

GENERAL CONDITIONS OF SALE

1. Scope

1.1 These General Conditions govern all supply relations between Metalmec S.r.l. and the Buyer. Any exceptions to these General Conditions shall be considered valid only if in writing.

1.2 Any general conditions of purchase drawn up by the Buyer shall not be applicable to the relations between the parties unless the same have been expressly accepted in writing by Metalmec S.r.l..

1.3 In any case, any purchase conditions drawn up by the Buyer shall not invalidate the effectiveness of these General Conditions with which they shall be harmonised. In the event of conflict, these General Conditions shall prevail over the general conditions formulated by the Buyer.

2. Formation of the contract

2.1 Sales offers formulated by Metalmec S.r.l. shall be valid for 30 days following transmission of the same to the Buyer. Upon expiry of such period without acceptance the sales offer shall no longer be valid.

2.2 Offers formulated by Metalmec S.r.l. sales agents, representatives and auxiliaries shall not be binding until expressly confirmed in writing by Metalmec S.r.l..

2.3 The prices indicated in sales offers do not include assembly, installation, installation support, training courses, maintenance and/or other similar services, unless such services are expressly included in the offer.

2.4 The Contract between the parties is concluded at the time of acceptance of the order confirmation by the Buyer.

3. Prices - Payment - Terms

3.1 Product prices are indicated in the sales offer and/or order confirmation sent by Metalmec S.r.l.. Until receipt of acceptance of the order confirmation by the Buyer, Metalmec S.r.l. reserves the right to modify the product prices in the presence of cost increases in raw materials, labour, energy supplies or any other factor resulting in a significant increase in production costs.

3.2 Unless agreed otherwise in writing between the parties, the product prices shall always be understood as Ex Works (EXW Incoterms® 2010) with delivery at the warehouse of the seller, situated San Cassiano road, 6 - 24030 Mapello (BG) - Italy. Loading operations shall be carried out by the Seller at its expense. The risks of loading and unloading operations shall be understood to be borne by the Buyer.

3.3 Payments shall be made according to the terms and procedures expressly specified in the order confirmation. Payments and any other amounts due in any capacity to Metalmec S.r.l. shall be made to its domicile. Any payments made to Metalmec S.r.l. sales agents, representatives and auxiliaries shall not be deemed to be made and therefore shall not release the Buyer from its obligation until the amounts reach Metalmec S.r.l..

3.4 Unless specifically agreed in writing, payments shall be made in Euros.

3.5 Any delay or irregularity in payment shall give Metalmec S.r.l. the right to:

- a) suspend supplies in progress, even if not related to the payment in question;
- b) change payment and discount terms for future supplies, also requiring advance payment or the provision of additional guarantees;

c) request, with effect from the due date of the payment and without the need for a letter of formal notice, arrears interest on the amount still due, to the extent of the legal rate currently in force for commercial transactions (Italian Legislative Decree 231/2002, as amended), without prejudice to in any case to the right of Metalmec S.r.l. to claim compensation for any additional damages incurred.

3.6 Any delays or irregularities in payments shall result in application of acceleration clause with the result that any amounts payable to Metalmec S.r.l., for any reason, shall become immediately due.

3.7 The Buyer shall be required to make full payment of the products even in the event of objections, disputes or controversies that shall be settled only after payment of the amount due. The Buyer hereby waives requesting offsetting with any receivables, due for any reason from Metalmec S.r.l..

4. Retention of Title

4.1 The Products, in accordance with Art. 1523 of the Italian Civil Code, shall remain the property of Metalmec S.r.l. until full payment of the agreed price was made according to the terms and conditions provided for in Art. 3.

In the event of failure to pay an instalment at the due date which exceeds one-eighth of the total agreed price, or in the event of failure to pay two not necessarily consecutive instalments, the contract shall be deemed to be terminated, pursuant to the combined provisions of Articles 1525 and 1456 of the Italian Civil Code, with the consequent right of Metalmec S.r.l. to collect the products supplied, retaining any amounts already collected in any capacity based on this contract, without prejudice to full compensation for the deterioration or decreased commercial value of the products, as well as for any further damages.

4.2 Should, at the initiative of third parties, any seizure or repossession be placed on the products, the Buyer undertakes to have included in the related enforcement order report, the declaration that title to the products, pursuant to this title retention agreement, lies with Metalmec S.r.l.. The Buyer also undertakes to immediately inform Metalmec S.r.l. in order for the same to take action to object and/or claim title, without prejudice to the obligation to indemnify Metalmec S.r.l. against any consequences inherent in and/or arising from said legal and/or administrative proceedings and/or other third party initiatives.

5. Delivery

5.1 Unless otherwise agreed in writing, delivery of the Products is Ex Works (EXW Incoterms® 2010) and therefore the risks related to the supply shall be transferred to the Buyer at the place of delivery indicated in point 3.2 above.

5.2 The delivery terms indicated in the order confirmation are indicative and are calculated in working days. Any liability of Metalmec S.r.l. for any damages resulting from advanced or delayed total or partial delivery is excluded.

Should the Buyer not be in line with its payments, even relating to other supplies, the delivery terms shall be suspended and Metalmec S.r.l. shall have the right to delay delivery until the Buyer has paid the amounts due.

Should, for reasons not attributable to Metalmec S.r.l., the Buyer or the carrier designated by the same fail to take delivery of the products, Metalmec S.r.l., subject to notice to Buyer, may store them, charging the latter all the related costs incurred.

6. Force majeure - Reasons for contract suspension

6.1 Metalmec S.r.l. shall not be liable for delays or, more generally, for missing or imperfect execution of its contractual obligations in all cases where such breaches are caused by force majeure.

By force majeure is meant any event that is not dependent on the intention or ability of Metalmec S.r.l. and which is outside its control and which is of an unpredictable nature. Considered as such, without limitation, are: *natural disasters, wars, revolutions, strikes, acts of public authorities, power cuts, etc.*

6.2 Metalmec S.r.l. shall also not be liable for delays and/or missing and/or imperfect execution of its contractual obligations to the extent such consequences directly or indirectly derive from:

a) violation of the payment terms and/or conditions by the Buyer;

- b) actions (or omissions) of the Buyer, including failure to forward the information and approvals necessary to proceed with the supply of the products;
- c) impossibility to obtain materials, components or services necessary for execution of the work and supply of the products;
- d) any other cause not attributable to Metalmecc S.r.l..

6.3 All the circumstances specified in points **6.1** and **6.2** shall suspend execution of the Contract for the duration of the causal events. Should suspension of the contract last for a period exceeding six months, either party shall be entitled to withdraw from the Contract via notification by registered letter with return receipt, by certified email or by fax.

7. Technical specifications and documentation

7.1 The weights, dimensions, performance, colours and other data indicated in the catalogues, price lists, circulars, order confirmations or in any other illustrative document prepared by Metalmecc S.r.l., as well as the characteristics of demonstration samples, are only indicative and shall not be binding. Metalmecc S.r.l. therefore reserves the right to modify, at any time and without notice, the construction details and technical specifications of its products.

7.2 The above characteristics shall become binding only for special implementation for which the customer has made a specific request or in the event that the same are expressly indicated as such in the sales offer and/or order confirmation.

7.3 Metalmecc S.r.l. shall inform the customer in advance if the changes made to the technical specifications of the products are of a substantial nature. Substantial changes shall be deemed to be those involving the change or addition of new features to the product, or modification of the performance and/or loads declared by the manufacturer. In this latter case, the Buyer shall be entitled to terminate the Contract within 8 days of receipt of the notification referred to above, with the exclusion for both parties of any possible liability for damages.

8. Applicable legislation and technical standards

8.1 Metalmecc S.r.l. products comply with relevant and applicable EU directives and regulations, as well as with the European harmonised technical standards within the scope of said legislation.

Products falling outside the scope of application of EU directives and/or regulations are compliant with the relevant Italian legislation, if any, and any technical standards referred to by said legislation.

Products that do not even fall within the scope of Italian legislation are compliant with the European technical and/or international and/or national standards expressly referred to in the Metalmecc S.r.l. user manual and/or catalogues and/or price lists.

8.2 The Buyer shall be responsible for verifying, before sending the order, any differences between the legislation indicated in point 8.1. and that applicable in the country of destination of the products.

Upon conclusion of the Contract, the Buyer may not refuse the products claiming the above differences and shall indemnify and hold Metalmecc S.r.l. harmless of any liability that might arise due to non-conformity of the products with the relevant legislation of the country of destination of said products.

9. Conventional warranty, limitations and exclusions

9.1 Metalmecc S.r.l. warrants that the products supplied comply with the provisions of the contract and that the same are free of faults and/or defects that might make them unsuitable for their specific intended use.

9.2 This warranty is limited to product faults and/or defects that originate in the manufacturing process or that are attributable to the materials used or that result from design defects attributable to Metalmecc S.r.l..

The warranty does not cover defects arising from normal wear and tear of the products or of their component parts. Operation of the warranty on the products purchased shall be subject to full payment of the agreed price.

9.3 Unless otherwise agreed in writing, the warranty period shall be 12 months from the date of product delivery.

9.4 The warranty shall be in operation as long as the products are correctly stored, installed, commissioned, used and maintained, transported and handled in accordance with the instructions provided in the instruction manual and warnings attached to the product and/or in the technical data sheets provided by Metalmec S.r.l..

9.5 The warranty shall be void if changes and/or alterations are made to the product which have not been expressly approved in writing by the Metalmec S.r.l. technical department and/or performed by Metalmec S.r.l. personnel or personnel authorised by the latter. The warranty shall be also void if repairs are carried out without the authorisation of Metalmec S.r.l. or by persons not expressly authorised by the latter.

9.6 The Buyer, upon delivery, shall verify the conformity of the products and the presence of any faults and/or defects. The Buyer shall sign the transport/delivery document only after having verified the physical integrity of the outer and inner part of the goods, as well as the number and state of the packages. In the event of faults and/or discrepancies, the Buyer shall affix a specific reservation, on both its copy of the transport/delivery document as well as on that of the carrier, indicating the reasons for the reservation affixed (e.g.: missing package / missing or damaged packaging / damaged goods and type of damage). Failure to affix a specific reservation shall preclude the possibility for Metalmec to authorise any refunds.

9.7 Reporting of any non-conformities and/or faults and/or defects shall be made within 8 days of product delivery. Reporting of any faults and/or hidden defects shall be made within 8 days of discovery of the same and in any case not beyond the warranty period.

9.8 Reports under warranty shall be sent in writing to Metalmec S.r.l. to the email address: metalmec@mail-certificata.it or, alternatively, to the email address info@metalmeccs.r.l.it, indicating in detail the faults and/or defects and/or non-conformities, attaching appropriate photographic documentation. The Buyer shall lose the right to the warranty should it not allow Metalmec S.r.l. to make all reasonable checks within 10 days of the request.

9.9 Following verification of the validity of the request for intervention under warranty by Buyer, Metalmec S.r.l. may, at its discretion:

- a) repair the defective products;
- b) provide free of charge products of the same type as the defective products;
- c) issue a credit note to the Buyer for an amount equal to the value indicated on the invoice of the defective products.

In the cases referred to in points b) and c) Metalmec S.r.l. may request the return of the defective products, which shall become the property of the latter. Should the supplier decide not to request the return of the defective products, the latter may no longer be used and shall be disposed of by and at the expense of the Buyer, giving notice to Metalmec S.r.l..

9.10 Unless otherwise agreed between the Parties, it is understood that the expenses related to interventions carried out under warranty by Metalmec S.r.l. technical assistance shall be borne by the same, except for product shipment and/or transport costs that shall be borne by the Buyer. In the event that the defects found on the products prove not to be attributable to the responsibility of Metalmec S.r.l., the product repair, replacement and transportation costs shall be calculated and invoiced to the Buyer.

9.11 The warranty is valid and applicable only for new products. No warranty is envisaged for used and/or reconditioned products.

9.12 The warranty referred to in this article includes and replaces statutory warranty for defects and conformities and excludes any other possible liability of Metalmec S.r.l. however originated by the products supplied. Applicability of the warranty provided for by Arts. 1490 et seq of the Italian Civil Code is therefore expressly excluded.

9.13 In the case of a sale to Buyers which can be described as Consumers, this is without prejudice to all the rights provided for by Directive 99/44/EC and by the related transposition provisions.

Art. 10 LIABILITY - LIMITATIONS AND EXCLUSIONS

10.1 The liability of Metalmec S.r.l. is excluded for any direct or indirect damage to people and/or animals and/or property caused by incorrect assembly, installation, use and maintenance of the product.

10.2 The liability of Metalmec S.r.l. is also excluded for any damage that may be directly or indirectly caused to persons, animals or property as a result of modification of the products covered by the supply, as well as a result of failure to follow instructions and warnings contained in the documentation supplied with the products themselves.

10.3 The liability of Metalmec S.r.l. is also excluded in relation to any damage that may be caused by failure to comply with the laws and/or regulations in force in the countries of actual use of such products.

10.4 Under no circumstances shall Metalmec S.r.l. be liable for lost earnings, lost profits or for lost use or technical stoppage of the product or of any machinery associated with the same.

10.5 In all other cases, the liability of Metalmec S.r.l. cannot exceed value of the product to which this liability is related.

10.6 The Buyer undertakes to indemnify and hold Metalmec S.r.l. harmless of any complaints, actions and/or claims brought by anyone in relation to accidents and/or damage and/or danger caused to third parties in connection with use of the product.

11. Confidentiality

11.1 The Buyer shall be required to keep confidential all data and information of a technical nature such as, for example, technical documentation, drawings, tables, manuals and know-how originating from Metalmec S.r.l. in the execution of this contract. None of this information may be disclosed to third parties without the prior, explicit and specific written consent of the Seller.

11.2 The above provisions shall not apply to information that:

- a) is in the public domain or comes into the public domain not due to disclosure by the Buyer, its employees or contract workers, or
- b) was in the possession of the Buyer before receipt from Metalmec S.r.l. or
- c) was disclosed by sources not subject to the restrictions to which the Buyer is subjected relating to their use, or
- d) may be disclosed to third parties based on the written consent of Metalmec S.r.l..

Art. 12 Miscellaneous

Assignment by the Buyer of the rights or obligations arising from the Contract, without the prior written consent of Metalmec S.r.l., shall be deemed null and void. Metalmec S.r.l. shall have the right to sell, at any time, to any third party, the receivables arising from the Contract, after having notified the Buyer in writing.

The total or partial invalidity of one or more clauses of these General Conditions shall have no effect on the validity of the remaining clauses.

It is understood that any tolerance of violations of these General Conditions shall in no way be construed as a waiver to exercise the related or consequential rights and/or faculties.

Art. 13 Applicable law and jurisdiction

13.1 These General Conditions and related supply contracts shall be governed by Italian law.



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13.2 For any disputes relating to or in any case connected with the contracts subject to these General Conditions, the Court of Bergamo shall have exclusive jurisdiction.