

TERMS AND CONDITIONS OF SALE

1. The following terms and conditions govern the sale of Seller's goods. Seller's commitment to sell such goods shall become effective only upon dispatch of Seller's written order confirmation or invoice, whichever occurs first. Moreover, acceptance of Seller's full or partial deliveries, as the case may be, or payment by Buyer, shall constitute acceptance of Seller's sale conditions. In case of other contractual agreements and supply contracts formalized between both parties in written form, these agreements overcome and complete present sales conditions.
No modification of these terms and conditions shall be of any force unless such modification is reduced to writing and signed by both claimed parties.
2. The agreement covering the sale of the goods may not be assigned or transferred by Buyer, in whole or in part, except with the written authorization of Seller.
3. Goods which have to be shipped within thirty (30) days from the date of Seller's order confirmation shall be invoiced at the price quoted by Seller. The price of any such goods which have to be shipped after than thirty (30) days from the date of the order acknowledgement may be increased by Seller by written notice to Buyer issued at least ten (10) days prior to the effective date of the increase. Such increase shall be applicable to goods shipped after its effective date unless, prior to the said date, Buyer shall cancel its order related to the undelivered goods' balance to which increased price applies. It is understood that Seller shall not exercise the right detailed above where shipment is delayed through its fault.
4. Seller's terms of payment are those specially quoted to Buyer. Non-compliance with Seller's terms of payment shall constitute default without reminder. Invoices not paid when due are subject to a late payment service charge at a rate of 3% over the respective "Euribor" month rate and increased as necessary to reflect the Seller's past-due receivables servicing costs. In the event Buyer fails to fulfil the terms of payment, or in case Seller shall have indications that Buyer's financial responsibility is inadequate, Seller may at its sole discretion either demand payment of all outstanding balances whether due or not and /or cancel all outstanding orders, and decline to make further deliveries except upon receipt of cash or satisfactory security. Seller expressly reserves the right to rescind the agreement covering the sale of the goods in case of Buyer's default with respect to the payment of the price.
In the event Buyer is overdue on payments to Seller, Buyer shall grant access to Seller's representatives to his business premises to enable them to determine quantities of goods remaining in storage, and organize the removal of such goods.
5. Transfer of goods property shall take place in accordance with ICC Incoterms mentioned in the supply contract. Starting from delivery, Buyer shall be responsible and answerable for any and all losses or damages to the goods, or which are caused by the goods.
6. Delivery conditions as formalized in the offer.
7. Risk of loss shall pass in accordance with the ICC Incoterms quoted by Seller.
8. Seller's weight taken at shipping points shall govern unless proven in error.
9. Should Buyer fail to take the goods in accordance with the terms of delivery originally specified by Seller, Seller may at its option postpone the delivery or cancel the sale of the said goods without tender or prior notice to Buyer. Such postponement or cancellation shall not affect any remaining portion of the order.
10. Goods not paid in full may not be pledged or assigned.
11. Seller assures that the goods sold hereunder shall meet its specifications. The warranty stated above is given in respect of goods of first-grade quality only and shall not apply either to any waste or to goods sold as sub-standard by Seller. Buyer assumes all risk and liability for results obtained by the use of the goods whether used singly or in combination with other products.
12. Where goods have been processed in any manner by anyone after they have been sold, any warranty given by Seller shall be limited to the goods in the condition in which they were sold.
13. Seller warrants that the sale of his goods does not infringe any patent in the country of origin. No further patent warranty is made.
14. No claim of any kind, for delivered goods or for non-delivery of the goods, shall be greater in amount than the purchase price of the goods in respect of which such damages are claimed. Seller accepts no liability for any indirect or consequential loss, or loss of profit. Failure to give notice of claim within sixty (60) days from the date of delivery of goods which are obviously defective, or from the date fixed for delivery in case of non-delivery of goods, as the case may be, shall constitute a waive by Buyer of all claims in respect of the said goods. Hidden defects shall be reported to Seller upon discovery thereof. If Buyer's claim is allowed, Seller shall have the option of repairing or replacing the defective goods or of granting Buyer an appropriate price reduction. Goods subject to claim shall not be returned to Seller or otherwise disposed of without Seller's permission.
15. No liability shall result from delay in performance or non-performance caused by circumstances beyond the reasonable control of the party affected as such as, but not limited to, fire, explosion, accident, flood, labour trouble or shortage, war or mobilization, governmental action, inability to obtain suitable materials, equipment, fuel, power or transportations. Quantities so affected by any such circumstances may be cancelled without liability, but the rights and duties of each party shall otherwise remain unaffected.
16. If, for any reason, Seller is unable to supply the total demand of ordered goods, Seller may allocate its supply of available goods among any or all purchasers or users (including Seller and its affiliates) or make partial shipments on such basis as it may deem fair and practical without liability for any failure of performance which may result therefrom.
17. Returnable product carriers or containers, delivered but not sold hereunder, are property of Seller and Buyer agrees to return them undamaged, freight collect, to the destination designated by Seller within the period specified by Seller.
18. It is expressly understood that any technical information furnished by Seller with reference to the use of its products is given free of charge and Seller assumes no obligation or liability for any information given or results obtained (all such information being given and accepted at Buyer's risk).
19. These terms and conditions shall be subject to and construed in accordance with Italian's law. Court of Bergamo, or at plaintiff's option, the courts of the defendant's place of business, shall have jurisdiction over any controversy which may arise hereunder, unless the parties agree otherwise in writing.