

# CONDITIONS OF SALE



## **1. CONTRACT**

1.1 These terms will apply to all Sale Contracts between the Company and the Buyer.

1.2 The Sale Contract shall be formed on the acceptance of the Buyer's order by the issue of a Confirm of Order by the Company.

1.3 No variation, waiver or addition to these terms shall be valid unless previously agreed in writing by the Company.

1.4 An Export Sale is a Sale where the goods are to be exported from Italy whether on a CIF, FOB or any other terms.

## **2. QUOTATIONS**

2.1 Our offers are made subject to confirmation. A contract is only formed when we give written order confirmation or when orders are filled by us. All tenders or quotations by the Company are valid for seven days only from the date thereof but the Company reserves the right to withdraw the tender or quotation within the said seven days.

2.2 No quotation or tender by the Company nor the publication by the Company of any other document shall place the company under any duty or liability to the Buyer and whilst all care will be taken in the production of such tender, quotation and/or other document as aforesaid the accuracy thereof is not guaranteed and the same shall not form part of the Sale Contract between the Company and the Buyer, nor be deemed to be a representation inducing the Buyer to enter into or finalise the Sale Contract.

## **3. PRICE**

3.1 The contract price in the Sale Contract is based on information available to the Company at the date hereof. If between that date and the date on which the goods are delivered to the Buyer there shall be any increase in the cost of materials, labour or other costs relating (directly or indirectly) to the cost of the goods, the Company shall have the right to increase the contract price in this Sale Contract to take account of the said increased costs.

3.2 The contract price shall be paid to the Company within the days established in the Terms Of Delivery as agreed by the Buyer and the Company; in default of due payment the amount outstanding from time to time shall bear interest at the rate of 2% above the current Banca D'Italia Base Rate per month.

3.3 The contract price and all taxes (including VAT) duties and charges (none of which are included in the contract price) shall be paid in full on the due date without any deduction, set-off, or counter-claim whatsoever. Transportation shall be an additional cost payable by the Buyer.

3.4 All bank charges etc. are for the account of the Buyer.

## **4. TOLERANCES**

4.1 Unless the Buyer specified in writing in his order any particular tolerances concerning dimensions, lengths or weight and supplied all necessary and sufficient detail in such specification the goods will be supplied in accordance with a Quality Description or normally commercially acceptable standards and will be of ordinary commercial quality. The Company is to be sole judge of the adequacy or otherwise of the details supplied by the Buyer.

4.2 If there are no quality stipulations in the Buyer's order the order shall be deemed to relate to and to require no more than ordinary commercial quality or the standard of quality which is customary for the type of goods ordered.

4.3 The Company shall not be obliged to produce test and performance certificates or safety critical certificates unless requested by the Buyer and accepted by the Company in writing.

## **5. DELIVERY**

5.1 The delivery dates stated in the Quotation/Sale Contract are only approximate and not conditions of the Sale Contract.

5.2 In case of despatch the Company has the absolute right to select the method and route of carriage of the goods.

5.3 If the Buyer fails to accept delivery of the goods (or in the case of an export Sale to accept the shipping documents) then the goods shall be stored by the Company at the cost and expense of the Buyer. After a period of fourteen days has elapsed after the failure by the Buyer to accept delivery of the goods (or accept the documents) the Company shall have the power (but no duty) to sell the goods for the account of the Buyer and apply the proceeds of sale in diminution of any amount due to the Company from the Buyer hereunder, or any other amounts whatsoever due to the Company from the Buyer.

5.4 In the event of shortages or damage in transit claims must be sent in writing to the Company within seven days of delivery and to the carrier within three days of delivery or such longer period as the carrier's conditions permit, specifying the shortages or damages in transit. The carrier and the Company must be given an opportunity to inspect the goods before any resale or use in made thereof or any alteration or modification is made thereto by the Buyer.



5.5 In the event of non-delivery, claims must be sent in writing to the carrier and to the Company within ten days of the date of the Company's advice note or invoice or other notification of despatch, or such shorter time limit as may be specified in any conditions of the carrier.

## **6. RISK AND PROPERTY**

6.1 The risk in the goods shall pass to the Buyer on the date of the Sale Contract. Unless agreed to otherwise, the goods shall be shipped at Purchaser's risk.

6.2 The goods shall remain the sole and absolute property of the Company as legal and equitable owner until such time as the Buyer shall have paid to the Company the price due under the Sale Contract together with the full price of any other goods the subject of any contract between the Company and the Buyer.

6.3 Until such time as the Buyer becomes the owner of the goods he will store them on his premises separately from his own goods or those of any other person and in a manner which makes them readily identifiable as the Company's goods.

6.4 The Customer acknowledges that until such time as the property in the goods passes to the Company he is in possession of the goods as a bailee for the Company.

6.5 The Company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

## **7. WARRANTIES**

7.1 Information about our products is based on a yearly experience and research. We provide this information, which is to the best of our knowledge accurate, orally and in writing but we assume no liability other than as agreed in the terms of the individual contracts and we reserve the right to make technical modifications.

7.3 The buyer hereby acknowledges:

i. that the goods were purchased by it relying totally on its own assessment as to fitness for the purpose required and having regard to the facility for inspection and testing by it whether or not it took advantage of the facility for such inspection and testing offered to it by the company.

ii. that he verifies the suitability of our products and processes for the use or application he intends.

## **8. LIABILITY**

8.1 Any claim by the Buyer against the company pursuant to Clause 7 hereof shall be notified in writing to the Company within 10 days of delivery of the goods.

8.2 If the Buyer presents a claim pursuant to Clause 5.4, 5.5 or 8.1 hereof then the company – and for Clause 5.4 the Carrier, too – shall if it accepts the claim have the absolute discretion to adopt one of the following courses:

i. replacing the goods.

ii. repairing the goods.

iii. paying compensation which in the Company's view is reasonable.

If the company decides to replace the goods then the Buyer shall be responsible for and shall pay the cost of returning the goods to the company prior to such replacement being delivered. For this, we always are to be given the opportunity within reasonable time. The Company shall not be liable in any event for any loss arising out of the exercise or its discretion in accordance with the above.

8.3 Save as stated in Clause 8.2 (and save in respect of death or personal injury resulting from the negligence of the company its servants or agents) the Company shall not be liable for any claim or claims for direct or indirect consequential or incidental injury loss or damage made by the Buyer against the Company whether in contract or in tort (including negligence on the part of the company its servant or agent) arising out of or in connection with any defect in the goods or their fitness or otherwise for any particular purpose or any act omission neglect or default of the Company its servants or agents.

8.4 Without prejudice to the foregoing the Company's liability for any loss or damage shall not in any event exceed the contract price for the goods.

8.5 All processing of or any work done on the Buyer's materials is entirely at the Buyer's risk and the Company accepts no liability for damage to such material howsoever arising and the Buyer shall indemnify the company against all damages penalties costs and expenses to which the company may become liable as a result of the use of such material.

## **9. EXPORT SALES**

9.1 In the cost of an Export Sale notwithstanding anything herein to the contrary, the Company shall perform and discharge its duties by presenting the shipping documents, i.e. the invoice and Bill of Lading or Delivery Order to the



Buyers. Where the Contract of Sale is on CIF or C and F terms, the Bill of Lading shall be freight prepaid and in the case of a CIF contract the certificate of insurance shall be deemed to be a shipping document.

9.2 In the case of an Export Sale the Buyer hereby warrants that if an Import Licence or permit is required for the importation of the goods into the country of destination then such import Licence or permit has been obtained or will be obtained prior to shipment.

## **10. STRIKES**

In the event of any strikes, lockouts, trade disputes, accidents, fire, inclement weather, flood, tempest, war or Act of God or delay in delivery of materials or any cause of contingency whatsoever beyond the reasonable control of the Company affecting the Company's supply of the goods, this Sale Contract may be terminated or suspended by the Company at its sole discretion. Such cancellation or suspension shall not constitute a breach by the Company of its duties hereunder and the Company shall not be liable to the Buyer for any delay and/or damage caused by reason of such cancellation or suspension and in the event of suspension, dates for the delivery of the goods shall be deferred to take account of such suspension. At any time after a suspension under this clause the Company can exercise its right under this Clause to terminate the Sale Contract.

## **11. LIEN**

The Company shall have a lien on all the goods of the Buyer from time to time in the possession of the Company whether pursuant to this Sale Contract or otherwise for all amounts due to the Company hereunder or otherwise. If the Buyer does not discharge the lien within twenty-eight days of it being imposed, by payment of all amounts due, the Company shall have the right to sell the goods, the subject of the lien and to deduct from the net proceeds of sale all amounts due to the Company.

## **12. INSOLVENCY OR OTHER DEFAULT OF BUYER**

If the Buyer fails to make payment for the goods in accordance with the Sale Contract or commits any breach of these conditions of sale or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver administrator, administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the goods shall become payable immediately. The Company may in its absolute discretion and without prejudice to any other rights which it may have:

- i. suspend all future deliveries of Goods to the buyer and/or terminate the contract without liability upon its part, and/or
- ii. exercise any of its rights pursuant in Clause 6 hereof.

## **13. NOTICES**

All notices and other documents to be served by one part on the other shall be deemed duly delivered or served within two days of posting if posted by first class or airmail prepaid post or by facsimile transmission to the address of the other party stated in the Sale Contract.

## **14. DISPUTES**

14.1 The Sale Contract is governed by Italian Law.

14.2 In the event of any difference between the conditions contained herewith and the Buyer's conditions of purchase, the conditions herewith shall prevail.

14.3 In the event of any dispute or difference arising between the parties which cannot be resolved through negotiation, the parties thereto shall attempt to resolve the same in accordance with the Guidelines for Conciliation and Mediation of the Chartered Institute of Arbitrators. If such dispute or difference is not resolved by one of these procedures. within 28 days of the parties entering into it or if either party refused to participate in it, the same shall be referred to a single arbitrator to be agreed upon by the parties, or in default of agreements, to be appointed by the President or a Vice-President for the time being of the Chartered Institute of Arbitrators.

14.4 In this Clause dispute or difference does not include a claim for the price of the goods sold by the Company to the Buyer.