shrinkage, loss or theft during transportation, even if it has chosen the carrier.

8.7 Delivery refusal

In the event of a partial or entire non-payment of an invoice which has reached its term, the company OTB COSMETICS reserves the ability to refuse to honour any order in progress and/or any order which is scheduled.

8.8 Payment before shipping

All orders which the company OTB COSMETICS accepts to execute are accepted upon presentation by the customer of sufficient financial guarantees and guarantee that it will effectively settle the owed sums within the time limit, in compliance with legislation. Also, if the company OTB COSMETICS has serious or specific reasons to believe that difficulties to respect the payment may arise with the customer on the date of the order or posteriorly to this date, or if the customer does not present the same guarantees as those presented on the date of the order being accepted, the company OTB COSMETICS may subordinate the acceptance of the order or the course of its execution until the customer provides the company OTB COSMETICS with the correct guarantees or a payment prior to shipping.

The company OTB COSMETICS will also have the ability, prior to the acceptance of any order, even those in progress, to request that the customer communicates its accounting documents and in particular its profit and loss accounts, even if only projected, which would permit its solvency to be proven.

In the event of the customer refusing payment prior to shipping, or without any sufficient guarantee being offered by the latter, the company OTB COSMETICS may refuse to honour the order(s) placed and to deliver the concerned merchandise without the customer being able to argue an unjustified sales refusal or to claim any form of compensation.

Article 9 – Prices

The prices to be paid by the customer are those agreed upon the day of the placement of the order. Prices are always to be understood as excluding taxes, products delivered “FCA” Hérouville Saint-Clair (14200 – France) in accordance with the terms of the FCA clause of the Incoterms® 2010 of the International Chamber of Commerce.

Article 10 – Payment Methods

10.1 Invoicing

An invoice is established for each delivery and is delivered along with the delivery unless a delivery form was sent in which case, if the company OTB COSMETICS sees fit, a summary invoice, referencing all order forms communicated in the same month, shall be established no later than the end of that month and addressed to the product delivery address unless the customer explicitly requests it to be sent to another address.

10.2 Payment

Invoices are payable in cash to Avenue du Général de Gaulle, 14200 Hérouville Saint-Clair, France.

The company OTB COSMETICS does not practise discounting.

Only the effective banking of bills or recovered bills of exchange shall be considered as completely validating the payment in the sense of these general conditions of sale.

10.3 Non-payment by the deadline

Any sum which remains unpaid by the deadline will lead to:

- payment by the customer of lateness penalties with an annual interest rate set at the highest of the 2 (two) following rates: 5% (five percent) or 3 (three) times the legal interest rate, which rate applies to the entire unpaid amount all taxes included; in application of Article L. 441-6 of the French Commercial Code, these penalties may be applied without prior notice; and
- payment of the lump-sum compensation for the recovery fees set out by Decree No. 2012-1115 of 2 October 2012 at 40 (forty) euros; and

- payment of additional compensation if the recovery fees presented are superior to the total of the aforementioned lump-sum compensation; and
- the increase of the sum owed for all other fees caused by the delay without prejudice to all damages and interests that the company OTB COSMETICS reserves the right to claim; and
- if necessary and if the company OTB COSMETICS so wishes, the immediate payment by the client of all of its outstanding invoices.

Furthermore, the company OTB COSMETICS reserves the ability to summon the competent court in order for this non-execution to be ceased, with penalty payments per day of delay.

Article 11 – Reservation of ownership

The transfer of ownership of the products delivered is suspended until payment in full of the entire purchase price, both principle and accessory charges, even in the case of additional payment time being granted. Any contrary clause, notably inserted into the general conditions of purchase, is deemed unwritten.

By express agreement, the company OTB COSMETICS may use the rights which it holds as part of this clause of reservation of ownership, for any one of its outstanding debts which have remained totally or partially unpaid, on the totality of the products that it has invoiced which are in the customer's possession, these latter products being conventionally presumed to be those which are unpaid, and the company OTB COSMETICS may, in full right and without formalities, recover or reclaim in compensation for all unpaid invoices, at the cost, risks and peril of the customer and without prejudice to its right to rescind sales in progress.

Throughout the duration of the reservation of ownership, the customer must protect the unpaid merchandise from all damages that would be suffered or caused by it, the insurance policies must reference the quality of the company OTB COSMETICS as owner.

The customer may only resell unpaid products in the context of the normal operation of its business. In no case may it pledge, offer as collateral or transfer the ownership of its unpaid stock as collateral.

The customer must immediately inform the company OTB COSMETICS in the event of seizure or any other intervention of a third party or cession or pledging of its business capital.

If the customer resells the merchandise before payment in full, it should have sold it for the account of the company OTB COSMETICS; deposits already paid by it will therefore automatically compensate with the sums owed to the company OTB COSMETICS as a sale made for its account.

The company OTB COSMETICS may also request in the event of total or partial non-payment of a due invoice the cancellation of the sale and the claim of the delivered merchandise after sending a formal notice, return costs being at the expense of the customer and the payments made remaining rightfully belonging to the company OTB COSMETICS as part of a penalty clause. In this same way, the company OTB COSMETICS may unilaterally, after sending a formal notice, prepare or have prepared an inventory of the products which it invoiced which are still in the possession of the customer, who is already committed to allow free access to its warehouses, stores or other locations for this purpose, ensuring that the identification of the said products is always possible.

In the event of the opening of a collective procedure, to the extent permitted by law and respecting, if necessary, the applicable public policy provisions, the orders in progress shall automatically be cancelled and the company OTB COSMETICS reserves the right to recover the merchandise in stock.

The provisions above do not interfere, as of the shipping of merchandise, with the transfer to the customer of risks of loss or deterioration of goods under reservation of ownership as well as damages which they may cause.

The benefit of this clause of reservation of ownership shall automatically be transferred to all third parties acting as substitute in rights, shares and privileges of the company OTB COSMETICS for its debt.

Article 12 – Hidden defects guarantee

Faults and deteriorations of delivered products attributable to the customer or his mandatory agents, in particular pursuant to abnormal storage and/or conservation conditions on the premises of the customer or his mandatory agents, notably in the event of an accident of any nature, may not open the right to the hidden defects guarantee that may be owed by the company OTB COSMETICS.

Given the hidden defects guarantee, the company OTB COSMETICS will only be obliged to replace or reprocess the defected or deteriorated merchandise free of charge or provide a credit note for the establishment, at the choice of the company OTB COSMETICS, without the customer being able to claim any compensation or order cancellation.

The company OTB COSMETICS guarantees the delivered products against hidden defects, in compliance with the law, the uses, the jurisprudence and in the following conditions: the guarantee is only applicable to products which have regularly become the property of the customer and whose the expiry date or the date of minimum durability indicated on the packaging is not exceeded, if applicable; it is only applicable to products entirely manufactured by the company OTB COSMETICS; it does not cover products being used in usage conditions or for performances which were irregular or not intended.

Article 13 – Force majeure

Events independent of the control of the parties, which they could not have reasonably been expected to foresee and which they could not have reasonably avoided or overcome, inasmuch as their occurrence makes the execution of obligations entirely impossible, are considered as cases of force majeure or fortuitous events.

The following are also considered to be cases of force majeure or fortuitous events which relieve the company OTB COSMETICS of its obligations: strikes by all or part of its personnel or usual carriers, lock-outs, fire, flooding, storms, war, riots, halts to production caused by fortuitous breakdowns, epidemics, administrative decisions, road hazards, weight limits due to thawing conditions, strikes or stockouts by one of any of its suppliers for a cause which is not imputable to the company OTB COSMETICS.

In such circumstances, the company OTB COSMETICS shall inform the customer in writing, notably by fax or by e-mail, the manufacturing contract binding the company OTB COSMETICS and the customer therefore being suspending in full right without compensation, counting for the date of the occurrence of the event.

If the incident should come to last more than 30 (thirty) days counting from the date of its occurrence, the contract concluded by the company OTB COSMETICS and its customer may be terminated in full right by the most diligent party, without a prior letter of formal notice and without refund.

This termination will come into effect as of the date of the reception or, failing reception, the date of the first presentation of the registered letter with acknowledgement of reception denouncing the said contract, without either party being able to claim the right to interest damages.

Article 14 – Hardship clause

In case of change of economic circumstances, unpredictable at the time of conclusion of the manufacturing contract, and foreign to the company OTB COSMETICS and/or to the customer which would have the effect of upsetting the economic bases of the commercial relationship existing between the parties to such an extent that it is seriously prejudicial and/or difficult for either party to fulfill its obligations, the parties undertake to renegotiate the financial conditions in a spirit of cooperation and fairness in order to return to a position of equilibrium comparable to that which existed before the occurrence of this change of circumstances.

The parties agree to meet at the latest 8 (eight) days after the date of receipt or, failing receipt, the date of first presentation of the registered letter with acknowledgment of receipt sent by one of them to the other and making a request for renegotiation.

The renegotiation may not exceed 30 (thirty) days and the parties agree that the renegotiation is done in good faith and in particular without any misconduct that would prevent the renegotiation. During this period, the commercial relationship will continue to the conditions applicable before the occurrence of the change of circumstances.

Failing agreement at the end of the renegotiation period, the commercial relationship shall be terminated automatically at the request of either party, without prior formal notice, without any need for restitution and without either party being entitled to claim any compensation as a result. This early termination will take effect upon the expiry of 30 (thirty) days' notice.

The obligations of which each of the parties was a debtor before the occurrence of the change of circumstances shall be performed under the charges and conditions applicable before the said occurrence.

Article 15 – Election of residence

The election of residence is made by the company OTB COSMETICS at its corporate headquarters.

Article 16 – Attribution of jurisdiction

Any dispute concerning the application of these general conditions of sale, their validity, their interpretation, their execution, contracts concluded by the company OTB COSMETICS or the payment of the price shall be brought before the Commercial Court of Caen (14000 - France), whatever the location of the order, delivery and payment,

the payment method and even in the event of recourse in warranty, plurality of defendants, emergency proceedings or precautionary procedure, by interim or fixed date proceedings.

Bills of exchange constitute neither novation nor waiver to this clause of attribution of jurisdiction.

Furthermore, in the event of judicial action or any other action of debt recovery by the company OTB COSMETICS, the legal summons fees as well as the lawyer and bailiff fees and all peripheral fees shall be at the expense of the customer at fault, as well as fees linked with or resulting from the non-respect by the customer of the conditions of payment or any other obligation resulting from the commercial relationship existing between the parties.

Article 17 – Renunciation

If the company OTB COSMETICS does not at any given moment rely on any one of the clauses of these general conditions of sale, this cannot be interpreted as validating a renunciation to later relying on the said clause.

Article 18 – Applicable law

Any question concerning these general conditions of sale as well as the sales which they apply to, which may not be dealt with using these contractual stipulations shall be handled by French law, excluding conflict-of-law rules which may lead to the designation of another applicable law and tangible application regulations issued by international conventions.