

## 1. GENERAL TERMS OF SALE

The Seller's offers and the Buyer's orders of Seller's products (hereinafter referred to as "Products") are subject to the following conditions that supersede any and all previous written and verbal agreements between the Parties and the other conditions set forth or referred to in the negotiations between the Parties.

These Terms of Sale refer to Fandis S.p.A. as "Seller" and to the company that receives an offer or sends an order as "Buyer", and collectively as "Parties".

## 2. ORDERS

The orders shall be sent and confirmed by Buyer in writing (by fax or by e-mail) even if previously anticipated by telephone. The orders are binding by the Seller only upon the latter's written confirmation. Every amendment to the orders shall be made in writing and is subject to the Seller's written acceptance.

## 3. DELIVERY TERMS AND *FORCE MAJEURE*

The delivery dates are indicative only and not binding and shall be suspended for causes of force majeure, such as to be considered – but not limited to - natural disasters such earthquakes, floods, fires, wars (even not declared), general military mobilizations, insurrections, kidnappings, energy restrictions, transportation disorders, strikes (including company strikes), interruptions of the production and defects or delays in the deliveries of the suppliers.

Notwithstanding what above, should a peremptory delivery term be agreed between the Parties and should, in such a case, the delivery be delayed for causes attributable to Seller, the latter shall only be responsible, as liquidated damages, for 0,5% of the price of the delayed Products per each entire week of delay, within the maximum limit of 2% of the price of the delayed Products. No other responsibility shall be borne by the Seller due to delayed delivery.

Delivery dates refer to EXW delivery, i.e. Products ready at the Seller's warehouse at the Buyer's disposal.

## 4. TRANSPORT

The Products are supplied EXW Incoterms ICC 2010, unless otherwise agreed in writing between the Parties: in such cases, on request and on behalf of the Buyer and at the Buyer's risk, the Seller may arrange the transport, the costs of which shall be charged to the Buyer in the Seller's invoice.

At the arrival of the Products to its warehouse, the Buyer shall check the Products and their compliance with the sale agreement and the delivery note. In case of non compliance, the Buyer shall write such "reserve" on the delivery note, informing in detail the Seller thereabout by fax immediately and anyhow not later than 7 (seven) days from delivery.

## 5. PRICES AND PAYMENT TERMS

Prices: The prices of the Products are indicated in the Seller's in force price list and do not include VAT. The applied rate is that of the invoice date.

The Products are supplied by the Seller in standard packaging without extra charges. In case a special packing is requested by the Buyer in writing within the order, the respective cost shall be charged to the Buyer.

Payments: The payments shall be settled according to the terms indicated in writing and accepted and unless otherwise agreed in writing by Seller, payment shall be received by Seller before Products' shipment.

Delay of payment: The delays of payment shall generate as a consequence:

- interests on delayed payments at the rate set forth by law for commercial transactions (presently d.lgs.n. 231/2002 ), as follows;
- legal actions if payments are delayed for more than 30 days;
- suspension of the unfulfilled orders and deliveries, even if confirmed.

Deductions from the total amount invoiced: The invoices shall be paid without deductions that are not justified by a written credit note issued by the Seller. Debit notes will be not accepted by the Buyer and are rejected, different written agreement excepted.

Discount: Any discount shall be authorized by the Seller in writing only or stated in the invoice.

Interests: In case of delayed payments, the interests to which the Seller shall be entitled shall be calculated at the rate set forth by law for commercial transactions (presently d.lgs.n. 231/2002 )\_2000/35/CE).

Sales terms' changes due to payment delay: In case of delay in payment of the price of the Products, even partial, the Seller has the right to terminate the sale agreements immediately, even if different from those whose

payment is delayed. Written placing in default will not be necessary. In such case, further deliveries may be performed upon advanced payment only, even if further deliveries were previously confirmed by Seller's order confirmations, excepted the case of declared bankruptcy or anyhow the case that the Buyer is regarded as insolvent or the case the Buyer's financial position has changed.

Price revision: Should an unexpected price increase higher than 10% occur after the Buyer's order, the Seller shall be entitled to a consequent price revision informing in writing the Buyer thereabout, who shall have the right to cancel his orders, by written communication, within 7 days from the communication thereof.

## **6. TRANSPORT AND RISKS**

The risks related to the transport of the Products become the Buyer's upon delivery at the Seller's premises in the following cases:

- if delivery is "EXW Incoterms ICC 2010"
- in any other case, even if the Seller, required by the Buyer and therefore on the Buyer's behalf and at the Buyer's risk, is charged of the transport organization, the costs of which are invoiced to the Buyer by the Seller.

Upon arrival at the Buyer's warehouse, the Products shall be checked by the Buyer to ascertain if there is correspondence to the sale agreement, delivery note and invoice (i.e. to check quality, packaging, mishandling). In case of non compliance the Buyer shall write a "reserve" on the delivery note, informing in detail the Seller thereabout by fax immediately and anyhow not later than 7 (seven) days from delivery. Without the said written "reserve" and notice to Seller, the Buyer loses any further right to claim. The Buyer's "reserve" shall be also received by the Seller by registered letter within 15 days from delivery.

## **7. WARRANTY**

The Buyer is responsible for the choice of the Product, with specific reference to the working conditions and the specific use of the products both in terms of functionality and durability. The data of the technical specifications of the Seller are approximate only. They can be viewed and downloaded from the company website. More details may be subject to specific negotiation between the parties.

The Buyer is responsible for the installation of the Products, included the correct electric connections, in accordance with applicable security and other norms and regulations.

The Buyer was advised and acknowledges that the supplied Product may be subject to variations or performances degradations with sudden stops caused not by Product defects but by its technical characteristics. If the Product must perform continuous working without variations or interruptions, it is therefore necessary that the Buyer organizes, under its own responsibility an alarm system which immediately informs the user of any anomaly in order to allow an immediate intervention and to avoid damaging consequences. The Seller anyhow declines any and all responsibility for the discontinuities of which above.

Should the Buyer want to install the Product in other appliances in which the Product must be integrated, the Buyer shall inform the final user about the Product's characteristics and its correct use as herein described as well as the warranty's limitations herein set forth. In case of failure to do that, if the Product or the appliance in which It has been integrated stops functioning or gets damaged, warranty shall anyhow be automatically null and void and the Manufacturer/Supplier shall not be held responsible for any of the damages either to the Products themselves or to the appliance, and for any other prejudicial consequences.

In compliance with the Italian law, the Seller guarantees that the Product is faultless concerning the material and workmanship.

Warranty is valid from the delivery date and covers only material and manufacture defects, provided that the Product has been correctly stocked by the Buyer, correctly installed, correctly used in appropriate applications and repaired and not modified. As set forth by art. 4 and 6, upon arrival of the Products at its premises, Buyer shall immediately inspect them and, in case of any defects, give a detailed notice thereof in writing to the Seller within 7 (seven) days from delivery. Products not claimed defective within said term from delivery, shall be deemed to be accepted by Buyer and, for such Products, only hidden defects may be claimed by means of a detailed written notice thereof to be received by Seller within 7 (seven) days from discovery and anyhow not later than one year from delivery.

If the Buyer discovers defects which do not allow the use of the Product or which limit its usage considerable, the Seller shall have the exclusive duty, under warranty, either to replace or repair, totally or partially, the defective Product or to reimburse, totally or partially, the price paid.

A part from what set forth by the present general terms of sale, the Seller makes no representation nor warranties, expressed nor implied, statutory nor otherwise. All implied warranties, including those of merchantability or fitness for use are hereby disclaimed.

In particular the Seller makes no warranty whatsoever that the Products will comply with applicable national, state and local health, safety or other laws. The Buyer shall be solely responsible for compliance therewith and for any damage, penalty or fine arising from non-compliance.

The Seller's liabilities for damages (to people or things as well loss of production, of profits, of use or any other subsequent loss) are expressly excluded. The costs related to the disassembly and re-assembly of the Product are to the Buyer's charge.

Products for which a warranty claim is made shall be kept by the Buyer, at its own expenses, at the Seller's disposal: if so requested by the Seller, Products are to be returned to the Seller's warehouse. The Seller may also, at its own option, instruct the Buyer in writing to destroy the replaced or reimbursed defective Products; anyhow, from the day when replacement or reimbursement is communicated in writing to the Buyer, the defective Products shall become the Seller's property. If satisfactory evidence proves the Products to be defective, all handling, shipment and analysis costs for Products returned shall be borne by Seller, otherwise such costs shall be for the Buyer's account or recharged to him.

In any case the Seller's maximum liability shall not exceed the contract price for the Products proved to be defective.

#### **8. RETENTION OF TITLE**

a) Until such time as full payment has been received by the Seller for all Products supplied, all Products shall remain the property of the Seller and the Buyer undertakes to fulfill all the obligations set forth in its country to make enforceable the Seller's right to claim the unpaid Products even from third Parties.

#### **9. OTHER TERMS**

Each modification to these terms shall be written and signed by the legal representatives of the Parties. The Buyer's general terms of purchase, if in contrast with the Seller's general terms of sale, shall not be accepted, except in case and to the extent of their written approval by the Seller.

#### **10. RETURNED PRODUCTS**

No returned Products for any purpose shall be accepted, except in case of Seller's previous written authorization thereof.

The Buyer who wants to return the Products and who was authorized by the Seller in writing shall comply carefully with the Seller's instructions thereabout.

The Products, the returning of which has been authorized in writing, shall be always accepted with reserve of checking their being unaltered.

The Products to be returned according to the Seller's authorization as herein set forth shall be sent in compliance with the Seller's instructions, especially concerning the packaging and the carrier. No returned Products shall be accepted if not in compliance with all what set forth herein.

#### **11. SUSPENSION OF SUPPLIES**

Should the Seller acknowledge (from a legal action against the Buyer or the request for precautionary procedures or other information) that the Buyer is regarded as insolvent or that the Buyer's financial position has changed, the Seller shall have the right to terminate unfulfilled orders or to withhold deliveries until the Buyer himself provides guarantees accepted by Seller. For this purpose, the Seller will notify the Buyer his intention with a notice not less than 15 (fifteen) days as for the planned delivery date.

#### **12. GOVERNING LAW**

These terms of sale are governed and construed in accordance with the Italian law.



**13. JURISDICTION - COMPETENT COURT**

13.1 (**APPLYING TO EU BUYERS ONLY**) All disputes arising out or in connection with the present General Terms of Sale or the sale contracts between the Parties shall be settled exclusively by the Italian jurisdiction and the competent Court of Novara.

13.2 (**APPLYING TO EXTRA - EU BUYERS ONLY**) All disputes arising out or in connection with the present General Terms of Sale or the sale contracts between the Parties shall be exclusively and finally settled by arbitration, ordinary or fast arbitration depending on the value of the claim, under the rules of arbitration of the Piedmont Arbitration Chamber. Seat of the arbitration shall be Novara and language shall be Italian.

Borgo Ticino, 29.10.2012

Fandis S.p.A.

For acceptance of the General terms of sale

The Buyer

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Date, (stamp and signature)

In compliance with the Italian law (art. 1341 of the Italian Civil Code) the following clauses n. 3 (delivery terms and force majeure), n. 4 (transport ) n. 5 (prices and payment terms), n. 6 (transport and risks), n. 7 ((warranty), n. 8 (retention of title), n. 11 (suspension of supplies), n. 12 (governing law), n. 13 (jurisdiction - competent court) are hereby expressly accepted.

The Buyer

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Date, (stamp and signature)