

# X-TREME VIDEO SALE TERMS & CONDITIONS (CGV) – UPDATED ON 07/04/2014

## 1. OBJECT – CONTRACTUAL DOCUMENTS

These terms and conditions shall apply to all goods purchased directly from X-TREME VIDEO by or on behalf of the client (“client”), exclusive of any other terms and conditions including the Client’s purchase terms and conditions. These Conditions and the Order Documents constitute the Contract between the Clients and X-TREME VIDEO. These documents shall apply the following order of priority: (1) Order Documents (means any quote and/or invoice sent by X-TREME VIDEO of the Client, describing the goods purchased by it under the Contract and the Prices, payment terms and other provisions), and (2) these conditions. The signature of an Order Document shall entail application of all these terms and conditions.

## 2. ORDER – PRICES AND PAYMENT

**2.1.** Any quote from X-TREME VIDEO shall be valid for 15 days, unless otherwise agreed.

**2.2.** The prices of the goods must appear in the Order Documents from X-TREME VIDEO. In the event of delivery spread over time, X-TREME VIDEO may adjust the prices of the goods to take account of the fluctuations in rates of exchange, taxes, Customs duty, transport and insurance costs and the purchase price of the goods. Any quote from X-TREME VIDEO is expressly agreed. These costs are payable by the Client, in addition to the prices stated in the quote and may appear as separate items in the order Documents.

Carriage paid threshold per brand is fixed as follows:

-GoPro: €600ex-VAT

-Other brands distributed by X-TREME

VIDEO: €300 ex- VAT

Shipping costs for any order below these thresholds shall be €10.7

**2.3.** Payment for the goods must be received by X-TREME VIDEO before shipment of the goods or, if otherwise agreed in writing by X-TREME VIDEO within the period stated in the Order Documents or within 30 days from the date of the invoice, if no other period is specified. Compliance with the date of payment is an essential term of this Contract. In the event of late payment, X-TREME VIDEO shall be entitled, were any sum due from the client under the Contract is not paid on its due date, to cancel or suspend the execution of the Contract or any order, including suspending delivery of the goods until payment has been made to X-TREME VIDEO’s satisfaction.

**2.4.** Insofar as authorized by law, any payment made or to be made by the Client to X-TREME VIDEO under this Contract must be without restriction or reservation and without deduction or retention at source (against any other sum, by setoff or otherwise).

**2.5.** A discount of 0.2% per month shall be applicable in the event of early payment (French Law no.92-1442 of 31/12/92).

## 3. RESERVATION OF OWNERSHIP – TRANSFER OF RISK

**3.1.** X-TREME VIDEO shall retain ownership of the goods until full payment of its price in principal and interest. In default of payment of the price by the agreed due date, X-TREME VIDEO may repossess all or any part of the goods pursuant to the stipulations of article 7.

Notwithstanding the transfer of ownership delayed until full payment of the price, the Client shall assume the risk attached to custody or use of the goods, as from their delivery to the carrier. The client therefore undertakes immediately to obtain insurance covering the risk of loss, theft or destruction and shall not, until full payment of the price, sell or any part of the goods.

## 4. GOODS

**4.1.** X-TREME VIDEO shall deliver the goods to address of the Client stated in the Order Documents. The dates of delivery are provided for information only and shall not be binding unless otherwise provided in the Order Document. The delivery must be made within a reasonable period if no precise date has been specified. X-TREME VIDEO declines any liability in the event of loss or damage (including loss of profit), or for any cost or expense directly or indirectly occasioned by any late delivery of goods and no such delay shall entitle the client to terminate or cancel the Contract.

**4.2.** The Client must verify the apparent condition of the goods on delivery. In default of any reservation expressed by it in writing on the delivery note at the time of delivery, the goods delivered by X-TREME VIDEO shall be deemed to comply in quantity and quality with the order, the Client being considered as having accepted the goods.

Furthermore:

-For clients in the “Core” category:

- Any dispute as to delivery must be sent on the consignment note in the presence of and with the agreement of the driver;
- A receipted recorded delivery letter must be sent within 48 hours after receipt of the order;
- The documents to be provided for giving notice of the dispute are the bill of lading bearing the disputed references and the initialed consignment note formally stating the reservations;
- The notation “Subject to counting” is unacceptable;
- In default of the above, no dispute as to delivery shall be considered by X-TREME VIDEO and shall therefore remain the client’s responsibility;
- No dispute as to delivery not in full compliance with the foregoing shall be compensated by X-TREME VIDEO;

-For clients in the “Major Accounts” category;

- Any dispute as to delivery must be stated on the consignment note in the presence of and with the agreement to the driver;
- A receipt recorded delivery letter or an e-mail must be sent within 48 hours after receipt of the order;
- The documents to be provided for giving notice of the dispute are the bill of lading bearing the disputed references and the initialed consignment note formally stating the reservations;

- The notation "Subject to counting" is unacceptable;
- In default of the above, no dispute as to delivery shall be considered by X-TREME VIDEO and shall therefore remain the client's responsibility;
- No dispute as to delivery not in full compliance with the foregoing shall be compensated by X-TREME VIDEO;

**4.3.** Should the client fail to comply with this clause, it shall not be entitled to refuse the goods.

**4.4.** X-TREME VIDEO shall have no liability for any defect of malfunction and the client is bound to pay for the goods as if they had been delivered pursuant to the Contract. X-TREME VIDEO may, at its entire discretion, repair or replace any goods refused pursuant to this clause.

## **5. GUARANTEE**

**5.1.** X-TREME VIDEO guarantees that the goods comply with their specifications and order Document.

**5.2.** X-TREME VIDEO does not guarantee the absence of defects in the design or manufacture of the goods. The client agrees to accept them "as is" and to deal personally with any design defect. The Client shall, however, retain all its rights under the manufacturer's guarantee.

## **6. LIABILITY-INSURANCE**

**6.1.** X-TREME VIDEO shall be liable in the event of non-performance of the service to be provided under this contract. X-TREME VIDEO declares that it has French professional liability insurance with reputed solvent insurer.

**6.2.** No party shall be liable for:

- Special, indirect or consequential prejudice;
- Loss of profit, income or earnings;
- Loss of use of any system or network of the Client;
- Loss of clientele or injury to reputation;
- Loss, alteration or damage of or to data or software; or
- Data or software recovery.

**6.3.** Any liability of X-TREME VIDEO is, in any circumstances, systematically limited to the prices concerned in this contract.

## **7. TERMINATION FOR BREACH OF A PARTY'S OBLIGATIONS**

**7.1.** In default of payment by the Client on any due date, the contract shall be automatically terminated:

- Immediately, in the event of default in payment on presentation of a draft on the due date, if payment was agreed to be made by accepted draft or baler's order;
- Eight calendar days after dispatch of a formal notice to comply with its obligations, by receipted recorded delivery letter, has remained unsatisfied, in whole or in part, in the event of default in payment other than that stated above, provided that such formal notice to comply states the intention to apply this clause.

In the event of termination for default in payment, the Client shall, immediately and at its own expense, return the goods to X-TREME VIDEO. Furthermore for any prejudice sustained by X-TREME VIDEO in the event of termination of the Contract and of any loss of value the goods returned, the client shall be liable for a fixed indemnity of 50% of the

prices stipulated herein. In the event of any form of deterioration of the goods sold, this indemnity shall be increased to 100% of the prices stipulated herein.

## **8. FORCE MAJEURE**

Neither party shall be liable to the other for any breach of any of its obligations (except for payment obligations) under this contract, for any period, where the breach in question is due to any circumstance outside the reasonable control of either party, including, but not limited to, fire, flood, war, embargo, strike, riot or the intervention of a governmental authority ("**Event of force majeure**"), on condition that the defaulting party informs the other thereof in writing. Any delay experienced by the defaulting party must be excused for the duration of the Event of force majeure, but should this exceed 30 days, the other party may immediately terminate all or any part of this Contract by giving written notice to the defaulting party.

## **9. INFRINGEMENTS**

X-TREME VIDEO guarantees that the goods do not infringe any intellectual property right, nor amount to unfair or parasitic competition. To this end, X-TREME VIDEO undertakes to participate in the defense of the Client against any claim directly concerning the goods and their normal use, subject to rapid notification by the Client and the alleged breach does not concern any modification or addition made by the latter. If any part of the goods is found to have infringed or otherwise breached any third-party right, X-TREME VIDEO shall either provide other goods with the same functions within a period compatible with the Client's Business or, at its own expense, obtain for the Client the price received for the goods. These options are the entire discretion of X-TREME VIDEO, notwithstanding the client's right to claim indemnification for its loss. For its part, the Client undertakes immediately to inform X-TREME VIDEO of any infringement of the goods of which it may be aware, X-TREME VIDEO, then being free to take any measures it considers appropriate.

## **10. AMENDMENT – ENTIRETY**

X-TREME VIDEO reserves the right to amend its CGV at any time; In the event of such amendment, CGV applicable are those in force on the date of the order. This document contains all the undertakings existing between the parties and replaces and annuls any previous oral written undertaking concerning the object of this contract.

## **11. FORBEARANCE**

It is formally agreed that any forbearance or waiver by either party as to the application of all or any part of the undertakings in the Contract, whatever their frequency or the duration, will not amend the contract, nor engender any right.

## **12. PARTIAL INVALIDITY**

The nullity or inapplicability of any stipulation in the contract shall not affect any other stipulations, which shall retain their full force and effect. The parties may, however, agree to replace any invalidated stipulation.

**13. APPLICABLE LAW- CONTRACT LANGUAGE – DISPUTES**

By express agreement between the parties, the Contract is governed by French law, to the exclusion of any other law. It is drafted in French and, should it be translated, the French text shall prevail in the event of any dispute. Any dispute concerning the conclusion, interpretation, execution or cessation of the Contract shall be submitted to the Commercial Court of Bayonne, which shall have exclusive jurisdiction in respect thereof, even in the event of summary proceedings, interpleader, claim for contribution or multiplicity of defendants.

**14. ELECTION OF DOMICILE**

For the execution hereof and any further matters pertaining hereto, the parties nominate their respective addresses for service of documents at their registered offices or addresses stated at the head hereof.

Any change in the registered office or address of a party shall only bind the other party 30 calendar days after due notification thereof.