

APRIL 2009

TERMS AND GENERAL CONDITIONS OF TRADING

DEFINITIONS

The expressions set out below shall have the following meanings where they appear herein.

“Nuova Tecnodelta” means the company name of Nuova Tecnodelta and shall include any and all employees and other representatives acting on behalf thereof.

“Buyer” means a person, company or firm who or which orders goods from Nuova Tecnodelta. Whether under a sale contract or a sale agreement.

“Order” means the buyer’s oral or written request for the supply of goods and / or services whether by a sale contract or a sale agreement.

“Goods” means all articles or items ordered by the buyer and supplied by Nuova Tecnodelta whether then sold to the buyer or not.

“Services” means all other chargeable items other than goods as previously defined.

“Sale Agreement” means an agreement where under goods and / or services are supplied by Nuova Tecnodelta to the purchaser under an agreement whereby the date upon which payment therefor shall be made and upon which the property therein shall pass are postponed to some future date (whether ascertained or not).

“Order Confirmation” means the document issued by Nuova Tecnodelta in response to an order proposed by the buyer, and setting forth all the previously agreed contractual terms and conditions.

1) **APPLICATION OF TERMS AND GENERAL CONDITIONS OF TRADING**

These Terms and Conditions shall be applied to all Agreements for Sale entered into by Nuova Tecnodelta and shall prevail over all Terms or Conditions put forward by the Buyer save insofar as specifically otherwise agreed in writing to Nuova Tecnodelta.

2) **DELIVERY AND CARRIAGE**

Goods will normally be despatched with Transporters as agreed, with the Buyer. Terms of transportation as specified in the Order Confirmation duly issued by Nuova Tecnodelta in response to Orders received.

3) **ORDERS**

Orders shall be deemed accepted only upon written confirmation thereof by Nuova Tecnodelta.

Shipping and handling charges amounting to 30% of the agreed price shall be levied on any and all goods properly supplied by Nuova Tecnodelta pursuant to Order Confirmations, but, by subsequent written agreement the parties, subjected to return against trade credit..

4) **PRICES**

All goods and / or services will be invoiced at the prices and the contractual terms in force at the time of delivery, and confirmed by Nuova Tecnodelta in the order confirmation (save where otherwise agreed in writing between the parties). **Nuova Tecnodelta reserves the right to alter or amend prices, giving the buyer at least four weeks' advance notice thereof.**

5) **PAYMENT TERMS**

- a) Nuova Tecnodelta reserves the right to refuse to treat with any Buyer that is unable to present satisfactory bank guarantees. Nuova Tecnodelta shall supply the goods and/or services specified in the order issued by the Buyer which shall be bound to make payment for the same pursuant to the agreed payment terms (time being of the essence).
- b) Unless otherwise agreed in writing, all bank drafts must be paid on time and the buyer shall make full payment to Nuova Tecnodelta in respect of all goods and / or services supplied and will not be entitled to make any deduction against any counterclaim unless the validity and amount of such counterclaim has been admitted by Nuova Tecnodelta in writing. Interest charges at the rate of 4% above Lloyds Bank PLC minimum lending rate shall be charged on all sums due but not paid by the appointed day for payment delayed, without consent of Nuova Tecnodelta will be added to future invoices.

6) **RISKS AND TRANSFER OF OWNERSHIP**

- a) Nuova Tecnodelta shall retain full proprietary title in any and all goods supplied pursuant to a sale agreement until the Buyer makes full and final payment of the price due in respect thereof, it being further understood that the same shall also apply to any and all goods that Nuova Tecnodelta may supply in the future, but for which payment is already due, given that by express agreement between the parties, the commercial relationship between them is based on the assumption that proprietary title in the goods may not pass to the Buyer until full and final payment for the same has been made as specified above.
- b) During the period between the date on which the goods are delivered to the Buyer, and the date of final payment within the meaning of point (a) above:
 - (I) the Buyer shall remain in possession of the goods as Nuova Tecnodelta's fiduciary agent and custodian under guarantee, and shall store the goods in question separately from the Buyer's own or third party's goods, moreover ensuring that the goods held under custody are properly stored, protected, insured and identified as the property of Nuova Tecnodelta, it being however understood that the Buyer reserves the right to re-sell and/or use the goods in question in the normal course of business.
 - (II) Nuova Tecnodelta reserves the right to dispose of the goods in question, giving the Buyer at least 8 days' advance written notice of its intention to exercise such right.
 - (III) Nuova Tecnodelta reserves the right to request and require the return of the goods at its sole discretion, and should the Buyer fail to comply with such a request, to access the Buyer's own and/or any third party's premises for the purpose of taking repossession of the goods in question.

- (IV) In case where the goods have already been disposed of by the Buyer in any manner or form whatsoever, the latter shall be bound to surrender to Nuova Tecnodelta any and all the proceeds of such disposal to the full extent of the amount due to Nuova Tecnodelta.
 - (V) Upon request, the Buyer shall transfer to Nuova Tecnodelta, any and all rights that may be raised against any individual or legal entity whatsoever that may have taken possession of the goods supplied by Nuova Tecnodelta.
 - (VI) In the case where Nuova Tecnodelta takes repossession or otherwise disposes of the goods in question, no account whatsoever shall be taken of any gains in excess of the agreed sale price.
 - (VII) Without prejudice to the above provisions, the Buyer may not dispose of the goods without Nuova Tecnodelta's prior written consent.
 - (VIII) The Buyer may not pledge or otherwise use any of the goods in which Nuova Tecnodelta retains proprietary title, to secure credit of any nature or kind whatsoever, it being further understood that should the Buyer breach this provision, any and all amounts payable by the Buyer to Nuova Tecnodelta shall be deemed to be immediately due and fully payable (without prejudice to Nuova Tecnodelta's right to seek additional damages).
- c) Failure by the Buyer to make any payment whatsoever by the related due date shall entitle Nuova Tecnodelta to retake possession, without notice, of the goods supplied either from the Buyer or from any third party whatsoever that may hold custody of the same on account and on behalf of the Buyer.
 - d) Should the Buyer be declared insolvent or bankrupt, or otherwise seek creditor protection or face court-ordered liquidation, or be put into administration in respect of all or part of its assets, and/or file for voluntary receivership, any and all entitlement the Buyer may enjoy under any sale agreement whatsoever to retain possession of the goods supplied, shall be deemed immediately extinguished by right, and Nuova Tecnodelta and its representatives and agents acting on its behalf, may retake possession of the goods in question, and for such purpose, may access any and all of the Buyer's premises on which the said goods are or appear to be stored.

7) **WARRANTY, VALIDITY AND CLAIMS**

- a) The seller shall take every reasonable precaution to ensure that all goods are at the very least "spare parts of corresponding quality" within the meaning of article 1, paragraph 1, subparagraph (u), or original spare parts within the meaning of article 1, paragraph 1, subparagraph (t), of EC regulation no. 1400/2002. The sale agreement and the product warranties shall be as contemplated in Directive 1999/44/EC (transposed into Italian law as section 1519-quarter of the Italian Civil Code). As a result, the seller is liable towards the buyer for any and all non-conformities in existence at the time of delivery of the goods, as well as in respect of the technical and applicability features specified in the catalogue. The seller shall also be liable in the case where the non-conformity arises within two years following delivery of the goods (as per the date indicated on shipping documents). The buyer shall forfeit any and all rights arising pursuant to section 1519-quater, paragraph 2, of the Italian Civil Code, in the case of failure to report non-conformities to the seller within two months following the date on which the said non-conformities are first discovered.
- b) In the event of complaint the goods together with full details of the application and usage thereof should be returned direct to Nuova Tecnodelta works for a full examination. Should any fault be found which is due solely to defective materials and / or workmanship, Nuova Tecnodelta shall be bound, solely, and at its own discretion, to repair or replace the goods in question, free of charge. Requests for refunds of amounts incurred by way of labour costs, additional charges and/or damages, shall not be entertained, unless

authorised by Nuova Tecnodelta in writing. Whilst every reasonable precaution is taken to ensure that the information contained in catalogues, application lists, brochures, leaflets and other printed matter, is correct, the seller accepts no responsibility for errors or incorrect descriptions, or any harm and/or losses resulting therefrom. The Buyer shall implement its own Inspection, Control and Quality Assurance procedures, and shall carry out in-depth investigations into the nature and details of any alleged defects before submitting the same to Nuova Tecnodelta. Amounts due pursuant to claims may be offset against payments falling due to Nuova Tecnodelta, only with the latter's prior written consent.

- c) By entering into a Sale Agreement, the Buyer accepts and acknowledges that any and all claims in respect of the partial or total non-delivery of goods to be supplied, must be raised, under penalty of disqualification, within no more than 8 business days following receipt of the related Notice. Requests for refunds and/or other compensation shall be entertained only if they pertain to claims raised by the aforesaid deadline.

8) **LITERATURE**

All documents, literature and printed matter bearing company name, trademarks or logos of Nuova Tecnodelta, may not be used for any purpose other than that for which it was originally furnished, without Nuova Tecnodelta's express written consent.

9) **PACKAGING**

Should, as a result of a drop in demand or for other reasons, stocks of goods supplied by Nuova Tecnodelta in customised packaging at the request of the Buyer, remain unsold or undelivered for more than three months, the latter shall be bound to make payment of all the stocks of the related customised packaging which shall be billed to the Buyer at cost by Nuova Tecnodelta in an invoice subject to the payment terms already in force and effect between the parties.

10) **INSURANCE**

Where the goods remain the property of Nuova Tecnodelta in all respects but are in the possession of the buyer, all the related risks shall be borne by the buyer who shall insure the same to their full value whether the same are in his direct possession or in the possession of any person acting as his agent or otherwise on his behalf and in the event of the loss thereof or damage thereto, shall promptly forward to Nuova Tecnodelta the full amount of any insurance indemnity whatsoever received in respect thereof. Such insurance shall cover the full amount of the related loss or harm, regardless of any self-insurance, deductible or other like clauses in the policy.

11) **FORCE MAJEURE**

Nuova Tecnodelta shall not in any way be liable to the buyer in respect of any loss arising in the event of deliveries of goods and / or services that are delayed, hindered, or prevented due to circumstances outside Nuova Tecnodelta's control.

12) **APPLICABLE LAW AND JURISDICTION**

This agreement shall be governed under the laws of Italy. The courts of Asti shall enjoy sole jurisdiction over any and all disputes that may arise between the parties in respect of the performance of this agreement.

In the case of counterparties resident outside the European Union, disputes shall be referred to arbitration by a sole arbitrator to be selected in accordance with the rules of the Piedmont Chamber of Commerce.

NUOVA TECNODELTA SPA