

TERMS AND CONDITIONS OF SALE

These Standard Conditions of Sale shall govern the sale of products (“Products”) by M.T. srl, an Italian company located in Gessate (MI) Italy – via Monza 83 (hereinafter referred to as “Seller”).

These Standard Conditions take precedence over any Customer’s additional or different terms and conditions to which notice of objection is hereby given. Acceptance by Customer is limited to these terms and conditions. Neither Seller’s commencement of performance nor delivery shall be deemed or constituted as acceptance of Customer’s additional or different terms and conditions.

1. Purchase orders and acceptance

1.1 The seller’s quotations shall automatically expire if not followed by a purchase order from the Customer within 30 (thirty) days from the quotation date.

1.2 All orders placed with Seller must be in a signed writing and must include all the essential details for the sale contract as indicated in the quotation (i.e. type and quantity of Products and services ordered, price, payment terms) as well as an express reference to the quotation.

1.3 Orders will be binding upon Seller when accepted in writing by Seller. A sale contract is deemed to be made when Seller accepts a Customer’s order in writing.

1.4 Accepted purchase orders may not be cancelled by Customer. In the event of cancellation of an accepted order, Customer shall indemnify Seller from and against any and all damages and losses suffered.

1.5 The terms of this quotation are confidential. Any technical information included herein are disclosed in confidence and are proprietary to Seller (or Seller’s affiliates, as the case may be). They may not be copied, reproduced, revealed or appropriated by others in whole or in part, without the Seller’s express prior written consent.

2. Products

2.1 All information regarding the Products contained in the Seller’s catalogues, lists, leaflets, web sites, or any other similar documents are not binding upon the Seller, unless an express reference to them is included in the quotation or in the Seller’s order confirmation.

2.2 The Products shall be designed and manufactured in accordance with the ISO-9001 quality control standards.

2.3 The Customer must provide the Seller with all the information and materials reasonably requested by the Seller in order to develop and provide the Products.

3. Changes

Any changes as to any item covered under an accepted purchase order, resulting in a difference in price and/or time for implementing any changes, may be implemented only with both Seller's and Customer's prior written approval.

4. Scope of the supply

4.1 Unless it is otherwise stated in the Seller's quotation or in the Seller's order confirmation, the following items will be considered included in the Seller's scope of supply:

- Assembling and testing the Products at the Seller's premises before shipment; provided that if Customer requests specific items or materials be used for testing, those must be provided by Customer, together with any containers needed for disposal of the same;
- Preparing the Products for shipment at the Seller's premises;

4.2 Unless it is otherwise stated in the Seller's quotation or in the Seller's order confirmation, the following items will be deemed as not included in the Seller's scope of supply:

- Product packaging, freight, positioning;
- Assembling, erection, commissioning, installation of the Product at the Customer's site;
- Training to Customer's personnel;
- Connections (for power supply and any other related activities), waste disposal;
- Any waste treatment and air cleaning; being it understood that Customer shall be solely responsible for complying with environmental laws in the place where the Product is to be used, and shall fully indemnify and hold Seller harmless from any damages or losses arising from lack of compliance therewith;
- Anything else not mentioned in this quotation in the Seller's quotations.

5. Prices

5.1 The prices of the Products are those specified in the Seller's quotations or, if no price is so specified, those in the Seller's Price List current at the time of Seller's acceptance of an order. Seller's Price List is subject to change without notice.

5.2 Unless otherwise agreed to in writing by Seller, all prices quoted are exclusive of transportation and insurance costs, and all taxes including federal, state and local use, sales, property (ad valorem) and similar taxes. Customer agrees to indemnify and hold harmless Seller for any tax liability in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on Seller's invoice.

6. Payments

6.1 Unless otherwise specified in the Seller's order confirmation, payment of the purchase price for Products shall be due 30 (thirty) days from the date of the invoice.

6.2 Failure to make timely payments shall entitle Seller to one or more of the following: (i) suspend any further deliveries; (ii) charge Customer with collection costs including but not limited to reasonable attorney's fees; (iii) terminate the sale contract if delay in payment exceeds 15 (fifteen) days from the due date; and (iv) claim damages.

6.3. The above is without prejudice to any and all remedies available to Seller, by contract, law or equity.

7. Drawings

7.1 General arrangement drawings shall be prepared by Seller and submitted to the Customer's written approval. Such approval should be provided within 5 (five) days from receipt. Failure by Customer to respond within this period could result in job delays to the current shipping schedule.

7.2 General arrangement drawings shall form the basis for the Seller or manufacturer to manufacture the Product and for the Customer to prepare the site where the Product is to be erected and used.

7.3 Any and all drawings, specifications and technical information supplied by Seller, pertaining to this quotation are confidential and may not be reproduced, used or provided to third parties unless strictly for the purposes of the sale agreement.

8. Product Acceptance Tests

8.1 Products are subject to ordinary inspections by Seller's or manufacturer's personnel and to the Seller's standard tests at the Seller's or manufacturer's facilities before shipment.

8.2 Seller shall inform Customer in writing as soon as the Products are ready for being tested at the Seller's or manufacturer's facilities. If the Customer does not appear to attend the tests within 5 (five) days as of receipt of the above notice, the tests will proceed in the Customer's absence and shall be deemed to have been made in its presence. The Products shall be deemed as accepted and may be shipped.

8.3 Unless special testing procedures are agreed upon, tests will be carried out in accordance with the Seller's or manufacturer's standard practices.

8.4 A test report will be drawn up and signed by both Seller and Customer. By signing the test report without reservations, Customer shall be deemed to have accepted the Products as being fully compliant with the contract specifications and Products may be shipped. If test results are negative, the parties will agree upon the corrective actions to be taken and a new test will be carried out thereafter. A new test report shall be drawn up and, if signed without reservations, Products will be deemed accepted as fully compliant with the contract specifications and may be shipped.

8.5 If Seller and Customer agree on acceptance tests to be conducted at the Customer's premises, Customer and Seller shall agree upon an appropriate date in which the test is to be carried out and the allocation of the costs connected therewith. A test report shall be drawn up and signed by both parties. A test report signed without reservations shall mean that the Products are accepted by Customer as fully compliant with the contract specifications.

8.6 Seller's Product warranty period will start running either (i) on the shipment date; or (ii) if Products are tested at the Customer's premises, on the date the test report is signed without reservations.

9. Shipment

9.1 Delivery dates quoted are estimates based on workloads at the time this quotation was generated and every effort will be made to hold quoted delivery dates. However, in no event does Seller accept any type of penalty clause, or related expenses, for late delivery. Delivery terms start from the Seller's order confirmation date, except where agreed upon otherwise.

9.2 All shipments will be made Ex Works (ICC Incoterms 2010) at the manufacturer's facility. Delivery will be deemed complete and risk of loss or damage to the Products will pass to Customer upon delivery to the carrier. Seller shall not be required to procure insurance to cover the Products in shipment. Any shipping arrangements made by Seller with carriers or forwarding agents at the Customer's request shall be made solely on the Customer's behalf and at the Customer's sole cost and risk.

9.3 Seller shall provide ordinary packaging as per Seller's standard practices. Any special packing may be provided on the Customer's express request and shall be subject to separate charge.

10. Commissioning of Products at Customer's site

10.1 Commissioning of the Products at Customer's site shall be at the Customer's care and costs, unless it is otherwise indicated in this quotation or agreed upon in the sale contract.

11. Training

11.1 Training of Customer's personnel regarding the use and maintenance of the Products shall be provided by Seller only if indicated in this quotation or agreed upon in writing.

11.2 Charges and details of any training courses are to be provided by Seller on a case by case basis.

12. Security Interest

Seller retains a security interest in the Products delivered to Customer, and in their accessories, replacements, accessions, proceeds and products, including accounts receivable (collectively, the Collateral) to secure payment of all amounts due under the sale contract. If Customer fails to pay any amount when due, Seller shall have the right to repossess and remove all or any part of the Collateral from Customer, but not from Customer's customers. Any repossession or removal shall be without prejudice to any other remedy of Seller hereunder, at law or in equity. Customer agrees, from time to time, to take any act and execute and deliver any document (including, without limitation, financing statements) reasonably requested by Seller to transfer, create, perfect, preserve, protect and enforce this security interest.

13. Complaints on faulty delivery

The Customer shall carefully inspect any Products delivered as soon as practicable after receipt thereof. Any complaints relating to packaging, quantity, or faulty parts, must be notified to the Seller in writing, and the defective parts must be returned in their original packing, insurance and carriage prepaid, within fourteen (14) days as from receipt of the Products. The Customer shall specify the claim in a separate note and shall mention the Seller's invoice (by invoice date and number) to which the returned parts pertain. Failure to timely notify the defect and to return the faulty parts, will result in forfeiture of the Customer's rights to claim the above defects.

14. Warranty

14.1 Seller warrants for a period of twelve (12) months as of the date stated in Article 8.6 of these Standard Terms that the Products shall be (i) manufactured in accordance with the agreed upon specifications, and (ii) free from defects in material and workmanship.

14.2 Seller's sole obligation in the event of a breach of such warranty shall be to provide at no charge to Customer repair works or replacement parts for all defective parts, at Seller's sole judgment. All parts to be replaced shall be sent to Seller at the Customer's costs and shall become the Supplier's property upon their replacement. If the part to be replaced is not sent back to Seller, the cost of the replacement part will be charged to Customer. If repair works are to be carried out at the Customer's site, labour costs for such works shall not be charged to the Customer unless no defects are detected or defects are due to reasons under Customer's control (including, but not limited to, improper maintenance of the Product). In any case,

Customer shall refund reasonable travel, lodging and boarding costs of Seller's personnel carrying out the repair works on the Customer's site, regardless of the cause for such works.

14.3 Warranty claims hereunder must be made promptly and in writing; must recite the nature and details of the claim, the date the cause of the claim was first observed and the serial number of the Product concerned; and must be received by Seller within three (3) days from discovery of the defect by Customer and, in any case, no later than the date of expiration of the warranty period as provided for above. Customer may not in any case suspend or delay any payments due to Seller, for whatever reason.

14.4 Seller shall have no obligation hereunder in the event that: (a) replacement of Products shall have been required through normal wear and tear or necessitated by Force Majeure, or by the fault or negligence of Customer or third parties; or (b) the Products have not been properly installed, used, maintained, or repaired in accordance with Seller's instructions, whether by Customer or third parties, or shall have been modified in any manner; (c) the defect is due to any other cause attributable to Customer or third parties, including but not limited to harmful environmental conditions unknown to Seller; electro-chemical or electrical influences, etc.; (d) Customer has not fulfilled its payment obligations timely. Electric and electronic parts are not covered by this warranty, and are subject to the original manufacturer's warranty terms. Seller does not provide any warranties as to the Product cleaning performance, e.g. in terms of qualitative or quantitative results of the chemical treatment provided by the Product.

14.5 THE WARRANTIES SET FORTH HEREIN ARE INTENDED SOLELY FOR THE BENEFIT OF CUSTOMER AND MAY NOT BE MADE BY CUSTOMER'S CUSTOMERS. THE WARRANTIES SET FORTH HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE, OR ANY WARRANTY AGAINST INFRINGEMENT, WHICH ARE ALL HEREBY DISCLAIMED AND EXCLUDED BY SELLER. THE REMEDIES GRANTED TO THE PURCHASED PURSUANT TO THESE STANDARD TERMS OF SALE SHALL BE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE TO CUSTOMER. IN NO EVENT SHALL SELLER'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING BUT NOT LIMITED TO PERSONNEL COSTS, TRAVEL EXPENSES, LOST PROFITS, LOSS OF TURNOVER OR BUSINESS, ETC.).

14.6 Customer shall purchase and keep in stock those original components, spare parts and replacement parts as recommended by Seller. Further, Customer agrees to use the ordinary care in the industry in the inspection, use and maintenance of the Product and to follow any operation manual or specific instructions provided by Seller. In the event Customer fails to exercise the care necessary as set forth above, Customer agrees to indemnify, defend and save Seller harmless from any liability or obligation incurred by Seller to persons injured in connection with the operation of a Product.

14.7 This warranty applies only if Customer uses original manufacturer's spare parts and consumable materials.

15. Force Majeure

15.1 Performance of any obligations may be suspended by Seller without liability to Customer to the extent that a war, fire, earthquake, hurricane prohibition or acts of public government or public agency, riot, hostility, public disturbance, epidemic, flood, storm, other acts of God, strikes, labor disputes, shortages, inability to obtain materials, raw materials, components, electrical power, equipment or transportation, computer viruses or other matter beyond the reasonable control of such party delays or prevents the performance of the sale contract. Seller shall invoke this provision by promptly notifying Customer in writing of the nature and estimated duration of this suspension.

15.2 Should a Force Majeure event prevent or delay delivery of the Products to the Customer or the performance of any other material obligation of the Seller for a period exceeding six (6) consecutive months, then either Seller or Customer will be entitled to cancel the sale contract to the extent not yet executed without Seller being held to any indemnity or liability whatsoever towards the Customer.

16. Trademarks

16.1 The Customer undertakes not to cancel or remove any of the trademarks, logos or names of the Seller placed upon the Products and/or appearing in Seller's documents.

16.2 Nothing contained in these Standard Terms or in the sale contract shall be construed as granting Customer any rights, whether by license or otherwise, upon the Seller's trademarks. Any use of the Seller's trademarks by Customer is therefore excluded, unless with the Seller's prior written consent.

17. Termination of the sale contract

Seller shall be entitled to terminate immediately the sale contract (i) if a change in the Customer's financial conditions occurs, in such a way that, in the Seller's judgment, payments due to Seller are at risk, or (ii) if the Customer files a petition in bankruptcy, or is adjudicated bankrupt, or takes advantage of the insolvency laws of any jurisdiction, or makes an assignment for the benefit of creditors, or is voluntarily or involuntarily dissolved, or has a receiver, trustee or other court officer appointed for its property. In the above cases the Seller shall be entitled to request the entire payment of the sums still due by the Customer in one amount.

18. Intellectual Property Rights

Any and all intellectual property rights connected with the Products, including any parts thereof and any documentation pertaining thereto, are and shall remain the Seller's sole property.

19. Severability

Should any of these Standard Terms be declared void or unenforceable by a court of competent jurisdiction, the remainder of these Standard Terms and the sale contract shall not be affected thereby and shall continue to be fully valid and enforceable.

20. Governing laws

These Standard Terms and any sale contract between Seller and Customers shall be governed by the laws of Italy.

21. Arbitration

Any controversy or claim arising out or relating to these Standard Conditions and/or relating to a contract of sale between Seller and Customer, shall be settled exclusively by arbitration in the Court of Milano-Italy

(The Customer)