

# General conditions of sale

## **Art. 1 - Subject and scope of application of these conditions**

These general conditions govern all supply relationships between the parties, except for any exceptions specifically agreed in writing. However, even in the case of exceptions agreed in writing, these conditions will continue to apply to the parts without exceptions.

## **Art. 2 - Contract formation**

The acceptance by the buyer of the offer or order confirmation from DIERRE S.p.A., however made, implies the application of the sales contract of these general terms and conditions, even when acceptance is effected by simple execution of the contract. Offers made by agents, representatives and trade auxiliaries of DIERRE S.p.A. are not binding until they are not confirmed by DIERRE S.p.A.tessa.

## **Art. 3 - Samples and changes**

**3.1 - Information** - Dimensions, processing and assembly sheets, prices, output, colours and other data included in the catalogues, prospectuses, advertisements, illustrations, price lists or other illustrative documents of DIERRE S.p.A., as well as the characteristics of samples and templates sent by the latter to the buyer are approximate indications. These data are not binding unless they are expressly mentioned as such in the offer or written acceptance by DIERRE S.p.A.

**3.2 - Product changes** - DIERRE S.p.A. reserves the right to make those non-substantial technical alterations to its own products as dictated by production requirements, at any time, which it considers convenient, without obligation to communicate them.

## **Art. 4 - Guarantee**

The deadline for the guarantee action is 12 months from the delivery of the product.

**4.1 - Product conformity** - Within the terms provided for under this article, DIERRE S.p.A. ensures the conformity of the supplied products; by product conformity it is understood that they correspond to the quality and type established in the contract and are free from defects that may render them unsuitable for their intended use. The buyer acknowledges the tolerances of use on the quantities to DIERRE S.p.A.

**4.2 - Extension to the guarantee** - The warranty for defects is limited to defects in the products resulting from defects in material or construction attributable to DIERRE S.p.A. and does not apply if the buyer has not tried to install and use the products properly.

**4.3** - DIERRE S.p.A. does not respond to defects in conformity resulting from possible crushing or scratching of products caused by transport and handling.

**4.4** - As specified in art. 3.2, if DIERRE S.p.A. has made technical modifications to the products, it guarantees the same functional and application performance. DIERRE S.p.A. does not also respond to defects in product conformity due to the normal wear of those parts which, by their nature, are subject to rapid and continuous wear. Under no circumstances will DIERRE S.p.A. be liable for defects in conformity caused by a fact after the risks have passed to the buyer.

**4.5 - Product installation** - DIERRE S.p.A. does not guarantee any defects in products resulting from a non-conforming installation.

**4.6 - Complaints** - The buyer is required to check the product's compliance and the absence of defects within eight days of their receipt and anyway, before carrying out any additional work on them. The buyer must report any faults or hidden defects of the products shortly and in any case not later than two months from the date of delivery. Complaints must be made by registered mail addressed to DIERRE S.p.A. and shall indicate in detail the defects or non-conformities found. The buyer waives the right of guarantee if it does not allow any reasonable control that DIERRE S.p.A. requests or if, after DIERRE S.p.A. requests the return of the defective products at its expense, the buyer fails to return these products within eight days of the request.

**4.7 - Redress** - Following a regular buyer's complaint made pursuant to this article, DIERRE S.p.A. may, at its choice: a) provide the buyer free of charge products of the same kind and quantities to those which are defective or that do not conform with what was agreed, within a reasonable time with regard to the extent of the dispute; b) to credit the buyer a sum of money equal to the value of the defective and non-compliant products. DIERRE S.p.A. in that case, may require the defective products to be returned, which become its property.

**4.8 - Limitation of Liability of DIERRE S.p.A.** - Any compensation for damage to the buyer may not exceed the invoice price of the disputed products. The guarantee referred to in this Article absorbs and replaces legal guarantees for faults and conformity and excludes any other possible liability of DIERRE S.p.A. That still originated from the products supplied; in particular the buyer cannot put forward any other claim for damages, price reduction or termination of the contract. Under no circumstances may DIERRE S.p.A. be held liable for indirect or consequential damages.

Normative references European Directive (1999/44 / EC) - Civil Code.

## **Art. 5 - Technical regulations and manufacturer's responsibilities**

Whereas, with regard to the characteristics of DIERRE S.p.A.'s products we abide by Italian legislation and technical regulations, the buyer assumes in its entirety the risk of a possible disparity between the Italian regulations and those of the products' country of destination, holding DIERRE S.p.A., harmless, who guarantees the performance of the products it manufactures only and exclusively in relation to the uses, destinations, applications, tolerances, etc. expressly indicated by the latter. The buyer is not authorized to configure the products supplied by DIERRE S.p.A. in a way that does not comply with the information mentioned in the preceding paragraph. No exception to the provisions of this Article may be considered valid unless expressly and specifically defined and accepted by the parties in writing.

## **Art. 6 - Delivery**

**6.1 - Delivery of the goods** - Unless otherwise agreed, the supply of the products shall be ex works; even when it is agreed that the shipment or part of it will be handled by DIERRE S.p.A. in which case the latter will act as the buyer's representative, it being understood that the transport will be carried out at the expense and at the risk of the buyer.

**6.2 - Passage of risk** - Risks inherent to the supply will be passed on to the buyer at the latest at the time the products leave the DIERRE S.p.A. plant, unless the commercial terms or applicable standards provide for an earlier date. If the buyer fails to take delivery of the products on the delivery date for any reason other than the fault of DIERRE S.p.A. if the risk has not already passed pursuant to the previous paragraph, the risks are in any case passed on to the buyer on the agreed delivery date at the latest.

DIERRE S.p.A. it does not in any way respond to the loss or damage of the products after the passage of risks. The buyer is under no circumstances released from the obligation to pay the price when the product is lost or damaged after the risk has passed.

**6.3 - Delivery deadline** - Even when the parties have agreed the delivery deadline, the delivery time indicated in the order confirmation will not take effect unless the following conditions are met: a) the buyer has paid the amount due as a down payment, and (b) has opened a letter of credit, if agreed upon, in accordance with the contract. Unless otherwise agreed, the ex-works delivery of products is effected by sending written notice (also via fax) to the buyer that the products are at his disposal.

**6.4 - Obligation of DIERRE S.p.A. to deliver the goods** - Delivery terms are approximately in favour of DIERRE S.p.A. and in any case with a reasonable margin of tolerance. If a delay in delivery of the goods is the fault of DIERRE S.p.A. the buyer may terminate the contract, but only in respect of the undelivered part and in any case not before communicating their intention, by registered letter with acknowledgement of receipt, to DIERRE S.p.A. and granted them a new term of at least 30 days from receipt of the notice, within which DIERRE S.p.A. may deliver all the goods specified in this notice and not yet delivered. This will also apply in the case of split deliveries, in respect of which it is especially understood that in no way will the delay or failure to make one or more deliveries or the partial termination of the contract for that reason as permitted by this Article, entitle the buyer to terminate the contract in respect of deliveries already made or future ones. However, DIERRE S.p.A. is not responsible for any damages arising from early or delayed delivery, in whole or in part.

**6.5 - Impediments against the will of the parties** - The delivery term will be extended by a period equal to that of the duration of the impediment, in the event of causes not dependent on the will of DIERRE S.p.A. and the buyer, that happened after the conclusion of the contract, which makes the delivery temporarily impossible or overly burdensome.

DIERRE S.p.A., having become aware of the impediment, will communicate within a reasonable time to the buyer the existence of the impediment and, where this is not already implicit in the type of impediment, the probable effects of it on the obligation to deliver. Similarly, DIERRE S.p.A. will communicate the impediment's cessation to the buyer. Both DIERRE

S.p.A. and the buyer will have the right to terminate the contract with a one month notice by means of a registered letter with a return receipt if, after a reasonable period of time from the agreed delivery date, the impediment persists. Under no circumstances may the buyer or DIERRE S.p.A. claim compensation or indemnity of any kind for the circumstances provided for in this Article.

## **Art. 7 - Payment**

**7.1 - Prices and payments** - Goods' prices are always ex works. Payments and any other sums due to DIERRE S.p.A. are considered net at the address of DIERRE S.p.A. Unless otherwise agreed upon in writing, payment must be made upon delivery, to the bank indicated by DIERRE S.p.A.

Any payments made to agents, representatives, trade auxiliaries of DIERRE S.p.A. shall not be deemed to have been made until the respective sums are received by DIERRE S.p.A.

**7.2 - Delays in payment** - Any delay or payment irregularity gives DIERRE S.p.A. the right to suspend supplies or to terminate ongoing contracts, even if not related to the payments in question, as well as the right to compensation for any damages. Upon expiry of the payment, DIERRE S.p.A. is entitled without the need for a notice of default on interest for late payment, to the rate in force in Italy, increased by 3 points.

The delay in payments also give DIERRE S.p.A. the right to exclude the guarantee provided for in Article 4 throughout the period during which the delay lasts. The buyer cannot claim any default by DIERRE S.p.A. if it is not in line with payments. The buyer is required to pay in full even in case of objection or dispute. Compensation with possible credits, however incurred, with regard to DIERRE S.p.A., is not allowed.

## **Art. 8 - Retention of title**

In case the payment has to be made in full or in part after delivery, the delivered products remain the property of DIERRE S.p.A., until the price is fully paid.

## **Art. 9 - Subsequent overcharging**

If for any reason unforeseeable to a regular business entrepreneur, the execution of the obligations by DIERRE S.p.A. becomes excessively burdensome before their execution in relation to the originally agreed remuneration, such that the ratio would be changed by more than 20%, DIERRE S.p.A. may request a review of the contractual terms and, if not, declare the contract terminated.

## **Art. 10 - Interpretation, amendments, invalid clauses**

Any reference to price lists, general conditions or other material by DIERRE S.p.A. or third parties refer to the documents in force at the time of the reference unless otherwise specified. Any amendment or integration made by the parties to the contracts to which these General Conditions apply must be made in writing, otherwise it will be void. The exception to one or more of the provisions of these General Terms shall not be interpreted extensively or by analogy and does not imply the will to discontinue the general conditions as a whole. In the case of invalid or ineffective contractual provisions, the contract in its entirety should be integrated and interpreted as if it contained all the clauses which enable it to reach, in accordance with the law, the essential purpose pursued by the agreement containing the clauses in question.

### **Art. 11 - Jurisdiction**

For any dispute relating to or connected with the contracts to which these General Conditions apply, the Court of MODENA has sole jurisdiction; DIERRE S.p.A. will nevertheless have the power to take action through the buyer's court.

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