

I. General provisions

1. These general terms and conditions (hereinafter referred to as GTCD) shall apply to all offers, deliveries and services (hereinafter referred to as deliveries) of SMA Italia S.r.l. (hereinafter referred to as SMA) to its Customers.

2. The General Terms of Business of the Customer shall only apply in so far as SMA has expressly approved them in writing.

3. If, in individual cases, separate provisions, which diverge from these provisions, are agreed upon, in writing, for specific special deliveries, these GTCD shall be deemed as subordinate and supplementary.

4. The Customer shall be granted the non-exclusive right to use the standard software with the features of performance stipulated in the relevant contract without altering its form. Passing on the software, the sale thereof or using it elsewhere, as well as the reproduction of the software beyond the scope of a security copy, shall only be admissible with the written consent of SMA. In the event of infringement, the Customer shall be obliged to compensate SMA for the damages suffered by the latter.

5. SMA shall be entitled to all the rights of the bidding documents. All documentation shall be immediately returned upon request by SMA in case the order is not placed.

6. Trade and business secrets must be kept as strictly confidential.

7. The documents, prototypes, examples or samples and, in particular, the technical data and descriptions in the respective product information or advertising materials included in the offer are non-binding and are solely for informational purposes. They do not constitute any guarantee of quality or durability for the goods to be supplied or services to be rendered by SMA.

II. Prices - Packaging - Terms of Payment

1. Prices shall include packing, shipment and insurance cost (CIP sale according to Incoterms 2010). Value-added tax at the prevailing rate shall apply additionally, if and to the extent provided for by the law.

2. All payments shall be made in EUROS, within 30 days upon issuance of the invoice and at no charge to SMA's paying office.

3. If the Customer defaults or if after entering into the agreement, circumstances should become known that call its creditworthiness into question, SMA shall be entitled to declare the residual debt of the Customer immediately due, demand advance payments or provisions of security or, without prejudice to other provisions, terminate the agreement according to Art. 1454 of the Italian civil code, if the Customer does not repay its whole outstanding debt within an additional term of payment of further fifteen days.

4. In particular, SMA may call into question the creditworthiness of the Customer if the Customer stops payments,

if insolvency proceedings have been instituted with relation to the Customer or their assets or if a petition has been filed to institute insolvency proceedings and the insolvency proceedings are not instituted due to the insufficiency of assets.

5. The Customer may set off only those counterclaims that are undisputed, recognized by SMA or have been legally decided.

The same shall apply to the assertion of rights of retention.

III. Delivery - Delivery deadlines - Delivery default

1. SMA shall be entitled to provide and invoice partial deliveries and to modify the materials of the products to be delivered without the consent of the Customer, provided that this does not alter the properties or functionality of the products.

2. Deadlines set for deliveries can only be observed by SMA if all provisions, documents, permits and releases to be supplied by the Customer are received in due time and if the agreed payment terms, including advance payments and any other obligations required for the delivery are fulfilled in a complete and timely fashion. Otherwise, the delivery deadline will be suspended until any delivery requirements set out above are met.

3. The delivery deadline shall be considered observed if the delivered item is dispatched or - in case the carrier is appointed by the Customer - the latter has been notified of the readiness for shipment in good time.

4. In case of labor disputes, measures by public authorities, force majeure or the occurrence of similar events that provably interfere with the supply availability of SMA, the delivery deadline shall be suspended until the event in question and its consequences preventing the delivery are over.

5. If the promised service is not available, because SMA has not been supplied by its sub-suppliers, SMA shall be entitled to provide a service equivalent in quality and price. Should this also be impossible, SMA shall notify the Customer of the non-availability without delay and the agreement shall be automatically and immediately terminated. In the latter case the termination shall only regard the part of the agreement that has not been performed due to the reasons mentioned in this Section III, and the Customer shall not be entitled to any compensation for damages.

6. Claims for damages of the Customer due to delayed delivery or claims for damages in lieu of performance shall be excluded in all cases of delayed delivery, even upon expiration of a reasonable period of time set for delivery. This shall not apply if the delayed delivery is made with wrongful intent ("dolo" in the sense provided for by the Italian civil code) or gross negligence ("colpa grave" in the sense provided for by the Italian civil code).

7. The above provisions shall not involve a change in the burden of proof detriment of the customer.

SMA Italia S.r.l.

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Iscrizione registro pile e accumulatori: IT17010P00004331 - Iscrizione registro AEE: IT17010000009659

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8. At SMA's request, the Customer is obliged to declare, within a reasonable period of time to be set by SMA, whether the Customer is willing to terminate the contract due to the delayed delivery or insists on the delivery to be carried out. Should the Customer not reply within said time limit, the contract shall remain in full force. In the latter case, clause No. 6 of this Section III shall apply.

IV. Passing of the Risk

1. The risk shall pass to the Customer if the item to be delivered is dispatched or has been collected by the carrier, even if delivery has been agreed to be free of transportation charges. If desired by the Customer, consignments will be insured against normal transport risks by SMA at the expense of the Customer.

2. The shipping method is at the discretion of SMA, irrespective of what party bears transportation costs.

V. Retention of title

1. Any delivered goods shall remain property of SMA until all claims arising from the relevant price has been paid in full. Until then, the Customer shall not be entitled to use such goods as pledge or any other kind of security.

2. The Customer is entitled to continue selling the goods in the ordinary course of business under retention of title. At this point the Customer shall already assign all of his claims against his customers to SMA to the value of the SMA's claims. SMA shall accept this assignment. The Customer continues to be entitled to collect the assigned claim. This authority to collect shall lapse if the Customer gets into arrears or goes into financial collapse in any other manner. The Customer shall inform his customer in writing of the fact that the goods are subject to SMA's retention of title, of the fact that the claim regarding the selling price of the goods has been assigned to SMA, and that the Customer is entitled to collect the selling price of the goods unless SMA communicates otherwise in writing. The Customer shall also inform SMA in writing about the contact data of those who buy goods subject to SMA's retention of title.

3. Any processing or manufacturing of the retained good shall be carried out for SMA, without committing SMA to any obligations in any way.

If the goods are processed with third party goods, SMA is entitled to the resulting co-ownership share of the new goods in proportion to the invoiced value of the retained goods with the other goods at the time of processing. The same shall apply if the Customer acquires sole ownership pursuant to Art. 939, par. 2, of the Italian civil code. The new object held for SMA in custody by the Customer free of charge is a reserved item in accordance with this provision. In the event of the reserved goods being sold or used for the fulfillment of any contract, then the Customer shall now assign the purchase-money claims or the remuneration claims arising from this to SMA, regardless of whether the reserved goods are passed onto one or several purchasers

without or after processing, alone or together with objects of outside sources. Incidental claims in connection with the reserved goods, particularly insurance claims, shall also be assigned at the same time and to the same extent. SMA shall accept this assignments and the Customer shall notify the purchaser in writing of the assignment of the latter's debt.

4. The Customer shall notify SMA immediately in case of levies of execution, seizures or other orders or interference by third parties that regard the reserved goods.

5. In the event of violations of obligations by the Customer, in particular default on payment, SMA shall, following the fruitless passing of an appropriate period for performance specified to the Customer, be entitled to terminate the contract and take back the retained goods as well as to enter the premises of the Customer for this specific purpose and to deduct the goods from the existing accounts payable of SMA.

6. SMA shall be obliged to release any existing securities on request of the Customer, once the realistic value of the security exceeds the accounts receivable to be secured by more than 20 %.

VI. Defects of Quality

1. The Customer may not refuse acceptance of deliveries due to immaterial defects. The Customer shall be obliged to immediately inspect the delivered goods as soon as the goods are delivered at the Customer's premises or at any other place indicated by the Customer as place of delivery. The Customer shall notify SMA of damages or defects to the delivered goods in writing not later than eight days after the defect or damage has been discovered (deficiency claim). In case SMA is notified of the alleged damage or defect more than eight days after the shipment, then the Customer shall prove that the alleged damage or defect was concealed.

2. Pursuant to art. 1495 of the Italian civil code deficiency claims shall expire 12 months after the delivery date of the defected good at the Customer's premises or at any other place indicated by the Customer as place of delivery (limitation period).

3. All parts or services where a defect becomes apparent within the limitation period shall, at the discretion of SMA, be repaired, replaced or delivered again free of charge, provided that the reason for the defect had already existed at the time when the risk passed. In the case of software faults, the instructions for the avoidance of the consequences of the fault shall be deemed as adequate fulfillment of the obligation set out in this clause.

4. If supplementary performance is unsuccessful, the Customer shall be entitled to terminate the contract or proportionally reduce the remuneration, irrespective of any claims for damages it may have according to Art. VII.

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5. There shall be no claims based on a defect or damage in cases of insignificant deviations from the agreed quality, of only minor impairment of usefulness, of natural wear and tear or damage arising after the transfer of risk due to faulty or negligent handling, the use of unsuitable equipment, faulty construction work, overload, lightning, among other things, external influences, as well as defects attributable to modifications or repair work and improper maintenance that have not been properly carried out according to the operating manual.

6. In case of notification of defects, the Customer may withhold payments only to a reasonable extent taking into account the defect occurred. If the deficiency claim was made wrongfully, SMA is entitled to claim from the Customer the expenses SMA is incurred in.

7. The Customer shall have no claim with respect to expenses he has incurred in the course of supplementary performance by SMA, including, in particular costs of transport and travel, labor and material, to the extent that expenses are increased because the subject-matter of the delivery was subsequently brought to another location than the Customer's branch office, unless doing so complies with the contractual use of the delivery.

8. The Customer's right of recourse against SMA according to Article 131 of the Italian Consumer Act (legislative decree No. 206 of 6 September 2005) shall be limited the costs the Customer is incurred in for the remedies set out in Art. 130 of the Italian Consumer Act.

9. The provisions of Art. VII (Other Compensation Claims) shall only apply in respect of claims for damages. Any other claims of the Customer against SMA or its agents or any such claims exceeding the claims provided for in this Art. VI, based on a defect, shall be excluded.

VII. Other Compensation Claims

1. Any claims for damages and reimbursement of expenses the Customer may have, regardless of legal ground, including breach of duties arising from the contractual obligation and tort, shall be excluded. This also applies to claims arising from *culpa in contrahendo*.

2. This shall not apply to damages arising from the provisions of law on product liability or in cases of intent or gross negligence on part of SMA or its agents, nor to damages due to loss of life, personal injury or impairment of health or malicious concealment of a defect or due to the breach of essential contractual obligations. In the latter case, compensation shall, however, be limited to the foreseeable damage in standard contracts, except in the case of liability for wrongful intent or gross negligence or due to injury to life, body or health.

Essential contractual obligations are those the fulfillment of which allow for the proper execution of the contract in the first place

and the adherence to which the contractual partner can continuously trust.

3. SMA products may not be used in the medical sector or in aviation without the prior written consent.

4. The liability exemptions and limitations for SMA shall also apply to the personal liability of the employees, representatives and agents of SMA.

5. Claims for damages related to non-fulfilment of SMA contractual obligations must be exercised by means of a written - even non-judicial - claim within a deadline ("termine di decadenza" in the sense of Art. 2964 of the Italian civil code) of twelve months as from the date on which the alleged damage arose. This shall not apply in cases of Article VII, number 2, sentence 1, and in case the Customer is a consumer according to the Italian Consumer Act.

6. The above provisions shall not involve a change in the burden of proof to the detriment of the Customer.

VIII. Other Conditions

1. Italian law applies to all legal relationships between SMA and the Customer. The applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) uniform law is excluded.

The exclusive place of jurisdiction for all disputes arising out from or in connection with the contractual relationship shall be Milan, Italy, any other concurrent place of jurisdiction being expressly excluded. However, SMA shall also be entitled to start legal actions at the legal business domicile of the Customer.

2. Even if individual provisions of these General Terms of Delivery are or become illegal or ineffective, the remaining parts of these General Terms of Delivery shall remain unaffected.

3. Personal data of SMA's customers are archived within the framework of the mutual business relations according to the Italian Data Protection Act (legislative decree No. 196 of 30 June 2003).