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## **GENERAL CONDITIONS**

Any matter not expressly governed by the Order Confirmation shall be governed and supplemented by the General Conditions of Contract, which form an integral part of the agreement. Should there be a conflict between those provisions, the provisions of the Order Confirmation shall prevail.

## **ONEROUS CLAUSES**

In accordance with arts. 1341 and 1342 of the Civil Code, the customer confirms that he/she has read, understood and accepted the attached general conditions of sale, and that he/she expressly accepts the following clauses: limitations of liability (art. 2.2. para 2; art. 4.1 para 3; art. 4.2; art. 6.1; art. 7.4.2); right of withdrawal from contract (art. 2.2 comma 2); right to suspend performance of contract (art. 4.3); lapse of right to return goods (art. 7.3.2; art. 7.4.1), restrictions on freedom of contract in relation to third parties (art. 8), exclusion of jurisdiction of court (art. 10).

## **GENERAL CONDITIONS OF CONTRACT**

### **DEFINITIONS**

"Seller" or "EXE s.r.l." means EXE S.R.L.

"Products" means all products contained in the Seller's lists

"Customer" means anyone who buys the Seller's Products

"Parties" means the Seller and the Customer

"Conditions" means the General Conditions of Sale forming an integral part of the contracts entered into between the Seller and the Customer.

"Variations" means any variations of the Conditions which may be made in writing and signed by both Parties.

"Offer" means the document sent by the Seller to the Customer, containing the data of the Customer, the description of the Product, the indication of the price, any other services (consultancy) or additional goods and the methods of delivery and payment.

"Order Confirmation" means the document sent and signed by the Seller containing the firm proposal of EXE.

"Annexes" means the document sent by the Seller to the Customer together with the Offer specifying the technical aspects of the Product.

The "Contract" necessarily consists of the Order Confirmation countersigned by the Customer, the Conditions and all the Annexes.

### **1. FORMATION OF CONTRACT**

#### **1.1 Formation of contract**

The Seller shall send the Customer an Offer with the Annexes. The offers of the Seller are purely by way of indication and shall not be treated as binding, particularly as concerns quantities, prices and delivery dates.

Following non-binding negotiations, the Seller shall send the Customer the Order Confirmation, together with the Conditions and the Annexes.

The Customer shall have 5 (five) working days to accept the Order Confirmation; should it not be accepted within that period it shall lapse.

The contract shall be treated as made, and shall take effect, when EXE receives, by fax or in digital form, the Order Confirmation, countersigned by the Customer, together with the General Conditions.

The contract shall be treated as made, for all legal purposes, at the registered office of EXE.

#### **1.2 Changes to contract**

If, after the contract has been entered into, the Customer requests changes concerning the quantity, quality or technical data of the product, the changes shall be the subject of fresh negotiations. If it is not possible to reach agreement, the parties shall remain bound by the original contract.

Any changes to the orders by request of the customer are not valid unless they have been notified to EXE Srl in writing and subsequently accepted and signed by EXE Srl.

### **2. CONDITIONS OF PAYMENT OF PRICE**

#### **2.1 Prices**

The prices of the Products are stated in the Order Confirmation and are to be understood as net of VAT; unless otherwise stated they include the cost of standard packaging as set out in the price list.

#### **2.2 Payment on account**

Unless otherwise agreed in writing, the payment on account must be made within 5 (five) days from the receipt by EXE of the Order Confirmation countersigned by the Customer. Exe will issue an invoice for the payment received.

EXE has the right to terminate the contract, without the need to make a formal payment demand in respect of the payment on account, if the Customer delays making that payment for more than 10 (ten) days from the date of receipt of the Order Confirmation countersigned by the Customer.

#### **2.3 Balance of price**

The balance of the price must be paid within 5 days from the written notification by EXE that the goods are ready for collection. The goods will only be released upon payment of the balance of the price.

If the balance is not paid in full within 10 working days from the written notification that the goods are ready for collection



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and at least 1 (one) day before the date of collection of the material by the Customer, EXE reserves the right to terminate the contract and to retain the amount received by way of payment on account as a penalty for non-payment of the balance. If the Customer decides to withdraw before paying the balance of the price, EXE Srl may retain the payment on account as a penalty.

#### 2.4 Delay in payment

Payments must be made in accordance with the due dates agreed in the Order Confirmation.

In the event of delay in payment, the Customer shall be liable for non-payment interest under regulation no. 231 of 9 October 2002, without prejudice to EXE's right to terminate the contract.

Any complaints about the Products do not in any circumstances give the Customer the right to withhold or delay payment.

In the case of payment by instalments, failure to pay any one instalment entails loss of the benefit of the agreed period for payment.

#### 2.5 Reservation of title

The Customer expressly acknowledges that EXE retains ownership of its products until payment in full of the purchase price, of any non-payment interest and any other amounts due, including amounts due by way of reimbursement of the costs of payment in, carriage and consequential costs. Notwithstanding the reservation of title, the risk in the goods shall pass to the buyer in accordance with the rules set out below.

#### 2.6 Place of payment

The place of payment for all amounts owed by the Customer is the registered office of EXE. In any case, the issue of bank receipts does not imply a change in the place of payment of the amounts due.

### 3. CARRIAGE

#### 3.1 Incoterms

Unless otherwise provided by the Contract, the products are sold on "Free Carrier" terms (Incoterms: FCA), that is to say inclusive of delivery, solely at the EXE warehouse specified in the Order Confirmation: the Seller has discharged the duty of delivery and is free of risk once the goods have been made available to the Purchaser or his or her collection agent or carrier at that warehouse. Any reference to Incoterms means those of the International Chamber of Commerce in the text in force at the time the Contract is entered into.

#### 3.2 Arrangements for unloading of goods

Unless otherwise provided by the Contract, the cost of use of hydraulic cranes, loading platforms or any other auxiliary equipment suitable for unloading the material shall be borne by the Customer.

### 4. PERIODS FOR DELIVERY

#### 4.1 Delivery dates

Any period allowed for delivery shall be calculated as from the date of payment of the agreed payment on account.

Unless otherwise agreed in writing, any period for delivery specified in the Order Confirmation is by way of indication and not binding on the Seller; the Seller has a margin of tolerance of 45 days from the date specified in the Order Confirmation to effect delivery.

The Customer cannot claim a penalty under the contract, non-payment interest or damages until after the 45 days, and even then only if it is established that there has been serious negligence on the part of EXE.

EXE has the right to deliver the product or part of the product ordered to the Customer before the agreed delivery date, and has the right not to deliver it if the price has not been paid in full.

The products must be collected by the Customer from the Seller within 5 days from payment of the balance of the price. If there is delay in collecting the goods for reasons not attributable to EXE, EXE has the right to invoice the Customer for all costs of storage, conservation, maintenance, insurance and costs in any way caused by the delay.

#### 4.2 Force Majeure

Any liability for failure to deliver or partial delivery arising from force majeure or other unforeseeable events not attributable to the Seller, including but not limited to strikes, lockouts, orders of public authorities, supervening prohibitions of export or import, epidemics, wars, fires etc., having regard to the duration and scope of those events, exempts the Seller from the duty to comply with any agreed delivery date.

#### 4.3 Refusal to deliver for fear of insolvency

If EXE has reason to apprehend that the Customer is not in a position to pay or does not intend to pay for the Products at the agreed date, it may make the delivery of the Products conditional on the provision of adequate security for payment (for example a bank guarantee). In addition, in the event of delay in payment, the Seller may unilaterally modify the terms for any future supplies and/or suspend performance until adequate security for payment is obtained.

### 5. PLACE OF DELIVERY

#### 5.1 EXE warehouse

The place of delivery of the Product is the EXE warehouse specified in the Order Confirmation, and delivery is effected as soon as the Products are made available to the Customer, the transporter or the carrier engaged by the Customer, including in cases where the price includes carriage to the premises of the Customer.

If for any reason collection does not occur because of a circumstance outside the control of EXE, delivery shall be deemed to have taken place for all purposes from the time when the Customer was informed that the goods were available for collection at the EXE warehouse specified in the Order Confirmation.

#### 5.2 Passing of risk

After delivery, without prejudice to the reservation of title in favour of EXE as provided above, all risks in the Products pass to the Customer.



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## **6. TECHNICAL CHARACTERISTICS OF THE PRODUCTS**

### **6.1 Non-binding characteristics**

Any information concerning the Products and their use, such as those relating to weights, dimensions, capacity, price, colours, trade marks and other data, contained in the Seller's catalogues, prospectuses, circulars, illustrations or price lists, shall be binding on the parties only if expressly referred to in the Contract.

### **6.2 Modifications to the Products**

EXE Srl reserves the right to make modifications to the Products at any time, provided that those modifications do not affect the performance of the Products and are consistent, as concerns quantity, quality and type, with the provisions of the Contract.

Any technical modification proposed by the Customer to the description of the goods as provided by the Contract must be approved by EXE in writing, showing any change that that modification may entail to the prices and delivery date previously notified.

Together with the Products the Seller must supply the Customer with the technical manuals for the Products.

## **7. REPORTING OF DEFECTS AND ACCEPTANCE OF PRODUCTS**

### **7.1 Guarantee**

EXE guarantees the Products in accordance with the guarantee certificates in the version in force at the time of the order and displayed on the EXE website.

### **7.2 Limitation of guarantees**

No guarantee is given if, on the checking and assessment of the Product to which the complaint relates, it appears that there have been unauthorised tampering or modifications or defects caused by mistaken handling by the Customer or untrained staff, or if the Customer did not follow the installation and use instructions provided or the defects are due to improper and inadequate use or faulty storage by the Customer.

### **7.3 Apparent defects**

#### **7.3.1 Duty to examine the Product**

Upon delivery of the Products, the purchaser must immediately check the quantity and packaging of the Products and record any problem on the delivery note; check that the Products are in accordance with what is specified in the Contract. Any Product for which no complaint has been raised in accordance with the procedures and within the periods set out below shall be deemed to have been approved and accepted by the Purchaser.

#### **7.3.2 Duty to report defects and lapse**

The Customer must record any discrepancy on the delivery note and notify it to EXE within 8 (eight) working days from the collection of the Products by the Purchaser. The detailed report must be forwarded to the Seller in writing within the periods specified above and must clearly specify the Product identified with its serial number, the type of defects and photographs of the defects. Should these time limits not be complied with the claim lapses.

#### **7.3.3 Checking for defects and return of Product**

The Purchaser agrees to make available to the Seller, through its employees or otherwise, the disputed Products so that they may be inspected if necessary.

Any return of products must be approved by EXE in writing before dispatch. If there is no approval in writing, the return will be declined at the expense of the Customer.

### **7.4 Latent defects**

#### **7.4.1 Report of latent defects and lapse**

Should the Product delivered develop defects or malfunctions over time, the Customer must send EXE a written notice within 8 (eight) days of discovering the defect or malfunction, by registered letter, certified inbox, email or fax, specifying the Product identified by its serial number, the type of defects and photographs of the defects. Should these time limits not be complied with the claim lapses.

The Purchaser agreed to make the disputed Products available for inspection; this inspection shall be carried out by the Seller through its employees or otherwise.

#### **7.4.2 Liability for defects – limitation**

EXE may, in its absolute discretion, depending on the type of defect established: a) replace the defective product with a similar product at no cost to the Customer, or b) repair the defective product without charging additional costs to the Customer, or c) allow a discount on the sums paid by the Customer, or d) reimburse the Customer for the price paid for the defective products and accordingly terminate the contract and withdraw the Product.

Should the complaint be unsubstantiated, the Customer must reimburse EXE for all costs incurred in the checking (assessments, expert reports, checking costs, inspections etc.) of the allegedly defective products.

## **8. INTELLECTUAL PROPERTY**

The Customer expressly acknowledges that the trade marks, trade names or other distinguishing signs placed on the goods are the sole property of EXE Srl and may not in any circumstances be altered, modified, removed or deleted.

The Customer has a limited right of use of the trade marks, trade names and other distinguishing signs, which remain in the exclusive ownership of EXE, for the sole purpose of reselling the goods to the public. Any other use of the intellectual property of EXE by the Customer, if not expressly allowed by EXE in writing, shall be treated as an infringement by the Customer of the aforesaid exclusive rights of EXE, including from the point of view of liability in contract, and the appropriate legal action will be taken.

Any documents, designs, data and information (whether in hard copy or on an electronic device) which may be supplied to the Customer are provided to support a better representation of the Products and are there to indicate the functions of the



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Product. The Customer undertakes not to reproduce them or disclose them to third parties, and in addition to adopt the appropriate precautions in relation to its own staff to ensure the protection of such information.

**9. DATA PROTECTION**

In its capacity as controller of personal data under EU Regulation no. 2016/679 "General Regulation on the Protection of Data" and Legislative Decree no. 101/2018, EXE Srl by this document informs the user of the following provisions concerning the protection of persons and companies in the context of the processing of personal data. The processing, preparation and use of personal data is subject to the principles of propriety, legality, transparency and protection of confidentiality and the rights of data subjects. Personal data may be gathered, processed and used only in accordance with the provisions of the GDPR and the duties of confidentiality contained therein.

**10. GOVERNING LAW AND JURISDICTION**

This Contract is governed by Italian law.

Any dispute arising between the parties concerning the interpretation, validity or performance of these General Conditions of Sale and of any connected contracts that may have been entered into shall be referred to the exclusive jurisdiction of the Court of Verona (VR), irrespective of the nationality of the other party.

**11. ASSIGNMENT OF CONTRACT**

The right to assign the contract or any rights arising under it to third parties is reserved exclusively for EXE.

**12. PARTIAL VALIDITY OF CONTRACT**

If any one or more clauses of these conditions of sale should be held to be invalid, all the remaining conditions of sale shall remain valid.

**ANNEXES**

Any annexes are an integral and essential part of the contract.