

**GENERALITES**

The present General Terms and Conditions, hereinafter designated as "GTC" are valid as of 22 October 2013, and available at any time on the website [www.eras.fr](http://www.eras.fr) and supersede any other version or any other contractual document. The GTC may be subject to subsequent modifications, the version applicable for the services ordered by the Client is the one in force on the site [www.eras.fr/conditions-generales-de-vente](http://www.eras.fr/conditions-generales-de-vente) on the date of placing an Order. The present GTC constitute the basis of the commercial negotiations between the Parties and apply to every Order regardless of the clauses that may figure on the Client's documents, and in particular, the general conditions of purchase over which the present GTC prevail. The objective of the current GTC is to define all the general terms and conditions of execution of the Services ordered by the Client to ERAS. The Client recognizes having had full knowledge of the present GTC at the moment of placing an order and expressly declares to accept them without reserve. In accordance with the provisions of article L 441-6 of the Code of commerce, the present GTC are systematically communicated to any Client that may request ERAS to do so. If any provision of the present GTC should be insufficient, it should be considered as being governed by the practices in force in the profession of Engineering for construction and industry.

**ARTICLE 1 – DEFINITIONS**

"**Offer**" designates the commercial offer made by ERAS to the Client. "**Services**" designates the delivery of consultancy ordered by the Client from ERAS. "**Order**" designates the document defining the special terms and conditions of execution of the Service ordered by the Client from ERAS. "**Territory**" designates the place of execution and delivery of Services by ERAS defined in the Order. "**Client**" designates the Client of ERAS. "**ERAS**" designates the company ERAS. "**Parties**" designates jointly the Client and ERAS.

**ARTICLE 2 – ORDER**

ERAS shall make its Offer on the basis of all the written and oral information that has been communicated to it by the Client, said information being considered exact, complete and established under the Client's full and absolute responsibility.

2.1 The contractual relations between the Parties shall be governed by the signature of an Order based on the Offer and the dossier of competencies supplied to the Client by ERAS. The Order shall define in particular the material necessary for the execution of the Services, supply of said material shall be at the Client's charge. 2.2 The validity of the Order implies prior and entire express acceptance and without reserve by the Client of the present GTC. In addition, the Order is not perfect until after its express acceptance by a person duly authorized for ERAS to proceed. Failing to do this, the commitments made by the representatives of ERAS regarding the Client shall be nullified and with no effect. 2.3 Any Order accepted by ERAS is firm and final.

**ARTICLE 3 – PRICE**

3.1 The prices of the Services stated in Euros are those in force at the moment of placing an Order; they are firm and non-revisable. The prices of the Services include value-added tax (VAT) at the French rate in force on the day of placing the Order. Any changes in the applicable French VAT rate shall automatically be cascaded to the Client by ERAS regarding the price of said Services. 3.2 The prices of the Services are laid out in the Order, according to a period of execution defined by the tentative calendar of the Offer. Beyond the date of expiration of the tentative calendar, any prolongation of the Services shall be invoiced based on the terms specified by the Order. 3.3 The expenses or services not included in the price of the Services shall be listed in the Offer and reimbursed to ERAS through an Order amendment. Namely excluded from the price of Services are: any intervention at night, on the weekend and holidays, any on call duty, any travel other than that provided for the site of execution of the Services.

**ARTICLE 4 – MEANS OF PAYMENT FOR SERVICES**

4.1 The price of the Services shall be paid by the Client to ERAS based on a payment schedule defined in the Order. 4.2 The Client agrees to pay any invoice issued by ERAS within thirty (30) consecutive days beginning on the date of issue of the invoice. 4.3 In the case of agreed payment by installments between the Parties, the non-payment of one single installment shall bring about the forfeiture of the term ipso jure on the sole initiative of ERAS. 4.4 Any unpaid sum at its term or any payment not conform to the amount invoiced shall give right ipso jure and without prior formal notice, to payment of late penalties, calculated on the basis of the rate of eleven point seventy-three per cent (11.73%) per month late as well as payment of a lump sum indemnity for recovery expenses of an amount of forty euros (40€). These penalties shall be applied as of the day following the date of payment stated on the invoice and until the day of effective payment, it being understood that every month started shall be due in its entirety. 4.5 Failure to make payment by the date of payment shall bring about, after sending a letter of formal notice from ERAS to the Client, the immediate payability of all outstanding sums by said Client and the payment laid out in the penalty clause of an indemnity equal to fifteen per cent (15%) of the amount of the sums due, in addition to the interests and penalties provided for in article 4.4 as well as the possible legal expenses. In addition, ERAS may suspend or nullify all the Services currently underway without prejudice to any other means of action. 4.6 The Client shall not be authorized to retain or defer payment of any sum due to ERAS even in the case of a dispute or claim.

**ARTICLE 5 – TERRITORY AND PROCEDURE FOR EXECUTION OF SERVICES**

5.1 The Territory for the execution of Services shall be strictly defined by the Order. 5.2 The ERAS personnel in charge of executing Services on the Client's premises shall conform to the company rules and regulations for hygiene and safety in force on said premises, unless otherwise agreed by the Parties in writing. 5.3 In any case, ERAS personnel assigned to the execution of Services remain under the hierarchical and disciplinary authority of ERAS that ensures the technical authority, the administrative, accounting and social management of its personnel. ERAS certifies that its employees that will execute the Services shall be legally employed with regard to the provisions of the Labor Code. It is clearly established that ERAS personnel shall execute the Services that are under their responsibility in an independent way in the framework of the Order. ERAS remains perfectly independent from the Client and guarantees that no relationship of subordination exists between ERAS and the Client, or between ERAS employees and the Client. 5.4 The Client agrees to supply ERAS with equipped workstations on the Territory (desk, chair, computer with the necessary software...) to give ERAS access to its installations and to all of the information necessary to execute the Services of the Order. 5.5 Execution timelines for the Services are given in the order on a purely informational basis. ERAS cannot be held liable by the Client in the case of execution delays for the Services. 5.6 The Order is valid until the end date of the Services indicated in the Order. 5.7 The end of the Services may however be prolonged upon request by the Client and after a written agreement between the Parties is signed defining the scope particularly in the case of modification during the period of execution of Services or extension of said Services and/or in case of delays or omission due to the Client or third parties and/or in the case of force majeure as defined in article 14.

**ARTICLE 6 – MEETINGS ON ADVANCEMENT OF SERVICES AND RESPONSIBILITY OF ERAS**

6.1 Meetings on the advancement of the Services may take place upon request by either of the two Parties and in accordance with the procedures defined by mutual agreement in the Order to examine the state of advancement of the Services and to validate the Services executed. Any gap observed between the Services planned in the Order and the Services necessary for the Client's needs may lead to the drafting of an amendment to the Order. During said meetings, the Client can make known its decisions, technical choices and in a general way, its observations of any nature. 6.2 These meetings shall lead to the drafting of an advancement report by the leader duly designated by ERAS, who will communicate it to the Client. Failing to issue remarks by the Client within fifteen (15) days following its remittance, the report shall be considered as approved and will be deemed as the validation of the Services executed.

**ARTICLE 7 – INTELLECTUAL PROPERTY**

7.1 Each Party shall retain full and absolute ownership of the descriptions, software, drawings, sketches and other documents as well as the methods, know-how and software tools that belong to it. 7.2 In the eventuality of recourse undertaken by a third party alleging that the equipment or documents employed in the framework of the order infringe a patent right or any other industrial or intellectual property right, the Party having supplied said equipment or documents under dispute shall be solely liable for the defense of the dispute settlement and its financial consequences. 7.3 All realizations, studies or documentation developed in the framework of the execution of Services shall be the Client's exclusive property even if this should be the achievement of ERAS personnel or resulting from the collaboration between ERAS personnel and that of the Client. Consequently, solely the Client shall be able to take exclusively in its name any patent, model, trademark or industrial property title concerning the aforementioned domains. The Order shall not prevent ERAS from using, without having to pay a financial counterpart to the Client, the findings and know-how drawn from the execution of the Order and develop elements that may compete against those that may be supplied to the Client in execution of the order, whether they be similar or not. However, ERAS agrees not to reproduce in its Services carried out for third parties, all or any part of the original elements, created exclusively for the Client in the framework of the execution of its Services.

**ARTICLE 8 – NON SOLICITATION**

Unless there is express contrary agreement between the Parties, the Client is prohibited from hiring, or having work done in any manner whatsoever, directly or indirectly through the intermediary of a third party or by a daughter company, any collaborator of ERAS, present or future, having participated in the execution of the contract and even in the case where said solicitation should be at the initiative of said collaborator. This renunciation is valid for the duration of the contract prolonged by a period of twelve (12) months. In the case of

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non-respect of this non solicitation clause, the Client agrees to pay a compensation indemnity to ERAS equal to one (1) year of gross salary of the collaborator, related social contributions included and to indemnify ERAS for any other prejudice suffered for this reason.

**ARTICLE 9 – CONFIDENTIALITY**

During the entire period of negotiation of the contract, execution of Services and end of the present Order, the Parties agree not to divulge nor allow divulgence by the members of their personnel of any information or any document obtained from the other Party, by any means whatsoever, in the framework of the Order, except to a third party itself engaged under the same conditions to maintain confidential any document or information whose divulgence to its benefit is necessary for the execution of the Order. Each Party is prohibited from exploiting said information in its interest and/or in the interest of a third party. The commitment laid out here above does not apply to the information and documents (i) that have fallen into the public domain for any other reason than the violation of the present article, (ii) that were already found in the possession of the Party concerned at the moment of communication by another Party, or (iii) when, posteriorly to the communication by another Party, these documents and information are received from a third party authorized to divulge them, (iv) that need to be produced in case of necessity, solely before the courts and before the representatives of fiscal and social administrations, authorized to obtain the communication of them. The Client shall give ERAS access to its installations and to all of the information necessary for the execution of obligations and the Services described in the Order.

**ARTICLE 10 – UNTRANSFERRABILITY OF THE CONTRACT**

The Order concluded between ERAS and the Client is concluded intuitu-personae, given the qualities of the latter party. Said Party is prohibited from transferring all or part of the rights and obligations that are conferred to it by the present Order, under any form whatsoever, to any third party and to any person whatsoever, without express agreement by the Parties. In case of transfer of the business to a third party, ERAS reserves the right to terminate the Order ipso jure, without a notice period and without ERAS paying any indemnity whatsoever.

**ARTICLE 11 – EARLY TERMINATION**

11.1 In the case of total or partial non-execution, poor execution or violation by one or the other of the Parties of the provisions in the present GTC or the Order that should not have been remedied within a period of thirty (30) days beginning on the formal notice sent by registered letter with acknowledgement of reception, the other Party may terminate the Order ipso jure without carrying out any legal proceeding and without prejudice to the damages and interests that it may claim. 11.2 Each Party shall also have the right to terminate the contract by anticipation, after giving formal notice sent by registered letter with acknowledgement of reception to which the receiving Party should not have provided satisfactory remedy within thirty (30) days following the reception of said formal notice, in the case where (i) the other Party should cease its activities, (ii) the other Party would not be solvable or would be in liquidation or judicial restructuring. 11.3 In the case of termination of the contract by the Client for another reason than those mentioned in articles 11.1 and 11.2, the Client agrees to respect a period of notice of thirty (30) days and to compensate ERAS for all of the amounts due by the Client relative to the contract up to the effective date of termination of the Services as well as the costs taken on by ERAS for the completion of said Services after the date of termination of said Services. The decision of termination shall be notified by registered letter with acknowledgement of reception, shall begin the period of notice of thirty (30) days and must respect the procedures of form defined in article 11.2. 11.4 Any partial payments made by the Client shall remain due to ERAS, without prejudice to any other actions and prejudices that ERAS would be in the right to carry out and claim due to this fact against the Client. 11.5 Any documents communicated to the Client in the framework of the execution of the Order shall be restituted to ERAS. The Client may not retain any copy whatsoever.

**ARTICLE 12 – GUARANTEE AND INSURANCE**

12.1 ERAS guarantees the Client of the good execution of its Services as defined in the Offer and in accordance with the rules of the art and good engineering practices. The guarantees granted by the terms of the present GTC constitute the soles guarantees at ERAS's expense regarding said Services and prevail over any other guarantee. 12.2 ERAS agrees to underwrite all the guarantees necessary to cover the responsibilities that it is exposed to due to the fact of execution of the Order for sufficient levels with an insurance company known to be solvable.

**ARTICLE 13 – LIMITATION OF LIABILITY**

13.1 ERAS is only subject to an obligation of means with regards to the Client. 13.2 The liability of ERAS may not be sought for damages resulting from errors originating from documents or information supplied by the Client, especially if ERAS has issued prior useful reserves. 13.3 In the case where the liability of ERAS should be engaged on the occasion of the execution of Services, the Client shall not be able to claim damages and interests from ERAS except in the limit of the price of sale of the Services, tax exclusive, and this is regardless of the nature of its prejudice. 13.4 The overall liability of ERAS regarding the present Order is limited to the sole direct material damages caused to the Client resulting from faults duly proven that would be attributable to ERAS. ERAS shall not have to indemnify, in any circumstances, the immaterial damages, consecutive or not to a material damage, namely but not limited to, losses of exploitation, losses of production, failure to reap profits, loss of profits, the loss of contracts, loss of reputation, loss of opportunity, commercial damage, higher production costs, immobilization of personnel or equipment as well as any indirect damage. 13.5 In any case, the total cumulative liability of ERAS in regards to the contract, with the exception of corporal damages, fraud or professional misconduct, shall not exceed twenty per cent (20%) of the amount of the contract tax exclusive. 13.6 The Client and its insurers that guarantee it, declare to renounce to any recourse against ERAS and its insurers beyond the limits and exclusions heretofore exposed.

**ARTICLE 14 – FORCE MAJEURE**

The execution of obligations incumbent on each of the Parties in the terms of the present GTC shall be suspended by the occurrence of an event that constitutes force majeure with the usual acceptance of this term and including namely, without this list being limitative, natural catastrophes, acts of public authorities, embargoes, strikes, exceptional weather conditions preventing delivery, insurrections, riots. The Party wishing to invoke such an event shall immediately notify the other Party of its commencement and by then, as the case may be, the end, without which it may not be discharged of its responsibility. The other Party shall reserve the right to verify and inspect the reality of the facts. The two Parties shall put into place all their efforts to prevent or reduce the effects of non-execution of the convention caused by this event. The execution of the obligations shall resume its normal course as soon as the event constituting force majeure will have ceased. In the case where the event that leads to a case of force majeure is prolonged for more than one (1) month, the Party to which the case of force majeure is opposed can immediately terminate the contract, ipso jure, and without indemnity.

**ARTICLE 15 – GENERAL PROVISIONS OF INTERPRETATION**

The Parties agree that in case of dispute on the interpretation of a clause of these GTC, the interpretation that would possibly be given by the Courts shall be retained. It will consequently be necessary to modify the said GTC. In addition, the illicit nature of a clause only applies for the said clause and shall not bring about the illicitness of the entirety of the GTC.

**ARTICLE 16 – PROTECTION OF PERSONAL DATA**

All of the information requested by ERAS upon placing the Order is obligatory. If one or several pieces of obligatory information should be lacking, the issuing of the Order shall not take place. In accordance with the law "Informatique et Libertés" (computer data and liberties) dated 06/01/1978, modified by the law dated 6 August 2004, the Client has the right of access, rectification and opposition to the information concerning it that it may exercise by letter addressed to ERAS – 20 Rue Lortet, 69007 LYON

**ARTICLE 17 – TRANSLATION - LANGUAGE OF THE CONTRACT**

In the case where the present GTC and the Order should be established in several languages, it is expressly understood that the French version is the only one valid in the case namely of difficulties of interpretation and/or application of provisions of said GTC and of the Order. The language applicable to the GTC and the Order is the French language.

**ARTICLE 18 – SETTLEMENT OF DISPUTES**

The present GTC and the Order are subject, both for their interpretation and for their implementation, to French law. All disputes which the GTC and the contract may lead to, concerning their validity, interpretation, execution, termination, consequences and their subsequent results shall be, failing amicable resolution, under the exclusive competence of the Tribunal of commerce of LYON, even in cases of recourse to guarantees or severalsness of defendants.