

General conditions for international sales contracts for Customers not Resident in Italy

I. Application of the General conditions for international sales contracts

1. The General conditions for international sales contracts apply to all customers of METAL GENNARI SRL whose relevant place of business **is not in Italy**. For customers whose place of business is in Italy, the General Conditions of Sale of METAL GENNARI SRL apply, which will be forwarded on request. The relevant place of business is the one, which concludes the contract in its own name.

2. The general conditions for international sales contracts apply to all present and future contracts whose preponderant object is the **supply of goods to the customers**. Additional obligations assumed by METAL GENNARI SRL do not affect the application of the general conditions for international sales contracts.

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3. Conflicting or differing **terms of business of the customer** do not bind METAL GENNARI SRL, even if METAL GENNARI SRL does not explicitly object to them or even if METAL GENNARI SRL unconditionally renders performance or accepts the customer's performance irrespective of the customer's conflicting or differing terms of business. The provisions of this paragraph equally apply insofar as the terms of business of the customer, irrespective of the contents of the general conditions for international sales contracts, deviate from statutory provisions.

II. Conclusion of the sales contract

1. The customer is under an obligation to give written notice to METAL GENNARI SRL prior to the conclusion of the contract if the goods ordered are to be fit not only for normal use or will be used for processing unusual materials or will be used in circumstances which are unusual or which present a particular risk to health, safety or the environment, or which require a more demanding use.

2. **Orders of the customer** are to be put in writing. If the customer's order deviates from the proposal or the tender submitted by METAL GENNARI SRL, the customer will emphasize the differences as such.

3. All orders, also those received by employees of METAL GENNARI SRL, will take effect **exclusively** if followed by a provisional and/or **final written acknowledgement** of the order by METAL GENNARI SRL. The actual delivery of the goods ordered, any other conduct of METAL GENNARI SRL or silence on the part of METAL GENNARI SRL does not allow the customer to assume the conclusion of the contract. Until the time of the written confirmation on the part of METAL GENNARI SRL, the customer's order is irrevocable.

4. The provisional and/or **final written acknowledgement** of the order by METAL GENNARI SRL sets out **all the terms** of the contract and **brings the contract into effect** even if - except for the purchase price and the quantity to be delivered - the written acknowledgement deviates from the declarations of the customer in any other way, especially with reference to the exclusive

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application of the general conditions for international sales contracts. Particular wishes of the customer, namely warranties or guarantees with reference to the goods or the performance of the contract as well as method and extent of examinations and acceptance tests to be done in the works of METAL GENNARI SRL therefore require express written confirmation in every case. Regardless of the nature and extent of the deviations, the contract will only fail to come into existence if the customer **specifies the deviations and objects to them in writing** and the objection is received by METAL GENNARI SRL within a short time, at the latest seven calendar days after receipt of the provisional and/or final written acknowledgement of the order by the customer.

5. METAL GENNARI SRL **employees**, commercial agents are not authorized to dispense with the requirement of a written acknowledgement of the order by METAL GENNARI SRL or to make promises that differ from its content or guarantees. **Changes** to the concluded contract likewise require written confirmation by METAL GENNARI SRL.

III. Obligations of METAL GENNARI SRL

1. Subject to an exemption according to section VII. -1. b) of the hereby general conditions for international sales contracts, METAL GENNARI SRL must **deliver the goods** specified in the written **acknowledgement** of the order. METAL GENNARI SRL is not obliged to perform obligations not stated in the written acknowledgment of the order or in the general conditions for international sales contracts; in particular METAL GENNARI SRL is under no obligation to render planned-services, to deliver accessories not explicitly listed, to install additional safety devices, to carry out assemblies or to advise the customer. METAL GENNARI SRL is in no case liable to perform duties associated with the putting of the goods into circulation outside Italy.

2. Third parties not involved in the conclusion of the contract, in particular the customer's clients, are not entitled to request delivery to be made to them or to bring any other contractual claim against METAL GENNARI SRL. The customer's responsibility to take delivery continues to exist even if it **assigns rights to third parties**.

3. METAL GENNARI SRL undertakes to deliver goods of average kind and quality taking account of **the tolerances customary in trade** concerning the kind, quantity, quality and packaging. If the goods cannot be delivered in the condition offered at the time of the formation of the contract because technical improvements to goods of series production were made, METAL GENNARI SRL is entitled to deliver the goods with the technical improvements. Performance specifications given by METAL GENNARI SRL are subject to good operational conditions, particularly in view of the materials to be processed and the personnel used, as well as the exclusive use of original spare parts and to appropriate maintenance.

4. METAL GENNARI SRL **undertakes to place the goods at disposal for collection by the customer** at the agreed time of delivery at the place of delivery indicated in the written acknowledgement of the order or if the address is not specified the goods will be ready in our premises in Ponte dell' Olio (PC) Italy./Italy. Previous separation or marking of the goods or notification to the customer of the goods being placed at disposal is not required.

5. Agreed **delivery time periods or delivery dates** are subject to the customer's procuring any required documents, releases, permits, approvals, licences or any other authorizations or consents in sufficient time, opening letters of credit and/or making down-payments as agreed and performing all other obligations incumbent upon it properly and in good time. Moreover, agreed delivery time-periods begin on the date of the written acknowledgement of the order by METAL GENNARI SRL.

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6. Without prejudice to its continuing legal rights, METAL GENNARI SRL is entitled to fulfil its obligations **after the delivery time agreed upon**, if it informs the customer that it will exceed the delivery time limit and of the time period for late performance. The customer can object to late performance within reasonable time, if the late performance is unreasonable. An objection is only effective if received by METAL GENNARI SRL before commencing late performance. Subject to the aforesaid conditions, METAL GENNARI SRL is entitled to make repeated attempts at late performance. METAL GENNARI SRL will reimburse necessary additional expenditure, proven and incurred by the customer as a result of exceeding the delivery time to the extent that METAL GENNARI SRL is liable for this under the provisions laid down in section VII of these general sale conditions for international sales contract.

7. **Risks as to price and performance** even in relation to goods which are not clearly identifiable to the contract and without it being necessary for METAL GENNARI SRL to give notice, pass to the customer at the latest as soon as the loading of the goods has begun or as soon as the customer does not take delivery in accordance with the contract or title to the goods has passed to the customer. The **loading** of the goods is part of the customer's obligations. The agreement of **INCOTERMS** in Group F, Group C or Group D or of clauses such as "delivery free....." or similar ones merely involve a modification of the provisions as to the transportation and the transportation costs; moreover, the provisions laid down in these general conditions for international sales contracts as well as rules on the passing of risk continue to apply.

8. METAL GENNARI SRL – also in the case of utilization of the clause INCOTERMS or clause such as "delivery free...." or similar - is not obliged to obtain any licences, authorizations or certificates or other **documents** necessary for the export, import or transit of goods to foreign territories. Upon the customer request and at their risk and costs, METAL GENNARI SRL will however collaborate to obtain the documents that the customer has requested in writing.

9. In particular even if of INCOTERMS in Group F have been agreed to, **METAL GENNARI SRL is under no particular obligation** to organize transportation of goods to insure them, to deliver certificates or documents not explicitly mentioned in the contract, to carry out customs formalities, to bear levies, duties and charges accrued outside Ponte dell'Olio/Italy, to comply with weight and measuring systems, packaging, labeling or marking requirements or certification obligations applicable outside Ponte dell'Olio/Italy or to inform the customer of the delivery or to take **the packing material** in consignment from the customer (transport, sale or any other kind of packaging material). Irrespective of any statutory provisions, the customer shall at its own cost take care of or in any other way ensure renewed utilization, material recycling or otherwise prescribed waste-disposal of the goods delivered by METAL GENNARI SRL to the customer and of the packaging material. The previous provision is in place even if a separate invoice is issued for the packaging costs.

10. Without prejudice to its continuing legal rights, METAL GENNARI SRL is entitled **to suspend the delivery** so long as, in the opinion of METAL GENNARI SRL, there are grounds for concern that the customer will wholly or partly fail to fulfil its obligations in accordance with the contract. In particular, the right to suspend arises if the customer insufficiently performs its obligations to enable payment to METAL GENNARI SRL or a third party or pays late or if the limit set by a credit insurer has been exceeded or will be exceeded with the forthcoming delivery. Instead of suspending performance METAL GENNARI SRL is entitled at its own discretion to make future deliveries, even if confirmed, conditional on payment in advance or on opening of a letter of credit confirmed by one of the big Italian commercial banks. METAL GENNARI SRL is not required to continue with performance of its obligations, if an assurance given by the customer to avoid the suspension does not provide adequate security or could be challenged pursuant to an applicable law.

IV. Price, Payment and Taking Delivery of the Goods

1. Irrespective of continuing obligations of the customer to guarantee or to enable payment, the customer undertakes to pay **the agreed price** in the currency specified in the written acknowledgement of the order **via a bank transfer** without deduction and free of expenses and costs to the financial institution designated by METAL GENNARI SRL. To the extent that a price for the goods has not been agreed, the contract has nevertheless been validly concluded; in such a case the price, which is at the agreed time of delivery METAL GENNARI SRL's **usual price** for the goods, will apply. METAL GENNARI SRL employees, commercial agents or other sales intermediaries are not authorized to accept payments.

2. The payment to be made by the customer is in any event due for payment at the time specified in the written acknowledgement of the order, or otherwise on receipt of the invoice. The due time for payment arises without any further pre-condition and, in particular, does not depend on the carrying out of similarly contracted works of installation or whether the customer has already taken delivery of the goods and/or the documents and/or has had an opportunity to examine the goods.

The periods granted for payment will cease to apply and outstanding accounts will be due for immediate payment, if insolvency proceedings relating to the assets of the customer are applied for or commenced, if the customer without providing a justifiable reason does not meet fundamental obligations due towards METAL GENNARI SRL or towards third parties, if the customer has provided inaccurate information regarding his credit worthiness or if the cover given by a credit insurer is reduced on grounds for which METAL GENNARI SRL is not responsible.

3. The customer warrants that all legal requirements **for delivery free of Italian value added tax** will be fulfilled. To the extent that METAL GENNARI SRL, as a result of the terms of delivery or of circumstances allocable to the customer, is called upon to pay value added tax, the customer will indemnify METAL GENNARI SRL in all and every respect without prejudice to any continuing claim by METAL GENNARI SRL. The indemnity is granted by the customer, in particular waiving the defence of prescription and also includes the reimbursement of the expenses incurred by METAL GENNARI SRL.

4. Regardless of the currency and of the jurisdiction of any court, METAL GENNARI SRL is entitled at its own discretion **to compensate** incoming payments with credits – of its own property or obtained via cession -existing against the customer by virtue of its own or assigned rights at the time of payment.

5. Any statutory rights of the customer to **compensation** against credits of METAL GENNARI SRL are excluded, except where the corresponding claim of the customer is in the same currency, is founded in the customer's own right and has either been finally adjudicated or is due and undisputed, or acknowledged in writing by METAL GENNARI SRL.

6. Any statutory rights of the customer to **suspend** or to **raise defences** or **counterclaims** are excluded, except where, despite written warning by the customer, METAL GENNARI SRL has committed a fundamental breach of its obligations due and arising out of the same contractual relationship and has not offered any adequate assurance.

7. The customer undertakes to take delivery of the goods at the delivery time without taking any additional period of time and at the place of **delivery indicated in the written acknowledgement** of the order or by way of precaution at the premises of METAL GENNARI SRL in Ponte dell' Olio/Italy. The customer is only entitled to refuse to take delivery of the goods if it avoids the contract in accordance with the rules in section VI. -1 of the present general conditions for international sales contracts.

V. Delivery of non-conforming Goods or Goods with Defective Title

1. Without prejudice to any exclusion or reduction of liability of the seller provided by law, **delivery does not conform with the contract** if the customer proves that, taking into account the terms in section III., at the time the risk passes the packaging, quantity, quality or the description of the goods is significantly different to the specifications laid down in the written acknowledgement of the order, or in the absence of agreed specifications, the goods are not fit for the purpose which is usual in Ponte dell' Olio/Italy. Changes in design, construction or material, which reflect technical improvements, don't constitute a lack of conformity with the contract. Even if the goods would have been non-conforming according to the legal requirements applicable in Italy, the goods shall be deemed to conform with the contract, to the extent that the legal requirements applicable at the place of business of the customer do not impede the usual use of the goods. Second-hand goods are delivered without any liability for their conformity. The present guarantee is valid for 12 months from the consignment of the product to the shipping agent or the collection of it by the client.

2. To the extent that the written acknowledgement of the order by METAL GENNARI SRL does not contain an explicit statement to the contrary, METAL GENNARI SRL **is** in particular **not liable** for the goods being adapted to comply with further reaching expectations of the customer or for possessing the qualities of a sample or a model or for their compliance with the legal requirements existing outside Italy, for instance in the customer's country. METAL GENNARI SRL shall also not be liable for any non-conformity with the contract occurring after the time the risk has passed. To the extent that the customer, either himself or through third parties, initiates the removal of non-conformities without the prior consent of METAL GENNARI SRL, METAL GENNARI SRL will be released from its liability.

3. The customer **must examine the goods** at the time of delivery and, moreover, as required by law and in so doing check every single delivery in every respect for any discoverable or typical lack of conformity with the contract.

4. Without prejudice to any exclusion or reduction of liability of the seller provided by law, the goods delivered **have a deficiency in title** if the customer proves that the goods are not free from enforceable rights or claims of third parties at the time risk passes. Irrespective of the legal requirements applicable in Italy, title to the goods is not defective, to the extent that the legal requirements applicable at the place of business of the customer do not impede the usual use of the goods.

5. The customer shall give notice within 8 days of its discovery as required by law to METAL GENNARI SRL of any lack of conformity with the contract or of any deficiency in title, and in any event directly and in writing. METAL GENNARI SRL employees, commercial agents or other sales intermediaries are not authorised to accept **denunciations** or to make any guarantee statements.

6. Following **standard denunciation** according to section V. -5., the customer can rely on the remedies provided by these general conditions for international sales contracts. The customer has no other rights or claims whatsoever. Metal Gennari's fulfilment of the remedies at customer's disposal does not lead to a recommencement of the limitation period.

In the event of **denunciations not having been properly given**, the customer may only rely on remedies if METAL GENNARI SRL has fraudulently concealed the lack of conformity with the contract or the deficiency in title. Statements by METAL GENNARI SRL as to the lack of conformity with the contract or as to the deficiency in title are for the purpose of explaining the factual position only, but do not entail any waiver by METAL GENNARI SRL of the requirement of proper notice.

7. During the valid period of guarantee as set out in Point 1 of the present paragraph, METAL GENNARI SRL will **substitute or repair** or eventually reduce the price of the goods which have proven to be defective under the conditions described above in accordance with the terms of the 1980 Vienna Sales Convention on the international sale of moveable goods. The substitution or repair of faulty goods does not lead to a recommencement of the limitation period. The customer has no right of retention on the goods to be returned. Further claims for performance are not available to the customer.. Irrespective of the customer's remedies, METAL GENNARI SRL is always entitled in accordance with the provision in section III.-7. to repair goods which do not conform with the contract or to supply substitute goods or to avert the customer's remedies by giving it a credit note of an appropriate amount.

VI. Avoidance of the Contract

1. **The customer** is only entitled to declare the contract avoided if the respective applicable legal requirements are complied with, after it **has threatened** METAL GENNARI SRL with avoidance of the contract **in writing** and an additional period of time of reasonable length for performance fixed in writing has expired to no avail. If the customer claims delivery of substitute goods, repair or other performance, it is bound for a reasonable period of time to the chosen remedy, without being able to exercise the right of declaring the contract avoided. In any event, the customer must give notice of avoidance of the contract within reasonable time in writing and to METAL GENNARI SRL directly.

2. Without prejudice to its continuing legal rights, METAL GENNARI SRL is entitled to avoid the contract in whole or in part without compensation if the customer objects to the application of the general conditions for international sales contracts, , if insolvency proceedings relating to the assets of the customer are applied for or commenced, if the customer without providing a justifiable reason does not meet fundamental obligations due towards METAL GENNARI SRL or towards third parties, if the customer has provided inaccurate information regarding its creditworthiness, if the cover given by a credit insurer is reduced on grounds for which METAL GENNARI SRL is not responsible, if METAL GENNARI SRL through no fault of its own does not receive supplies properly or on time, or if for other reasons METAL GENNARI SRL cannot be expected to fulfil its obligations by means which taking into consideration its own interests and that of the customer as far as ascertainable and legitimate at the time of formation of the contract, are unreasonable in particular in relation to the agreed counter-performance.

VII. Damage Payment

1. In consequence of the contractual negotiations carried on with the customer or those not laid down in the contract, METAL GENNARI SRL **is only obliged to pay damages** in accordance with the following provisions:

a) The customer **is required in the first instance to rely on other remedies** and can only claim damages for the remaining deficiency. The customer cannot claim damages as an alternative to other remedies.

b) METAL GENNARI SRL is **not liable** for damages to which the customer has contributed. Neither is METAL GENNARI SRL liable for impediments which occur as a consequence of natural or political events, acts of state, industrial disputes, sabotage, accidents, terrorism, biological, physical or chemical processes or similar circumstances and which cannot be controlled by METAL GENNARI SRL with reasonable means. Moreover, METAL GENNARI SRL **is only liable** to the extent that the customer proves that the executive bodies or members of staff of METAL GENNARI SRL deliberately or in circumstances amounting to gross negligence have breached contractual obligations owed to the customer.

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c) In the event of liability METAL GENNARI SRL will compensate within the limits of lit. d) the proven **loss** to the customer to the extent that it was unavoidable for the customer and **foreseeable** to METAL GENNARI SRL, at the time of the conclusion of the contract in respect of the occurrence of the loss and its amount. The customer must **advise** METAL GENNARI SRL in writing before the conclusion of the contract of particular risks, atypical possibilities for damages and unusual amounts of loss. Moreover, the customer is required **to mitigate its loss** as soon as a breach of contract is or ought to be known.

d) METAL GENNARI SRL **is not liable** for loss of profit or for non-property damages. Moreover, **the amount of damages** paid for late or non-existent delivery is limited to 0,5 % for each full week of delay, up to a maximum of 5 %, and for other breaches of obligations is limited on delivery of machines and equipment to an amount of double the value of the non-conforming part of the contract and on delivery of spare parts to a maximum of 5% of the value of the goods. However, the reductions mentioned do not apply to gross negligence or fraudulent behaviour by the executive bodies or the management of METAL GENNARI SRL.

e) The **prescription** of contractual claims is equally valid for other claims by the customer to METAL GENNARI SRL, concurrent with contractual ones. Except for any previous prescription, METAL GENNARI SRL **excludes claims** for damages brought by the customer after **six months** beginning from the rejection date of the claim for damages.

f) The limitation or the exclusion from responsibility of METAL GENNARI SRL is equally applicable to the **personal responsibility** of its employees, full-time members of staff, representatives and/or those employed by METAL GENNARI SRL in the performance of its obligations.

2. Irrespective of other legal or contractual requests of METAL GENNARI SRL, the **customer** is obliged to pay damages to METAL GENNARI SRL as follows:

a) In the event of **delay in payment** the customer will pay the costs of judicial and extra-judicial means and proceedings, usual and accruing within the country and abroad, as well as (without evidence being necessary) interest at the rate applicable in Italy for unsecured short-term loans in the agreed currency, at least at the applied base rate of the Central European Bank.

b) In the case of a clear **failure to take delivery of the goods** by the customer or **of seriously late taking delivery of the goods** by the customer, METAL GENNARI SRL is entitled to claim flat-rate damages, without evidence being necessary, up to 15 per cent of the value of the goods to be delivered.

VIII. Other Provisions

1. Title of the goods that have been delivered remains with METAL GENNARI SRL until settlement of all claims existing against the customer. The allocation of risk as to price and performance in section III. -8. is not affected by the reservation of title.

2. In the case of late payment on the part of the customer, without prejudice to METAL GENNARI SRL continuing claims and without obligation to reimburse can modify the contract through a unilateral reduction of the contractual obligations and of the customer, and of METAL GENNARI

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SRL itself. **The reduction of the contractual obligations** concerns exclusively the customer or METAL GENARI SRL performances, not yet executed at the moment of the reduction; this declaration can only have the effect of determining that the customer and METAL GENNARI SRL will have fulfilled their respective contractual obligations and be free of all other types of obligations of performance. The reduction does not concern the already carried out performances and the remedies that are already due to METAL GENNARI SRL.

3. In relation to pictures, drawings, calculations and other **documents** as well as computer-software, which have been made available by METAL GENNARI SRL in a material or electronic form, the latter reserves all proprietary rights, copyrights, other industrial property rights as well as know-how rights.

4. All communications, declarations, notices etc. are to be drawn up exclusively in **Italian or English**. Communications by means of fax or e-mail fulfil the requirement of **being in writing**.

5. The use of machines delivered by METAL GENNARI SRL is only permissible with the METAL GENNARI SRL **installation manual** and with the components provided by METAL GENNARI SRL. METAL GENNARI SRL takes no responsibility for the consequences of customer interference with the electronic control system.

IX. General Basis of Contracts – Applicable Laws – Law Courts with Jurisdiction

1. The place **for carrying out performance** and payment as well as all obligations arising from the legal relationship between METAL GENNARI SRL and the customer is Ponte dell' Olio (PC)/Italy. This provision also applies when METAL GENNARI SRL assumes the costs of money remittance, renders performance for the customer somewhere else or payment is to be made in exchange of goods or documents or in the case of restitution of performances already rendered. The agreement of **INCOTERMS** of group F or C or agreements concerning the allocation of costs do not modify the place of performance agreed in the present agreement. METAL GENNARI SRL is also entitled to require payment at the customer place of business.

2. The present General Sales Conditions, as well as the singular supply of products from the seller to the buyer, are regulated by Italian law; The United Nations Convention of 11 April 1980 on Contracts for the International Sale of movable Goods (**Vienna Convention / CISG**) will be applicable as long as its provisions are not in conflict with the hereby general sales conditions. In order to interpret the delivery period and possible other commercial terms used by the parties the INCOTERMS 2000 of the International Chamber of Commerce apply taking into account the provisions stipulated in the hereby-general conditions.

3. The **conclusion of contract**, in particular the agreement as to the jurisdiction of courts and the inclusion of the hereby general conditions for international sales, and **the rights and obligations of the parties**, also including pre-contractual and collateral obligations, as well as the interpretation are governed exclusively by the hereby general conditions for international sales, or where not so covered, by the Vienna Convention.

4. All contractual and extra-contractual disputes arising out of or in connection with contracts to which these general conditions for international sales apply, shall be finally resolved by arbitration according to the Rules of the Camera di Commercio Nazionale and Internazionale di Milano, according to its rules and without recourse to the ordinary courts of law. The place of the arbitration shall be Milan/Italy; the languages used in the arbitral proceedings shall be Italian and/or English.

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5. The Italian language text of the hereby-general sales conditions, even if drawn up in other languages, will be considered the only valid text to be interpreted.

METAL GENNARI SRL

BUYER

The parties declare to have examined and discussed completely the hereby clauses of general sales conditions as advertised on the buyer's site, and consequently they specifically and totally approve according to articles 1341 and 1342 of the Italian civil code the entire content of the following paragraphs **I. Application of the General conditions for international sales contracts, II. Conclusion of the sales contract, III. Obligations of METAL GENNARI SRL, III. Obligations of METAL GENNARI SRL, IV. Price, Payment and Taking Delivery of the Goods, V. Delivery of non-conforming Goods or Goods with Defective Title, VI. Avoidance of the Contract, VII. Damage Payment, VIII. Other Provisions, IX. General Basis of Contracts – Applicable Laws –Law Courts with Jurisdiction**

METAL GENNARI SRL

BUYER