

## 1 GENERAL PROVISIONS AND SCOPE

### 1.1 The following definitions are used hereinafter in this document:

- "Buyer" or "Customer" refers to the person, firm or company the purchase order is received from;
- "General Conditions" refers to this document, containing the general terms and conditions of sale of Faber Industrie S.p.A.;
- "Parties" refers to the Seller and the Buyer together;
- "Products" refers to any and all goods, products and components sold by Faber Industrie S.p.A.;
- "Seller" or "Faber" refers to Faber Industrie S.p.A., with its registered office in Via dell'Industria n. 64, 33043 – Cividale del Friuli (UD), Italy.

**1.2** These General Conditions shall apply to any and all supply of Products that will be executed to any Buyer by Faber, even if these General Conditions are not expressly referred to, mentioned or explicitly accepted by the Buyer from time to time.

**1.3** Diverging agreements shall be binding on Faber only upon prior written acceptance by an authorized agent of the Seller and with respect to a specific transaction only. In any case, even if inconsistent provisions are agreed upon, these General Conditions shall apply for the parts not expressly disregarded.

**1.4** Any terms that may now or in the future appear on Buyer's forms or communication, even if mentioned or included in orders or in any other document sent to the Seller, shall be rejected without further action of Faber and will not be binding on the Seller. No conduct of Faber shall be interpreted or used in order to express its tacit acceptance to the Customer's general conditions of contract.

**1.5** Terms in these General Conditions, the purchase order and the Order Confirmation (as defined hereinafter) will constitute the entire agreement between the Parties with respect to the Products being sold and shall supersede all prior proposals, negotiations and communications, oral or written, between the Parties regarding the same.

**1.6** The Seller reserves the right to change, integrate or vary the General Conditions, by including such variations in the quotations or in any other written correspondence sent to the Customer.

**1.7** Except as set forth to the contrary herein, any right or remedy of the Seller will be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

## 2 PRODUCTS

**2.1** Any possible representation and/or image relating to the Products included in websites, brochures, catalogues, price lists or other similar documents of the Seller is to be considered approximate and purely illustrative. As a consequence, such representations and/or images do not represent the final result of the Products and do not constitute a quality warranty. Technical and physical characteristics of the Products as well as qualities of the same are described in technical manuals and/or batch certificates of the Seller only.

**2.2** The Seller declares that the Products are compliant with the manufacturing standard according to which the Products have been designed and manufactured. The Products shall be used and applied in accordance with the instructions of use included in technical manuals of the Seller and, in any case, in accordance with the diligence required by the nature of the Products. Failing to do so, the Buyer will result in the lapse of any warranty and in the unenforceability of the warranty rights under these General Conditions or any other legal or agreed warranty.

**2.3** It is the responsibility of the Buyer, before entering into the contract, to make sure that the Products are suitable for their specific purpose and/or intended use and, in addition, that they also comply with the laws and regulations applicable in the place where the Customer will import, distribute, sell or use them in any way.

**2.4** Faber will be entitled to make any changes to the Products which, without altering their essential features, it deems necessary or convenient, even

after execution of the sale contract. In case the Seller executes a substantial modification to the Products (e.g. modifications that will alter the way of installation, characteristics of interchangeability, etc.) which are the object of the sale contract, Faber shall communicate in writing such modification to the Buyer.

**2.5** The Customer shall inform its clients and third parties of the characteristics of the Products and of the instructions of use and application of the same in accordance with the indication provided by the Seller. Without prejudice to the above, the Buyer shall be the sole responsible and liable for the declarations he will make toward third parties with reference to the Products, their characteristics and their use or application and shall indemnify and hold the Seller harmless from any damage possibly suffered with reference to or in connection to such declarations of the Buyer, in case they result false, incomplete or inaccurate.

## 3 OFFERS, ORDERS AND ORDER CONFIRMATIONS

**3.1** Unless differently stated by the Seller in writing, quotations and offers from Faber will keep in force for a period of 15 (fifteen) working days from the date of issue. Anyhow the Seller will be entitled to cancel or change the quotations or offers at any moment before issuing the written confirmation of order acceptance. All quotations are non-binding and subject to revision for errors and omissions.

**3.2** Quotations, offers and price indications are for the whole of the Products for which are given and the Seller reserves the right to refuse acceptance of any order which constitutes only part of the Products, forming the subject of the quotation, offer or tender.

**3.3** Orders placed by the Customer shall not be regarded as accepted before they have been confirmed by the Seller in writing ("Order Confirmation"). If the Seller should fail to confirm an agreement in writing which it has entered into verbally, the Seller's invoice or the execution of the order shall be regarded as an Order Confirmation.

**3.4** Any order, order proposal or supply request forwarded by the Buyer represents an irrevocable contractual proposal to Faber for a period of 5 working days from the date of the Seller's reception, being the latter free to accept or refuse the order according to the its unquestionable judgement. Orders and/or amendments of orders shall be forwarded in a written form; otherwise the Seller does not accept any responsibility for errors or consequent misunderstandings. The proposals submitted through agents, collaborators or brokers are meant as received subject to the Seller's approval.

**3.5** The Buyer is obliged to check the Order Confirmation and all the conditions and specifications therein. If the Customer does not raise any objection in writing within 4 (four) working days after receipt of the Order Confirmation, those conditions and specifications are confirmed and agreed and cannot be modified, cancelled or terminated by the Buyer in whole or in part, except with Faber's written consent, signed by a duly authorized representative. In the event a cancellation or termination is agreed to, Faber shall be paid for all Products provided prior to cancellation and be reimbursed for its fully loaded costs, including costs of material purchased or committed to, fully burned labour costs, reasonable overhead allocation and a reasonable profit.

## 4 PRICES AND TERMS OF PAYMENT

**4.1** The Products shall be supplied at the prices agreed between the Parties.

**4.2** Unless otherwise mutually agreed in writing, all prices are Ex Works (Incoterms, latest version) and do not include VAT and any other sale tax, custom duties, insurance costs and tariffs associated with each order, transportation, shipping, storage, handling, or similar.

**4.3** The Buyer shall pay for the Products in accordance with payment methods and terms provided for in the Order Confirmation or otherwise agreed upon in writing between the Parties. Payment shall be considered to have been made on the day the payable amount has been credited to the bank account of

the Seller. Bills of exchange and cheques shall not be deemed payment until they have been honored.

**4.4** Payment shall be executed by the Customer in Euro or in the currency of the place where the Buyer has its registered office, at Seller's discretion, in accordance with the currency indicated by Faber in the related sale invoice.

**4.5** Unless otherwise mutually agreed to by the Parties and stated in the Order Confirmation, payment is advanced payment at material ready for shipment.

**4.6** If the Buyer is in delay or in default with its payment, the Seller shall be entitled: (i) to demand late payment interest in accordance with the applicable law; and (ii) withhold ongoing and future deliveries, upon written notice to the Customer, until all delayed amounts and late payment interest are fully paid; and (iii) to withdraw from all contracts it entered into with the Buyer, should the debt not be settled within 15 (fifteen) days from the formal request made by the Seller in written.

**4.7** In addition to other remedies permitted under the applicable law and these General Conditions, if the Buyer fails to make payments in the time and manner specified by Faber or if Buyer's business shall be operated beyond the ordinary course of business – which shall include, without limitation, when seizure or protest has been made, payments shall be delayed or insolvency proceedings shall have been petitioned or opened – the Seller shall have the right: (i) to suspend or cancel, at its sole discretion, further delivery; and (ii) to declare all its claims arising from the business relationship as immediately payable; and (iii) to cancel discounts and bonuses that may have been agreed between the parties; and (iv) to request for anticipation on the payments or a warranty deposit.

**4.8** Should an agreement be reached on extended payments, and should an instalment not be paid on time, the Seller will be entitled to require the payment of the whole amount, without considering the Buyer's payment deadline, even if the conditions of article 1186 of the Italian Civil Code are not met.

**4.9** The Buyer will not be entitled to start or continue any lawsuit or action against Faber without previously paying the total price in accordance with the sale contract, even in case of notification of faults and defects of the Products. The payment shall, in no case, be suspended or delayed.

**4.10** The Customer shall not be entitled to make any compensation, retention or reduction unless its counterclaims have been approved in writing by the Seller or are based on a valid and legally binding court decision.

## **5 RETENTION OF TITLE**

**5.1** The Seller will maintain exclusive ownership over the Products sold until their price has been entirely paid by the Buyer. Without prejudice to the above, the risks of loss of the Products shall be regulated by the Incoterms rule agreed between the Parties for the delivery of goods.

**5.2** The full retention of title to ownership of the delivered Products remains in force even if the Products have been processed or altered in any form; in this case, Faber shall be entitled to co-ownership of the new property inasmuch as the invoiced value of Products sold with retention of title relates to the value of the other involved goods. The Buyer immediately assigns to Faber those of its rights of ownership in the new property or compound matter which correspond to the amount of the value of goods subject to retention of title by the Seller.

**5.3** The Customer shall communicate to Faber all the eventualities that may affect the Products while still property of the Seller. The Buyer shall also designate Faber as beneficiary of all the insurance policy covering the Products subject to retention of title.

## **6 TERMS OF DELIVERY**

**6.1** Unless otherwise agreed, Products will be delivered Ex Works (Incoterms, latest version) at Seller's plant. The Buyer is responsible for freight for shipment of Products.

**6.2** Unless otherwise specified in writing, the risks shall be transferred to the Buyer once the Products are ready for dispatch and notice of readiness for

dispatch is given to the Customer. Should the Buyer fail to collect the Products on time, the Buyer shall bear the risk of damage or loss and Faber may invoice them as having been delivered. In this case, the Seller shall have no specific obligation to store the Products in a way that exceed the usual storing method of such Products. Furthermore Faber shall be entitled to charge any costs which result from the storage of Products to the Buyer's account.

**6.3** All the time terms, also in relation to delivery time, installation, completion, etc., although defined as strict by the Customer, will anyhow be considered as approximate by the Seller, and subject to a tolerance margin. Unless otherwise expressly agreed in writing, any indicated time of delivery shall be non-binding for the Seller. Faber has the right to reschedule the delivery date indicated in the Order Confirmation, due to reasons resulting from production and will inform the Buyer of the new delivery date. Customer shall not be entitled to any claims in that case unless agreed otherwise. Except in case of willful wrongdoing or gross negligence, the Seller will not reimburse possible damages, either direct or indirect, suffered by the Buyer as a result of delay in the delivery of the Products.

**6.4** Delivery terms will be automatically considered as extended, should the Buyer not communicate the data that are necessary for the supply within the due time or should the Customer require changes during work execution.

**6.5** Unless otherwise agreed in writing, the Seller is not obliged to accept the Products' returns. Any costs arising thereof shall be at the expense of the Customer.

## **7 DUTY TO INSPECTION AND ACCEPTANCE OF PRODUCTS**

**7.1** Upon receipt of the Products, the Buyer shall promptly: (i) check quantities and packaging; and (ii) conduct a conformity check on the Products compared to the data indicated in the Order Confirmation; and (iii) record any objections on the transportation document, having such notification countersigned by the carrier.

**7.2** Any claim by the Customer based upon or relating to any claimed defect in the Products ascertainable upon visual inspection, including any claim relating to size, type, quantity or shipping damage, shall be communicated in written to the Seller within 8 (eight) days following the date of receipt of Products by the Buyer.

**7.3** The Products to which objections shall not have been raised in accordance with the procedures and deadlines set out above shall be regarded as approved and accepted by the Buyer and Faber will not be responsible for possible damages losses or theft of the Products occurred during the transport, even if transport risks were, in whole or in part, upon Seller.

## **8 WARRANTY**

**8.1** The Seller warrants and represents to the Buyer that Products will be free from Defects (as defined hereinafter) and defects in title for a "Warranty Period" of 12 (twelve) months from the date of delivery (Ex Works at Seller's plant) of the Products themselves, unless otherwise agreed in writing.

**8.2** "Defect" means a defect in material, design or workmanship, or non-compliance with the technical specifications forwarded by the Seller.

**8.3** The warranty does not cover Products in case of Defects or damages caused by misuse, including but not limited to dents, usage not in compliance with the instructions and/or indications provided by the Seller, and/or usage not in compliance to the standard diligence and/or to the technics required by the nature of Products. Any alteration, change or replacement of Products' parts, which has not been previously authorized by the Seller, may represent an accident risk and therefore releases Faber from any liabilities, and makes the warranty void. The warranty does not cover the normal Products' parts subject to consumption.

**8.4** In case of a notice of Defects, a notification to the Seller shall be made in written by no later than 8 (eight) days from the receipt of Products by the Buyer or, in the event of hidden Defects, within 8 (eight) days from discovery of the same and, in any event, within the Warranty Period. The notice shall clearly

specify the kind and amount of the alleged Defects. The Buyer agrees to make the objected Products available for inspection by the Seller or by an expert designated by the Seller.

**8.5** During the Warranty Period, if the Buyer discovers and notifies the Seller in writing of any such Defect, the Seller will, upon determining that the warranty claim is valid, at its sole cost, either replace the defective Products or provide the Buyer with replacement parts for, or repair, the defective Products. If the warranty claim is valid, the Seller will be responsible for delivering the repaired or replacement Products or component DAP to the location specified by Buyer (Incoterms, latest version). Products with Defects in the neck thread or on the internal or external surface would be replaced only if not yet delivered to the Buyer's end customer. Where a new Product is provided as a replacement for a defective Product during the Warranty Period, the new Product will be subject to the warranty herein only for the unexpired portion of the Warranty Period relating to the defective Product.

**8.6** As an alternative to the above, the Seller, at its sole discretion, even before determining that the warranty claim is valid, may issue a credit note to the Buyer of the amount of the price invoiced by Faber of the Products subject of the claim.

**8.7** The warranty referred to above is the sole and exclusive warranty made by the Seller in respect of the Products. To the maximum extent permitted by the applicable law, the Seller makes no other, and there is no other, warranty, representation, obligation or liability, express or implied, statutory or otherwise, however arising (whether by contract, tort, negligence, principles of manufacturer's liability, operation of law, conduct, statement or otherwise) to the Buyer, and hereby disclaims any implied warranty or condition of merchantability or fitness for a particular purpose concerning the Products.

**8.8** Faber's liability to the Buyer, whatever the cause, shall be specifically limited to the purchase price of defective Products. The Seller shall not be liable for loss of profit or revenues, cost of capital, loss of contents, loss of use of equipment or systems, interruption of business, cost of replacement power, increased operating costs, any special, consequential, incidental, indirect, or punitive damages, or claim of Buyer's customers for any of the foregoing types of damages.

## **9 FORCE MAJEURE**

**9.1** The Seller shall not be liable or responsible for failure or delay in performing or fulfilling any obligations undertaken with the sales contract if and to the extent caused by a Force Majeure Event.

**9.2** "Force Majeure Event" refers to any act or event that prevents the Seller from performing its obligations in accordance with the purchase agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the Seller and Faber had been unable to overcome such act or event with the exercise of due diligence. Subject to the foregoing conditions, Force Majeure Event may include, by way of example, the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Seller; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) strikes or labour disputes; (v) action by a Governmental Authority, including a moratorium on any activities related to the sales contract; and (vi) the impossibility for the Seller, despite its commercially reasonable efforts, to obtain, in a timely manner, any Governmental Approval necessary to enable the Seller to fulfill its obligations in accordance with the purchase agreement, provided that the delay or inability to obtain such Governmental Approval is not attributable in any manner to Faber and that it has exercised its diligent and commercially reasonable efforts to obtain such Government Approval.

**9.3** In such event, time for fulfillment of the obligations shall be extended for the period of continuance of such Force Majeure Event.

**9.4** In case a Force Majeure Event continues for a period longer than 6 (six) months, the Customer shall be entitled to terminate the underlying sales contract, by giving written notice to the Seller by registered letter with return receipt or courier; the Seller shall not incur any responsibility or liability whatsoever.

## **10 CONFIDENTIALITY**

**10.1** The Buyer undertakes: (i) to treat with the utmost confidentiality all the information, data and documentation transmitted by the Seller or it may come to know in connection with the execution of any sale contract, even if they are not marked or identified as secret or confidential ("Confidential Information"); (ii) not to, wholly or partially, disclose to or inform third parties of the Confidential Information, without the Seller's prior written consent; (iii) to limit the use of the Confidential Information for purposes relating to the execution of the sale contracts; (iv) to adopt any and all possible actions required in order for its employees and collaborators do not disclose the Confidential Information to third parties or use it in an inappropriate way.

**10.2** The Buyer shall be liable for all damages and/or losses of the Seller arising out of its otherwise action or practice.

**10.3** Such liability of non-disclosure of Confidential Information shall remain in force even if the underlying contract is terminated or ended-up for whatever reason.

## **11 NON-WAIVER**

**11.1** No delay or failure to exercise any right under these General Conditions will impair any such right or be construed to be a waiver thereof. No waiver of any right hereunder will be effective unless in writing signed by the Seller waiving. A waiver of a right on one occasion will not be deemed to be a waiver of such right on any other occasion. A waiver of a right on one occasion will not be deemed to be a waiver of any other right on that occasion.

## **12 SEVERABILITY**

**12.1** In the event that any provision of these General Conditions is deemed to be unenforceable, illegal, void or voidable, these General Conditions will continue in full force and effect without such provision; the Parties will take such further actions and make such additional arrangements as are necessary to carry out the intended transactions contemplated herein.

## **13 GOVERNING LAW AND DISPUTE RESOLUTION**

**13.1** The validity, interpretation and performance of these General Conditions and all the sale contracts that will occur on the basis of the same shall be governed by the laws of Italy.

**13.2** Any controversy, claim or dispute between the Parties concerning these General Conditions and all the sale contracts that will occur on the basis of the same shall be submitted to Italian jurisdiction and exclusively settled by the Court of Udine.