



## **GENERAL CONDITIONS OF SALE**

### **1. Scope**

- 1.1 These general conditions of sale (hereinafter referred to as “GCS”) apply to all goods manufactured by and/or services rendered for any reason by MTS Officine Meccaniche Di Precisione SPA (hereinafter referred to as “MTS”).
- 1.2 Any special conditions, derogations, and/or amendments to these GCS shall be valid only if specifically agreed to in writing by MTS and the customer (hereinafter referred to as the “Customer”) and, even in this case, they may not be interpreted by extension or by analogy, so that these conditions shall continue to apply in those provisions that are not derogated from.
- 1.3 In the GCS, the term “Product/Products” refers to semi-finished goods, components, and parts of machines and plants manufactured, finished products, and any other material good supplied by MTS.

### **2. Informational Data and Product Changes**

- 2.1 Informational Data – The weights, dimensions, yields, colors, and other data appearing in the catalogues, technical schedules, advertisements, illustrations, price schedules, offers, or any illustrative document published by MTS are only approximate and illustrative in nature. The aforesaid information are of a binding nature only if and to the extent that this has been expressly stipulated in the MTS order confirmation.
- 2.2 Product Changes - MTS reserves the right to make technical and aesthetic changes to its own Products at its own expense, at any time, and at its sole discretion if it believes they will improve or perfect the Product.

### **3. Orders – Formation of Contract**

- 3.1 Orders - Orders sent by the Customer to MTS are considered irrevocable proposals for a period of 30 (thirty) days from the date they are received.
- 3.2 GCS – Along with the order, MTS shall transmit the GCS to the Customer which are an integral part of the contract, and by signing this agreement, the Customer’s legal representative acknowledges and agrees that this transaction is governed by and subject to these GCS.
- 3.3 Order Confirmation - It is agreed that the contract for every single supply is concluded on the date of the written order confirmation by MTS (hereinafter referred to as the “Order Confirmation”), without prejudice to the unilateral right of MTS not to accept the received orders.

In any event, MTS reserves the right to execute the order directly: in these cases, the start of execution will be based on the Order Confirmation.

The supply data and characteristics, as well as the terms of contract and services performed shall be those appearing in the Order Confirmation. Conditions added by the Customer in conflict with the content of the Order Confirmation, or amending it, shall not be considered a part of the contract. Complementary agreements or amendments shall be valid only if confirmed in writing by MTS.

### **4. Conformity of Supply with Italian Law**

- 4.1 In general, MTS Products are supplied with the protection devices and mechanisms envisaged by the Italian statutes current at the time of the Order Confirmation.
- 4.2 The Customer assumes all risk for any discrepancy between these norms and those of the final country destination of the Products, holding MTS harmless therefor.  
Any technical changes that might be requested by the Customer with respect to the standard model produced by MTS release MTS from any liability with respect to the aforesaid occupational safety and health norms.
- 4.3 The cost of any change requested by the Customer and dictated by special needs or the norms applicable in the destination countries of the supply shall be charged to the Customer itself, in addition to the supply price.

### **5. Price and Payment**

- 5.1 Price - Unless otherwise agreed, the prices apply exclusively to the material delivered ex-Factory at the point of shipment, excluding packaging materials.
- 5.2 Terms and Conditions of Payment - Unless otherwise agreed in writing, the Customer is not authorized to pay agents, representatives, or commercial assistants of MTS. Any payments made by the aforesaid means shall not be considered complete until the relative sums are received by MTS.
- 5.3 Late Payments – In the event of delays or irregularities in payments made by the Customer, MTS shall have the right, starting on the payment due date printed on the invoice, to charge late interest at the official applicable discount rate plus two points for every day of delay, without necessarily placing the customer in default.  
Late or irregular payment, even in case of one delayed payment, also gives MTS the right to suspend the warranty envisaged at Article 13 hereunder for the entire duration of the delay and to suspend supplies or cancel pending contracts, even if they do not regard the object of the payments in question, as well as the right to indemnification of any damages.
- 5.4 The Customer is required to make full payment even in the event of a complaint or controversy between the parties, with the principle of “solve et repete” (payment under protest) applying.  
In any event, the Customer may not effect offsetting of any receivables, regardless of their origin, payable by MTS, even independently from the relationship regulated by these GCS.
- 5.5 If time payment was agreed to in the Order Confirmation, failure to make payment on even one installment implies the automatic expiration of the Customer’s time limit; thus, the entire sum owed will become immediately due.
- 5.6 If ownership of the Customer changes, MTS reserves the right, at its own discretion, to request the issuance of bank guarantees, even after conclusion of the contract, with it being expressly agreed that, if such guarantees are not granted, MTS may suspend execution of the order.
- 5.7 Bankruptcy proceedings of insolvency - In case of Customer insolvency or bankruptcy, MTS shall resolve the Contract by registered mail (effective immediately).



## **6. Delivery**

- 6.1 Product Returns – Unless otherwise agreed, the supply of Products is agreed to be ex-Factory: this condition applies even if it is agreed that the shipment or part of it be executed at the care of MTS, in which case the latter shall act as the Customer's agent, with it being agreed that the shipment is made at the Customer's risk and expense.
- 6.2 Start of Terms of Delivery – The terms of delivery indicated on the Order Confirmation do not start until MTS has received communication of all the information necessary and all documents, permits, approvals, and authorizations to be produced by the Customer have been made available, and in any event not until the latter has paid a deposit if necessary. The terms of delivery shall be considered respected if the Product leaves the MTS facility on the agreed date, or if the Customer has been notified (including by e-mail, or fax) that the Product is ready for shipment.
- 6.3 Terms of Delivery – The term of delivery is considered approximate and in favor of MTS. In any event, it shall be construed with a reasonable margin of tolerance. In any event, MTS shall not be held liable for any other damages deriving from early, late, or no delivery, whether total or partial.
- 6.4 Impediments Independent of the Will of the Parties - The term of delivery shall be adequately prolonged if circumstances independent of the will of MTS negatively influence preparation of the Products or their shipment. These circumstances – such as, merely by way of example, work interruptions due to direct and indirect causes (fire, flood, explosion, political or economic strikes at the national, provincial, or company level, loss of power, production plant breakdowns, etc.), fire of materials, no or late delivery of essential materials, reduced working hours, limits on hiring of labor, insufficient or suspended transport, whatever the cause, legal or administrative measures that impede, limit, or delay the production or shipment of Products – may occur both at the MTS plants and those of its subcontractors. The aforesaid circumstances shall be considered valid even if they transpire during the period that MTS is late in performing. If especially prolonged causes of delay can easily be foreseen, MTS is required to warn the Customer. In the cases just described, MTS is released from any obligation of making delivery until the impediment ceases to exist, and the Customer shall not be thereby entitled to any compensation for damages that it might suffer, even indirectly.
- 6.5 Obligation of Customer to Accept Delivery of Products – After notification by MTS that the Products are ready, the Customer is required to accept their delivery. If the Customer requests a delay in delivery, or if it does not provide for pick-up of Products ready for shipment, it shall be charged the costs for warehousing the Products. If they are warehoused at the MTS facility, these costs are hereby agreed to be computed at the monthly rate of 0.50% of the price of the stocked Products. If, after 60 days, no response is made to the notice of Product completion, MTS shall have the right to deliver them at the time its work schedule and other commitments allow. In this case it cannot be considered in default. Alternatively, it may cancel the contract upon service of written notice thereof on the Customer, and dispose of the stocked Products entirely as it sees fit, while reserving the right of MTS to compensation for any damages and other expenses.

## **7. Transfer of Risk and Pick-up of Products**

- 7.1 At the latest, the title and the risks connected with the supply are transferred to the Customer when the Products leave the MTS facility, even in the event of partial shipments, only in the case of shipped Products, even if MTS has agreed to sustain the costs of shipment, delivery, return, installation, etc. Upon request by the Customer and at its expense, MTS may provide for insurance of the Products against breakage, transportation risks, fire, etc.
- 7.2 If the shipment of ready Products suffers delays due to causes not attributable to the intentional wrongdoing or negligence of MTS, the risk shall be transferred to the Customer from the date of service of the notice of completion. On request by and at the expense of the Customer, MTS shall insure the supply against damages.
- 7.3 Unless specifically agreed, partial supplies are allowed.
- 7.4 In the event that the Products are destroyed or damaged after the transfer of risks, the Customer is not released from its obligation of paying the price, and MTS shall not be held liable for the destruction or damage.

## **8. Right of Customer to Cancel the Contract**

- 8.1 If, due to its own fault, MTS is more than six months late in making delivery with respect to the date envisaged in Art. 6.3, paragraph two, as term for the grace period, the Customer shall have the right to request cancellation of only that part of the contract covering the undelivered portion of the supply or that part for which risk has not yet been transferred. MTS is required to return the portion of any sums received pertaining to the unexecuted part of the supply, with a penalty of 5% annually for the returned portion and the period between the date of receipt and the date of restitution.
- 8.2 The Customer shall have analogous rights if all or part of the supply cannot be produced by MTS as envisaged in Art. 6.4 hereinabove.
- 8.3 The Customer may not make any other claims, such as to modify, revoke, or reduce the price, or obtain compensation for damages of any type, including direct and indirect damages.

## **9. Right of MTS to Withdraw from the Sales Contract**

- 9.1 If unforeseen events pursuant to Art. 6.3 of the GCS occur such as to alter significantly the economic importance or characteristics of the Products, or considerably influence the activities of MTS, or if execution of the order subsequently becomes impossible, MTS shall have the right to withdraw completely or partially from the contract. This shall hold true even if MTS and the Customer previously agreed on an extension in the delivery terms.

## **10. Installation Assistance**

- 10.1 Installation of the Products shall be assisted by specialized installers from MTS or its authorized representatives and the assistants required for the type of Product.
- 10.2 Unless different and express contractual agreements, the expenses of the technicians sent by MTS for the erection and start up of the machine are at customer's charge:
- Travel expenses and local transport;
  - Board, lodging in a first-class hotel and pocket money or, as option, daily allowance.



### **11. Non-Assignment of Use or License**

- 11.1 Customer may not assign or otherwise transfer, voluntarily, by operation of law or otherwise, any of its rights to any Intellectual Property granted under this Sales Contract, without, in each instance, the prior written consent of MTS, which consent shall not be unreasonably withheld, delayed or conditioned. Any attempted assignment or transfer in violation of the terms of this Section shall, at the option of MTS be null and void.
- 11.2 The Customer undertakes to inform MTS promptly and oppose any action brought by third parties on the Products as a precautionary, executive, or other prejudicial measure with respect to the Products, even if they only be threatened.
- 11.3 MTS shall have the right to insure the Products on the Customer's behalf and at the Customer's expense against fire, water damage, and all other risks if the latter does not insure them against said risks itself.

### **12. Use of Products**

- 12.1 The Customer is not authorized to use the Products in ways not in conformity with the uses, purposes, applications, and tolerances expressly indicated in the technical specifications, user manual, and maintenance instructions for the product.  
In particular, the product may not be used outside the textile sector.
- 12.2 Use of the Products in excess of the limits and in violation of the aforesaid conditions shall release MTS from any liability pursuant to Art. 13 hereunder.

### **13. Liability for Supply Defects**

- 13.1 Conformity of Products – MTS, either directly or through its authorized representatives, will provide warranty service and support to the Customer pursuant to the terms and conditions of this agreement. Except as mandated by law, MTS is liable for all defects in the Products within the terms and limits envisaged in this article, where defects can also take the form of failure to satisfy characteristics of quantity, quality, and type, only as expressly agreed to be binding in writing.
- 13.2 Restrictions of the Warranty
- 13.2.1 MTS DO NOT apply the warranty to the products supplied by manufacturers other than MTS by offers, information, documents included in the contract as per customer's request. In this case MTS commits itself exclusively to satisfy those Customer claims which it has right to in regard to the disputed parts (transfer of the warranty of the third party to the customer).
- 13.2.2 The warranty against defects is limited solely to Product defects resulting from defects in design, material, and fabrication attributable to MTS and does not apply if the Customer does not prove that it correctly used, maintained, and kept the Products, and that it did not modify or repair them without the approval of MTS.  
By way of example, MTS is consequently released from any and all liability in the following cases: incorrect and improper use of the Products; assembly and installation by the Customer or third parties; normal wear and tear; negligent maintenance; incorrect or careless maneuvers; overloading; use of unsuitable operating mechanisms; unsuitable foundations; chemical, physical, or electrical influences; modifications or repair work performed by the Customer or third parties, and in general negligence or inexperience of the Customer.
- 13.2.3 MTS shall also not be held liable for Product defects due to normal wear and tear of those parts that, by their nature, are subject to normal wear and tear, such as rubber gaskets.
- 13.2.4 More generally, in no case shall MTS be held liable for defects caused by an event occurring after transfer of risks to the Customer.
- 13.2.5 MTS shall not be required to perform work to eliminate reported defects if the Customer has not regularly satisfied its own contractual obligations at the time the incident is reported.
- 13.3 Content and Duration – All Product parts that have become unusable or whose utility has been gravely prejudiced due to defective construction, poor materials, or poor workmanship, within 15 months after transfer of risk, shall be repaired or replaced free of charge by MTS.  
The finding of said defects must be reported in writing by registered mail to MTS within 8 days.  
The date the aforesaid statement is received shall be used to determine the promptness of the report.  
Warranty work is conditioned on the Customer making a proper report pursuant to the terms and conditions of this article, as well as an express written request to MTS for performance of warranty work.  
Following proper reporting by the Customer, MTS may, within a reasonable period of time according to the extent of the complaint, at its own discretion, and according to the circumstances, replace, modify, or repair the defective Product or modify the Product that does not conform to the agreed conditions.  
In order to perform all the repairs and ensure supply of the replacement parts as necessary following an objective examination, MTS must be able to have the time necessary to do so, otherwise it shall be released from its consequent obligations. In no case may the Customer remedy or have third parties remedy any defects regardless of their type or gravity.  
If the complaint is justified, MTS shall bear the cost of expenses directly connected with the repair or supply of replacement parts, as well as assembly and disassembly costs.  
Additional costs, as well as any costs and/or damages, both direct and indirect, shall be borne by the Customer, including travel, food, and lodging expenses for the installation technician and his assistants, transportation costs, and customs duties for the replacement parts.  
The warranty for replaced or repaired Product components starts on the date of its replacement or repair, and it shall cover only the repaired or replaced component.  
It is agreed that, in case of Customer living in a Country outside the European Union, the warranty for the Product components replaced or repaired free of charge does not include the amount paid for import duty and any related taxes, which shall be the responsibility of the Customer.
- 13.4 Forfeiture of Warranty Right - The Customer forfeits its warranty right if it does not allow all reasonable inspections requested by MTS or if it fails to return the defective Products within thirty days after receiving written request for same by MTS.  
In the event of an interruption due to breakage, imperfections, or repair work, the warranty expiration date shall not be extended.
- 13.5 Limitation of Liability - Except as mandated by law, the warranty regulated in this article (together with whatever is ordered by the special conditions agreed to in writing by the parties) is agreed to encompass and replace the legal warranties for flaws and



defects and excludes any other possible liability of MTS, however it might have arisen in the supply, its delivery, installation, repair, or technical instructions furnished in connection with the Products. In particular, MTS shall not be liable for any losses of data, production, or profits, nor any direct, indirect, or consequential damage caused to things and/or persons due to the malfunction or non-functioning of the Products.

Except as mandated by law, upon expiration of the warranty, no claims may be pressed against MTS.

#### **14. Obligations of Customer for Occupational Safety and Health**

- 14.1 The Customer must prepare the site where the Product is to be installed and furnish the Product installation or operating personnel – including maintenance personnel – with the necessary assistance and tools required to perform their work, including the supply of electric power, water, and whatever else is necessary. In compliance with applicable occupational health and safety norms, the Customer must also verify that the environmental conditions are not such as to aggravate or cause hazardous situations. A Customer representative must responsibly verify that the aforesaid occupational health and safety norms are scrupulously observed by everyone – MTS personnel included as applicable – both in terms of the equipment provided to the operators, and the environmental conditions in which the operators are asked to perform their work.

#### **15. Intellectual Property**

- 15.1 Patents, Trademarks, and Distinctive Marks - The Customer expressly recognizes that the name of MTS and the Products trademarks, their graphic representation, and the know-how relative to the Products are the property and/or intellectual and industrial property of MTS.

In no case may the Customer use, delete, or remove any indication regarding the patents, trademarks, or commercial names affixed by MTS on the Products without prior written permission from MTS.

- 15.2 Drawings, Documents, and Technical Information - Any drawing or technical drawing that permits fabrication or installation of the machines or their parts and is remitted to the Customer, both before and after execution of the contract, remains the exclusive property of MTS. The aforesaid drawings or documents cannot be used by the Customer or copied, reproduced, transmitted, or communicated to third parties without the written consent of MTS.

- 15.3 Non-competition Agreement - The Customer shall preserve any business information of MTS that he can be acquainted with during the business relation. The Customer commits himself to comply with the Non-competition Agreement with MTS for 3 years from the Order Confirmation and, in any case, to avoid that any information regarding his business relation with MTS could favour MTS's competitors. The non-compliance of the Non-competition Agreement shall entail the immediate order cancellation, but MTS and have the power to safeguard its interests in the appropriate offices.

In particular the Customer commits himself to:

- a) safeguard any information as confidential;
- b) inform any person that have access to private MTS information, about confidentiality obligation;
- c) not to duplicate any document or file received from MTS and he shall preserve them in the original copy;
- d) use any information only to fulfil the contract obligations;
- e) promptly return on demand, even in verbal, any document or file given MTS.

#### **16. General Provisions**

- 16.1 None of the rights deriving from these General Conditions and/or the relative orders may be transferred, in whole or in part, by the Customer to third parties, without the prior written permission of MTS
- 16.2 In the event of discrepancies between the English and/or any translated version of the text of the GCS, the content of the English text shall have precedence and be controlling in the event of any conflict.

#### **17. Governing Law and Court of Jurisdiction**

- 17.1 The parties agree that the supply contract and these GCS shall be subject to Italian law, excluding the norms of international private law.
- 17.2 The Court of Milan shall have exclusive jurisdiction for the resolution of any controversy arising over the supply contract or the foregoing conditions.