

**MIB ITALIANA S.P.A.**  
**Via Garibaldi 6**  
**35020 Casalserugo**  
**Padova**  
**Italy**

**MIB International Limited**  
**c/o Dafferns LLP**  
**One Eastwood**  
**Binley Business Park**  
**Coventry West Midlands CV3 2UB**

## **GENERAL TERMS AND CONDITIONS OF SALE OF GOODS AND SERVICES**

### **1. General Provisions**

**1.1** MIB International Ltd and its parent company MIB ITALIANA S.P.A. (jointly referred to as “MIB”) agree to sell and deliver the contractual products (hereinafter the “Goods”) according to these General Terms and Conditions Of Sale and Services (hereinafter the “Terms”) which apply to the exclusion of all other terms whether express, implied by law or otherwise (including any terms printed on the Customer’s order forms, in correspondence or implied by trade, custom, practice or course of dealing) unless expressly agreed in writing by MIB. MIB and the Customer shall be hereinafter referred to, jointly, as “Parties” or, singularly, Party. All references in these Terms to “written agreement” or “in writing” mean any agreement and/or communication by document signed by MIB and/or a Customer’s duly authorised representative or by letter, fax, electronic mail and by such other means as are agreed by the Parties; no other employee or representative of MIB (or the Customer) is authorised to agree to any variation or concession to these Terms, nor to make any representation regarding the Goods.

Should such Terms be part of an order granted pursuant to a Master Supply Agreement executed between the Parties, the rules of the Supply Agreement shall prevail in case of conflict.

**1.2** The Goods shall be sold subject to a confirmation order previously accepted in writing by MIB. Orders shall specify all data necessary for the identification of the Goods including the Goods’ type, quantity, destination, and requested shipment date. Such orders are not binding upon MIB unless accepted by it in writing. MIB is entitled to accept or refuse any order placed by the Customer.

### **2. Quotation Validity**

Except as otherwise agreed, prices for the unpacked Goods indicated in the attached quotation shall be deemed net the INCOTERMS® as per clause 5 of these General Conditions (INCOTERMS® 2010 or those in force at the date of the order's acceptance). Prices shall remain fixed for 60 (sixty) days from the quotation's issuance date. If an order is not placed within said term, prices may be subject to review. Once a purchase order containing the agreed full and final instructions to proceed is received, the prices shall remain fixed for the entire duration of the agreed delivery period. All purchase orders must be issued in the name of MIB ITALIANA S.P.A.

### **3. Value Added Tax**

Quoted prices do not include Value Added Tax which (if applicable) shall become chargeable upon the issuance of the invoice at the rate in force at that time.

### **4. Terms of Payment**

**4.1** Unless otherwise agreed in writing, the following payment terms shall apply:

- 30% of the total value of the order to be invoiced upon acceptance and payable within 30 days from date of invoice.
- 70% of the total value of the order to be invoiced upon delivery of all equipment and payable at sight upon invoice submission.

**4.2** MIB reserves the right to charge interest on overdue accounts at the rate of 3% per annum above the Euribor yearly base rate published in the Italian newspaper "*Il Sole 24 Ore*" until payment in full is received by MIB, such interest being calculated on a daily basis.

**4.3** If it is agreed that payment must be backed by a bank guarantee, the Customer shall put at MIB's disposal, no later than 30 (thirty) days before the date of delivery, a first demand bank guarantee, issued in accordance with the ICC Uniform Rules for Demand Guarantees by a primary International bank and payable upon MIB ITALIANA's request stating that it has not received the payment within the agreed term.

## **5. Delivery, Passing of Risk**

Any agreed trade term shall be construed in accordance with the INCOTERMS® in force at the time of the order's confirmation. If no trade term has been specifically agreed, the delivery shall be Free Carrier (FCA) at the place indicated by MIB. If, in case of Free Carrier delivery, MIB, at the Customer's request, undertakes to send the Goods to its destination, the risk shall pass as soon as the Goods are handed over to the first carrier. Partial delivery shall not be permitted unless otherwise agreed in writing.

## **6. Delivery Dates**

**6.1** All delivery dates indicated by MIB in any of its quotations shall be in working weeks, running from the date of receipt of an agreed purchase order that includes all relevant specifications and technical data, as well as full and final instructions to proceed. If MIB anticipates its impossibility to deliver the Goods in due time, it shall forthwith notify the Customer thereof in writing, stating the reason and, if possible, the time when delivery can be expected.

**6.2** If said impossibility is caused by any of the circumstances mentioned in clause 18 of these General Conditions, by an act or omission on the part of the Customer, including suspension of the contract, or any other circumstances attributable to the Customer, MIB shall be entitled to extend the time for delivery by a period which is necessary having regard to all the circumstances of the case. This provision shall apply regardless of whether the reason for the delay occurs before or after the agreed time for delivery.

## **7. Retention of Title**

**7.1** To the extent permitted by the applicable law, the ownership of the Goods shall remain to MIB unless and until the price of the Goods is fully settled and paid (in cash or cleared funds) and all sums due in respect of the Goods as well as all other sums due to MIB from the Customer on any account, shall be paid for in full. The Customer shall, at MIB's request, give proper assistance in taking any measures necessary to

protect MIB's title to the Goods. The retention of title shall not affect the passing of risk under clause 5 above. This clause is expressly construed and governed pursuant to English law.

**7.2** Until the property has been transferred, the Customer shall:

- (i) hold all Goods on a fiduciary basis as MIB's bailee;
- (ii) store, at its own cost, the Goods safely and securely, separately from any other goods on the Customer's premises whether such other goods are owned by the customer or not ensuring that they remain readily identifiable as MIB's property, and shall not destroy, deface or obscure any identifying mark or packaging related to the Goods;
- (iii) insure the Goods to their full replacement value against all normal commercial risks, and produce a copy of the insurance certificate to MIB, if requested to do so.

**7.3** The Customer's right to possession of the Goods prior to title passing shall terminate immediately if the Customer encumbers or in any way alters the Goods, breaches the terms of his contract or of any contract with MIB. Said right to possession shall also terminate if the Customer takes or suffers any action in consequence of debt, including (but not limited to) taking, suffering, convening or making (i) any composition or arrangement with creditors, (ii) any resolution (voluntary or compulsory) for winding up the company, (iii) any petition, notice or court order in relation to liquidation or administration, (iv) the appointment of any administrative receiver or manager or other receiver, or (v) any legal or equitable execution levied on or against the Customer's property.

**7.4** In the event that the Customer's right to the Goods ceases, MIB may repossess the Goods and enter upon the Customer's premises to do so and ask Customer for any compensation for all costs incurred in repossessing the Goods.

## **8. Cancellation and Avoidance**

In the event of cancellation or avoidance of the contract by the Customer, MIB shall be entitled to fully recover all costs incurred in supplying the Goods up to the time of cancellation plus an additional 20% administration charge, as a pre-liquidate amount of damages according to Art. 1382 of the Italian Civil Code.

## **9. Suspension**

If the Customer wishes to suspend, or extend the time for performance of the contract, he shall submit a written notice to this effect to MIB at least 10 (ten) days in advance. In the event of receiving such a notification, MIB shall be entitled to reimbursement for all additional costs reasonably incurred in effecting such suspension or extension period. In any case the suspension shall not exceed the time limit of 60 (sixty) cumulative calendar days, after which the provisions of clause 8 above shall apply.

## **10. Approval of Documentation**

**10.1** MIB shall submit to the Customer for its approval all the arrangement drawings and the documentation deemed by the Parties to be necessary for the execution of the contract

**10.2** The agreed delivery schedule is based on the fact that all drawings and documentation submitted for approval by MIB are reviewed by the Customer, which must approve or reject it within 7 (seven) working days from receipt (or within any other period as agreed within the contract).

**10.3** If such approval or motivated rejection is not received within this time, the documentation shall be deemed as accepted and MIB shall proceed accordingly.

**10.4** All drawings and technical documentation submitted by MIB shall remain in its property and without its written consent they may not otherwise be used or copied, reproduced, transmitted or communicated to a third party. MIB shall not be obliged to provide manufacturing drawings of the Goods or the spare parts.

## **11. Programme of Work**

At the time of acceptance of the order (or other such period as agreed within the terms of the contract) MIB shall confirm the FCA delivery date. If required under the contract, MIB shall also provide a detailed

production schedule. Once this schedule is agreed, MIB shall make its best endeavour to meet the delivery's deadlines.

## **12. Modifications and Changes**

All modifications or changes to the contract must be agreed in writing by the Parties.

## **13. Confidentiality and Security**

All specifications, designs, drawings, documentation, descriptions, prices or any other information contained within this quotation, in any subsequent correspondence or in any agreed contract are solely and exclusively for the purposes of MIB fulfilling its obligations under the specific contract. All such information shall be kept confidential and shall not be imparted or passed in any form to any third party without the prior specific and authorised written permission of MIB, unless making part of an injunction of any competent court having jurisdiction or constituting an evidence in any legal proceedings.

## **14. Publicity**

The Customer shall not cause the publication of any press release or other announcement with respect to a contract entered into with MIB without the latter's prior written consent.

## **15. Intellectual Property**

**15.1** In the absence of a written agreement to the contrary, all rights, title to and interest in all intellectual property (including patents, copyright, design rights, and trade marks) and materials (including all plans, diagrams, specifications, designs, data, drawings and models) which are developed, designed or generated by MIB in the performance of any contract with the Customer and in the supply of the Goods, shall vest in and belong to MIB as their legal and beneficial owner.

**15.2** All rights, title to and interest in, all intellectual property (including copyright, design rights, know-hows and trade marks) and materials (including all plans, diagrams, specifications, designs, data, drawings and models) which are developed or generated by the Customer shall vest in

and belong to the Customer. Nevertheless, an improvement introduced by the Customer whose enforcement involves another intellectual property right belonging to MIB, shall not be exploited without the latter's previous written consent.

**15.3** Both MIB and the Customer shall, as and when required to do so by the other Party and at its expense, execute or do, or procure to be executed or done, all instruments and things necessary for vesting such intellectual property rights and confirming all rights, title to and interest in the same as set out in the above paragraphs.

**15.4** Each Party shall defend, indemnify and hold the other Party harmless against any and all claims, suits, actions or other proceedings whatsoever brought against it based on third-party claims of trademark infringement.

## **16. Warranty**

**16.1** MIB guarantees and warrants that it shall remedy any defect or nonconformity resulting from faulty design, materials and workmanship related to the Goods which becomes apparent within 12 months from the date of installation and commissioning of the equipment at the site or within 18 months from the date of delivery as set forth in clause 5 above, whichever occurs sooner, provided that said defects have been duly notified in writing to MIB within 5 (five) working days from their discovery. The notice shall contain a detailed description of the defect. If the Customer fails to notify MIB in writing of a defect within said period of time, he shall lose his right to have the defect remedied. MIB shall be entitled to either repair or replace the defective Goods.

**16.2** MIB shall not be liable for defects arising out of materials provided or a design stipulated or specified by the Customer.

**16.3** MIB shall only be liable for defects which appear under the conditions of operation provided for in the Contract and under proper use of the Product.

**16.4** MIB shall not be liable for defects caused by circumstances, which arise after the risk has passed to the Customer, e.g. defects due to faulty maintenance, incorrect installation or faulty repair by the Customer or to

alterations carried out without MIB's written consent. MIB shall neither be liable for normal wear and tear nor for deterioration

**16.5** This warranty shall cover only the repair or replacement of MIB's equipment and spare parts; the expenses for the dismantling and reassembly of the equipment at the site shall be borne by the Customer. This warranty shall be enforceable provided that the equipment's installation and commissioning have been supervised by a MIB's service engineer, the Customer has fully complied with the operating and maintenance instructions, and that the specified design parameters have not been exceeded.

**16.6** In the event of a technical accident, the Customer shall duly examine and investigate the accident scene and the Goods, or shall cause them to be examined and investigated, and shall provide MIB with all available information or relevant evidence, as quickly as possible under the circumstances. In case of fraud or negligence in examining or producing evidence, the Customer shall lose his right to the warranty.

**16.7** Except as specifically stated in this clause, the Parties agree that the above mentioned warranty is in lieu of any other legal guarantee or liability such as any other contractual or non-contractual liability on the part of MIB which may anyhow arise out of or in relation with the Goods supplied (e.g. compensation of damages to property, recall campaigns, or death or injuries to any persons, or for any damage of any kind, direct or indirect including, without limitation, loss of use, income, or profit).

**16.8** This warranty shall be enforceable subject to the Customer's full compliance with the terms and conditions of the contract.

## **17. Allocation of liability for damage caused by the Goods**

**17.1** MIB shall not be liable for any damage to property caused by the Goods after they have been delivered and whilst they are in the possession of the Customer. Nor shall MIB be liable for any damage to products manufactured by the Customer or to products of which the Customer's products form a part. If MIB incurs liability towards any third party for such damage to property as described in the preceding paragraph, the Customer shall indemnify, defend and hold MIB harmless. If a claim for damage as described in this clause is lodged by a



third party against one of the Parties, the latter Party shall forthwith inform the other Party thereof in writing. The Parties shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of them on the basis of damage allegedly caused by the Goods. The liability between MIB and the Customer shall however be settled in accordance with clause 20 of these General Conditions.

## **18. Force Majeure**

**18.1** Either Party shall be entitled to suspend performance of his obligations under the Contract and these General Conditions to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any other circumstance beyond the control of the Parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this clause.

**18.2** A circumstance referred to in this clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the contract could not be foreseen at the time of the formation of the Contract.

**18.3** The Party claiming to be affected by Force Majeure shall notify the other Party in writing without delay on the intervention and on the cessation of such circumstance. If a Party fails to give such notice, the other Party shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice.

**18.4** If Force Majeure prevents the Customer from fulfilling his obligations, he shall compensate MIB for expenses incurred in securing and protecting the Goods.

**18.5** Regardless of what might otherwise follow from these General Conditions, either Party shall be entitled to terminate the contract by

written notice to the other Party if performance of the contract is suspended due to Force Majeure for more than six months.

### **19. Anticipated non-performance**

Notwithstanding other provisions in these Terms regarding suspension, each Party shall be entitled to suspend the performance of his obligations under the contract, where it is clear from the circumstances that the other Party is not going to perform his obligations. A Party suspending his performance of the contract shall forthwith notify the other Party thereof in writing

### **20. Consequential losses**

Save as otherwise stated in these Terms, there shall be no liability for either Party towards the other Party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect loss whatsoever.

### **21. Compliance with export controls laws and statutes**

MIB has the strict policy to fully comply with European Union and Italian export controls laws, respecting all sanctions and embargoes from time to time imposed by the European Union as well as by the laws, statutes and regulations that may be applicable of other Jurisdictions.

MIB shall be entitled to suspend and terminate the performance of his obligations to the extent that such performance is impeded or made illegal by compliance under our Export Compliance Policy.

The Customer shall not, directly or indirectly, sell, transfer, re-export, loan or otherwise make available the Goods and/or the services related to the Goods to any individual, company, association or organization which is black listed by the European Union or other applicable jurisdiction at the time of transfer with respect to embargoes and sanctions. The Customer shall not sell, transfer, loan or otherwise make available the Goods to any individual, company, association or organization which is directly or indirectly connected with military or para-military activities or with nuclear proliferation.

### **22. Insurance**

MIB insurance cover shall allow for: General Liability, Employer's Liability, Directors and Officers liabilities, Property, Product recall, Transport. MIB will provide a copy of the insurance certificate upon request.

In case of specific coverage requirements on sanctioned territories, in compliance and with full respect of Clause 21 thereof (Compliance with export controls laws and statutes), we reserve the right to request compensation for any extra premium due or to become due to the Insurance Company. In the worst case of refusal by the Insurance Company to provide the requested coverage on a specific sanctioned territory, the Customer shall proceed on his own. Moreover the Insurance Company do not waive any rights of subrogation.

### **23. Jurisdiction and Governing Law**

If any dispute, controversy or claim arises out of or in connection either with these Terms or with the contract, or with the breach, termination or invalidity thereof, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure and the mediation will start, unless otherwise agreed by the Parties, within 28 (twenty eight) days of one Party issuing a request to mediate to the other. The mediator will be nominated by CEDR. The mediation will take place in London at CEDR headquarters and the language of mediation shall be English.

If such dispute, controversy or claim has not been fully resolved by mediation within 60 (sixty) days from the date when the mediator has been confirmed or appointed, it shall be submitted to the ordinary jurisdiction of the Italian courts. The Court of Trento will be the court having the exclusive jurisdiction on the dispute.

Both these Terms and the Contract shall be governed by the substantive laws of Italy, including the United Nations Convention on the International Sales of Goods (Vienna 1980).

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