



A Rohde & Schwarz Company

Arpège S.A.S.

General Terms and Conditions for Deliveries and Services (Sales to Business Customers)

April 2024

1. Object and scope

- 1.1 In accordance with the applicable law, these Terms and Conditions (referred to hereinafter as "**T&C**") govern the rights and obligations relating to the sales of products, including hardware, computer programs (software and/or firmware), technology and services such as installation, assembly, calibration, inspection and preventive and/or corrective maintenance as well as intellectual services of all types (referred to hereinafter as "**Deliverables**") by Arpège S.A.S. (referred to hereinafter as "**ARPEGE**") to business customers, public law entities or public law institutions (referred to hereinafter as "**Customer(s)**"). The T&C can be adapted within the framework of special sales conditions.
- 1.2 Except where otherwise specified in a written agreement signed by ARPEGE, any order issued to ARPEGE implies that the Customer accepts these T&C in full and without reservation, and waives his own Purchasing Terms and Conditions. ARPEGE reserves the right to modify or refuse any Customer order in part or in whole.
- 1.3 The nature or scope of the products or services (e.g. installation, assembly, calibration, inspection, repair) are defined in written agreements between the parties. If a contract has been entered into without such written agreements, the written order acknowledgement (referred to as the "**Order Confirmation**") of ARPEGE will be considered as authoritative. All contractual agreements, including any additional clauses appended thereto, are only valid if in writing.
- 1.4 ARPEGE's commitment is only binding once ARPEGE sends an order acknowledgement, and after receipt of advance payment when called for by the contract.
- 1.5 Unless agreed otherwise, Deliverables shall be supplied CIP at the agreed destination in accordance with the Incoterms® 2020.
- 1.6 All information, including but not limited to studies, illustrations, designs, weights, performance specifications, data contained in brochures, cost estimates and technical files is subject to confirmation. Their purpose is solely to assist the Customer in selecting the product, and they do not exempt the Customer from verifications, notably concerning their fitness for the purpose. Only the ARPEGE order acknowledgement, in particular following an offer or a quotation, commits ARPEGE to the technical specifications of the equipment or services sold.
- 1.7 The Customer's purchase order shall specify the quantities, types, and technical references as they appear in ARPEGE catalogs and price lists.
- 1.8 In order to take account of any future technological developments, it is possible that ARPEGE may replace products ordered by the Customer or components of such products that were specifically mentioned in the offer or Order Confirmation issued by ARPEGE with other products or components, including after a contract has been concluded. The parties agree that these replacement products or components may be supplied by ARPEGE for the purpose of performance of the contract upon condition that these replacement products or components comply with the specifications for the product ordered by the Customer and that the price remains unchanged.
- 1.9 After an offer has been issued, ARPEGE reserves the right to carry out checks and supplementary enquiries concerning: (i) the solvency and financial circumstances of the Customer; (ii) any specific rules and regulations that may be applicable to the Customer; and (iii) any applicable embargo or sanctions. Depending upon the result of its investigations, ARPEGE shall be entitled to alter (for example by requiring payment guarantees and/or advance payments) or cancel the offer or, as the case may be, the respective agreement at any time until an Order Confirmation has been issued. ARPEGE may not be held liable by the Customer in any manner for the outcome of such checks or for any change to or cancellation of the offer and the Customer shall not have any right to claim damages.
- 1.10 When ARPEGE products and services are purchased, exported or re-exported (outside the EU) or transferred (between countries within the EU) or sold to third parties by the Customer, the Customer shall obtain all prior necessary authorizations and licences from the competent authorities. The Customer bears the responsibility for compliance with the French, European Union (EU) and foreign laws and regulations applicable to:
- the products, services, technologies and the tangible and intangible technical data concerned;
 - the restrictions and prohibitions related to controlling the final destination: the country of destination, the end use, the end user or entity.
- ARPEGE reserves the right to suspend performance without delay in the event of a breach by the Customer of its material obligations to comply with the applicable laws and regulations.

2. Price and terms of payment

- 2.1 Prices are in euros (€), and are subject to VAT at the rate in effect when the tax becomes due in addition to any taxes, customs duties or adjustments that may be payable in accordance with any other legislation. The Customer undertakes to pay or reimburse the taxes, customs duties, or adjustments as well as all consular fees and legislative charges which may be charged to ARPEGE.
- 2.2 List prices may be revised at any time. The prices specified in our offers, quotations, and order acknowledgements are fixed and not subject to adjustment, provided that:
- ARPEGE receives the order before the end of the validity period indicated on the proposal. If no period is specified, the validity period shall be 30 days.
 - The schedule for delivery or completion of services requested by the Customer is not more than 4 months beyond the order date.
- 2.3 Price estimates (also referred to as pricing information) are not binding.
- 2.4 All payments must be made to ARPEGE without any deduction within thirty (30) calendar days of the date of the invoice. No discount shall be granted in the event of payment in cash or advance payment. The place of payment shall be at the registered office of ARPEGE.
- 2.5 For Customers who are based outside France or who did not meet all their obligations concerning a previous order (e.g. default or late payment), or if the Customer's financial situation should deteriorate, ARPEGE may require full payment in advance, cash payment, or appropriate guarantees.
- 2.6 An advance payment corresponding to thirty percent (30%) of the total value, in addition to value added tax on a pro rata basis, is due for all orders at the time the order is placed. ARPEGE is not obliged to pay interest on the advance payment.
- 2.7 The Customer may not offset any claims of its own or exercise any right of retention on account of claims unless they are undisputed or have been established by a definitive decision by a court of law that is not subject to appeal. The Customer may only exercise its right of retention in relation to claims pertaining to the same contractual relationship as the counterclaim of ARPEGE.
- 2.8 Any delay in payment in relation to the contractual dates will give rise by right to a penalty for late payment calculated on the amounts outstanding at a rate equal to the interest rate applied by the European Central Bank to its most recent refinancing operation plus 10 percentage points (10%) without prejudice to the entitlement to recover the debt. These penalties for late payment are payable without the necessity of a reminder.
- 2.9 In addition to the penalties for late payment, any delay in payment will automatically entail an obligation for the debtor to pay a lump compensation of 40€ by way of recovery costs.
- 2.10 In default of payment and as a penalty in addition to the purchase price and the late payment fee, the Customer shall pay a lump sum equal to 15% of the outstanding amounts. This penalty will remain vested in ARPEGE, without any need to justify damages and without prejudice to ARPEGE's right to apply the cancellation clause and to claim for compensation in full through court action for the prejudice resulting from breach of contract.
- 2.11 Where payment is by scheduled instalments, the entire balance becomes due immediately should the Customer default on any of those payments.



A Rohde & Schwarz Company

Arpege S.A.S.

3. Title retention clause

- 3.1 Ownership of the products supplied in accordance with these T&C shall remain with ARPEGE until the agreed price, including both the principal amount and any incidental amounts, has been paid in full to ARPEGE.
- 3.2 By virtue of the title retention, ARPEGE shall be entitled to require the return of any products subject to title retention, where the Customer is late in payment of the price agreed upon for them. A request to return products does not imply the termination of the contract. The rules applicable to the termination of the contract are not affected.
- 3.3 The Customer must treat products subject to title retention with the utmost care and inform ARPEGE immediately in writing in the event of the loss of and/or any damage to these products. The Customer must insure the products at its own cost against any loss and/or damage caused to the products due to any reason whatsoever, including but not limited to the risks of fire, water damage, theft and natural hazards, etc., and the insured amount must be sufficient to cover the replacement value of the product concerned. In the event that any maintenance and/or inspection is necessary, the Customer must carry it out in good time at its own cost. The Customer, who has custody of the products, must inform ARPEGE of their location, and make them readily available to ARPEGE.
- 3.4 In the event of seizure, confiscation or any other interference by a third party with products subject to title retention, the Customer must inform the third party immediately concerning the ownership rights of ARPEGE and notify ARPEGE immediately in writing in order to enable ARPEGE to exercise its ownership rights.
- 3.5 The Customer is entitled to resell products subject to title retention during the ordinary course of business, as long as it has not defaulted on any payment. As a precautionary matter, the Customer assigns in full to ARPEGE by way of collateral any further claims to payment that the Customer may have against its own customers in respect of the resale of products subject to title retention. If the products subject to title retention are resold by the Customer along with other products without an individual price being set for the products subject to title retention, the Customer assigns to ARPEGE by way of collateral the portion of its claim corresponding to the price agreed upon with ARPEGE for the products subject to title retention. ARPEGE accepts this assignment.
- 3.6 The Customer is authorised to recover the claims assigned to ARPEGE as indicated above unless and until such authorisation has been revoked by ARPEGE. In the event of non-compliance by the Customer with its contractual obligations, in particular in the event of non-payment, or if there are reasonable grounds to suspect that the Customer is over-indebted or will imminently become insolvent, ARPEGE may revoke the authorisation to recover these claims and require Customer to provide ARPEGE, without delay, with the details of the assigned claims and the individual debtors, inform the individual debtors concerning the assignment and provide ARPEGE with all documents and information required by ARPEGE in order to enforce the claims directly.
- 3.7 Claims shall be assigned under Articles 3.5 and 3.6 even if the title retention clause contained in Article 3.1 is invalid according to the law applicable in the country in which the product is situated.
- 3.8 The Customer must inform ARPEGE in writing without delay in the event of any application to launch insolvency procedures against it.
- 3.9 The Customer undertakes not to incorporate or transform the products if that might be an impediment to this title retention clause.
- 3.10 This clause is applicable in the event of bankruptcy or winding up of the company. In that event the claim to the products may be asserted under the terms set forth in Articles L. 624-9, 624-16 et seq. as well as by Article R. 624-13 of the French "Code de commerce" (Commercial Code).

4. Delivery Timelines

- 4.1 Adherence by ARPEGE to delivery dates and timelines agreed upon (referred to hereinafter as collectively as "**Delivery Timelines**") for the Deliverables is conditional upon diligent compliance in good time by the Customer with all of its obligations and duties, including in particular the receipt before the respective deadline of payments due, as well as all documents that must be furnished by the Customer, authorisations, permits, licences and approvals and the provision of any material necessary in accordance with Article 8, which shall also include by way of example the issue of a duly signed end user certificate, if so requested by ARPEGE, in order to obtain an export licence. In the event that the Customer fails to comply with its obligations and duties in good time, the Delivery Timelines of ARPEGE shall be extended accordingly, in addition to any recovery period. Non-compliance with these obligations and duties shall release ARPEGE from any commitment concerning Delivery Timelines.
- 4.2 Deadlines shall be considered to be met when the product has been placed at the Customer's disposal at the agreed location and/or the service has been provided within the agreed period. If the Deliverables are delayed for reasons attributable to the Customer, the Delivery Timelines shall be considered to be met by ARPEGE when the Customer has been informed in writing via any channel that product is ready for delivery and/or the services are ready to be provided within the agreed period.
- 4.3 Unless stipulated otherwise in writing, Deliverables shall be made in continental France, excluding Corsica.
- 4.4 The Delivery Timelines for delivery shown in our price lists or specified on any document issued by ARPEGE are understood to run from the date the order is confirmed or the date the payment on account is received, whichever is the later.
- 4.5 If the Customer suffers any loss as a result of a delivery delay for which ARPEGE is solely responsible, the Customer may claim damages equivalent to a half of one percent (0.5%) of the value of the delayed portion of the Deliverables, after three full weeks of delay have elapsed, for each additional full week of delay up to a total of five percent (5%) of the value of the delayed portion of the Deliverables.
- 4.6 The Customer shall not be entitled to claim any additional damages and/or losses in excess of the maximum level of five percent (5%) provided for under Article 4.5.
- 4.7 The Customer shall only be entitled to terminate the contract on the grounds of delay once the damages fixed have reached the maximum level of five percent (5%) provided for under Article 4.5.
- 4.8 Upon request by ARPEGE, the Customer must state within a reasonable period whether it intends to terminate the contract on the grounds of delay or to insist on performance.
- 4.9 Articles 4.5 to 4.8 shall not apply if and to the extent (i) the Deliverables consist of (the provision of) services, such as, but not limited to, calibration, inspection, preventive maintenance and/or corrective maintenance (repair or replacement), which form part of a support and maintenance agreement or a service level agreement; and (ii) the financial consequences of the delay in provision of such services are stipulated in the according support and maintenance or service level agreement.
- 4.10 ARPEGE reserves the right to deliver and invoice orders according to the agreed terms, including partial deliveries as items become available.
- 4.11 Any request to defer delivery made by a Customer on a product or service which is ready to be delivered or performed entitles ARPEGE to require payment of 50% of the value of the Deliverable deferred, payable at the invoice date.
- 4.12 If the Deliverables are delayed at the request of the Customer, or due to other reasons within the control of the Customer, ARPEGE may, without prejudice to all other rights and claims, charge the Customer storage fees corresponding to a half of one percent (0.5%) of the value of the Deliverables concerned for each month or part thereof, starting from the first day following notice of availability for delivery. The parties may furnish proof establishing that the costs of storage have been either higher or lower.
- 4.13 ARPEGE reserves the right to invoice expenses for interim storage and preservation of any product deposited by the Customer. For any product deposited by the Customer and not recovered within one year, ownership of the product is transferred by the Customer to ARPEGE free of charge, and ARPEGE may dispose of the product without further ado.
- 4.14 All order cancellations are subject to ARPEGE approval. In any event, the instalment payments and payments on account remain vested in ARPEGE.



A Rohde & Schwarz Company

Arpège S.A.S.

5. Force majeure

- 5.1 The term "**Force Majeure Event**" shall include, without being limited to, mobilization, war, riot, strike, lockout, acts of terrorism, nuclear accidents, government or sovereign acts or omissions (including, but not limited to, the failure to grant, restricted granting, or any delay in the granting of any governmental or official approvals, permits, licenses or allowances, as well as the full or partial cancellation or suspension of such approvals, permits, licenses or allowances, a stoppage imposed by customs authorities, imposition of an embargo or sanctions by an authority or by an international, multinational or supranational body), epidemics, pandemics, transport restrictions and restrictions of energy consumption, general shortage of raw materials and common supplies, non-delivery or late delivery by sub-suppliers or subcontractors, natural catastrophes and cases of unavoidable events (e.g. volcanic activity, earthquakes, thunderstorms, floods, fire, storms and other adverse weather conditions), as well as all other events that lie beyond the control of the party or its sub-suppliers or sub-contractors that are affected by such a Force Majeure Event.
- 5.2 The party affected by a Force Majeure Event shall inform the other party of the event within a reasonable period. The contractual obligations affected by a Force Majeure Event shall be suspended and the periods for the performance of such contractual obligations shall be extended accordingly, together with a reasonable ramp-up period.
- 5.3 If the suspension of the contractual obligations due to a Force Majeure Event lasts longer than six (6) months, each party shall be entitled to terminate the agreement without incurring any liability in respect of the Force Majeure Event or the aforementioned termination.

6. Acceptance

- 6.1 The Customer shall verify products on receipt and services when they are provided. This verification shall include quality, quantities, and the Part Numbers of products and/or services, as well as their compliance with the order. No claims shall be accepted more than 48 hours after the time of delivery or receipt.
- 6.2 In the event that an acceptance has been agreed, the Customer shall accept all contractual Deliverables received, even if any minor defects are identified.
- 6.3 Early deliveries and partial deliveries are permitted, provided that the Customer can reasonably accept such deliveries.
- 6.4 If an acceptance has been agreed and if ARPEGE requests the acceptance of the Deliverables to be performed, the Customer shall do so as soon as possible, within no more than two (2) weeks of the date of delivery. If the Customer fails to perform the acceptance within this time limit or refuses to do so without good reason, the acceptance shall be deemed to have been completed. The acceptance shall also be deemed to have been completed if the Deliverables have been resold or (as the case may be, following conclusion of an agreed test phase) are already being in use.

7. Transfer of risk

Risk shall pass to the Customer in accordance with the applicable Incoterms® 2020, even if it has been agreed that installation or assembly shall take place on the premises of the Customer.

8. Provision of material and other cooperation obligations

- 8.1 If the Deliverables to be supplied by ARPEGE include, either in their entirety or in part, the provision of services including but not limited to installation, assembly, calibration or preventive and/or corrective maintenance or training, the Customer must ensure that all material provided by the Customer upon request by ARPEGE in order to provide these services, such as for example accessories and, in situations involving third party products, user manuals, descriptions and data sheets, are provided to ARPEGE in good time, at the agreed location and in their entirety before ARPEGE starts to provide these services. Outbound and return transport shall occur at the cost and risk of the Customer.
- 8.2 All preparatory work that needs to be carried out by the Customer must be organised prior to the start of service provision in such a manner that ARPEGE is able to start providing the services immediately upon the arrival of the staff deployed by ARPEGE and to continue doing so without interruption.
- 8.3 The Customer must procure and make available at the appropriate time and at its own cost all qualified staff, auxiliary work to be carried out by third parties, consumables and material, electricity, water, outlets and supply lines, clothing and protective devices, appropriate premises (including rooms for storing material) of the required quality and suitability. The Customer must also obtain any official authorisations other than those provided for under the agreed Incoterm in good time and at its own cost, and must inform ARPEGE concerning any rule specific to the site in order to prevent any accidents. Prior to the start of service provision, the Customer must furnish all necessary information to ARPEGE, including but not limited to information concerning the location of concealed lines, the design of the Customer's wireless infrastructure, any necessary structural data, etc. unsolicited.
- 8.4 The Customer or its representative shall comply with health and work safety regulations, notably those requiring an outside company to perform a risk identification and accident prevention analysis. The Customer shall provide this information to ARPEGE. It shall take all necessary preventative measures during the ARPEGE intervention, regardless of whether the site is located in France or abroad.
- 8.5 For any on-site intervention accepted by the Customer, ARPEGE reserves the right to invoice all expenses incurred (such as for time spent or travel) should it be impossible to provide the service through the fault of the Customer, e.g. closing, absence, unavailability, etc.
- 8.6 Should ARPEGE have any justified doubts as to the quality and adequacy of the material provided by the Customer or its cooperation, ARPEGE reserves the right to refuse to provide the services or to refuse to accept any responsibility.
- 8.7 It shall be for ARPEGE to decide where the services are to be provided, in the event that multiple execution zones are available.
- 8.8 All equipment returned by the Customer for maintenance or repair shall include accompanying documents describing the failure, and showing the delivery and invoicing addresses. ARPEGE reserves the right to return (at the Customer's expense) all equipment that does not meet these requirements.

9. Use of software**9.1 Terms for using software and its documentation**

- 9.1.1 In consideration of the settlement provided herein, ARPEGE grants the Customer, and the Customer accepts, a personal non-exclusive and non-transferable right (user license) to use one copy of the software and for an unlimited time, unless agreed otherwise and according to the terms herein.
- 9.1.2 The software will be made available in machine-readable format only (object code); this excludes the delivery of the source code and the transfer of rights concerning the said source code.
- 9.1.3 All copyright or intellectual property rights of any type whatsoever concerning the software or resulting from changes to the software are the exclusive property of ARPEGE, it being specified that anything which is not expressly authorised in these T&C requires the prior written authorisation of ARPEGE. On these grounds and without limitation, under no circumstances is the Customer authorised to sub-license the use of the software, nor to sell, modify, translate, decompile or reverse engineer, reproduce or adapt all or part of the software or the related documentation.
- 9.1.4 ARPEGE may also deliver to the Customer software programmes belonging to third parties (including but not limited to open source programs), hereafter called "**Third-Party Software**". In that case, the terms of the license granted by the third party, which ARPEGE shall make available, take precedence over the provisions in this Article concerning Third-Party Software.
- 9.1.5 The following services shall be invoiced separately by ARPEGE, at applicable prices:
 - Assistance in setting up the software.
 - Assistance in analysing and correcting malfunctions caused by incorrect usage or other events not attributable to the software used. The Customer may choose to have the assistance provided either on its premises, via remote services, or by other means.
- 9.1.6 The software and the related documentation are protected by the hereinabove exclusive intellectual property rights. The Customer shall comply with this protection and shall not remove the copyright notices appearing on any tangible or intangible medium.



A Rohde & Schwarz Company

Arpege S.A.S.

9.2 **Software warranty**

Besides the warranty set forth in Article 11 of these T&C, ARPEGE guarantees that the media provided are free of material defects and manufacturing defects and that the documentation is complete and correct. Should such a defect exist, the warranty shall be limited solely to the replacement of the defective product(s).

9.3 **Software updates**

ARPEGE may update the software as part of a separate maintenance agreement. The update may include the supply of new versions of the software.

9.4 **Software reproduction right**

9.4.1 Subject to the aforementioned provisions, the Customer may make one copy of each software component covered by this contract; the copy is for backup purposes only, or when required for the legitimate use of the software.

9.4.2 The backup copy must include all the registered trademarks and copyright notices contained in the original, and the Customer shall enter the serial number when stipulated by ARPEGE.

9.4.3 The Customer shall demonstrate the location of each copy of the software, providing in each case the name, ID number, and serial number of the copy of the software, as well as the serial number and location of the hardware.

9.4.4 ARPEGE shall provide the Customer with one copy of the software documentation.

9.4.5 For each copy of the software, the Customer may purchase additional copies of the documentation. Reproduction of the documentation is strictly forbidden.

9.5 **Termination**

In the event of non-compliance with any of the user license provisions, ARPEGE reserves the right to terminate the user license subject to one month's notice. In this case, the software, including all copies, backup copies, and the documentation provided, shall be returned to ARPEGE immediately and in their entirety, without requiring a special request; furthermore, if the software and documentation are stored in the system, they shall be deleted. These provisions shall apply likewise to the source language of the software, if said source language was provided to the Customer. ARPEGE reserves the right to claim compensation for any breach of these terms.

10. **Intellectual property**

10.1 ARPEGE retains all the intellectual property rights in the designs, projects, quotations, drawings, technical information, technical specifications, manuals, and other documents (referred to hereinafter as "**Documents**"). The Customer may not reproduce, copy, disclose, execute, or deliver the Documents to any third party without the prior written consent of ARPEGE, nor use the Documents against ARPEGE's interests. All Documents disclosed in written form shall be returned to ARPEGE upon request.

10.2 The technology and know-how (whether patented or not), included in the Deliverables, as well as all the industrial and intellectual property rights in the Deliverables, remain the exclusive property of ARPEGE. The Customer is only granted a non-exclusive right to use the products.

10.3 Should any third party assert legitimate rights against the Customer for infringement of an intellectual property right directly related to the use of the Deliverables complying with the contract in the country where the product was delivered, or an intellectual property right in all or part of the software, ARPEGE shall be responsible for the defence, and shall manage legal proceedings if need be.

10.4 This right may only be claimed by the Customer within 12 months of the transfer of risks as stipulated in Article 7 herein and on the distinct understanding that: (i) the Customer has informed ARPEGE of a claim, a complaint, or a similar action, at the earliest and in any event no later than eight (8) days from the date on which the Customer became aware of it, on penalty of forfeiture, and that (ii) ARPEGE is in a position to ensure the management and exclusive control of the defence against the complaint, the right of appeal, or the action and/or to negotiate a transaction to settle the dispute between the parties; and on condition that (iii) the Customer, its representatives, or third parties under its control (such as subcontractors) do not acknowledge any infringement of a disputed intellectual property right. Should the Customer cease to use the products in order to limit the damage or for other reasons, it shall inform ARPEGE as well as the third parties that this shall on no account be construed as an acknowledgement of an infringement of any intellectual property rights.

10.5 As part of the implementation of this guarantee, ARPEGE may, at its option and expense, modify or replace the products, or acquire the necessary licenses, in order to avoid any infringement of intellectual property rights. Should ARPEGE deem none of these options appropriate, the Customer shall have the right to terminate the contract or to reduce the contract price.

10.6 ARPEGE shall not be liable for any infringement of intellectual property rights resulting from ensuring the product complies with the Customer's drawings, specifications, instructions, or technical information; from changes made to the products by the Customer or by a third party; from the misuse of the products; from use of the products with products not provided by ARPEGE; or in general through the fault of the Customer.

10.7 Finally, in the event of a complaint for software infringement, this guarantee is no longer applicable and ARPEGE takes no responsibility should the software have been modified by the Customer; this includes the documentation should the infringement dispute concern the documentation.

10.8 No other rights or claims shall arise in relation to any infringement of intellectual property rights.

11. **Warranty**

11.1 The Deliverables sold by ARPEGE are guaranteed for 12 months from their delivery and/or the date of the acceptance, excluding consumables.

11.2 During the warranty period, ARPEGE shall be liable solely for the repair or replacement, at ARPEGE's option (referred to hereinafter as "**Subsequent Performance**"), of any Deliverable or part thereof, excluding compensation for any reason whatsoever.

11.3 The Customer must provide written notification containing details of any defective material to ARPEGE. If there was no justified reason for the notification of a defect, ARPEGE shall be entitled to request the Customer to reimburse the costs incurred by ARPEGE.

11.4 Should ARPEGE reject a request for repair under warranty, ARPEGE may require the Customer to reimburse any expenses incurred (for expert appraisal or return shipping). On no account shall ARPEGE be liable for Deliverables returned without its prior approval.

11.5 The Customer may not exercise any rights or claims in relation to defects affecting a Deliverable: (i) in the event of minor defects and/or insignificant deviations from the agreed quality and/or in the event of any insignificant change in usability; (ii) in relation to any damage occurring following the transfer of risk (for instance, as a result of incorrect or careless handling, excessive usage, inappropriate operating equipment, inadequate construction work, or inappropriate storage) or in relation to wear and tear of the Deliverables; (iii) in the event of any damage, insofar as caused by external influences - such as chemical, electro-chemical and atmospheric factors - not foreseen within the ambit of the contract; or (iv) insofar as the defect was caused by the fact that the Deliverables have been modified, repaired or used by the Customer or a third party in manner contrary to the specifications of ARPEGE.

11.6 Moreover, ARPEGE shall not be liable for any modifications or repairs made by the Customer, any third party, or any other user, nor their subsequent repercussions.

11.7 If the Deliverable has been transported to a location other than the place of delivery, in the event of Subsequent Performance ARPEGE shall only cover the costs - such as transportation, travel, labour and material costs - that would have been incurred had the Customer not transported the Deliverables to another location; in such an eventuality, the Customer shall cover the additional costs brought about by the Subsequent Performance owing to the fact that the Deliverables have been transported to another location.



A Rohde & Schwarz Company

Arpege S.A.S.

- 11.8 Only deviations that can be reproduced with reference to the specifications shall be regarded as material defects within software. However, a material defect shall only be deemed to subsist if it appears in the most recent version of the software provided to the Customer, as long as the Customer could reasonably use this latest version. In addition, the Customer may not make any claims based on material defects if the material defect was caused by one of the following circumstances: (i) incompatibility of the software with the data processing environment used by the Customer, unless expressly provided for within the documentation of ARPEGE or unless otherwise authorised in writing by ARPEGE; (ii) usage of the software together with software provided by a third party, unless expressly provided for within the documentation of ARPEGE or unless otherwise authorised in writing by ARPEGE; or (iii) inappropriate maintenance of the software by the Customer or a third party.
- 11.9 Accordingly, the warranty covers only restoration of the Deliverables at ARPEGE's premises, as well as the repair or replacement of any defective part. Replaced parts become ARPEGE's property.
- 11.10 The replacement, swapping out, or modification of parts during the warranty period shall neither extend nor shorten the warranty period. The Customer shall bear all outward shipping expenses. For any on-site intervention requested by the Customer, all travel and accommodation expenses as well as meal allowances shall be paid by the Customer.
- 11.11 On no account may the Customer claim an annulment of sale or a price reduction based on equipment flaws or defects.
- 11.12 Should ARPEGE deem it necessary to make modifications or adjustments to Deliverables, the Customer shall allow a reasonable time frame and shall facilitate said modifications or adjustments; it shall also facilitate the delivery of spare parts and accessories. Should the Customer refuse, ARPEGE shall be freed of all liability and warranty.
- 11.13 Any warranty suit for latent defects shall be brought within six months from the discovery of the defect, and within two years of the delivery, on penalty of forfeiture. Under the legal warranty for latent defects, ARPEGE shall be liable solely for the repair or replacement, at ARPEGE's option, of any product or part under warranty, excluding the annulment of sale, a price reduction, or any compensation for any reason whatsoever.
- 11.14 No other rights or claims shall arise in relation to defective material.
- 11.15 Extended warranty: Where the Customer orders an extended warranty, the initial warranty is extended under the same conditions and excluding accessories such as software, bags, batteries, consumables, and cables, which are not covered by the extended warranty. This extended warranty shall be invoiced at the going rate.
- 11.16 To the extent the Deliverables consist of the services (i) calibration; or (ii) inspection and/or (iii) repair and/or replacement not made within the framework of Subsequent Performance, the following shall be applicable:
- 11.16.1 With regard to calibration or inspection, ARPEGE shall not be liable for defects of the type mentioned above and Articles 11.1 to 11.15 shall not apply.
- 11.16.2 With regard to repair and/or replacement provided under a support and maintenance agreement or a service level agreement ARPEGE shall not be liable for defects of the type mentioned above and Articles 11.1 to 11.15 shall not apply.

12. Liability

- 12.1 Excluding gross negligence on the part of ARPEGE and redress for physical injury, ARPEGE's responsibility, irrespective of the legal grounds involved (including indemnification and warranty obligations), is limited to direct material damages, to the exclusion of all consequential damages and non-material damages such as financial loss, loss of business, loss of opportunities, the reimbursement of expenses, third-party contractual claims, claims for loss of profit, loss of usage, loss of production, interruption of operation, financing costs, loss of interest, loss of image, the purchase of substitute items or the loss of data, information or programs due to software.
- 12.2 ARPEGE's responsibility towards the Client for all claims, irrespective of the legal grounds involved (including indemnification and warranty obligations) and including damages, in particular under Article 4.5, and any contractual penalties, shall be limited to a maximum of the total (100%) amounts received in payment against the supply of the products or provision of the services concerned on the day the claim is lodged.
- 12.3 In accordance with Article 2254 of the French "Code Civil" (Civil Code), the time-bar limit for any contract liability proceedings is one year from the delivery date of the products or services.

13. Confidentiality

- 13.1 If a non-disclosure agreement has already been concluded between ARPEGE and the Customer, it shall continue to apply and shall prevail over the provisions set forth below in this Article (13). The obligations arising under the above-mentioned non-disclosure agreement shall apply, *mutatis mutandis*, to the contract concluded incorporating these Terms and Conditions, as well as the offer, order confirmation and any information disclosed to the Customer in relation to the performance of the contract by ARPEGE, any affiliate of ARPEGE or any third party acting on behalf of ARPEGE in any form whatsoever.
- 13.2 The contract concluded incorporating these T&C, as well as the offer, order confirmation and any information disclosed to the Customer in relation to the performance of the contract by ARPEGE, any affiliate of ARPEGE or any third party acting on behalf of ARPEGE (such as knowledge, experience, documents of any type, measurements, inventions, production processes, mechanical designs, rates and other business secrets and information) in any form whatsoever (referred to hereinafter as "**Confidential Information**") must be treated as confidential by the Customer and may be used exclusively for the purposes for which the information was provided. Transfer to a third party is only permitted with the prior written approval of ARPEGE, and in the event that transfer is approved, the respective third party must undertake towards the Customer in advance of transfer to uphold confidentiality at least in accordance with the terms of this Article (13).
- 13.3 However, the above-mentioned obligations shall not apply to information: (i) that is in the public domain; (ii) that comes into the public domain other than as a result of a breach of the duty of confidentiality; (iii) that was already known to the Customer, which was not under any obligation to treat it as confidential, prior to transmission; (iv) that has been lawfully provided to the Customer by a third party; (v) that has been developed by the Customer independently without recourse to the Confidential Information; or (vi) that the Customer is obliged to disclose in accordance with an overriding legal obligation, or the disclosure of which is required by a court of law or a competent authority.
- 13.4 Any Confidential Information received must be immediately returned or destroyed on request by and at the choice of ARPEGE. The above-mentioned obligations to return and destroy information shall not apply: (i) to Confidential Information embodied in an electronic format (e.g. email) that is copied within the ambit of routine backup procedures; and (ii) in cases in which the Customer is required to retain Confidential Information in accordance with overriding legal provisions. However, a precondition for the foregoing shall be that the Confidential Information is treated as confidential in accordance with the provisions of this Article (13) until expiry of the time limit provided for under Article 13.5.
- 13.5 The above-mentioned confidentiality obligations shall apply throughout the term of the contract from the time it is concluded and for a period of 10 years after the termination of the contract.

14. Unforeseeable circumstances

It is agreed that, in the event of any change in circumstances that was unforeseeable upon conclusion of the contract that renders performance excessively onerous for one of the parties, the provisions of Article 1195 of the French Civil Code shall apply in full. ARPEGE consequently declares that it will not accept in advance the risk of any such changes in circumstances. Any stipulation of a fixed price or other indication shall not be construed as an acceptance of such risk.



A Rohde & Schwarz Company

Arpege S.A.S.

15. Packaging

- 15.1 ARPEGE reserves the right to determine the most appropriate type of packaging for its equipment. Any special packaging requested by the Customer shall be invoiced.
- 15.2 For all deliveries in continental France, the cost of standard packaging is included in the sales price. Non-returnable standard packaging is at the Customer's charge and will not be taken back by ARPEGE.

16. Data protection

Within the ambit of their contractual relations, ARPEGE and the Customer undertake to comply with the legislation applicable to the processing of personal data, including in particular Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 (known as the GDPR) and French Law No 78-17 of 6 January 1978 as amended, on information technology and data protection. The processing of personal data does not fall within the scope of the contractual object. However, wherever each party processes personal data relating to the other party for the purpose of the administrative management of the Contract, it shall have the status of a "controller" for this purpose in accordance with Article 4 GDPR and undertakes to provide the other party with the information provided for under Article 14 GDPR, in order to enable the latter to communicate it to data subjects.

17. Cancellation clause

Should the Customer not comply with any of its obligations hereunder or in the contract, and should formal notice sent by registered letter with acknowledgement of receipt remain either partially or entirely to no effect after eight days, the contract may be cancelled ipso jure by ARPEGE without further ado. In that case the products shall be returned without delay and at the Customer's cost and risk. The Customer agrees to pay a usufruct penalty of 1% of the price of the products sold per day from the date of the formal notice until date on which all the products in question are returned. If the cancellation occurs under the aforementioned conditions, ARPEGE shall retain the amounts paid by the Customer, irrespective of the damages that ARPEGE may claim for the prejudice sustained due to the Customer's default.

18. No Re-Export to Russia

- 18.1 The Customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with the agreement that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014 of July, 31st, 2014.
- 18.2 The Customer shall undertake its best efforts to ensure that the purpose of Article 18.1 is not frustrated by any third parties further down the commercial chain, including by possible resellers.
- 18.3 The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of Article 18.1.
- 18.4 Any violation of Articles 18.1, 18.2 or 18.3 shall constitute a material breach of an essential element of the agreement, and ARPEGE shall be entitled to seek appropriate remedies, including, but not limited to termination or rescission of the agreement and a penalty of fifteen percent (15 %) of the total value of the agreement or price of the goods exported, whichever is higher.
- 18.5 The Customer shall immediately inform ARPEGE by email to trade-compliance@rohde-schwarz.com about any problems in applying Articles 18.1, 18.2 or 18.3, including any relevant activities by third parties that could frustrate the purpose of Article 18.2. The Customer shall make available to ARPEGE information concerning compliance with the obligations under Articles 18.1, 18.2 or 18.3 within two (2) weeks of the simple request of such information.

19. Applicable law / Arbitration

- 19.1 The contract concluded between ARPEGE and the Customer, including its interpretation, shall be governed exclusively by French law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not be applicable.
- 19.2 All disputes, differences of opinion, rights or claims arising under, or in connection with, the agreement between ARPEGE and the Customer or its violation, termination or invalidity shall – unless settled amicably by the parties – be exclusively and definitively settled in arbitration proceedings conducted in accordance with the arbitration rules of the International Chamber of Commerce (ICC), Paris, France, as amended. Either party's right to apply for a dunning procedure or temporary relief from the competent state courts shall, however, remain unaffected.
- 19.3 The number of arbitrators shall be three (3), unless the parties agree upon a single arbitrator. The place of arbitration shall be Marseille, France. The language of arbitration shall be English.
- 19.4 The costs of the arbitration proceedings shall be borne by the unsuccessful party or by both parties according to their win/loss ratio. The aforementioned costs of the arbitration proceedings include the costs of the ICC, the arbitrators' fees and also appropriate legal fees and expenses.

20. Final provisions

- 20.1 In the event that individual aspects of the agreement are legally invalid, the remaining parts shall continue to be binding. This shall not apply if adherence to the agreement constitutes an unreasonable hardship for one of the parties.
- 20.2 Any contractual agreements, including amendments, supplements and other collateral agreements shall be made in writing in order to be effective. This formal requirement can only be dispensed with by way of a written declaration.
- 20.3 This document is a translation of the original document in French (ARPEGE--SMP-ASAS-TMPP04-34 - 02/04/2024). In the event of a difference in interpretation between the English and French texts, the French text shall take precedence.

ARPEGE S.A.S. (ARPEGE--SMP-ASAS-TMPP04-34EN - 02/04/2024)