

Conditions of Sale and Delivery

1. General
All sales by Landes Canada Inc. ("Landes" or "Seller") are subject to all of the Conditions of Sale and Delivery contained herein and upon no other terms and conditions.. The Conditions of Purchase or the General Business Conditions of the Buyer that contradict these Conditions shall be considered non-binding by Landes, even if they are made the subject of the order, and even if Landes does not expressly oppose their content. This shall also apply in the event that the Buyer, in its conditions, precludes the effectiveness of deviating conditions. Even the causing of the service by Landes shall not constitute an implicit or tacit acceptance of deviating conditions. On the other hand, in the event of doubt, it shall be the acceptance of the delivered goods that will, at the latest, constitute the acceptance of these General Conditions of Sale and Delivery. Landes' Conditions of Purchase shall also apply to all and any consecutive business transactions, even if the reference thereto has not been repeated at the time they were entered into. Subsidiary agreements as well as amendments and supplements to the agreement and these General Conditions of Sale and Delivery shall only be valid, if they have been confirmed by Landes in writing.
2. Prices.
The prices offered or confirmed by the Seller shall be valid only so long as the underlying cost factors remain unchanged, they shall, however, be fixed for deliveries that take place within 4 months after the contract has been entered into. As to the rest, all and any prices shall be deemed to be subject to the addition of VAT.
3. Dispatch.
Any dispatch of goods shall be at the expense and risk of the Buyer. Buyer is charged with the cost price for postage and transport-costs. Should Buyer give no specification concerning the dispatch, Seller is authorized to choose the means of transport according to Seller's opinion.
4. Postage and Packing.
The postage shall be calculated at the tariffs in force from time to time. Packing shall only be charged, if the goods are dispatched in crates or if special packing has been requested by the Buyer. In the event that the crates are returned free of freight charges and in a usable condition, within a period of two months, the amount invoiced shall be credited to the Buyer.
5. Complaints.
Buyer shall notify Seller in writing of any claims for shortages or errors in shipment within ten (10) days after Buyer's receipt of products. Buyer shall notify Seller in writing of any claims for pricing errors or improper charges within ten (10) days after Buyer's receipt of an invoice. Failure to provide Seller with said written notice shall constitute conclusive evidence that Buyer has accepted the products and/or Seller's invoices and has waived any right to object to the products or invoices or to revoke Buyer's acceptance. Seller shall be afforded a reasonable opportunity to investigate any purported claim. Buyer may not offset any payment due Seller on account of claims or returned products until Seller has issued a Credit Memo to Buyer, nor shall the amount of any such offset exceed the amount of Seller's Credit Memo.

Should the goods supplied be faulty, Seller reserves the right to repair or overwork them or to send a free replacement after Buyer has returned the goods claimed. Claims for damages may not exceed the value of the goods, plus shipping and handling. Written approval from a Landes representative must be obtained before returning any goods for replacement or refund. Commercial or minor deviations from quality, color, weight, design, finish or format (the latter up to a tolerance of the edge length of +/- 5%) that are unavoidable from a technical viewpoint, may not be objected to, given our sub-suppliers make such proviso. In the event of justified complaints due to defects in the manufacture, free of charge replacement deliveries shall be made at Seller's option (in the event of failure, the Buyer shall have the right to rescind the contract) or a credit note issued, however only in the event that Seller's goods have not been processed yet. Claims arising out of consequential damages, if any, irrespective of what legal grounds there may be (also arising out of manufacturers' liability) – shall be precluded.
6. Right to rescind the contract on the part of the Seller.
War, operational or traffic disturbances, shortage in raw materials, Acts of God shall relieve Seller wholly or partly from the delivery obligations, without the Buyer being given the right to claim damages. In the event that the acceptance of the goods does not take place in good time due to the fault of the Buyer, Seller shall have the right either to invoice the goods and make the purchase price due and payable or to rescind the contract or request the payment of damages, after having granted an additional period of 10 days at the most.
7. Time of Delivery.
Seller shall do its best to deliver as fast as possible. Seller does not guarantee the date of delivery stated. The date of delivery is estimated on principle. Unforeseeable events such as strikes, official precautions, catastrophes, delays cause by suppliers, unexpected machine defects or any other reasons could delay time of delivery. Should the date of delivery be delayed, Buyer must grant an adequate supplementary period in which Seller can supply. Partial deliveries are allowed. In the event that Seller is in default with the delivery, Buyer shall permit an additional delivery period of 4 weeks. In the case of ready-to-dispatch inventory goods, the additional delivery period shall be 5 days. The additional delivery period may only be claimed after the delivery deadline has expired and shall be calculated from the day on which the registered notification of the Buyer is received by Seller. Claims on the part of Buyer in respect of delayed delivery made prior to the expiry of the additional delivery time shall only be possible, if the delivery default or the impossibility have been intentionally or grossly negligently caused by Landes.
8. Payments:
Payment is due net thirty (30) days from invoice date. Buyer's receipt of payment from Buyer's customer shall not be a condition precedent to Buyer's obligation to make payment to Seller. All shipments on credit are subject to the approval of Seller's Credit Department. If, in the judgment of Seller, Buyer's financial condition at the time of manufacture or shipment does not justify the terms of payment specified, Seller reserves the right to require payment or other adequate assurance of performance before manufacture or shipment. Seller also reserves the right to suspend its performance until such payment or adequate assurance of performance has been received, or if Buyer is in default under this order or any other order or contract with Seller. Any costs incurred by Seller resulting from suspending or interrupting performance shall be paid by Buyer.
9. Payment Default.
In the event of payment after the due date, interest representing the prime rate of the Seller's bank plus 3% per year shall be calculated. Seller shall not be obligated to carry out further deliveries arising out of any current agreement before the invoice amounts due inclusive of interest on arrear have been paid in full. In the event that the Buyer is in default with a due payment or if a considerable worsening of its financial situation occurs, Seller shall have the right, prior to the delivery of the goods, to request cash payment for all and any outstanding deliveries by way of abolition of the period allowed for payment. Under the same conditions Seller shall have the right to make all claims due and payable with immediate effect.
10. Mode of Payment.
Payments shall be accepted by cash, cheque, bank transfers, or letter of credit. Legally effective payments shall only be effected directly to Landes, not to Seller's representatives, in particular not to Seller's commercial agents.
11. Reservation of Title.
The delivered goods shall remain the property of Seller until the goods are fully paid.
12. Place of Jurisdiction.
The exclusive jurisdiction for all and any disputes in respect of and arising out of the agreement, also for bills of exchange and cheque proceedings, shall be the judicial district of Bedford, Quebec, Canada. . Seller shall, however, have the right to bring an action against Buyer also at another place of jurisdiction that applies to it. The validity, performance, interpretation and enforcement of this instrument shall be governed by Canadian law.
13. Artwork.

Any artwork, designs or trademarks provided by Buyer to Seller for use in filling an order shall remain the property of Buyer or the respective trademark owner, and Seller shall acquire no rights thereto. Seller has no right to use artwork provided by Buyer without Buyer's permission. Any artwork, designs or trademarks provided to Seller independent of Buyer, by a third party or through independent means, shall remain the property of Seller or the respective trademark owner, and Buyer shall acquire no rights thereto. Any artwork or designs, made or developed by Seller relating to products manufactured hereunder shall be considered "works for hire" and shall be owned by Buyer. Manufacturing documentation, such as drafts, final drawings, point patterns, jacquard cards, and print installations, manufactured by Seller shall be charged to Buyer on a pro-rated basis. In the event that Buyer makes available the documentation for the drafting or places orders for the making of products of our manufacture, it shall indemnify Seller from all and any claims from third parties – irrespective of what legal grounds are cited therefore – arising out of violations of registered designs, if any, copyrights or other rights by third parties, in particular of claims for damages.

14. Set-Off

Buyer shall not be entitled to set-off any amount owing at any time from Seller to Buyer or any of its affiliates against any amount payable at any time by Buyer in connection with this Order.

15. Survival of Agreement

In the event of the statutory ineffectiveness of individual parts of this Agreement, the effectiveness of the remaining provisions of the agreement shall not be affected thereby. All and any disputes arising out of and in connection with the Agreement shall be decided by the regular court.