

## **GENERAL CONDITIONS OF SALE**

### **1. DEFINITIONS**

**1.1** "Conditions" mean stipulations, contract terms and conditions as a whole set out in these General Conditions of Sale.

**1.2** "Vendor" means the Company "SILENCERMARINE di Rossi Ing. Enrico" based in Silea (Treviso)-Italy, Via Trieste n° 1/C.

**1.3** "Customer" means any private individual, sole proprietorship, company or in general any legal subject with which the Vendor enters into agreement concerning the sale of products and/or services in any way marketed by the Vendor.

**1.4** "Contract" means each sales contract concluded between the Vendor and the Customer.

**1.5** "Supply of goods" means the whole of the goods and/or services transferred from the Vendor to the Customer as fulfilment of a Contract.

**1.6** "Product" means each individual item or service offered for sale by the Vendor.

### **2. OBJECT – FIELD OF APPLICATION**

**2.1** These General Conditions of Sale regulate contracts of sale or for the supply of products and services of SILENCERMARINE (hereinafter referred to as Products). These General Conditions generally apply to all sales contracts drawn up by the Vendor.

**2.2** Notwithstanding the general validity of these General Conditions of Sale, we however stipulate that any specific written agreements made between the Vendor and the Customer shall prevail over the former in the event of any conflict.

**2.3** All sales are deemed as being processed subject to the following General Conditions, even in cases where this is not specifically agreed upon.

### **3. TECHNICAL FEATURES OF PRODUCTS**

**3.1** The technical features of SILENCERMARINE products considered valid for contract purposes, are those given in the latest updated catalogue which is still in force for standard models of products currently in production. For products manufactured to specifications, the technical features are those agreed upon with the Customer and in all cases indicated on the offer made by the Vendor to the Customer. SILENCERMARINE reserve the right to make any modifications or variations, without any prior warning, to their standard production considered necessary in order to bring these into line with the requirements of manufacturing or company strategies.

### **4. PLACING ORDERS**

**4.1** Orders must be sent by the Customer in writing (including by fax) to SILENCERMARINE.

**4.2** Orders made verbally shall not be accepted.

**4.3** No order shall be binding for the Vendor until it has been accepted in writing by means of a "Confirmation of Order"; in the event that there are discrepancies between the order sent by the Customer to the Vendor and the "Confirmation of Order" sent by the latter to the Customer, the corresponding supply of Products shall be regulated exclusively on the conditions laid down in the "Confirmation of Order".

**4.4** Orders placed through agents, representatives, persons appointed or over the Internet must be considered operational only after having been expressly accepted by SILENCERMARINE, by means of a formal Confirmation of Order.

**4.5** Agreements made which deviate from the general Conditions of Sale are binding for the Vendor only if drawn up in writing and signed by a representative who is vested with the power to sign.

**4.6** Formally confirmed orders shall be considered binding for the Customer, who may not reduce or cancel them. Exception is made for the case set out in clause 5.13.

**4.7** The General Conditions of Sale shall prevail over any clause, term or condition given in the order or in any other communication made before the contract was drawn up sent by the Customer, even when not expressly excluded or challenged.

**4.8** The General Conditions of Sale also regulate the Contract in cases in which the Vendor has not accepted the Customer's order in writing but has authorised its processing, in accordance with clause 2.3.

**4.9** All accepted orders are deemed subject to the "price variability" clause, even when this is not specifically indicated on the Confirmation of Order.

## **5. DELIVERY**

**5.1** The Products shall be supplied by the Vendor to the Customer "ex-Factory", at the Vendor's facilities in Silea (Treviso)-Italy or other facilities indicated by the Vendor, by the date given on the Confirmation of Order.

**5.2** When the goods are handed over to the Customer or first carrier respectively, the risks inherent in the Products are transferred to the Customer, this applies also in cases of free carriage or carriage charged to the Customer on the invoice: consequently, no request may be made for any reason whatsoever to the Vendor for damage, loss of goods, theft, delays and/or other detrimental events which take place during transportation. Therefore the Customer shall not be exempted from paying the price of the Products if loss or damage occur to the Products as specified above.

**5.3** The delivery term starts from the time the order is perfected. It is considered exhausted when goods are handed over for shipment.

**5.4** Delivery terms are always indicative: the right therefore of the Customer to request sums as compensation for damages arising from the late delivery of Products is excluded.

**5.5** SILENCERMARINE may at their discretion subject the processing of the order for the Supply of goods to the receiving of payments owed by the Customer.

**5.6** The undertaking of the Vendor to hand over the Products may be suspended in all cases in which the Customer breaches his obligation to pay for the same Products.

**5.7** If the Customer, having been informed that the ordered Product is available for delivery, does not provide for immediate collection of or accept delivery of the same, all the expenses and costs deriving from such failure shall be charged to the same Customer, subject to SILENCERMARINE suffering greater damages.

**5.8** Failure to collect and/or refusal of delivery shall furthermore exempt SILENCERMARINE from all liability concerning detention of the product.

**5.9** The Supply of Goods may be processed with split deliveries; in this case, each delivery must be considered the object of a separate Contract and no fault or shortcoming of one delivery may justify refusal of subsequent deliveries.

**5.10** Limitation and/or suspension of production due to reasons of *force majeure* or in any way independent of the will of the Vendor, shall interrupt, for the entire period in which these persist, the calculation of promised delivery terms, without legitimating the Customer's right to reduce or cancel the order and/or any claim for compensation for damages.

**5.11** SILENCERMARINE are free to cancel or suspend orders received from Customers for reasons of *force majeure* or those in any way outside the control of the same Vendor, without incurring any liability whatsoever.

**5.12** Amongst the reasons given above are included the following (these are just examples and are by no means exhaustive): accidents due to natural events; power cuts in workshops; exceptional breakdowns in manufacturing machinery; difficulties in procurement; transportation difficulties; strikes; epidemics.

**5.13** A delay which is not justified by the causes set out in clause 5.12 will give the Customer the right, after three (3) months from the expiry of the promised delivery term, to cancel the order; this however does not legitimate any request for indemnity.

**5.14** Except for Supplies of non-standard Products and subject to different written agreements, any discrepancies between the number of pieces ordered and those delivered cannot constitute grounds for complaint or challenge unless (with reference to every single Product) these exceed 10 % (ten per cent) of the quantity ordered, for orders of up to 20 units or 5 % (five per cent) of the quantity ordered, on orders of more than 20 units.

**5.15** Complaints must be made to the carrier if any of the Goods supplied are missing at the time of delivery and the vendor must be informed in writing within three days of receiving the Products.

**5.16** The responsibility of the Vendor is limited to supplying any Products missing at the time the goods are delivered.

## **6. PRICES**

**6.1** Information concerning the Products given in the SILENCERMARINE price lists is not binding, but is simply indicative, as the Vendor may change the features and prices of the Products at any time. Unless otherwise specified, the prices given in the price lists or in quotations are deemed ex-factory and do not include the cost of packing, freight and insurance, or any other costs (taxes, duties, etc.): these costs are all to be borne by the Purchaser.

**6.2** Quotations made by SILENCERMARINE are valid for 30 days from the date they are drawn up, unless otherwise agreed upon and expressed in writing on the Confirmation of Order.

**6.3** SILENCERMARINE may at any time make corrections to prices in the event of considerable variations in the costs of the raw materials used to construct the Products and in all cases vary or withdraw their offers or quotations before a Contract is concluded.

**6.4** The prices to be applied to goods supplied are those in force at the time the Vendor accepts the order by issuing a Confirmation of Order. If the Customer requests postponement of the Supply of Goods, the balance of the price of the goods must be paid at the time the Vendor informs the Customer that the goods are ready for delivery; storage of the goods is at the Customer's own risk and expense.

**6.5** SILENCERMARINE reserve the right to accept cancelling of an order by the Customer; in this case, however, the costs and expenses sustained up to the date the order is cancelled and all losses and damage suffered by the Vendor due to the same order being cancelled must be immediately refunded by the Customer. Acceptance of an order being cancelled shall however only be binding for the Vendor if in writing.

## **7. PAYMENT**

**7.1** Payment of invoices must be made directly to SILENCERMARINE, who shall not respond for payments made in other ways.

**7.2** Payments must be made within the terms agreed upon and in accordance with the written agreement given on the Confirmation of Order. The property rights of the Products are transferred to the Customer at the time the full price of the goods is paid over. In the event of a delay in payment, the Customer shall be bound, subject to the Vendor's right to terminate the contract and request compensation for damages, to pay, starting from the date the right to payment matured, interest on arrears at the ABI (Italian Bankers Association) prime rate in force on that date, increased by 2 per cent. In the event that the Customer does not provide for payment of the Products within the terms agreed upon, SILENCERMARINE shall have the right to immediately suspend the execution of all sales Contracts concluded with the same Customer until such time as the latter provides for payment in full of sums due.

**7.3** The parties may agree, as a method of payment for the Products, on the issuing of an irrevocable documentary credit, issued in compliance with the Standards and Practices of the International Chamber of Commerce in Paris with regard to documentary credits (publication no. 500); the Vendor must be notified of such credit within the terms agreed upon by the parties; the documentary credit must be confirmed by an Italian bank approved of by the Vendor.

**7.4** Each Contract must be considered a separate entity and honoured as such. In the event of sales with split deliveries, the price for each delivery must be paid separately within the terms specified in clause 7.2.

**7.5** Any sums paid by the Customer prior to delivery of the sold goods shall be withheld, up to a maximum of 50% of the total price of such goods, as earnest money and initial payment. The same sums therefore shall be credited against payment, in the event that the Customer correctly fulfils his obligations and conversely, definitively withheld by SILENCERMARINE in the event of breach of contract by the Customer.

**7.6** Should the Vendor accept payment in instalments, failure to pay even one single instalment shall cause the benefit of the term to automatically lapse and the Vendor shall have the right to demand immediate payment of the entire sum outstanding plus interest as set forth in clause 7.2.

## **8. GUARANTEE – CONDITIONS FOR APPLICATION**

**8.1** The Vendor guarantees the Customer that, from the date the Products are delivered to the Customer, the same Products are free from any manufacturing defects or faults in the raw materials used or in the design which would render the Products no longer suitable for the use which the Vendor expressly promised the Customer.

**8.2** In no case whatsoever shall the Vendor be responsible for any fault or failure to comply of the Products unless the Customer can prove that such fault or failure to comply is attributable to the Vendor.

**8.3** Within the limits of the following provisions, SILENCERMARINE undertake to rectify any imperfection in the Products which is a consequence of a fault in design, materials or workmanship for a period of twelve months from date of delivery.

**8.4** The existence of any faults or defects shall not lead to termination of the contract, nor give the Customer the right to request sums of money as compensation for damages, but solely the right to obtain, on the final decision of SILENCERMARINE, the replacement or repairing, in its own workshop, of the defective product. With regard to this, it is expressly agreed that the Customer may not make any further claim against the Vendor, except in the case of fraud or serious misdeed of the latter. Defects deriving from normal wear and tear of the Products are excluded from this guarantee.

**8.5** SILENCERMARINE may make all reasonable modifications to the technical features, design, materials and finishes they deem necessary and/or appropriate, also without giving Customers prior notice; the Customer therefore cannot claim against or refuse, even partially, the goods supplied because of such reasonable modifications being made to them.

**8.6** For the guarantee to be effective, the Customer is bound to report the fault or defects of the Products in writing within 12 months from the date of delivery: for this purpose, if the Customer collects the goods from the SILENCERMARINE factory, the guarantee period shall start from that time; if goods are delivered by carrier, the term shall start from the date the Customer signs the consignment note.

**8.7** For the Products to be replaced or repaired under guarantee, the Customer must:

- a) report the fault or defect of the Products in writing within seven (7) days at the latest from the time this was discovered, providing all information and documentation available;
- b) refrain from issuing statements or making admissions which may in any way give rise to prejudice against the Vendor
- c) co-operate with the Vendor, on request of the latter, in order to arrange for work to be carried out under guarantee.

**8.8** In all cases, the Purchaser loses his right to the guarantee if:

- a) the price is not fully paid within the terms agreed upon;
- b) any instructions for use, installation and maintenance of the Products provided by SILENCERMARINE are not followed;
- c) the Products are modified without the consent of SILENCERMARINE;
- d) the Products are used for a different purpose to the one they were designed for;
- e) the Products are used by or sold on to third parties.

**8.9** Products reported as being defective and confirmed as such by the Vendor in writing must be returned to SILENCERMARINE, to be replaced or repaired, carriage free, accompanied by a proper packing list, giving the details of the packing list and/or sales invoice of SILENCERMARINE. The returning of defective parts must be notified in advance and authorised by SILENCERMARINE. Products reported as being defective must also be returned to the Vendor complete (including packing) and in perfect condition: conversely, missing parts and/or damage shall be charged to the Customer.

**8.9** No returns of Products shall be permitted unless specifically authorised in writing by the Vendor.

**8.10** The liability of the Vendor is limited to replacing or (on his final decision) repairing the Products reported as being defective and labour on the condition that the Customer returns the challenged goods supplied within 15 days from the date of the notification provided for in clause 8.7.

**8.11** In no case, for any reason whatsoever, shall liability be extended to damage or indirect, incidental or consequential losses that may be suffered by the Customer as a result of the faults and/or defects in the Products.

**8.12** Faults or defects found in one or more of the Products, even if reported in good time, shall not in any case provide legitimate grounds for challenging all the goods supplied.

**8.13** The guarantee described in this article does not include in any case whatsoever the costs of transport, shipment and any travelling expenses of SILENCERMARINE personnel.

**8.14** All suggestions and recommendations concerning the use of the Products are given in good faith, while it is the Customer's responsibility to verify that the Products are suited to his requirements.

**8.15** The Vendor shall provide, on request by the Customer, instructions on how to use the Products in order to ensure that when these are put into operation, the Products will be as safe as possible and not prone to causing damage to health.

**8.16** The Customer guarantees that the Products shall be used in accordance with the Vendor's instructions and undertakes to inform every person he supplies with the Products that the Vendor is at their disposal to provide them with all further information necessary and appropriate to ensure the safety of the actual Products and their users.

**8.17** The technical data given in the charts in the SILENCERMARINE catalogues and on the web site must be considered indicative and is not guaranteed.

**8.18** The aforesaid guarantees are the sole, exclusive ones Customers have at their disposal, but customers who have not provided for payment in full of the goods supplied have no right to any guarantee whatsoever.

## **9. TRANSFER OF OWNERSHIP**

**9.1** The ownership of the Products is transferred to the Customer only when the price of the Supply of Goods and any other sum the Customer owes the Vendor has been paid in full, while the risks and liabilities pass over to the Customer at the moment the goods are handed over.

**9.2** Until such time as the conditions laid down in clause 9.1 have been met, the Customer must take good care of the Goods supplied as their consignee and keep them separate from all other goods, from whatever source, in his possession, so that they can be clearly identifiable as a whole as the goods owned by the Vendor.

**9.3** The Customer may not use and/or sell the Products supplied, in the course of his normal business activities, before the condition set forth in clause 9.1 has been complied with, unless he has received consent to do so from the Vendor in writing bearing a specific date; in this case, however, the Vendor must be informed of how the Products are to be used and if necessary where they will be transferred.

**9.4** As long as the condition laid down in clause 9.1 is not complied with, the Vendor may at any time request the Customer return the Products at the Customer's own risk and expense.

**9.5** In the event of a breach of the undertaking as provided for in this paragraph, the Vendor shall have the right to cancel with immediate effect all the Customer's orders for Products which have not yet been processed.

## **10. PATENTS**

**10.1** If the Product has been constructed to specifications, instructions or drawings provided by the Customer, the latter shall assume full responsibility for the usability and accuracy of the descriptions, instructions or drawings and undertakes to hold the Vendor harmless for and against any infringement of patent rights, registered designs, trademarks or copyright royalties and for and against any loss, damage or expense that may arise for the Vendor from the aforesaid infringement.

**10.2** The Customer may not use the Products or parts of these or any description or drawing, even if not specifically covered by patent or registered trademark, to design or construct goods of similar workmanship, unless he has obtained written authorisation in advance to do so from SILENCERMARINE; also in this case, however, all patents, registered designs, trademarks, copyrights and intellectual property rights inherent in and connected with the Products shall remain the exclusive property of SILENCERMARINE in full and the Customer must maintain the strictest confidentiality where these are concerned.

## **11. FORCE MAJEURE**

**11.1** Either party may suspend or not execute his undertakings under contract if the fulfilment of such is objectively impossible or unreasonably onerous because of unforeseeable events beyond his control such as, for example, strikes, boycotts, lock-outs, fires, wars, civil wars, riots and revolutions, requisitions, embargos, power cuts.

**11.2** The party wishing to claim relief due to circumstances of *force majeure* must inform the other party in writing without delay when such event begins and terminates.

**11.3** If the causes of *force majeure* persist for a period of over six months, either party has the right to withdraw from contractual relations.

## **12. PREMATURE TERMINATION**

**12.1** Both parties have the right to terminate these General Conditions of Sale with immediate effect, as well as each individual contract for the supply of the Products not yet performed in the event that the other party commits a serious breach of contract.

**12.2** In particular, the Vendor may terminate the General Conditions of Sale with immediate effect in the following cases:

- a) the Customer does not fulfil his commitments with regard to paying for the Products or notifying the letter of credit set forth in clause 7.3;
- b) the Customer is subject to bankruptcy or liquidation proceedings or the state of the Customer's finances are such as to presume that he is insolvent.

## **13. JURISDICTION**

**13.1** Any dispute concerning these General Conditions of Sale and concerning the conclusion, performance or termination of this Contract, or any damage arising from the Products or their use is regulated by Italian legislation in force and devolved to the jurisdiction of an ordinary Italian judge; in deviation from any other legal or conventional principles, territorial competence is also reserved exclusively to the Law Courts of Treviso.

**13.2** In deviation from provisions set forth in the previous clause, the Vendor has the right to a take out legal action also in order to obtain temporary or protective measures or measures in any way of a cautionary nature, before the judicial authorities competent in the country where the Customer is based.

**13.3** The Vienna Convention concerning the international sale of movable property shall apply to the extent that its provisions are not in conflict with these General Conditions of Sale.

**13.4** For the purpose of interpreting the delivery terms and all other commercial terms which may be used by the parties, reference is made to Incoterms of the International Chamber of Commerce in Paris as in force at the time each individual agreement for the supply of the Products is perfected.

**13.5** For all matters not specifically covered in these General Conditions of Sale, Italian legislation in force concerning these matters shall apply.

## **14. SUNDRY**

**14.1** These General Conditions of Sale, supplemented by the Confirmation of Order for each individual Supply of Goods constitute the only agreement reached by the parties with regard to the sale of the Products and may not be modified or added to, unless consent is given by the parties in writing.

**14.2** The invalidity of all or some of the clauses set out in these General Conditions of Sale shall not invalidate the other provisions laid down in this contract; the parties shall provide for the null and void clauses to be replaced, if and as far as this is possible, with other valid agreements as close as possible to the original in meaning.

**14.3** Though drawn up in several languages, only the Italian version of these General Conditions of Sale shall be considered the true one for the purposes of interpretation.

**14.4** The Vendor shall have the right to reproduce these General Conditions of Sale on invoices and/or transportation documents concerning the Products.

**14.5** Any failure by the Vendor to pursue legal action or exercise a right in accordance with these General Conditions of Sale shall not be construed as a definitive waiver of his right to exercise in future the same legal action or same right.

**14.6** The parties state that they have discussed and examined exhaustively the clauses of these General Conditions of Sale as made public on the Vendor's web site and as a result fully approve of the contents therein, also in accordance with and by operation of arts. 1341 and 1342 of the Italian Civil Code.