

## GENERAL CONDITIONS OF SALE

### **Art. 1. – Definitions**

In these general conditions of sale (hereinafter the “Conditions of Sale”), the following words and expressions shall have the following meanings:

- “Seller” shall mean XENIA S.r.l., with registered office in Italy, Via D. Alighieri, 23/A – 36065 Mussolente (VI).
- “Client and/or Purchaser” shall mean any individual or legal entity purchasing or undertaking to purchase the products or the materials of Xenia S.r.l.;
- “Order” shall mean any request of supply submitted by the Client, which, if accepted, shall be followed by an “Order Confirmation” issued by the Seller as confirmation of the commercial and contractual terms and conditions of each supply;
- “Agreement” shall mean any contract between Seller and Purchaser for the supply of materials and/or products manufactured and/or commercialized by Xenia S.r.l.;
- “Materials and/or Products” shall identify the subject matter of the supply and of the Agreement;
- “Parties” shall mean collectively the Seller and the Purchaser.

### **Art. 2. - Object**

2.1 These Conditions of Sale shall apply to any sale of Materials and/or Products. In case of conflict between the terms of these Conditions of Sale and the particular terms specified in an Agreement, the latter shall prevail. In no event shall any general conditions of purchase inserted and/or specified in the Client’s Order and/or in other documents sent to the Seller by the Client apply to any supply of Materials and/o Products, unless otherwise expressly specified in the Seller’s Order Confirmation.

2.2. The Seller shall be entitled to modify, integrate or amend these Conditions of Sale, by attaching such modifications to the offers or to any written communication sent to the Purchaser. It is understood that any such integration, modification or cancellation shall be effective as of the receipt of the same by the Client.

### **Art. 3. – Orders and sales**

3.1 Any Order submitted by the Client to the Seller shall contain a description of the requested Materials and/or Products as well as of the quantity of Materials and/or Products, the price and the terms of delivery.

3.2. These Conditions of Sales are an integral and essential part of the Seller’s Order Confirmation and shall apply to any Order of Materials and/or Products issued by the Client. The Order shall be deemed accepted upon receipt by the Client of the Seller’s Order Confirmation. The actual Seller shall be the company Xenia S.r.l. indicated under art. 1, as specified in the header of the Order Confirmation.

3.3 Should the Seller not confirm in writing an Order, the following Seller’s issuance of the invoice related to the ordered Materials and/or Products or the beginning of the works requested in the Order shall be deemed as acceptance.

3.4 Should an offer be submitted to a Client by agents, finders of potential clients or by other intermediaries, the Order forwarded to the Seller shall not bind the latter until the Purchaser is informed of the Order acceptance by the Seller pursuant to art. 3.2 above.

3.5 In the absence of prior written acceptance of the Seller, the Client shall not be entitled to cancel part or all of an Order regularly confirmed by the Seller.

3.6 The Seller shall be entitled to forthwith terminate the Agreement a) should the Purchaser fail to comply with the obligation set forth by art. 4.3, b) should the Purchaser be subject to an insolvency or winding up procedure or c) in case the Purchaser’s financial conditions may reasonably endanger its solvency.

#### **Art. 4. – Prices and terms of payment**

4.1 Prices of the Materials and/or Products shall be a) those indicated in the Seller's price list in force at the moment of receipt by the Seller of the Client's Order or b), should the Materials and/or the Products not be included in the price list or should the price list not be available, those indicated in the Orders and confirmed in writing by the Seller at the moment of the acceptance of the Order. Unless otherwise agreed in writing by the Parties, the prices shall refer to Materials and/or Products sold Ex Works (EXW – Incoterms 2010) at Seller's premises, net of VAT and discounts, if any. Unless otherwise agreed by the parties, the Seller, at its own discretion, shall issue the invoices upon the acceptance of the Order or upon the delivery of the Materials and/or of the Products.

4.2 Upon notice to the Client, the Seller shall be entitled to modify the prices indicated in the price list when such adjustment is necessary due to circumstances beyond its reasonable control (*e.g.* increase of costs of raw materials and of labor costs, changes in the exchange rate, etc.).

4.3 Terms of payment shall be specified in the Seller's Order Confirmation or otherwise agreed in writing by the Parties. Delay or failure to collect the Materials and/or the Products shall not cause an extension and/or postponement of the terms or payment. In case of late payments, the Client shall pay interests at the rate set forth by the Italian Legislative Decree no. 231/02. Furthermore, in case of delay or failure to pay – for any reason whatsoever – the Seller shall be entitled to suspend the delivery of any other supply in progress, even though related to different Agreements, and/or to require payment in advance with respect to future supplies, without prejudice to any other remedies available and without the Purchaser being entitled to claim compensation, indemnification or other remedies.

4.4. In no event shall any claim related to the Materials and/or Products and/or to their delivery, even when expressly accepted and/or acknowledged as such by the Seller, allow the Client to suspend or postpone the relevant payment and/or any other payment for whichever reason due to the Seller under any Agreement.

#### **Art. 5. –Terms of delivery**

5.1 Unless otherwise agreed in writing by the Parties, the Materials and/or the Products will be delivered Ex Works (EXW – Incoterms 2010) at the Seller's premises and the Seller shall not be liable for damages, losses or thefts, which may occur after the delivery. As per Client's request, the Seller may organize the transportation of the Materials and/or of the Products at the Client's risk, costs and expenses, by choosing the means of transportation deemed more suitable in case of lack of specific instructions by the Client, thus partially derogating the above mentioned Incoterms.

5.2 Unless otherwise agreed by the Parties, partial shipments and/or partial deliveries shall be admitted.

5.3 The delivery date set forth in the Order Confirmation shall be deemed indicative and non-binding and shall never be qualified as of essence, unless otherwise agreed in writing by the Parties.

5.4 Without prejudice to art. 5.3 above, the Seller shall not be liable for delays or failure to deliver due to contingencies beyond its control, such as but not limited to:

- a) errors or delays of the Client in providing the Seller with information or data necessary for the shipment of the Materials and/or Products;
- b) short supply or absence of raw materials;
- c) fortuitous events or events of force majeure such as strikes, union agitations, absence of electricity, natural disasters, governmental laws, ordinances, rules and regulations, difficulties in transportations, riots, terroristic attacks, uprisings and revolutions, fires, explosions, requisitions, embargos and similar events;
- d) delays imputable to the forwarding agents;
- e) events not imputable to the Seller's gross negligence and/or willful misconduct;
- f) etc.

5.5 Should one or more of the above mentioned events occur, then the Purchaser shall not be entitled to claim for damages or indemnifications of whatsoever kind, nor terminate the Agreement and/or request a reduction of the price.

#### **Art. 6. – Retention of title**

6.1 The Seller shall be the sole owner of the Materials and/or Products delivered to the Client until their full payment. The Purchaser shall therefore keep and guard the Materials and/or Products under its own responsibility until full payment. The Purchaser shall avoid behaviors aimed at hindering the Seller's exercise of its retention of title's right.

Should the Agreement be terminated due to the Client's breach of contract, any installment paid by the Client will be kept by the Seller as an indemnification within the limits set forth by the applicable law, without prejudice to the latter's right to claim for further damages suffered as a consequence thereof.

6.2 The retention of title does not affect the Incoterm transfer of risks rules set forth by art. 5.1.

#### **Art. 7. - Warranty**

7.1 The Seller guarantees for twelve months as of the date of delivery of the Materials and/or the Products ("Warranty Period") that the same are manufactured in compliance with the Technical Specification supplied by the Client; the warranty is limited to Materials and/or Products correctly kept in their original state and not transformed yet. In no case shall the aggregate Seller's maximum liability for damages arising out of defects of the Materials and/or of the Products exceed the price of the defective Materials and/or Products. Any information on the suitability, manufacture and use of the sold Materials and/or Products, as well as any technical advice and other commercial information are provided according to the Seller's highest standards and pursuant to the last and most recent researches made by the latter; the Purchaser, however, shall make its own assessments and tests on the supplied Materials and/or Products. The Materials and/or Products' data sheets are not per se to be considered as guaranteed sale specifications. The technical information are guaranteed only if such guarantee is expressly specified in the Seller's Order Confirmation.

7.2 The warranty is excluded for defects of the Materials and/or Products arising from:

- (i) transformation of the Materials and/or of the Products;
- (ii) improper use of the Materials and/or of the Products;
- (iii) storage and/or deposit of the Materials and/or of the Products not in compliance with the Seller's instructions;
- (iv) any other cause not due to the Seller's negligence.

Client's failure to regularly pay the agreed price shall lead to forfeiture of the warranty, even in case the breach or the delay regards only a part of the aggregate price of the Materials and/or Products.

7.3 Without prejudice to the product liability law and to the liability due to willful misconduct and/or gross negligence, the Seller shall not be liable for direct, indirect or incidental damages caused to the Client and/or to third parties as a consequence of the defects of the Materials and/or Products. In particular, the Seller shall not be liable for production stoppages. The raising of a claim does not relieve the Purchaser from the obligation of payment in the agreed terms.

#### **Art. 8. - Claims**

The Purchaser shall verify if the supplied Materials and/or Products comply with the terms of the Order Confirmation and it shall notify in writing to the Seller – if possible already in the transportation documents and in any case not later than eight days as of the delivery – any visible defects of the Materials and/or the Products. Such notice shall include the relevant documents and/or appropriate samples and/or pictures. The Seller shall not be compelled to accept the restitution of the Materials and/or the Products unless restitution was previously authorized in writing. Subject to the loss of warranty, any hidden defect shall be notified in writing by the Purchaser to the Seller within eight days as of the relevant discovery, indicating the number of lot, the date of delivery, the type of defect and quantities deemed defective. Should the Client claim defects, which are recognized and acknowledged as such by the

Seller within the Warranty Period, the latter shall replace the defective item with delivery Delivered at Place (DAP – Incoterms 2010) at the Client’s premises.

The warranty obligations shall be effective and binding only provided that the Seller is enabled to verify the defects raised by the Client. The Seller’s warranty obligation shall be deemed as fulfilled with the replacement of the defective Material and/or Product, without any further express or implied obligation or duty. The Client shall not be entitled to terminate the Agreement in case of defects of the Materials and/or the Products, should the Seller timely comply with the relevant replacement obligations.

**Art. 9. – Secrecy**

The Client shall keep confidential and not disclose to third parties any technical and commercial information of confidential nature, even when not expressly identified as such, concerning the Seller and the Materials and/or the Products, which may have obtained or have become aware of as a consequence of the Agreement, unless otherwise authorised in writing by the Seller or for complying with a law.

**Art. 10. – Jurisdiction and Applicable Law**

10.1 All disputes anyhow related to these Conditions of Sale and to any Agreement shall be exclusively subject to the venue of Vicenza, Italy.

However, the Seller shall be entitled to institute proceedings against the Seller before the competent venue of the place where the Purchaser has its registered office.

10.2 These Conditions of Sale and the related Agreements are governed by and construed in accordance with the Italian Law. Should the Client be a company not incorporated under the Italian law or in any case a company having its registered office or main place of business outside Italy, the Agreement shall in any case be governed by and construed in accordance with the Italian law including the U.N. Convention on the International Sale of Goods (Wien, April 11, 1980).

**Art. 11. - Waiver**

Failure by the Seller to enforce at any time the provisions of these Conditions of Sale, shall not be construed as a waiver of such provision or of the right to thereafter enforce each and every provision herein.