

PONY Spa

General conditions of sale

1. Definitions

The following words, used in these General Conditions of Sale, shall have the following meaning :

- a) Seller: PONY Spa
- b) Buyer: the purchaser of the Product ;
- c) Parties: Buyer and Seller jointly considered ;
- d) Product: the good sold by the Seller to the Buyer, as described in the sales contract
- e) Sales contract: each contract or subsequent act or modification and/or integration thereof represented by a Purchase Order or an Order Confirmation;
- f) Order confirmation : written acceptance of the order by the Seller ;
- g) General Conditions : the regulations contained herein ;
- h) Purchase Order : written proposal for the purchase of the Product presented by the Buyer

2. Scope

- 2.1 These General Conditions shall apply to any Sales Contract between the Seller and the Buyer regarding the Product , and shall prevail on the Buyer's general conditions of purchase of and on any other relevant agreement.
- 2.2 In case of a previous agreement between the Parties concerning the purchase of the Product, these General Conditions shall be considered an integration thereof. 2.3 Any amendment or modification of these General Conditions shall be valid and effective between the Parties only if in writing and accepted in writing by the Seller..

3. Order and Order Confirmation

- 3.1 Any Purchase Order shall be deemed an irrevocable proposal by the Buyer and it shall be subject to Order Confirmation by the Seller , which shall be considered denied if not communicated to the Buyer within 15 days..
- 3.2 Modifications to the Purchase Order and the Order Confirmation shall be valid only if in writing and undersigned by both Parties.
- 3.3 The Purchase Order and the Order Confirmation and any addition or modification thereof shall be in writing, according to Seller's forms , and shall be sent by mail , e-mail, fax telex or courier .
- 3.4 For spare parts , the minimum Purchase Order is €50,00 (fifty) net. In case of a Purchase Order for a lower amount , the Seller reserves the right to charge an additional €8 as fixed cost.

4. Delivery

- 4.1 Delivery shall be made at the Seller's premises, or at any other address indicated in the Order Confirmation on the day specified in the Order Confirmation.
- 4.2 All costs and risks, including all insurance costs, shall be at Buyer's charge, unless otherwise agreed upon in writing.
- 4.3 Delivery terms shall be considered as indicative, non essential and not binding for the Seller. The Seller shall not be responsible for any delays or non deliveries due to circumstances beyond its control, or in any case, ,not depending on its will .
- 4.4 Should the Buyer be aware, beforehand, of its impossibility of taking delivery of the Product, it shall have to inform the Seller of the reason and of a suitable term by which it shall be able to receive the Product..
- 4.5 If the Buyer does not take delivery of the Product at the date and place agreed upon, it shall be responsible for all costs and risks regarding the Product, including stocking expenses. The price of the Product shall become immediately due and collectable, notwithstanding the right for the Seller to terminate the Sales Contract and require payment of a penalty of 30% the value of the Contract and compensation for any additional damages.
- 4.6 If not otherwise agreed in writing , partial deliveries are allowed .

5. Packaging

Packaging costs are not included in the agreed price and are always at the Buyer's expense.

6. Prices

- 6.1 The Seller shall apply the price agreed upon with the Buyer in the Sales Contract , which shall be intended VAT non inclusive . All prices are expressed in Euro or in the currency indicated in the Order Confirmation.
- 6.2 All possible price increases due to variations in raw materials, taxes, duties or other rights occurred after the Sales Contract , shall be at the Buyer's expense .
- 6.3 In case the price is not indicated in the sales contract, the usual price of the Product shall be applied by the Seller..
- 6.4 In no case shall any claim or dispute , give the Buyer the right to differ or refuse the payment or reduce the price agreed upon.

7. Invoicing , payment and penalties

- 7.1 The Seller shall issue an invoice based upon the price indicated in the Sales Contract, which will also specify all payment terms.
- 7.2 If the Buyer does not honour its commitment to pay the agreed price at the set date, the Seller shall have the right to obtain payment of the default interests, without having to place the Buyer in default, as provided by D.Lgs.231/2002 and subsequent modifications.
- 7.3 Should the Buyer fail to pay an instalment not exceeding 1/8 of the total amount of the sales contract, the Seller shall have the right to terminate the contract and claim compensation for the suffered damages, notwithstanding the provisions of art.8.
- 7.4 If the Buyer terminates the contract without a good reason, the Seller shall have the right to obtain payment of a penalty amounting to 30% of the price agreed in the contract, and compensation for any additional suffered damage

8. Retention of title

- 8.1 The Product shall remain the property of the Seller until the full payment of the sale price.
- 8.2 The Buyer, upon the Seller's request, shall assist the Seller in gaining back the property and possession of the Product in compliance with the applicable legislation. The retention of title shall not affect the transfer of risks.
- 8.3 Until full payment of the Product, the Buyer shall be considered only as a possessor of the Product and, consequently, it has to take care and keep the Product in a perfect state, as provided for by the Italian Civil Code, article n.1768 of the Italian Civil Code.

9. Defects and claims

- 9.1 All faults regarding quantity , type or features of the supplied Product shall have to be notified, no later than 8 days from delivery. Afterwards, the products shall be considered accepted..
- 9.2 No claim concerning quality or integrity of the Product and packaging will be accepted :
i) in case of evident defects, when the Buyer has not notified them in writing at the time of delivery, or
ii) when the Buyer has not made the Product available for the necessary investigations.
- 9.3 All defects concerning the Product functioning shall have to be notified, by registered mail, no later than 8 days from the date of discovery, , and, in any case, no later than 90 days from the delivery date.
- 9.4 The Buyer must keep the defective Product in good custody, in an adequate place and make it available to the Seller for the necessary investigations and , in any case , it shall to do all is necessary in order to reduce risks of further damaging it.
- 9.5 In any case, once the defect has been discovered, the Buyer must immediately interrupt the use of the Product assumed defective and it shall do all is necessary in order to reduce the risk of further damaging it.

10. Warranty

- 10.1 The seller guarantees that the Products are free from production or material defects for a period of 12 (twelve) months from date of delivery. The warranty does not include those parts subject to wear and tear. For the electric material or other parts not produced by the Seller, the respective warranty conditions shall apply.
- 10.2 The warranty is not valid for those Products or parts thereof installed or put in function in a wrong way, disassembled or modified by non specialized personnel. All damages deriving from transportation are also excluded from the warranty .
- 10.3 The responsibility of the warranty is limited to repair and replacement of those Products recognized as defective by the Seller..
- 10.4 No Product can be returned to the Seller for repair or replacement, without prior written approval by the Seller . Repair costs not approved by the Seller , will not be reimbursed .
- 10.5 The warranty does not include labour costs or any other expense sustained for the replacement of the defective products.
- 10.6 In no case the Seller will be held responsible for direct or indirect damages , including the loss of profit or production stop, deriving from the use or non use of the Products, or from their wrong use or non-functioning and also for faults or defects due to the Seller .

11. Buyer's responsibility

- 11.1 The Seller shall not be responsible for damages caused to third parties or to the Products due to the Buyer's fault .
- 11.2 In case the Seller is held responsible towards third parties , as above described , the Buyer shall have to indemnify and hold the Seller harmless of all costs, expenses or damages.
- 11.3 In case a third party brings forth a claim towards one of the parties, the party involved will have to immediately advise the other one in writing .

12. Force majeure

- 12.1 The Seller shall not be responsible for delays in the delivery s or for the breach of contract caused directly or indirectly by :
events out of its control ;
force majeure events (in consideration of the legal effects of this clause and without describing all the possible kind of events, force majeure shall comprises for example: legal prohibitions, wars, rebellions, strikes or any other workers' dispute, fires, floods, sabotages, nuclear accidents, earthquakes, storms, epidemics),
- circumstances , out of the Sellers' control, which prevent the finding labour, raw materials , components , equipments, power , gas , means of transportations , authorizations or Government dispositions .
The Seller shall promptly notify in writing the suspension of the force majeure event
- 12.2 If a force majeure event prevents the Buyer from carrying out its obligations, it shall have to reimburse the Seller of all insurance and storage costs.

13. Safety regulations

- 13.1 The Buyer is entirely responsible for the lack of information to the Seller concerning the Safety regulations and protection of Public health , existing in the country in which the Product will be used. All expenses borne in order to make the Product comply with the regulations in force in the country in which the Product will be used , will be entirely at the Buyer's charge .

14. Applicable law and language

- 14.1 All aspects not regulated by the present General Conditions of Sales or by single Sales contracts shall be governed by the Italian Law.
- 14.2 The application of the United Nations Convention for the International Sale of Goods (CISG – 1980 - Wien) is hereby excluded.

15. Jurisdiction

All disputes related to the present general Sales Conditions and to each sales contract , including those related to the validity , interpretation , execution and resolution , will be finally settled by the Court of Milano.

PONY S.p.A. _____

In compliance with art. 1341 of the Italian Civil Code , the Buyer hereby declares to have examined and accepted all the following articles: 3 (Order and Order Confirmation) ; 4 (delivery) ; 6 (prices) ; 7 (invoicing , payment and penalties) ; 8 (retention of title) ; 9 (defects and claims) ; 10 (warranty); 11 (Buyer's responsibility), 12 (force majeure) ; 13 (safety regulations) ; 14 (applicable law) ; 15 (jurisdiction)