

# Ormco Belgium

## General Terms and Conditions of Sale

Ormco Belgium SA/NV selling Products is herein referred to as the "Seller" and the customer or person or entity purchasing Products from Seller is referred to as the "Buyer"; "Products" means the goods described in Seller's order acknowledgement.

### 1. PRICES

The prices of the Products are those specified on the front of the invoice or, if no price is specified, those in the Seller's Price List current at the time of Seller's acceptance of an order. Seller's Price List is subject to change without notice, and receipt of the Seller's Price List does not constitute the agreement of the Seller to supply the Products specified therein, nor does it grant any right to the Buyer to order or to receive all or any products contained therein.

Price quotations, unless otherwise stated, will automatically expire thirty (30) calendar days from the date issued and may be cancelled or amended within that period upon written notice to Buyer. No order will be deemed as accepted unless confirmed by written notice to the Buyer. The Seller is in no event obliged to accept an order for which the aggregate price of all Products ordered does not exceed 1,500 Euro. Unless otherwise agreed to in writing by Seller, all prices quoted are exclusive of duties, license fees, transportation and insurance costs, and all taxes, including federal, cantonal and local use, VAT, sales, property (ad valorem) and similar taxes. Buyer agrees to pay these taxes or fees (except taxes upon Seller's net income) unless the sale is otherwise exempt from these taxes or fees. Buyer agrees to indemnify and hold harmless Seller from any liability for taxes, duties or fees in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes will appear as separate items on Seller's invoice.

### 2. PAYMENT

Subject to the non-acceptance of the Product by the Buyer in accordance with the provisions set out below, payment is due thirty (30) days after the date of the invoice unless otherwise specified on the front of the invoice or in a written agreement between the Parties. Seller may invoice each shipment separately and each shipment will be considered a separate and individual contract. All late payments will be charged interest computed on a daily basis from the due date until paid in full at the rate of one percent (1%) per month or the maximum rate permitted by law, whichever is less. The obligation of Buyer to pay Seller's claim is fulfilled on the day the relevant amount is credited to Seller's bank account. Seller reserves the right to establish and/or change credit and payment terms extended to Buyer when, in Seller's sole opinion, Buyer's financial condition or previous payment record warrants that action. Further, in the event that the Buyer has not made payment to the Seller by the due date (thirty days from the date of the invoice unless otherwise specified on the front of the invoice) Seller will not be obligated to continue performance under any agreement with Buyer. Without prejudice to any other rights or remedies arising out of any other breach of these terms and conditions by the Buyer, the Seller shall be entitled to repossess get property on all or any of the Products to the extent that the Buyer fails to pay any amount owing to the seller in respect of the Products or any other products supplied by the Seller to the Buyer, for which purpose the Buyer permits the Seller to enter upon such land or buildings where the products may be stored by the Seller. During such time as title remains with the Seller, the Buyer shall store or keep the Products in a safe and proper manner

and in such way as to indicate that the Products are owned by the Seller. The Buyer shall notify the Seller forthwith if the Buyer or its officers or directors intend to present a petition for the making of an administrative order or if the Buyer or its directors or officers are aware of any such intention on the part of the Buyer creditors or if a receiver of the Buyer's undertaking, property or assets or any part thereof shall be appointed, or if its officers or directors are of the opinion that, under the law of the country of registration of the Buyer, the Buyer is or may be likely to become insolvent, or if any analogous proceedings in any other jurisdiction are commenced. Notwithstanding the foregoing, the Seller shall be entitled at any time by notice in writing to the Buyer to transfer ownership of the Product to the Buyer.

### 3. TRANSFER OF TITLE AND RISK

The title of goods is transferred to the Buyer at the moment the goods are handed over to the carrier who is acting for the purpose of the transfer of the goods.

The risks and rewards of the goods are transferred to the buyer when the goods leave Seller's facility or warehouse.

### 4. SHIPMENTS

Unless otherwise expressly agreed to in writing by the Seller, the Products will be delivered Free Carrier (FCA) at named place of origin in the contract; packing and handling will be charged at seller's standard rates. Risk of loss of or damage to the Products shall pass to Buyer upon delivery to and receipt by carrier at Seller's shipping point and Buyer shall be responsible for insurance of the Products after risk has so passed. Seller will not issue credits or replace Products lost or damaged in transit. Alternatively, if it is expressly stated in the contract that Seller is responsible for the insurance of the Products after their delivery to the carrier, such insurance will be charged at Seller's standard rates. "Ex-works", "DAP", "CPT" and any other delivery terms used in the contract shall be defined in accordance with the latest version of Incoterms.

Legal title shall pass from Seller to Buyer upon delivery as aforesaid. In the event of a dispute, these terms will supersede any terms reflected on shipping documents."

### 5. ACCEPTANCE

The products will be deemed accepted by Buyer unless written notice of defect is received within fourteen (14) days of receipt of goods; the products must be returned to Seller within thirty (30) days of date of receipt.

### 6. RETURNS

Returns are not permitted with the exception of damaged or defective Products. In the event that the Buyer should wish to return the Products to the Seller, the Buyer shall call the Seller Customer Care Department for the assignment of a Return Goods Authorisation number ("RGA") prior to returning the Product. No returned Products will be accepted by the Seller without a RGA number, and no returned Products will be accepted unless their shipment is pre-paid.

### 7. COMPLAINTS

In the event that the Buyer discovers alleged defects in Products supplied by the Seller such as to amount to a breach of the warranty below, and notifies the Seller of such alleged defects within 5 working days as from the discovery, the Seller shall, in its sole discretion and subject to the provisions in the paragraph below either replace, repair or pay for the repair of the Product, or reimburse the price paid for the Product by the Buyer.

In the event of the discovery of a Product defect such as to amount to a breach of the warranty below, the Buyer shall call the Seller Customer Care Department for the assignment of a RGA number prior to returning the

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allegedly defective Product. No returned Products will be accepted by the Seller without a RGA number. The assignment of the RGA number shall not be such as to amount to an admission by the Seller that the Product is defective.

### **8. ADVERSE EVENTS**

The buyer has the obligation to inform the seller within 5 days of any potential adverse event occurred with Seller's products.

### **9. WARRANTY**

Seller warrants and represents that the Products shall be free from material defects in material and workmanship for a period of one year from the date of shipment to Buyer.

In the event of a material defect in workmanship or material covered by the Seller warranty, Seller's sole responsibility shall be, at its sole discretion, to replace, repair or pay for the repair of or reimburse the actual cost of the defective Product in accordance with the provisions regarding 'complaints' set out above. EXCEPT AS EXPRESSLY PROVIDED ABOVE, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES WITH RESPECT TO DESCRIPTION, QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

To the extent allowed by law, in no event shall Seller be liable to Buyer for any direct, indirect, special, incidental or consequential damages, or for any damages resulting from loss of use or profits, anticipated or otherwise, arising out of or in connection with this invoice for the sale, use or performance of the Products, whether such claim is based on contract, tort (including negligence), or a theory of strict liability. In no event shall Seller's total liability for any damages arising out of or in connection with the sale, use or performance of any Products exceed the purchase price of such Products that are the basis of such claim. This warranty shall not apply to any Product that has been subject to misuse, abuse, accident, disaster, or which has been operated contrary to current instructions relating to installation, maintenance or operation, or contrary to industry standards applicable to the Products.

### **10. LIMITATION OF LIABILITY**

In no event shall Seller be liable to Buyer or End user for any direct, indirect, special, incidental, or consequential damages, or for any damages resulting from loss of use or profits, anticipated or otherwise, arising out of or in connection with this Agreement or the sale, use or performance of any products, whether such claim is based on contract, tort (including negligence), any theory of strict liability or regulatory action. In any event, Seller's maximum liability to Buyer and End User shall not exceed the purchase price of the product furnished by Seller.

### **11. ASSIGNMENT**

These Terms and Conditions and the underlying agreement shall be binding upon and inure to the benefit of each party and its successors and assigns. The Buyer is not allowed to assign or otherwise transfer the whole or any part of its rights or obligations under this underlying agreement or under these Terms and Conditions without the prior written consent of the Seller.

### **12. PARTIAL INVALIDITY**

If any part of these Terms and Conditions are found partially or wholly invalid or unenforceable, that part will be amended to achieve as nearly as possible the same economic effect as the original provision and the remainder of the Agreement will remain in full force and effect.

### **13. FORCE MAJEURE**

Except for the payment of money, neither party shall be held responsible for any delay or failure in performance to the extent that such delay or failure is caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of god, act or omission of carriers or other similar causes beyond its control ("force majeure conditions").

### **14. NON-WAIVER**

No course of dealing or failure of either party to strictly enforce any term, right or condition of this invoice shall be construed as a waiver of that term, right or condition.

### **15. INDEPENDENT CONTRACTOR**

The relationship created by this Agreement is that of independent contractor and neither Buyer nor any of its owners, directors, employees, representatives or agents is authorized to hold itself out as an employee or agent of Seller, appoint others as partners, Buyers, resellers or agents of Seller, enter into contracts or commitments in the name of Seller, or bind or otherwise obligate Seller in any manner. Nothing contained in this Agreement is intended to create, nor does it create, a joint venture or partnership, or other relationship between Buyer and Seller other than the relationship of independent contractor.

### **16. COMPLIANCE WITH LAWS**

Without limiting any provision in this Agreement, Buyer specifically agrees to the following: Buyer represents and warrants to Seller that Buyer shall comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Agreement, and that Buyer will take no action that will cause Buyer or Seller to violate any such laws. Buyer specifically represents and warrants Seller to be aware of the existence of the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"), and the Buyer will take no action to cause him or Seller to violate the FCPA. It is the intent of Buyer and Seller, and Buyer represents and warrants to Seller, that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any Seller owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Seller, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related in any way to this Agreement, including without limitation any payment of money or provision of anything of value to any employee of any customer in order to secure a sale. Seller may withhold payments under this Agreement, or terminate this Agreement immediately, if it believes, in good faith, that Buyer has breached the foregoing compliance with laws provisions of this Agreement or caused Seller to violate the FCPA or other applicable laws. Seller shall not be liable to Buyer for any claim, losses, or damages related to Seller's decision to exercise its rights under this provision.

### **17. EXPORT RESTRICTIONS AND CONTROLS**

Buyer acknowledges that it is illegal (i) for a U.S. company or its foreign subsidiaries to conduct export business with a company or an individual listed on the U.S. Government's Table of Denial Orders, Entity List,

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Specially Designated Nationals List, Unverified List or the Debarred List, and/or to participate in foreign boycotts and, further, (ii) for an European company to conduct business in violation of laws and regulations applicable within the European Union and within the jurisdictions in which Seller and Buyer are established or from which items may be supplied. For the purpose of the above and in order to enable the Seller to fulfil the order in compliance with law, Buyer represents and warrants that it has a formal Trade Compliance Management System in place which is adequate to ensure that deliverables and technology obtained from the Seller will not be transferred or otherwise re-exported except as permitted and/or authorized under all applicable export laws or regulations. Trade Compliance Management System means specific procedures which ensure that the purchase and sale of the Products are executed in accordance with all applicable import and export laws and regulations. In detail, the processes should allow to control the product classification, the non-proliferation of weapons of mass destruction, the risk of diversion, the destination country and to ensure that the goods be not sold to any person, entity or business listed on any of the denial lists published by the authorities. In return for Buyer's commitments as mentioned above, the Seller will not require from the Buyer specific end use, end user and final destination information except upon request. In case Buyer does not fulfil the above commitments, refuses to provide end use, end user and final destination information and/or it does not supply the Products accordingly, the Seller shall be relieved without penalty of all obligations to fulfil the order".

### **18. GOVERNING LAW**

The construction, interpretation and performance of these terms and conditions and all contracts to which these terms and conditions apply are governed by the Belgium laws and the courts at the Seller seat of Seller in Bruxelles shall have exclusive jurisdiction in relation to any disputes arising out of or in connection with these terms and conditions.

### **19. ENTIRE AGREEMENT**

The terms and conditions in this invoice shall constitute the entire agreement between the parties with respect to the subject matter of this invoice and shall not be modified or rescinded, except by in writing signed by Seller and Buyer. The provisions of this invoice supersede all prior oral and written quotations, communications, agreements, and understandings of the parties with respect to the subject matter of this invoice.