



MIX Srl unipersonale

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MIXING SYSTEMS AND COMPONENTS FOR PLANTS

GENERAL CONDITIONS FOR THE SUPPLY OF PRODUCTS



Introductory remarks

These General Conditions of Supply shall be valid for every contract of sale entered into by MIX Srl with any buyer, regardless of where the buyer has its registered office. With regards to aspects concerning contractual relations not specifically regulated by these Conditions, reference should be made to the Vienna Convention on the International Sale of Goods, ratified in Italy through Law n. 765/1985, which came into force on 1 January 1988.

In the event that certain aspects are not regulated either by these Conditions or by the aforementioned Vienna Convention, reference should be made to Italian Law.

Having stated the above, the parties stipulate and agree as follows:

1. APPLICATION OF THE CONDITIONS

- 1.1 The introductory remarks form an integral part of these General Conditions of Supply.
- 1.2 These general conditions (hereinafter referred to as the "CONDITIONS") form an integral part of all contracts for the sale of products marketed and/or distributed by "MIX SRL" (hereinafter referred to as the "SELLER"). Such sales are regulated by these conditions, except in the event of departure by means of express written agreements signed by the SELLER or agreement by virtue of suitable correspondence between the parties. The cancellation of all or some of the clauses of these CONDITIONS shall not affect other contractual provisions; the parties shall replace the invalid clauses with other valid terms, the contents of which shall correspond as far as possible to the original intent.
- 1.3 Every offer, every order acceptance and every delivery on the part of the SELLER shall be considered as made in compliance with these CONDITIONS, except in the event of express written departure signed by the SELLER. Acceptance of such offers and the receipt of delivery of PRODUCTS originating from the SELLER therefore implies acceptance of these CONDITIONS (together with any written agreements between the parties) on the part of buyers.

2. CONCLUSION OF THE SALE – EXECUTION

- 2.1 A sale shall be considered as concluded at the moment the proposer or placer of the order is personally informed of the counterparty's consent; in the event that such consent is not given in writing, the BUYER irrevocably accepts our ORDER CONFIRMATION and our general conditions for the supply of products.
- 2.2 **No purchase order for the PRODUCTS sent by the BUYER shall be binding on the SELLER, except in the event of express acceptance on the part of the SELLER in writing.**
- 2.3 The execution of the sales contract is in any case established as taking place on the SELLER's premises.
- 2.4 The order must be of a minimum amount 100,00 EURO.

3. DELIVERY OF THE PRODUCTS

- 3.1 Specifications of model type, characteristics and quality as set out in the SELLER's catalogues, price lists and correspondence are always of a purely indicative nature. The SELLER may change the specifications of the PRODUCTS at any time as it deems necessary or appropriate, informing the BUYER of such changes.
- 3.2 Delivery of the PRODUCTS shall take place according to the "Ex Seller's Works" method, at the SELLER's factory situated in Cavezzo (Modena). With this method reference is made to the EXW (ex works) Incoterm. The same applies to any alternative methods for deliveries that may be agreed to in writing. It should be noted that reference is made to the "Incoterms" adopted by the International Chamber of Commerce of Paris, as in force at the conclusion of every single agreement for the supply of the PRODUCTS.
- 3.3 The SELLER shall not be responsible for any loss or damage to the PRODUCTS after delivery to the BUYER. In no circumstances shall the BUYER be exonerated from its obligation to pay the price for the PRODUCTS should loss or damage occur after delivery of the PRODUCTS to the BUYER.
- 3.4 The SELLER's obligation to deliver the PRODUCTS shall be suspended in all cases in which the BUYER's breach with regards to the obligation to pay the price of the PRODUCTS becomes clearly evident.
- 3.5 All the dates indicated as delivery dates shall be considered as exclusively of an indicative nature; the delivery date shall not, in any circumstances, be intended as an essential contractual clause. The SELLER expressly reserves the right to make partial deliveries with respect to each order. Deliveries of greater than 80% of the order, with a corresponding price reduction, shall always be considered as accepted by the buyer.
In the event of delays in delivery, after a conventional and appropriate declaration of default, the BUYER may refuse to accept further deliveries and withdraw from the contract for the part not delivered as a result of the delay, paying only for those PRODUCTS actually delivered, with the exclusion of any compensation or indemnity.
- 3.6 With the acceptance of late delivery, the BUYER renounces any claim with respect to the delay.
- 3.7 Delivery shall be intended as carried out to all intents and purposes with communication (or also with the simple forwarding of the relative invoice) that the goods are placed at the BUYER's disposal for testing (when appropriate) or for collection. In the event of delay in the collection of the goods (in any case ready for collection), for any reason not attributable to the SELLER, the latter may, after eight days from communication of the goods availability, arrange for the packing, transport and stocking of the material at the BUYER's expense.
- 3.8 In the event of the suspension or cancellation of orders on the part of the BUYER, the SELLER reserves the right to invoice the BUYER for:
 - a) Material and processing costs in proportion to the state of progress of the order.
 - b) Additional charges deriving from the buyer's breach of contractual obligations, equal to 10% (ten percent) of the difference between the total



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amount of the order and the amount referred to in point a).

- 3.9** In the absence of any specific instruction, packing is carried out, where necessary, by the SELLER, to the best of its ability and on behalf of the BUYER, disclaiming all responsibility.
- 3.10** Any loading, transport or insurance operations, as well as procedures involving import or export licenses and other customs authorizations organised by the SELLER, are carried out at the BUYER's responsibility, expense and risk. It is the latter's responsibility to check shipments upon arrival and to exercise its rights with respect to the SELLER, also if shipment has been made carriage free. This clause is also valid in the case of shipment with the SELLER's means of transport.

4. COMPLAINTS – THE SELLER'S WARRANTY

- 4.1** The SELLER guarantees the BUYER that the PRODUCTS and respective components are free of design or manufacturing defects, or of defects that may arise from the use of materials which are unsuitable or of poor quality, or from the application of inappropriate production processes. In the case of traded components, the SELLER transfers the guarantees of the components' manufacturer.
- 4.2** The SELLER also guarantees the correct and proper working of the PRODUCTS for a period of 12 months from their start of use, with 5 working days per week and 8 hours per day / for a maximum of 18 months from delivery, excluding improper storage, non-conforming use, and components subject to wear. Appropriateness of use refers to the use the BUYER intends to make of the PRODUCTS and of which the SELLER has been informed.
- 4.3** Any complaints about delivered PRODUCTS will only be accepted if made in writing to the SELLER within 7 (seven) days from the discovery of defects. The PRODUCTS must be made available to the SELLER. Regardless of the nature of the complaint, the SELLER shall not accept complaints received more than one year from the date of delivery of the PRODUCTS.
- 4.4** Returned goods shall not be accepted without the SELLER's written authorisation. In the event that the PRODUCTS are delivered duty paid ex the SELLER's works, they will remain at the BUYER's disposal for eight months at the latter's expense. After this period, the PRODUCTS will be offered for sale, with relevant procedural costs borne by the BUYER.
- 4.5** In the event of complaints made before the date established for payment of the price, and the complaint is recognised as well-founded, the sales price shall be reduced by the price of the PRODUCTS returned. Any other and further compensation is expressly excluded.
- 4.6** With regards to complaints made after the established date for payment, and in the event of dispute over the quality or quantity of the PRODUCTS deemed as well-founded by the SELLER, the latter's responsibility is limited to the replacement of the defective PRODUCTS or of their components, and the integration of those missing; alternatively, the SELLER may choose to reimburse the price of missing PRODUCTS or of defective PRODUCTS for which their replacement has been authorised. The above shall take effect without the possibility of requests for further damages or compensation of any kind.
- 4.7** The SELLER is exempted from providing warranty with regards to defects in the event that the BUYER has failed to make correct use of the PRODUCTS, or has altered or modified them without the SELLER's approval. The warranty similarly loses validity if the complaint is not received by the SELLER according to the procedures described in clause 4.3. It should be noted, moreover, that the warranty is limited to the repair or replacement, ex the SELLER's works, of components with faults caused by a verified material or processing defect. The replaced parts shall remain the property of the SELLER. The examination of defects and their causes shall always be carried out by the SELLER. Labour, disassembly, reassembly and transport costs for external work carried out by the SELLER's personnel shall always be borne by the BUYER, also in the event of recognised warranty conditions.
- 4.8** Repairs are not covered by any form of warranty, except in the event the parties agree otherwise. With regards to defective components, the SELLER's liability is strictly limited to the obligations set out in clause 4.7. Any other compensation is excluded. In addition, no direct, indirect, accidental or consequential damages of any nature or type may be claimed, also with regards to the temporary non-use of the acquired PRODUCTS. The parties agree, therefore, that the SELLER does not assume any liability for damages deriving from accidents of any nature that may occur during the functioning of the sold products, whether deemed defective or not, and also in the event that the SELLER designed their application. In the event of accidents occurring at any time and for whatever reason, either at the SELLER's premises or at the BUYER's premises, the SELLER's liability is strictly limited to its own personnel and its own supply. The SELLER expressly excludes the release from complaints, liability, costs, damages and expenses of any nature which may be suffered by the BUYER or by its employees and which are attributable to PRODUCT defects.
- 4.9** The SELLER reserves the right to withdraw the defective PRODUCTS from the market at its own expense and as far as possible with the BUYERS' cooperation.

5. PRICES AND PAYMENT TERMS

- 5.1** The prices indicated in the SELLER's offer documents expressed in EURO are considered as net of any discount and never include costs for packing, transport, special documentation, etc., unless otherwise specified. The prices shown in the order confirmation may change upon delivery in virtue of, and in compliance with, the provisions of the "price revision" clause which, in the offer documents and Order Confirmation, indicates the exceptional circumstances in which the SELLER reserves the right to modify the sales price. Unless otherwise established in writing, payment terms are as follows:
- 5.1.1** Payment terms take effect from the date of communication on the part of the SELLER that the goods are ready to be collected, irrespective of the date of collection of the goods. Means of payment as per the ORDER CONFIRMATION.
- 5.1.2** For PRODUCTS for delivery to all foreign countries, the means of payment shall be as per the ORDER CONFIRMATION. In the event of the opening of an irrevocable divisible documentary credit confirmed by a leading Italian bank, its period of validity must be at least 30 (thirty) days. The documentary credit shall be regulated according to "Uniform Customs and Practice for Documentary Credits" (UCP), adopted by the International Chamber of Commerce, in the version in force upon the conclusion of the contract. The documentary credit shall be issued and confirmed at least 10 (ten) days before the expected delivery date of the goods, and will be negotiable against the SELLER's invoice and the receipt issued by the forwarder to the



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buyer (FCR, Forwarding Certificate of Receipt). The contract shall regulate the means of use of the documentary credit (place and date of expiry, and form of use: by payment; by acceptance; by negotiation).

- 5.3** In the event of delay in payments, besides possible damages, the SELLER shall have the right, without the need for declaration of default, to receive interest in arrears as established by Italian Legislative Decree n. 231/2002, enacted in implementation of EC Directive 2000/35/CE, which provides that the default takes effect automatically from the day after the due date established by the contract or by law (by law: 30 days having elapsed from receipt of the invoice). With regards to delays in payment for sales abroad, the SELLER shall have the right to interest in arrears at the LIBOR rate for loans increased by 5% (five percent).
- 5.4** No claim or dispute may give the buyer the right to suspend payment of the invoices.
- 6. RESERVED TITLE**
- 6.1** The SELLER maintains right of ownership of the PRODUCTS delivered to the BUYER until receipt of full payment of the agreed price for the PRODUCTS. Such payment must include any accrued interest in arrears and any duties.
- 6.2** In compliance with the right of reserved title provided for in favour of the SELLER, the BUYER must refrain from actions or conduct that prevent the SELLER from exercising this right. The buyer must ensure that the goods subject to reserved title are kept separate and identifiable as the SELLER's property.
- 6.3** The BUYER may not resell, assign or grant as security in favour of third parties, the PRODUCTS acquired from the SELLER without having first fully paid the sales price to the SELLER. Any enforcement procedure initiated by third parties involving the PRODUCTS must be immediately notified to the SELLER. The same applies with regards to any other right that third parties may have acquired with relation to the PRODUCTS.
If, despite the above prohibition, the BUYER assigns the PRODUCTS to third parties before the transfer of ownership, the reserve of ownership in favour of the SELLER shall continue with regards to the third parties. In the event that the Law does not allow for this, any amounts receivable by the BUYER from third parties shall be fully owed to the SELLER, or, in the event that the Law does not allow for such course of action, the amounts receivable shall be held by the BUYER in its position as the SELLER's trustee, with the obligation to transfer the paid sums further to simple request. The BUYER must inform the third party about the contents of this clause before making a sale of goods subject to reserved title.
- 6.4** In the event of default of the buyer the SELLER may, without the need for recourse to any formality, including the declaration of default, withdraw all the goods subject to reserved title and all credit instruments held towards third parties relating to the goods, with the right to seek appropriate legal remedy for the damage suffered. In order to exercise its right to withdraw its goods which are the subject of reserved title, the SELLER has the power to gain access to land and/or buildings where such goods are situated. In the event that the BUYER transforms goods not yet paid for into a new object or combines them with other goods in order to create a new object, the SELLER shall have right of ownership over the new object in proportion to the value of the unpaid goods incorporated in the new object. This provision shall apply until the goods originally sold have been fully paid for.
- 6.5** In the event that the BUYER breaches one or more of the obligations provided for in this article (6), the SELLER shall have the right to cancel, with immediate effect, all orders of the PRODUCTS that the SELLER has not yet executed, or to cancel the delivery of products not yet collected.
- 6.6** Analyses, surveys and documents of any type, transferred for use to the BUYER, shall remain the property of the SELLER and must be returned immediately upon request. The analyses, surveys and documents are provided free of charge and are not tied to the BUYER's order. The SELLER maintains full ownership of the designs and the industrial property rights pertaining to every document supplied to the BUYER. No document relating to the PRODUCTS may be communicated to third parties, nor be implemented or used, without the SELLER's prior written consent.
- 7. AGENTS OF THE SELLER**
- 7.1** Agents of the SELLER are not legal representatives and therefore may only promote the sale of PRODUCTS on the part of the SELLER, forwarding to the SELLER orders received from buyers. Agents may not grant discounts, accept claims or collect payments on behalf of the SELLER.
- 8. FORCE MAJEURE**
- 8.1** The SELLER is not liable towards the buyer for any breach, including failed or delayed delivery, caused by events outside its reasonable control such as, merely by way of example, failed or delayed delivery on the part of suppliers, plant breakdowns, strikes and other trade union action, the interruption of energy supplies, the suspension or serious disruption of transport systems used by the SELLER, the interruption of public services and serious problems caused by natural events, Embargo, International Restrictive Measures.
- 9. PROHIBITION OF THE TRANSFER OF THE CONTRACT**
- 9.1** The contract entered into between the SELLER and the BUYER, supplementing these CONDITIONS, as well as amounts receivable deriving from said contract and CONDITIONS, are not transferable.
- 10. CONTRACTUAL RESCISSION**
- 10.1** Each party has the right to withdraw, with immediate effect, from these CONDITIONS, as well as from each single contract for the supply of PRODUCTS not yet executed, in the event that the other party is responsible for serious breach of contract.
- 10.2** Specifically, the SELLER may rescind the contract with immediate effect in the following cases:
- a) in the event that the BUYER fails to fulfil the obligations as per clauses 5 and 6;
 - b) in the event of excessive cost regarding the execution of the order placed by the BUYER;
 - c) in the event of causes of force majeure as per clause 8;
 - d) in the event that the BUYER is subject to winding-up or insolvency procedures, or if the BUYER's economic situation is such as to reasonably



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presume its insolvency;
e) in the event of shares or stakes, representing the majority or controlling stake of the BUYER's share capital, are transferred to another owner or tied-up as security or transferred to a competitor of the SELLER.

11. DURATION

- 11.1 These CONDITIONS come into force from 01 January 2009 and shall remain valid until revocation on the part of the SELLER.
- 11.2 In the event of agreements that provide for subsequent and subdivided deliveries of the PRODUCTS, these CONDITIONS shall remain fully effective until the last agreed delivery and payment.
- 11.3 In the event of commercial relations that involve the entering into of a number of sales contracts during a solar year, the SELLER shall inform the BUYER of the CONDITIONS only with regards to the first contract of sale of the year or only in the event of revocation as per paragraph 11.1. The BUYER's signatures on contracts remain valid for the entire solar year in which signing occurs.

12. APPLICABLE LAW – COURT OF JURISDICTION

- 12.1 The Court of Modena (Italy) has exclusive jurisdiction regarding disputes that may arise with reference to the validity, interpretation and execution of these CONDITIONS.
- 12.2 In the event that the defendant is resident in a member state of the European Union (with the exception of countries that have not undersigned the Regulation as referred to in this paragraph), the SELLER has the right, at its discretion, to make recourse to any other court with jurisdiction on the basis of EC Regulation n. 44/2001 of 22 December 2000, regarding jurisdictional competence for civil and commercial matters.
- 12.3 In departure from what is provided for in the above paragraphs, for the purpose of obtaining provisional or preservative measures or, in any case, measures of a precautionary nature, the SELLER has the right to summon the BUYER before the competent judicial authority in the country where the BUYER has its registered office.

13. OTHER PROVISIONS

- 13.1 The contracts of sale regulated by these CONDITIONS may only be modified by means of a document or written communication signed by the parties' legal representatives. Every written communication made in compliance with these CONDITIONS shall only be valid if sent by fax or by registered letter with advice of receipt or by certified e-mail.
- 13.2 In the event that the SELLER fails to exercise a right or take legal action on the basis of these CONDITIONS, such conduct may not be interpreted as a definitive renouncement to exercise such a right or take such legal action in the future.
- 13.3 Although drawn up in more than one language, the Italian version of these CONDITIONS shall be the only authentic text for the purpose of the interpretation of all the articles and the introductory remarks forming these present CONDITIONS.

Modena, 31 July 2019 For MIX S.r.l. ()

Place and date Stamp and signature of the BUYER

In compliance with the provisions of articles 1341 and 1342 of the Italian Civil Code, the BUYER declares to specifically approve the following clauses:

- 2 (Conclusion of the sale – Execution);
- 3 (Delivery of the PRODUCTS);
- 4 (Complaints – The SELLER's warranty);
- 5 (Prices and payment terms);
- 6 (Reserved title);
- 8 (Force Majeure);
- 9 (Prohibition of the transfer of the contract);
- 10 (Contractual rescission);
- 11 (Duration);
- 12 (Applicable law – Court of jurisdiction).

Place and date Stamp and signature of the BUYER

