



**Global Solutions: IT & Communication, Security, Electricity**



General Terms and Conditions of Sale CEL S.A.  
September 2018



---

## Summary

1. Subject and application	3
2. Performance rules	3
3. Determination of prices – invoicing and payment	4
4. Obligations of the Client	5
5. Procedure for checking modifications – replacements/modifications/repairs – extensions	5
6. Delivery – Patent defects	6
7. Warranties and liability	6
8. Limitation of liability	7
9. Termination - force majeure	8
10. Retention of title	9
11. Intellectual property	9
12. Confidentiality	9
13. Data protection - Status of “Professional of the Financial Sector”	10
14. Processing of personal data – pursuant to the General Data Protection Regulation (GDPR)	10
15. Jurisdiction clause – Applicable law	11
16. Other matters	12



## 1. Subject and application

These general terms and conditions of sale and provision of services (hereinafter “the General Terms and Conditions”) apply to the relations between CEL S.A. (hereinafter “the Company”) and its clients (hereinafter “the Client”) (hereinafter together “the Parties” or any one of them “the Party”).

Additional specific or derogatory terms and conditions may be agreed in other contractual documents.

The present General Terms and Conditions shall apply to all the Company’s offers and contracts of sale and for the provision of services as from the first contact between the Company and the Client and shall remain applicable throughout the duration of the contractual relations established between the Company and the Client. The present General Terms and Conditions form an integral part of the agreement concluded between the Company and the Client.

In case of conflict or contradiction between the General Terms and Conditions and the terms of the offer, the contract or other more specific contractual documents agreed between the Company and the Client, the latter shall prevail over the General Terms and Conditions.

Except in the case of an express written derogation, the present General Terms and Conditions shall apply to the exclusion of all other general terms and conditions which might be communicated by the Client, even if such terms and conditions were to provide that the Client only contracts under its own terms and conditions. Except in the case of an express, written derogation, the Company will never be bound by the Client’s general terms and conditions even if it did not expressly contest them.

## 2. Performance rules

All offers made by the Company are given without any obligation and on an indicative basis.

Offers constitute a commitment for the Company only after their express acceptance manifested by the Client either by signing an order confirmation, a purchase order or a contract or through the receipt of a payment on account or by the Company’s beginning to provide the services.

Any order confirmation, return of a purchase order or contract transmitted by the Client to the Company as well as settlement of a payment on account formally binds the Client, likewise the Company’s beginning to provide services as soon as the Client has cognizance thereof and does not dispute them within 2 hours of their start.

In the event of the cancellation or revocation of the order or contract by the Client or if the Client does not comply with one of its obligations, the damage sustained by the Company will be valued at an amount which may not be less than 30% of the total amount owed under the offer, without prejudice to the Company’s right to prove greater damage or to demand performance of the contract.



---

### 3. Determination of prices – invoicing and payment

Prices contained in offers, order confirmations, and other contractual documents issued by the Company are expressed excluding VAT and other Luxembourg or foreign dues, unless express reference is made thereto.

Unless expressly stipulated otherwise in the offer, the order confirmation or other contractual documents issued by the Company, the prices appearing therein are stipulated free of carriage and packaging. Charges for inspection and acceptance by an approved body and all other ancillary costs are excluded, except when they are expressly stipulated as being borne the Company.

The prices appearing in the offer established by the Company are based on the cost of the goods sold or the services to be performed prevailing on the date of issue of the offer. The offer sent by the Company to the Client remains valid for a maximum of thirty (30) days as from its communication by the Company to the Client, unless otherwise stipulated in the offer. The Company reserves the right to invoice administrative fees for any order under EUR 100.00.

The Client must accept the offer within the aforementioned period by returning an order confirmation enclosed by the Company with its offer, by sending a purchase order, signing a contract with the Company or making a payment on account, failing which the offer lapses. Acceptance by the Client without contestation of the beginning of the services by the Company shall also be deemed to constitute acceptance of the offer.

Unless otherwise expressly stipulated, the times for the delivery of the goods and the performance of the services by the Company are transmitted on an indicative basis and are not binding on the Company, with the result that delays in delivery may not give rise to any entitlement to cancellation of an order or to damages from the Company.

Invoices shall be denominated in euros and payable within thirty (30) days as from the date of the invoice. Incomplete delivery of an order cannot justify a refusal to pay for the goods delivered.

Any delay in payment shall entail ipso jure and without prior notice the payment of interest for late payment at the legal rate in force calculated on the amounts outstanding in accordance with the Law of 18 April 2004 on payment periods and interest in case of late payment transposing Directive 2000/35/EC of 29 June 2000 (Article 3 for transactions between traders and Article 12 for transactions with a consumer), on a daily basis as from the due date (between traders, 30 days after the date of receipt of the invoice by the Client; with a consumer, as from the expiry of the third month following the receipt of the goods, the completion of the works or the provision of services) until the actual receipt of payment.

In the event of non-payment of the invoice on its due date, the Company reserves the right to claim, by way of lump-sum compensation, an additional amount equal to 10% of the outstanding balance with a minimum of EUR 40.00, without prejudice to the interest for late payment provided for above.



---

Any recovery costs which the Company might incur shall be borne by the Client.

Any refusal to pay for any reason whatsoever must be notified to the Company in writing within eight (8) days after receipt of the invoice. Invoices which are not contested within this period shall be considered to have been definitively accepted.

In the event of non-payment of an invoice on its due date, the Company shall also be entitled, without prior notice, to suspend all deliveries and all services and the maintenance of all warranties for such time as the outstanding invoices are not paid by the Client.

All payments will be imputed by way of priority to interest, lump sum compensation and any lawyers' fees and thereafter to the oldest invoices.

The Company may, at any time, require payment guarantees from the Client. The production of sufficient guarantees satisfying the Company shall be deemed to be a condition suspensive of the conclusion of the agreement or of the entry into relations, as the case may be.

#### 4. Obligations of the Client

The Client shall provide the Company with all the assistance necessary to enable the actual supply of the goods, the installation of the equipment and the actual performance of the services by the Company. Such assistance shall include, without this being limitative, the Client's obtaining all the necessary licenses and authorisations, the provision of the contact information of the operators and providers of electronic communications services as well as of the operators and suppliers of electrical energy services, the appointment of a member of its staff as the sole contact person for all communications with the Company and for the transmission of all necessary information, the provision of a workspace or appropriate offices and access to the installations, equipment and systems, the assignment of qualified staff, competent and appropriate for their functions, who will enable the Company to perform the services, install the equipment and deliver the goods, in-house decision-taking by the Client in a timely manner, the timely provision of all applicable security procedures or other policies with which the Client is required to comply and the preparation of the necessary environment. The preparation shall include, but shall not be limited to, the provision of adequate electrical power and appropriate environmental conditions.

#### 5. Procedure for checking modifications – replacements/modifications/repairs – extensions

Each Party may propose any reasonable modification or improvement of the services. The Party requesting a modification shall inform the other Party in writing, specifying the proposed modification, the objective or the purpose of the modification, the requirements and the specifications and the schedule required for such modification. As soon as possible, the Company shall inform the Client in writing whether the proposed modification is acceptable and, if so, inform it of any impact that the proposed modification might have on the cost and the timetable for the supply of the services and communicate a description of the modifications to the goods and resources required. The Parties shall conclude a written agreement concerning the agreed modification before starting to implement it. That written agreement shall constitute a rider to the contract between the Parties or to the offer and/or to the order confirmation, as the case may be.



---

It is strictly forbidden for the Client to proceed himself or proceed through a third party to make replacements or modifications or repairs to elements of the installation under contract. Any intervention of the Company which might be made necessary following such an initiative of the Client shall be charged to the Client.

Costs connected with work of transformations, additions, transfers, extensions, travel, replacement of equipment and supplies of ancillary equipment requested by the Client of the Company shall be borne by the Client, likewise costs connected with modifications to the installations required by the *Institut Luxembourgeois de Régulation* (ILR), the *Institut Luxembourgeois de la Normalisation, de l'Accréditation et de la Sécurité* (ILNAS) and by operators and providers of electrical energy or electronic communications services. When such works must be carried out by the Company, they must be the subject of a separate, prior, written agreement with the Client.

## 6. Delivery – Patent defects

Delivery must be able to be made to a point of easy access, requiring no special handling within the Client's premises. Delivery must be able to be made at any time during working hours, without recourse to a specific prior procedure.

All goods and all services performed must be immediately checked by the Client upon delivery or at the end of the performance of the services, as the case may be. Any remarks or patent defects must be mentioned on the delivery note or on the report on the acceptance of the works/provision of services, as the case may be, failing which the Company may consider any complaint as late and the goods or the services, as the case may be, as having been accepted by the Client.

If the Client does not take delivery in due time of a good which it has ordered or if it makes delivery impossible on account of its absence, the indication of a wrong address or for any other reason which is attributable to the Client, the Company will be entitled to invoice the price immediately and any other costs incurred as a result of the Client's failure to take delivery.

## 7. Warranties and liability

The Company's warranty for goods and equipment delivered, including hardware or software is limited to that granted by the manufacturer of those goods. The Client acknowledges that he will be entitled to recourse only under those warranties.

In the event of a defect in goods or equipment, the Client shall contact the Company and provide it with the serial number, the part and the model number of the manufacturer and a description of the defect and any other appropriate information. All defective goods or defective equipment shall be returned to the premises of the Company at the Client's expense. The Company will have the choice between replacing or repairing the defective goods or equipment.

If, after analysis by the Company, a good or the equipment proves to be non-defective or if it proves to be that the defect is caused by non-compliant or inappropriate use by the Client, the Company will have no obligation and may invoice the Client for the time spent analysing the goods or the equipment.



---

As for the software designed, developed and distributed by the Company, the warranty regarding the software delivered is that indicated in the licensing agreement accompanying the software to the exclusion of any other warranty. The Company will have the choice between replacing the software, repairing/modifying it and refunding its purchase price.

In the event of a minor fault, the Client shall be entitled only to a reduction in the price. In all circumstances, the Client must do everything possible to minimise its damage and will not be able to claim any compensation of any kind, whatever the pretext invoked.

The Company gives no warranty as to the suitability of the goods delivered or of the equipment installed in relation to the Client's needs and the particular use that the Client wishes to make thereof. The Company shall not, in addition, assume any liability if it should appear that the Client does not have the skills required to use or make the goods delivered or the equipment installed operate properly.

In no event may the Company be held liable by the Client for direct or indirect collateral damage (such as, but not limited to, damage resulting from loss of data, loss of programs, loss of profits, loss of earnings, interruptions of business, loss of sales or profits, competitive advantages, goodwill, complaints by third parties or any other economic damage).

Likewise, the Company may not be held liable for any disturbances or damage consequential upon or caused by climatic conditions (such as humidity, water, floods, fires, temperature, lightning ...), breakages, short cuts or the deterioration or the inherent bad state of premises as well as damage connected with the Client's own activity or defects in equipment, lines or hardware for which the Company is not responsible for maintenance and upkeep.

The Company further assumes no liability where a defect is found to arise from a design or specification provided by the Client or an act or omission on its part or on the part of a third party, where the good or the equipment proves to have been repaired or modified by the Client or a third party not previously approved by the Company, where the defect proves to be the result of abnormal operation or use or electrical stress or use not in accordance with the specifications and operating instructions provided by the Company and/or the manufacturer or resulting from the use or the impossibility of using the documentation attached to the good or equipment.

The aforesaid warranties are provided by the Company without prejudice to the legal warranties to which the Client may lay claim.

Any complaint on the part of the Client must be sent by registered letter with a form for acknowledgment of receipt to the registered office of the Company within eight (8) days of the occurrence of the damage and must be received by the Company before the expiry of the warranty period.

## 8. Limitation of liability

The liability of the Company for any breach of its contractual obligations which has been definitively established shall, in any event, be limited as follows:



- 
- Concerning the goods, the liability of the Company shall always be limited to the prices of the goods as fixed in the contractual documents;
  - Concerning the services provided, the Company may incur liability only for direct damage (see Article 7 above) and may never, unless expressly agreed between the Parties, exceed the limits of the third party liability operations insurance subscribed by the Company, which amounts to EUR 2,500,000 for personal injuries and EUR 2,500,000 for property damage.

### 9. Termination - force majeure

The Company shall be entitled to rescind an order or a contract or to terminate a contractual relationship in the event of failure by the Client to fulfil its obligations arising out of the contractual relationship established with the Company. In such case, the Company shall not be liable for the total or partial non-performance of its obligations or for disturbances or the costs of reinstatement or other costs connected with such termination, which may not in any case give a right to any compensation whatsoever of the Client. Such termination shall be effected by registered letter with a form for acknowledgment of receipt sent to the Client at its address indicated in the purchase order or the contract.

Such termination by the Company shall be without prejudice to the rights already acquired by it. Accordingly, the Company shall be entitled in particular to claim payment in full for the goods delivered and services performed, and for any goods ordered and whose order can no longer be cancelled, for costs and other related expenses as well as for the damage sustained as a result of the premature termination of the contractual relationship with the Client.

The Company shall not be liable for the total or partial non-performance of its obligations, if such non-performance is the result of a case of force majeure or an extraneous cause or any other cause outside the control of the Company or rendering the performance of its obligations impracticable. Where appropriate, the Company shall be entitled to delay its services without the Client's being able to claim any compensation whatsoever.

When an event of force majeure occurs, the Party affected shall inform the other Party thereof within two (2) days of its occurrence. The Parties shall agree together on the approach to be taken and the arrangements for pursuing the contractual relationship having regard to these exceptional circumstances. The Party affected shall also inform the other Party within two (2) days of the cessation of the event.

If the performance of the contract or the contractual relationship, as the case may be, should prove to be definitively impossible, the Company shall have the right to terminate the contract, ipso jure and with immediate effect, by informing the Client by registered letter with a form for acknowledgment of receipt, without incurring any liability on this account and without being liable for damages on this account to the Client, and without prejudice to the Company's obtaining payment of any amounts due for goods delivered and/or services already performed, within eight (8) days of the date of occurrence of the circumstance constituting force majeure or an extraneous cause.





---

## 10. Retention of title

The goods delivered and the equipment installed shall remain the property of the Company until full performance by the Client of its obligations stemming from the order confirmation, the contract and the General Terms and Conditions, as the case may be, and in particular until the payment in full of the price, taxes and ancillary amounts. If the Client were to find itself in possession of the goods and equipment before full payment of the corresponding price, it shall conserve those goods/that equipment in the name and on behalf of of the Company in such a manner that they are easily identifiable as being the property of the Company. The Client shall refrain from any assignment or dispossession of the goods and equipment as long as it has not paid the whole of the price thereof.

## 11. Intellectual property

Any intellectual property right belonging to the Company and/or to a manufacturer of the goods or equipment existing at the time of the performance of the present agreement or created during the performance of the present agreement, is and shall remain the sole and exclusive property of the Company and/or the manufacturer or the licensor of the corresponding licenses, as the case may be.

Any software is provided under a license agreement of the Company and/or the manufacturer or the licensor of the corresponding license, as the case may be. The Client undertakes, where appropriate, to sign as soon as possible and to return any license agreement to the Company and/or the manufacturer or the licensor for any software, in accordance with the terms of the software licensing agreement.

No clause of the present General Terms and Conditions or of other contractual documents concluded with the Client may be regarded as implying a transfer or assignment of an intellectual property right of the Company and/or a manufacturer or of the licensor, as the case may be, to the Client. Consequently, no title or prerogative of ownership of any goods, any equipment or connected material (including, but not limited to, reports, diagrams, data sheets, books, machines, models, improvement made to it) used, developed or made available by the Company during the provision of services, is transferred to the Client.

The Company grants the Client a personal, non-transferable and non-exclusive right to use the intellectual property rights of the Company solely for the specific purposes provided for in the context of the contractual relationship.

## 12. Confidentiality

One Party may have access to the confidential information of the other Party. Any contractual document (offer, order confirmation, contract, ...) or information presented as such by one of the Parties to the other ("Confidential Information") shall be treated as confidential. Each Party shall take all reasonable measures to respect the strict confidentiality of the Confidential Information, and shall not disclose it to any third party without the prior written consent of the other Party.



Each Party agrees that all Confidential Information received from the other Party shall be disclosed only to employees or subcontractors for whom knowledge of such Confidential Information is necessary for the purposes of the performance of their contractual obligations by the Parties. Those persons shall be informed of the confidential nature of the information and their obligation to treat it as such.

Confidential Information does not include (i) information regularly in the possession of the receiving Party or known to that Party before receiving such information from the disclosing Party, which had been transmitted to the receiving Party without any obligation of confidentiality; (ii) information which was regularly disclosed to the receiving Party by another person; (iii) information which is in the public domain or enters it without inappropriate action or inaction on the part of the receiving Party; and (iv) information which is independently developed by the receiving Party.

Certain information that the Company collects about the Client for legal reasons may be communicated to third parties where the Company is obliged by law or has a legitimate interest to do so, particularly for reasons of public security, prevention, research, detection and prosecution of criminal offences. Indeed, the obligation of confidentiality arising out of this article shall not preclude the Company from disclosing information if that information is required or permitted under the applicable legal or professional rules, particularly in the context of disciplinary, civil, commercial or criminal proceedings or in the context of legislation on combating money laundering and against the financing of terrorism.

### 13. Data protection - status of “Professional of the Financial Sector”

The Client accepts that the various services offered by the Company and, more generally, the contractual relationship between the Company and the Client entail the processing of personal data provided by the Client. The data will be stored and processed by the Company only for the purpose of performing its contractual commitments vis-à-vis the Client and complying with its legal obligations, in particular in its capacity as a “Professional of the Financial Sector” (“PFS”), more specifically as an operator of secondary computer systems and communication networks of the financial sector in accordance with Article 29-4 of the Law of 5 April 1993 on the financial sector, as amended.

The Company will always be engaged in a contractual relationship with the Client only subject to obtaining appropriately the information requested. Depending on the information obtained from the Client, the Company shall always have the right not to act upon a contractual relationship or to terminate it without fault on its part and without the Client being able to claim damages. The Company may, in addition, denounce any irregularities to the competent authorities in accordance with its legal obligations.

### 14. Processing of personal data – pursuant to the General Data Protection Regulation (GDPR)

The Company undertakes to process the data provided by the Client in accordance with the applicable legal and regulatory provisions and in particular with Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter “the GDPR”).



The Company shall process personal data of the Client, such as contact data, identification data and financial data, in the context of the performance of the contract. Such data shall be collected for the following purposes: (i) to enable the performance of contracts for the provision of services and/or the supply of hardware; (ii) to manage the relationship with the Client; (iii) to monitor the services provided; (iv) to allow invoicing; (v) to develop the commercial relationship (marketing); (vi) to guarantee the recovery of unpaid invoices; (vii) to manage any litigation. The data shall be kept for the period of time necessary to fulfil the aforementioned purposes or the time required to enable the Company to satisfy its legal obligations.

The Company shall take all necessary and reasonable measures of a technical and organisational nature to ensure a high level of security with regard to the processed data and to ensure the protection of those data against accidental or unlawful destruction, accidental loss, alteration, dissemination or unauthorised access and any other form of unlawful processing.

Access to personal data shall be strictly limited to employees of the Company authorised to process them on account of their duties and subject to a strict obligation of confidentiality.

The data collected may be communicated to subcontractors of the Company when this proves necessary for the performance of the services desired by the Client. The Company shall ensure that, in the context of the performance of their services, its subcontractors use the personal data of the Client in accordance with the applicable legislation on the protection of personal data. In addition, the Company may be required to communicate personal data of the Client by virtue of a legal obligation or for the purpose of dispute resolution.

The Client shall have right to information, access, rectification and erasure of personal data concerning it in accordance with the terms of the GDPR. It may also, for legitimate reasons, oppose the processing carried out or request its limitation. The Client may exercise its rights at any time by submitting a written request to the Company/the Company's Data Protection Officer by electronic means (dpo@cel.lu) or by post (CEL S.A./DPO, 56-62, rue de Hollerich, L-1740 LUXEMBOURG).

By engaging with the Company, the Client acknowledges and accepts the collection and processing of its personnel data as set out above.

## 15. Jurisdiction clause – Applicable law

An amicable solution shall be sought to any dispute concerning the validity, interpretation or execution of these General Terms and Conditions and the other contractual documents concluded between the Client and the Company.

If a conflict persists, the courts of the city of Luxembourg shall have exclusive jurisdiction to resolve any dispute arising out of the contractual relations established between the Company and the Client as well as all the contractual documents concluded between the Company and the Client, including the present General Terms and Conditions.

Luxembourg law shall be applicable to the contractual relations between the Company and the Client as well as to all the contractual documents concluded between the Company and the Client, including the present General Terms and Conditions.



## 16. Other matters

The Company reserves the right to amend at any time and without notice the provisions of its General Terms and Conditions.

In the event that any of the stipulations of the present General Terms or Conditions or other contractual documents should become, in whole or in part, void, inapplicable or unlawful, this shall have no effect on the validity of the other stipulations of these General Terms and Conditions or of the other contractual documents.

No point of the present General Terms and Conditions or of the other contractual documents may be regarded as creating a joint venture, partnership or other commercial association outside the terms of the contractual documents. Company personnel who provide services to the Client shall not be considered, for any purpose, as being an employee of the Client. Each Party shall remain an independent contractor. No Party shall be empowered or able to oblige the other in any manner whatsoever.

The Company shall be entitled to subcontract all or part of its services to a third party. It may also assign, sublicense, transfer or alienate in any other manner any of its rights or obligations whatsoever arising out of the contractual relationship to a third party without the consent of the other Party.

During the performance of the contractual relationship and for a period of six (6) months following its completion the Client shall not solicit, directly or indirectly, any member of the personnel of the Company with a view to recruiting or hiring him (as an employee, consultant or in any other capacity) without the prior written consent of the Company.

The Client may not assign, sublicense or otherwise transfer in any other manner any of rights whatsoever arising out of the contractual relationship without the prior written consent of the Company, which, however, will not be refused or delayed without reasonable cause.

***In case of discrepancies between the English and the French text, the French version will prevail.***