

GENERAL TERMS OF SALE FOR PRODUCTS AND SOFTWARE END CUSTOMER OPHRYS SYSTEMES

PREAMBLE

Unless otherwise specified in writing and duly approved by OPHRYS, all orders taken by OPHRYS are governed by the general terms set forth hereafter and the said terms are expressly accepted by the Customer. All terms relative to the notion of License shall be construed as meaning "transfer of right of use" between the parties and shall in no event entail proprietary right transfer.

1.VALIDITY OF OFFERS

From the date of dispatch, offers remain valid for a period of 3 months.

2.ACCEPTANCE OF ORDERS Placing an order following a commercial offer made by OPHRYS will only constitute a contractual agreement after OPHRYS'S written acceptance.

3.PRICE

3.1 Prices are exclusive of taxes. All duties and taxes applicable to the product and software and to services provided will be invoiced to the Client in compliance with the regulations effective at the date of invoicing.

3.2 Unless otherwise explicitly stated in the offer, prices do not include delivery provided.

3.3 The installation and set up that may be requested by the Client will be invoiced separately at OPHRYS's prices effective on the date of the installation.

3.4 The prices and information provided in the catalogues, brochures and other OPHRYS commercial documentation are given for information only and can be partly or fully modified by OPHRYS. Customer agrees not to deem the said modifications contractual unless otherwise stipulated in a written contractual agreement.

4.PAYMENTS

4.1 A 30 % deposit is necessary to launch manufacturing and must be paid on receipt of invoice. Terms of payment are 30 days at the end of month of the invoice date, the said invoice being issued by OPHRYS on the date of delivery.

4.2 Payment shall be made to the order of OPHRYS, net with no discount in Euro. Payment will be deemed paid on the date when OPHRYS actually receives the Customer's check, on the date of the bank draft, on the date of maturity of the Customer's promissory note, or on the date of the bank transfer or of the bill of exchange.

4.3 Whenever the sums owed to OPHRYS by the Customer are paid after the due date mentioned on the invoice and the terms of payment mentioned above have also reached maturity, the said owed sums shall bear compound interest by right and without formal notice. The interest rate shall be equal to one and a half the legal interest rate in force on the date of maturity. The terms of payment can, in no event, be deferred due, for instance, to litigation.

4.4 In the event that the debtor is not the Customer, for any reason whatsoever (transfer, security, contribution, etc...), the amounts owed shall become immediately claimable as well as the related incidental expenses (interest, expenses, etc...) incurred.

5.DELIVERY

5.1 OPHRYS products which do not require adaptation will be delivered within a period of 3 months following the date of OPHRYS's acceptance of the order, unless otherwise accepted by OPHRYS.

5.2 The Customer agrees to return a dated and signed copy of the delivery slip accompanying the product and software to OPHRYS.

5.3 The audio guide devices are delivered without audio content by default. Sound programming is available as an optional service.

5.4 ORPHEO-USA cannot be held responsible for late delivery due to delays caused by the customer. (example: delay in the submission of the script for the audio content).

5.5 ORPHEO-USA reserves the right, in the case of non availability, make substitutions equivalent to or superior in value (for example, a larger CF card size than was originally ordered).

5.6 Unless otherwise specified, shipping charges are the responsibility of the customer.

6.INSTALLATION AND SETUP

In the event that the commercial offer explicitly states that the installation and setup costs are to be borne by OPHRYS, the Customer agrees to facilitate access to the Customer's premises for OPHRYS's staff and to provide all information necessary for installation and setup. In all other cases, installation and setup are the responsibility of the Customer.

7.ACCEPTANCE

7.1 The results of acceptance tests are entered in an acceptance note. They consist of checking the conformity of the product and software functionalities against those stated in OPHRYS technical documentation.

7.2 In the event that the tests are not satisfactory, the Customer is given a period of 8 days from the date of delivery or of installation and setup (if performed by OPHRYS) to notify OPHRYS of its reservations; after this period, acceptance is pronounced by right.

7.3 In the event that the tests are not satisfactory, OPHRYS agrees to employ its best efforts in order to remedy the errors in the product and software within the shortest possible time.

7.4 Should the Customer use the product and software to perform effective work prior to the end of the test period, the product and software will be considered as accepted on the date of such use and the test period will be deemed terminated.

8.PROPRIETARY RIGHTS

The software, software updates, and the related documentation remain the exclusive property of OPHRYS or of its suppliers.

The product and the related documentation remain the exclusive property of OPHRYS or of its suppliers until the total payment of goods.

9.EXPORTS

The product and software supplied by OPHRYS to the Customer are subject to export restrictions. The Customer agrees not to export them without prior formal authorization from the competent authorities and from OPHRYS.

10.PATENTS AND COPYRIGHTS

10.1 The Customer shall promptly inform OPHRYS in writing of any infringement to the software of which the said Customer may be aware.

10.2 OPHRYS protects the Customer from any claim of infringement: OPHRYS will indemnify the Customer for all damages for which he could be liable by a definitive legal decision based on the infringement of a patent or a copyright in the country of delivery of the product and software, provided that:

- the Customer has notified promptly and in writing OPHRYS of such claim,
- the Customer has given authority to OPHRYS,
- the Customer has given information and assistance to OPHRYS.

10.3 In the event that the Customer is sued for patent or copyright infringement due to the use of a modified version of the product and software without OPHRYS's authorization or due to the use of the product and software in combination with other equipment or software not authorized or delivered by OPHRYS, OPHRYS shall not be liable for any claims whatsoever.

10.4 The eventual rights for music & sound effects or other items related to sound production are the responsibility of the location where the content is being played unless otherwise specified by specific contract or agreement.

11.WARRANTY

11.1 The Orpheo product supplied by OPHRYS is guaranteed for a period of 1 (one) year from the date of delivery to the Customer (excluding batteries), unless otherwise agreed with OPHRYS. (purchase of used equipment comes with a 6-months warranty).

11.2 The warranty covers compliance of the product and software with the functional and technical characteristics as long as the Customer has used the product and software as specified in the related documentation.

11.3 In the event of a failure, OPHRYS will do its utmost to implement all the means necessary with an aim to remedy the defects, but it does not guarantee software operating continuity.

11.4 Expenses incurred in the exercise of the warranty shall be assumed by OPHRYS, except for shipping costs of the product(s), traveling and accommodation expenses for OPHRYS personnel whose intervention may be requested by and invoiced to the Customer by OPHRYS at the fees effective at the date of the intervention.

11.5 Return shipping costs of products covered by the warranty shall be assumed by OPHRYS.

11.6 The warranty is not applicable if the product and software granted under license by OPHRYS is used in combination with software not supplied by OPHRYS.

11.7 The warranty does not cover failures resulting from the equipment environment, from abnormal utilization of the equipment or from a modification that was not made or approved by OPHRYS.

11.8 The 1 year warranty does not cover batteries, nor keypads or straps. The 1 year warranty covers all electronic equipment (electronic boards, connectors, memory modules and LCD screens).

11.9 OPHRYS cannot be held responsible for the consequences, whether direct or indirect, of the utilization (or non utilization) of the product and software sold for any reason whatsoever.

12.MAINTENANCE

12.1 Beyond the 1 (one) warranty period mentioned in Article 12 above, the Customer may purchase a maintenance contract with OPHRYS. This contract covers repairs and updated versions of the software.

12.2 OPHRYS shall alone decide which improvements are to be made to its products and software.

13.STAFF

The Customer agrees not to directly or indirectly offer or otherwise procure employment to any member of the OPHRYS staff who have been directly associated with the provision of services, or with the product support or consultancy with its Customer for a period of six month following the last interaction.

14.GENERAL DISPOSITIONS

14.1 The possible nullity of a clause in these general terms will not result in the nullity of the other clauses.

14.2 The present general terms supersede any other general terms and the Licensee renounces the right to invoke any such terms that it may have established.

14.3 Failing amicable agreement, any litigation resulting from the execution or the interpretation of these general terms shall be submitted to the Commercial Court of Grenoble which shall pass judgment according to French law.

14.4 Unless specifically requested not to, OPHRYS is free to reference all customer sites as testaments to previous business transactions.