

# GENERAL CONDITIONS OF SALE

The present general conditions of sale (hereinafter referred to as "**General Conditions of Sale**"), except for any amendment agreed in writing, constitute the sole regulation of the sale agreement between Euromag International S.r.l. (hereinafter referred to as the "**Seller**") and the client (hereinafter referred to as the "**Client**") concerning the sale of electromagnetic flowmeters and ultrasonic flowmeters and other flowmeters' systems designed, manufactured and/or commercialized by the Seller (hereinafter referred to as the "**Products**"). The signing of the General Condition of Sale by the Client represents full acceptance of the covenants provided therein with regard to all orders that would be submitted to the Seller.

## 1. ORDERS

1.1 The purchase order will be submitted to the Seller in writing and it shall indicate identification elements of the ordered Products, the requested quantities and every other element that could be required in order to define the contractual offer of the Client. ("**Order/s**"). Incomplete and/or incorrect Orders shall not be accepted by the Seller.

1.2 Orders will be irrevocable for 30 (thirty) days after their receipt by the Seller. It remains understood that by submitting the Order, the Client confirms to know and to accept the present General Conditions of Sale.

1.3 The Client is the solely and exclusive responsible with regard to the choice of the ordered Products and to the correspondence and compliance of the latter to its needs and requirements.

## 2. ORDER CONFIRMATION

2.1 Orders shall be considered as accepted and, therefore, binding for the Seller, only upon receipt by the Client of the Order Confirmation (the "**Order Confirmation**").

2.2 The Sellers reserves the right to change/modify the Products and/or the conditions offered until the delivery of the Order Confirmation.

Should the Order Confirmation contain any amendment in respect of the Order, such amendments shall be deemed accepted by the Client, by tacit agreement, after 2 (two) days from the receipt of the Order Confirmation, unless the Client notifies in writing its disagreement within the abovementioned term.

2.3 Notwithstanding the foregoing, it remains understood that the Seller shall have the right, at its own discretion, to refuse the Orders.

## 3. PRICES

3.1 Prices shall be in euros and shall be those set out in the Seller price list in force at the time of the Order Confirmation.

3.2 Prices, as above indicated, include costs for standard packaging, while are not included VAT, transport costs, collection fees due should payment of the Products be performed by bank receipt, and any other tax, cost or charge arising out or otherwise connected to the sale of the Products.

3.3 In no event terms and prices set forth in the Order Confirmation shall be binding for subsequent Orders. With no prejudice to what set forth under article 2.2. and 3.1 above, the Seller reserve itself the right to amend the price list at any time and without any notice.

## 4. PAYMENT

4.1 Unless otherwise agreed between the Parties, the payment of the Products shall be made in advanced, no later than the date of delivery of the Order. Said amount may be subject to adjustment upon the receipt of the Order Confirmation.

4.2 Payment of the Products shall be made according to Sellers instructions and shall not be delayed and/or suspended by the Client with regard to the agreed terms due to any exception or claim whatsoever.

Furthermore, unless where previously authorised in writing by the Seller to do so, the Client shall in no event be entitled to offset its debt towards the Seller with any credit whatsoever of the Client itself towards the Seller.

4.3 Products shall remain property of the Seller until full payment of the contractual price and, in case of payment with cheques or other negotiable instruments, subject to successful conclusion.

4.4 Unless previously authorised in writing by the Seller, discounts, authorisations to return the Products, etc., made by commercial agents or distributors shall not be binding for the Seller.

## **5. NON-PAYMENT OR DELAYED PAYMENT**

5.1 With no prejudice to what provided under article 4.1 above, in case of delay in payment, whether total or partial, the Client shall pay on the outstanding amount an interest equal to the official interest rate communicated by the Ministry of Economy and Finance according to article 5 of the Italian Legislative Decree 231/2002 plus 2 points, subject to any further law adjustments.

5.2 Delay or non-payment of any amounts due by the Client, even though related to different contractual relationships and/or to different Orders, shall entitle the Seller to suspend the preparation and delivery of the Products object of the Order as well as of any other Order, as well as any technical assistance, advice and/or warranty that may be due.

It is understood that the above provision applies also in case the Seller, at its own discretion, deems that the Client may not properly fulfil its payment obligations.

5.3 Should the Client have been granted with a discount with respect to the Seller price list, in case of default of delay in payment, the Seller shall also be entitled to claim for the payment of the whole price.

5.4 Provided the above, in case of default or delay in payment of the Products, the Seller shall be entitled to immediately terminate the sale contract of the Products, according to article 1456 of the Italian Civil Code, upon written notice, sent by the Seller to the Client, even by fax, in which the Seller declares to exercise such right.

## **6. DELIVERY**

6.1 Except where otherwise provided in the Order Confirmation, delivery shall be considered as executed *Ex Works* (Incoterms® 2010) when the Seller made the Products available for the Client at the Seller's premises and shall determinate the identification of the Products along with the transfer of risks. All transport costs shall remain with the Client. Delivery may be carried out in one or more consignments.

6.2 The terms of delivery indicated in the Order Confirmation are referred to the moment in which the Products are made available for the Client and they shall not be considered as essentials.

6.3 Should the Seller not be able to respect the terms of delivery specified in the Order Confirmation due to delays or lack of delivery by its suppliers, interruption or suspension of transport or energy, shortage or lack of raw materials, strikes or union agitation, absence / lack of information required to be sent by the Client, as well as for any other event beyond its reasonable control, the relevant terms shall be suspended from the date of communication of such impediment to the Client. In such case no compensation shall be due to the Client and / or to third parties for any reason whatsoever.

## **7. SHIPPING**

7.1 With no prejudice to what provided in article 6.1 above, should the delivery be arranged by the Seller upon express request of the Client, the Seller shall act on behalf of the Client but without any power of representation of the latter, provided in any case that with (and from) consignment of the Products to the first shipping agent, the costs and risks of the transport of the Products shall remain with the Client solely.

## 8. PENALTY

8.1 The Client acknowledges that the Products are made by the Seller on the basis of the specific needs/requests of the Client, therefore following acceptance of the Order pursuant to art. 2, the Client will no longer have the right to cancel it.

8.2 In case of revocation of a firm or Confirmed Order or of refusal to accept or non-withdrawal of the Products by the Client, the Seller shall be entitled, at its sole discretion, to: *i)* demand the exact fulfilment of the agreement as well as the payment of the penalty for the delay of € 50 (Euro Fifty / 00) for each day of delay, without prejudice in any case to the right of the Seller to further damages suffered therefrom; or *ii)* immediately terminate the contract pursuant art. 1456 of the Italian Civil Code, upon simple written notice sent even by fax, in which the latter declares to exercise such right, as well as to obtain the payment of the penalty of 20% (Twenty percent) of the price, without prejudice in any case to the right of the Seller to further damages suffered therefrom.

## 9. COMPLAINTS AND RETURNS

9.1 The Client shall carefully examine the Products immediately after receipt.

9.2 Complaints for incomplete or erroneous deliveries or for non-conforming Products or apparent defects must be submitted in writing by delivering to the Seller the R.A.M. form duly completed, along with the shipping documents and pictures of the complained non conformities, subpoena of forfeiture, within 8 days from receipt of the Products.

Claims accepted by the Seller's agents and/or distributors, shall not be binding for the Seller, unless upon express written acceptance in writing by the latter.

9.3 Failure to communicate complaints by the Client according to article 9.2, within the above-mentioned terms, will be considered as acceptance without reservation of the Products.

9.4 Latent defects and lack of qualities which cannot be ascertained immediately after the receipt of the Products, shall be notified to the Seller, subpoena of forfeiture, within 8 days from discovery, by sending the relevant complaint as provided for under article 9.2. with no prejudice, in any case, to the prescription terms provided under article 10.1.

9.5 Returns of Products are hereby prohibited unless previously authorized in writing by the Seller and subject to the acceptance by the latter of the R.A.M. form. Returns shall be made in accordance with Seller's instructions.

9.6 After having submitted the claim according to article 9.2, the Client shall keep the defected Products at Seller's disposal for a reasonable period of time and, in any case, not less than 30 days, in order to allow the latter to perform the relevant inspection. Provided the above, where expressly authorised in writing by the Seller, the Client shall return the Products, bearing all connected costs and risks, by delivering the latter carriage paid at Euromag International S.r.l., via Della Tecnica n. 20 - 35035 Mestrino (PD), Italy or other destination indicated by the Seller.

It is understood that any interventions to be carried out on site, including travel expenses, board and lodging of personnel sent by the Seller, shall be borne by the Client.

9.7 Should the delivery of the Products be arranged by the Seller at the Client's cost, any claim on packages arrived to the Client clearly tempered with, will be accepted only after an adversarial procedure with the shipping agent. In this case the package must be immediately opened and Products must be immediately verified, furthermore it must be drawn up a report of this operation that shall be signed both by the Client and by the shipping agent. A copy of said report must be transmitted to the Seller along with the complaint as provided for in article 9.2 and within the terms therein.

9.8 If at the time of receipt of the Products by the Client there is no written complaint regarding the packaging, the packaging shall be considered intact and in good condition at the time of delivery.

## 10. WARRANTY

10.1 Without prejudice to what set forth under article 9.4 above, the Products are guaranteed to be free from defects in material or in the manufacturing for a period of 18 (eighteen) months, as from the relevant invoice issue date.

10.2 The Client acknowledges that the characteristics of the Products are duly represented on Euromag International S.r.l. catalogue.

10.3 The warranty shall be limited, at the Seller discretionary choice, to replacement or repair of the Products which have been recognized defective by the Seller, whenever possible and within the normal time required.

Products to be repaired or replaced, upon written authorisation by the Seller, shall be delivered by the Client, with no tampering, carriage paid, at Euromag International S.r.l., via Della Tecnica n. 20 - 35035 Mestrino (PD), Italy.

The replaced Products will remain the property of the Seller, except the right of the latter to authorize the Client to dispose of them.

In case of products unavailability and/or impossibility to provide for their repair, the Seller shall issue a credit note for an amount equal to value of the Products ascertained as defective and provide the relevant reimbursement if due.

10.4 Products' replacement, repair or crediting shall be in full settlement of any claim by the Client or by third parties, being expressly excluded any other legal or conventional warranty or right to any compensation whatsoever for damages even through action for recourse, unless in case of wilful misconduct or gross negligence.

10.5 Warranty provided herein shall not apply:

- i) in relation to faults, defects and / or malfunctioning of the Products caused by incorrect installation or lack of or inadequate maintenance of the latter;
- ii) should the Products being used in violation of the Seller's instructions as set forth in the user/instructions manual and/or for purposes different from the one of the relevant product;
- iii) in case the defects, faults and / or malfunctions of the Products are caused by or are, in any case, connected to the incorporation / integration of the Products into other products;
- iv) in case of unauthorized modifications or tampering or in case of use of non-original Euromag International S.r.l. spare parts;
- v) should the maintenance and/or other type of interventions be provided by non-authorized personnel.

10.6 Without prejudice to article 10.5, the warranty is also excluded for defects, malfunctions and failures attributable to incorrect / inaccurate indications / data provided by the Client in the Order or elsewhere.

10.7 The effectiveness of the warranty of the Products is subject to Client's compliance with the terms of payment of any due payment to the Seller.

## **11. LIABILITY**

11.1 Without prejudice to article 10 above, the Seller shall remain exempt from any and all contractual and non-contractual liability, for direct or indirect damages, suffered by the Client or third parties, arising out of or in connection with the purchase and/or use or non-use of the Products, except in case of wilful misconduct or gross negligence of the Seller.

11.2 The Seller, moreover, disclaims any liability for damages or loss arising from or connected to the incorporation / integration of the Product into other products by the Client or third parties. In any case, it is understood that such incorporation / integration requires the Client to perform all the necessary tests and whatever is necessary to prevent damages to property or persons.

11.3 Notwithstanding art. 10.4 and without prejudice to what provided in any applicable mandatory law, Seller's liability shall be in any case limited to the Products value.

## **12. INTELLECTUAL PROPERTY**

12.1 Trademarks, drawings, designs, models, descriptions, technical data and all other information related to the Products ad to their functions contained in the website and /or in the Seller's catalogue, and in any other documentation provided by the Seller, are the sole and exclusive property of Euromag International S.r.l.

12.2 Unless previously authorised in writing by the Seller, it is expressly forbidden to the Client the reproduction, disclosure of such trademarks, drawings, designs, models, descriptions and information, as well as the manufacture of products or implementation of a project the based on such data.

12.3 Any industrial and/or intellectual property right related to the Products shall remain in the exclusive ownership of the Seller.

12.4. The Client in not authorized to make any changes, additions, improvements, alterations of any sort to the Products without prior written consent of the Seller.

### 13. APPLICABLE LAW AND COMPETENT JURISDICTION

13.1 For what not expressly provided for herein, the sale of the Products is governed by the law of Italy, with express exclusion of the Vienna Convention of 1980 on Contracts for the International Sale of Goods.

13.2 Any dispute arising between the Parties related to the sale of Products shall be submitted to exclusive jurisdiction and the sole venue of the competent Italian Judge, territorially identified in the Court of Padova (Italy).

It remains understood that the Seller shall be entitled to commence legal action before the Court where the Client has its registered office.

The Seller

The Client

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According to the article 1341 and 1342 of the Italian Civil Code, the Client specifically approves any and all the provisions contained in the following articles of the General Conditions of Sale: 1.2 (Irrevocable Order); 2.2 (tacit acceptance of Order amendments); 2.3 (Orders' refusal); 4.1, 4.2 (advanced payment of the Products; no relevance of exceptions or claims; prohibition to offset ); 4.3. (retention of title); 5.1 (conventional interest rate); 5.2 (suspension/suppression of the Orders and of the technical assistance); 5.3 (payment of the whole price in case of delay); 5.4 (termination of the contract); 6.1 (Transfer of the risk); 6.2, 6.3 (terms and delays in delivery and limitation of the Seller liability), 6.5 (reduction of the Orders), 7.1 (transport risks and costs in case of transport arrange by the Seller); 8.2 (termination clause, Penalty), 9.2, 9.3 e 9.4 (complaints and subpoena of forfeiture terms); 9.5 (authorization to Products return) 9.7 and 9.8 (tampered packages), 10.1 (warranty term); 10.3 (warranty and Seller' s directionality in the choice of the type of intervention); 10.4 (final and whole settlement); 10.5, 10.6, 10.7 (warranty exclusion); 11 (limitation of Seller's responsibility); 13.1 e 13.2 (applicable law and competent jurisdiction).

The Client

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