

## **GENERAL CONDITIONS OF SALE**

This document includes the general conditions of sale (hereinafter: “General Conditions”) of ALBERFLEX srl, with a place of business located at Via Palermo, 13 - 21050 Cairate (VA), Italy (hereinafter: “Seller”).

### **1. Purpose**

**1.1** These General Conditions form an integral part of any order and contract between Seller and the Customer for the supply of the Seller’s products and prevail over any Customer’s general purchasing term.

**1.2** No changes to these General Conditions are valid unless agreed upon by Seller in writing, and any such approved changes shall only apply to the individual sale contract they expressly refer to.

**1.3** Therefore, any provision introduced by Customer in a purchase order or in a different document, which is in conflict with or in addition to these General Conditions, shall be deemed null and void unless Seller expressly accepts it in writing.

### **2. Contract Formation**

**2.1** Seller’s quotations are valid for thirty (90) days as of quotation date, unless it is indicated otherwise in the same quotation. Therefore, Seller may disregard any purchase orders received after the above term.

**2.2** All orders placed with Seller must include, in any case, a precise description of the Products, quantities ordered and any other details required for the sale contract, as well as an express reference to the quotation, if this is the case.

**2.3** A sale contract is formed upon receipt by Customer of Seller’s written acceptance of the order. Such acceptance may be communicated by e-mail or facsimile. No orders shall be binding unless and until accepted by Seller in writing. However, the implementation of any orders by the Seller without a previous, formal acceptance of the order shall be binding on the Customer and a sale contract shall be put in place having the same validity as a formal, written confirmation of the contract itself.

**2.4** Any orders collected by Seller’s agents or middlemen are not binding and are subject to the Seller’s written confirmation.

### **3. Products; Instructions**

**3.1** All Products' information 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 sale contract.

**3.2** The Seller may at any time delete any Products from the lists or modify any Products.

**3.3** The Customer shall provide the Seller with any information as reasonably requested by the Seller in order to supply the Products.

### **4. Retention of title**

**4.1** The parties hereby expressly agree that sales are made on a retention of title basis. Therefore, the Purchaser shall acquire ownership on the Product purchased only when payment of the price is received in full by the Seller. However, the Purchaser assumes any risks connected with the Product from the time of delivery, according to article 1523 of the Italian Civil Code.

### **5. Prices**

**5.1** Sale prices shall be as shown in the price list in force on the Customer's order date or on the Seller's quotation date if this is the case and shall be calculated "Ex Works" Seller's headquarters. Sale prices are exclusive of V.A.T.. Unless otherwise indicated, prices shown in lists, catalogues, quotations and/or in any other document are intended for goods only, exclusive of packaging.

**5.2** Without prejudice of Section 5.1 above, Product prices may be changed by the Seller at its sole discretion as a consequence of changes in cost of raw materials, labor costs and/or other production costs.

### **6. Payment terms**

**6.1** Payment terms are specified in the order confirmation as sent by the Seller from time to time for each sale contract or in the Seller's quotation if this is the case at Seller's sole discretion.

**6.2** Unless agreed otherwise, all payments must be made by bank transfer. Payments shall be made to the Seller's bank account as specified by the Seller. Payments may be made to persons acting on the Seller's behalf, only if such persons have been duly authorized in writing by Seller to collect the amount due in accordance with the laws in force.

**6.3** Any claims concerning Products shall not entitle Customer to suspend or delay payments for the same or other supplies.

**6.4** In case of payment delays, Seller reserves the right to charge Customer with interest without the need to formally place Customer in default. Interest shall be calculated in accordance with the Italian Legislative Decree no.231 of 9 October 2002 and subsequent modifications, until the amounts due are actually paid, without prejudice to any further right or remedy the Seller may have according to these General Conditions and/or the applicable laws.

**6.5** If payments are omitted or delayed, even on a single invoice, Seller may suspend processing back orders or new supplies.

Payment delays exceeding 30 (thirty) days of the due date, shall entitle Seller to immediately terminate the sale contract without prejudice to the Seller's right to claim damages, which damages shall include, but shall not be limited to, reimbursement of the attorney's and/or court fees borne by the Seller in connection with a credit collection action, including out of court collection attempts.

## **7. Product Delivery**

**7.1** Unless otherwise agreed and shown in the Seller's order confirmation, Products are delivered "Ex Works" ICC Incoterms® at the Seller's place of business.

**7.2** Delivery dates, whether indicated by Seller or agreed upon, shall be considered as estimates only. Therefore, any delay in delivery shall not entitle the Customer to cancel an order nor claim damages from the Seller. Penalty clauses for delayed deliveries shall have no effect towards Seller. Delivery terms shall start from the order confirmation date. The Seller reserves the right to effect partial deliveries, as and when the parts are ready for dispatch.

**7.3** In any case, the Seller shall have no liability whatsoever if delivery terms are exceeded due to a force majeure event according to Article 10 hereto, or by Customer's actions or omissions (including, but not limited to, failure to provide Seller with all the necessary requirements for the supply of Products).

**7.4** The Customer may, in writing, ask the Seller to appoint a carrier or a forwarder to collect the Products on the Customer's behalf. If the Seller accepts, any such carrier or forwarder shall be considered as appointed directly by the Customer. As a consequence, the Customer shall be entirely responsible for any risks and expenses in connection therewith.

**7.5** Whatever the delivery term agreed upon, all risks related to the Products shall pass to the Customer on delivery of the Products to the first carrier. All such risks shall also pass to the Customer in case the Customer delays in collecting the Products when ready for collection, and the Customer shall also bear any and all charges of storage, care and insurance, or others applicable.

## **8. 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, number or external features of Products (apparent defects), must be notified to the Seller by registered mail with return receipt sent in advance through e-mail, and the defective parts must be returned in their original packaging, insurance and carriage prepaid, no later than eight (8) days as from receipt of the Products. The Customer shall specify the claim in a separate note and shall mention the Seller's invoice (invoice date and number) as well as the batch code to which the returned parts pertain. Failure to timely notify the defect and to return the faulty parts, shall result in forfeiture of the Customer's rights to claim the above defects.

## **9. Product Warranty**

**9.1** Seller hereby warrants that Products are suitable for the intended use according to the technical and designed specifications which the Seller receives from the Customer upon which both the Seller and the Customer have agreed and the order confirmation terms and comply with the Italian laws and EU regulations where applicable.

**9.2** Seller's warranty for Product defects is of 24 (twenty four) months as of the "Ex Works" delivery date.

**9.3** Seller's Product warranty is only for any defects in materials or workmanship appearing in Products used in normal conditions. The Customer acknowledges that with regard to the aftermarket business the materials are not original, they happen to be interchangeable at all times.

**9.4** Seller's warranty is only intended for Customer and may not be extended to any other customers or third parties.

**9.5** Customer shall appropriately instruct its own personnel or third parties appointed by the Customer, to the installation, assembling, disassembling and repair of Products in such a way to avoid damages to persons or objects, making sure that such personnel always work in compliance with EU regulations including the implementing regulations in force in the countries where Products are used. Seller's warranty shall not apply if Customer is not up-to-date with payments, or has not installed Products in full compliance with the best practice common in this business sector according to an accurate and professional handling of the Products themselves, or has modified or damaged Products, or has used them for purposes different from their normal destination, as well as in any other cases where damages or improper functioning are caused by fault or negligence of Customer, its personnel or third parties, including but not limited to improper installation, maintenance, repairs. Customer must also ensure, for the above purposes, that its own personnel, and/or third parties appointed by it, have the necessary technical knowledge with regard to the essential features of protection devices which can be installed on the Products in order to prevent damages occurring to persons or objects, particularly in order to prevent, reduce or eliminate damages connected with the use of Products. In any case, Customer shall indemnify and hold Seller harmless from and against any claims for damages and/or fines or sanctions from any authorities, arising from violations by Customer of its duties arising hereunder.

**9.6** Seller's warranty does not cover any damages occurring to parts subject to wear and tear, or caused by improper storage whenever Products are in whole or in part stored by Customer before installation, use or resale to the final customers.

**9.7** Without prejudice to Article 8 of these General Conditions (Complaints on faulty delivery), the Customer shall notify any Product's defects within 8 (eight) days from the date of discovery and, in any case, not beyond the warranty term as per Article 9.2.

**9.8** Any claim must be made by facsimile confirmed by registered mail with return receipt. Also, any claim must specify the type of defect discovered and the Product(s) it refers to. Any other form of notification, e.g. by telephone or through an agent, shall not be valid.

**9.9** Failing such timely notification, any Customer's rights to enforce any Seller's warranties under these General Conditions or the applicable laws shall be forfeited.

**9.10** The Customer shall, after obtaining Seller's return authorization, ship the defective Product(s) to the Seller for inspection. Shipping costs for said authorized returns shall be borne by the Customer. Address for shipping is: at Via Palermo, 13 - 21050 Cairate (VA), Italy.

Any materials shipped without Seller's prior authorization and/or without pre-payment of shipping costs, shall not be collected.

The defective parts shall become the Seller's property after their replacement.

**9.11** If testing at the Seller's warehouse proves the existence of the claimed defects, the Seller shall, in its sole judgment, either replace the defective Product(s) or correct the defects. Any replaced Product(s) shall be delivered "Ex Works".

**9.12.** The Seller's warranty under this article is the sole warranty to the Customer and replaces any other kind of warranties, provided for by laws and by commercial customs.

**9.13** Any liability of the Seller for damages whatsoever arising from the Products, regardless of the type of damages (direct, indirect, consequential or else) and the type of liability (for contract, negligence, tort, strict liability or else) is hereby expressly excluded except in cases of Seller's fraud or gross negligence.

**9.14** The Customer may not suspend or delay payments for any reason, nor claim damages or reduction of the Products' price. The Customer may not offset any payment due to the Seller with any sums that the Customer reckons it should receive for any reason.

## **10. Force Majeure**

**10.1** In any case, Seller shall not be responsible or liable to Customer for breach of these General Conditions or a sale contract, if compliance is impossible or extremely burdensome because of unforeseen events not attributable to Seller, including but not limited to: fire, flood, earthquake, explosions, accidents, war, riots, sabotage, epidemics, quarantine restrictions, strikes, transport blocks, shortage of energy, raw materials or machinery for producing Products, natural events or acts of any public authority.

**10.2** Whenever a force majeure event prevents or delays delivery of Products to Customer or the performance of any other Seller's duties for a term exceeding six (6) consecutive months, Seller shall be entitled to terminate the sale contract without any liability towards Customer, without prejudice to Articles 1463 and following, and Article 1467 and following, of the Civil Code.

## **11. Acceptance and conditions**

**11.1** Purchase orders may be accepted only in writing, including by electronic form.

**11.2** Issuance of a purchase order shall mean acceptance of these general sale conditions, and waiver of any Customer's terms and conditions.

## **12. Trademarks and patents**

**12.1** The Customer undertakes not to cancel, remove or damage any of the trademarks, logos or names placed upon the Products.

**12.2** Nothing contained in these General Conditions or in the sale contract shall be construed as granting Customer any rights, whether by license or otherwise, upon the Seller's trademarks and patents. Any use of the Seller's trademarks and/or patents by Customer is therefore excluded, unless with the Seller's prior written consent.

## **13. Termination of the sale contract**

**13.1** Without prejudice to other provisions of these General Conditions and the applicable laws, 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.

**13.2** 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 as permitted by the laws.

## **14. Intellectual Property Rights**

Any and all intellectual property rights connected with the Products, including any individual parts thereof and any documentation pertaining thereto, belong solely to the Seller. The Customer shall inform the Seller in writing with regard to any possible infringements of such rights immediately. Adding to that any know-how, trade secrets, data, process, design, photographs, drawings, specifications, software programs, samples and others belonging to Seller shall be considered strictly confidential by the Customer that would be held fully liable should any violations in this respect occur.

## **15. Severability**

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

## **16. Governing laws**

These General Conditions and any sale contract between Seller and Customer shall be governed by the laws of Italy.

## **17. Incoterms®**

The use of "Ex Works" in these General Conditions, or any other delivery terms as may be agreed upon between Seller and Customer, shall be interpreted according to the INCOTERMS® of the International Chamber of Commerce (ICC) as in force on the date the sale contract is made.

## **18. Jurisdiction and venue**

**18.1** The courts of Milano (Italy) shall have the exclusive jurisdiction on any and all disputes arising from these General Conditions or from any contract of sale between Seller and Buyer.

**18.2** As an express deviation from Article 18.1, it is hereby expressly agreed that Seller may, alternatively and at its sole discretion, sue Customer before the courts of Customer's domicile.