

Terms & Conditions of Sale (T&CS – Issue # 4 - May 2023)

1 Definition.

1.1. In these conditions the expression “The Company” means Mktg Industry Srl. - Via Diaz, 6 – 26013 Crema (CR) Italy, and the expression “The Customer” means the person, firm or company to whom a quotation is addressed, or whose order is accepted by Mktg Industry.

2. Application.

2.1. The Terms & Conditions of Sale apply to all sales of goods by Mktg Industry Srl. to any customer, and shall prevail over and apply to the exclusion of any Terms and Conditions of Purchase referred to, or contained within the customer’s order or correspondence, unless specified and agreed to in writing by an authorised representative of the Company. Acceptance of the Company’s quotation and/or Order Acknowledgement (Conferma d’Ordine) implies acceptance of these Terms & Conditions of Sale.

3. Quotations, Pricing & Order Acceptance.

3.1. Quotations are based on prices in euros (€) ruling on the date of such quotations and, unless otherwise indicated, are open for acceptance within 30 days, after which they may be revised. Agreed prices are specified on our Order Acknowledgement (Conferma d’Ordine).

3.2. Where an order is received for a quantity less than quoted for, or where delivery is required in instalments smaller than those specified in the quotation, prices will be subject to an increase.

3.3 Formal acceptance of the Customer’s order will be confirmed through the issue of an Order Acknowledgement (Conferma d’Ordine) specifying product description, quantity, unit price in euros (€) and provisional due-date. The Company undertake to provide goods strictly in accordance with the details contained in the Order Acknowledgement (Conferma d’Ordine), and it is the responsibility of the Customer to check all such details and notify the Company immediately where this does not meet their requirements.

4. Product Specifications.

4.1. The Company’s experience is at the Customer’s disposal; however, it is the customer’s responsibility to be satisfied, prior to placing an order, that the requested product specification is suitable to meet the application and performance demands of the customer’s product. The Company accepts no liability for any consequential losses arising from such unsuitability.

4.2. All tools made or provided by the Company shall remain the property of the Company. Such tools may not be withdrawn from the Company’s possession and no rights are granted to the Customer in respect of any technical design features, which are the property of the Company, and which may be incorporated in tools. All design work carried out on behalf of the Customer remains the intellectual property of the Company.

4.3. All technical documents, product samples, specifications, process samples, film negatives and drawings supplied to the Customer are submitted in confidence, and shall not be copied, reproduced, transmitted or communicated to a third party without the Company’s written consent.

5. Order Variation & Cancellation.

5.1. An accepted order may not be varied or added to without the specific written agreement of an authorised representative of the Company. The Company shall not be required to agree to any proposed variation or addition, but if prepared to do so, this shall be on the basis that the Customer shall pay any additional charges in respect of variation or addition.

5.2. Accepted orders may not be cancelled in whole or in part by the customer without the specific written agreement of an authorised representative of the Company. Where the Company agrees to cancellation of any order, or any part of an order, the Customer will indemnify the Company against all loss, cancellation costs and damage which results there from. This will include any stocks of special or decorated material or product acquired in fulfilment of an accepted order.

6. Delivery.

6.1. Whilst every effort will be made to meet due-dates mentioned in quotations, order acknowledgements or elsewhere, such dates are approximate only and not of any contractual effect; and the Company shall not incur any liability by reason of failure to deliver on any particular date or dates.

6.2. The Company reserves the right to deliver goods in one or more instalments. Where goods are delivered by instalment, no default in respect of any one instalment shall release the Customer from its obligations in respect of taking any remaining instalments in fulfilment of the order. In delivering against the quantity ordered, upto +/- 5% shall be considered a good delivery unless otherwise specified and agreed in writing prior to order acceptance.

6.3. Without prejudice to the Company’s other rights, if the Customer refuses, or fails to take delivery of goods tendered in accordance with the contract, or requests the Company to postpone the delivery of goods which are ready for delivery, the Company shall be entitled to payment in full for the goods so tendered, or ready for delivery, as if delivery has been effected. The Company shall be entitled to store at the risk of the Customer, any goods of which the customer refuses, or fails to take delivery of, or the delivery of which is postponed. The Customer shall in addition to the purchase price, pay all costs of such storage and any insurance, transportation and handling costs incurred as a result of such refusal or failure.

7. Terms of Payment

7.1. The Company’s payment terms are indicated on each Quotation and specified on our Order Acknowledgement (Conferma d’Ordine).

7.2. Goods delivered to the customer remain the property of the Company until paid for in full.

8. Warranty & Liability.

8.1. Without prejudice to the Company's general Terms and Conditions of Sale which every order accepted is subject to, the Company cannot accept any liability whatsoever in respect of the use to which the goods, subject to this document, are put. The Customer and any user should accordingly take all such steps to satisfy themselves of the suitability of goods for the precise purpose to which they wish to put them. They should not rely on any representations, whether written or oral, made by ourselves, our agents or employees.

8.2. The Customer shall inspect the goods promptly following delivery and shall notify the Company within 8 days of delivery in the case of:

- Shortages in quantity
- Visible damage
- Visible product defects
- Product not corresponding to that ordered and specified on our Order Acknowledgement (Conferma d'Ordine).

It is the Customer's responsibility to ensure that the goods received are in good order. Any outward signs of transit damage must be clearly specified on the carrier's documentation for a claim to be pursued.

8.3. It is the responsibility of the Customer to notify the Company within 28 days from receipt of the consignment of any complaint concerning product non-conformity that would be classified as a critical or major functional defect.

The Company may agree to extend the 28 day notification period in writing at the order acceptance stage.

8.4. If no Customer complaint is received within 28 days from receipt of goods, the Company will deem the consignment to be in complete conformity with the order and specification (Ref. Order Acknowledgement - (Conferma d'Ordine) and to have been accepted by the Customer, and that the Company shall not be under any liability in respect thereof. The Company shall not in any event be liable to the Customer, or the latter's customer, for any indirect or consequential loss or damage.

8.5. The Company will not entertain any claim that arises out of the incorrect storage or handling of delivered goods at the Customer's. Goods which are the subject of a claim are the direct responsibility of the Customer, and must be stored in a protective environment free of charge pending instructions from the Company. Where it is agreed that goods are to be returned to the Company, the settling of any claim will in-part be dependent upon the goods in question being received back on the Company's premises in good order and, following inspection, are deemed suitable for re-selling where appropriate.

9. Consumer Protection Act and other Industrial Property Rights.

9.1. The Company shall be indemnified by the Customer against all claims, actions, costs, expenses (including all court costs and legal fees) or other liabilities, whatsoever, in respect of:

- Any liability arising under the Consumer Protection Act 1987 for goods supplied strictly in accordance with Section 4
- Product Specifications and Section 8 – Warranty & Liability as specified within this document
- Any negligent or wilful act or omission by the customer in relation to the use, processing, storage or sale of the goods.
- Any infringement of copyright, patent, trademark or registered design.

10. Force Majeure.

10.1. The Company shall not be liable for failing to perform to the contract, whether in whole or in part, if the failure is caused by any inability to secure labour, materials or supplies; any act of God, riot or civil commotion; strike, lock-out, fire, flood, drought, act of government; or any cause, whether or not similar in kind to all or any of the foregoing, outside the Company's control; and the Company shall have the right by notice, in writing to the Customer, to rescind the contract, or to elect to vary the contract, as may in the Company's opinion be necessary.

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