

## 1. General

1.1 The present General Terms and Conditions of Sale (hereinafter, "Terms") exclusively govern any agreement for the sale between Caprari S.p.A., with registered office in Modena, via Emilia Ovest 900 - 41123 (hereinafter, "Caprari") and its clients (hereinafter, "Buyer(s)", Caprari and Buyer(s) hereinafter also "Parties") related to the products commercialized by Caprari, spare parts included (hereinafter, the "Product(s)"). The Terms apply exclusively in case the Buyer is a professional and the agreement is executed within the scope of the business activities of the Buyer. The Terms do not apply to any sale to "consumers" pursuant to the definition under Italian and European regulations on that subject.

1.2 The offer and sale of Products, the execution of agreements and any other relationship between Caprari and the Buyer(s) inherent to the sale of Products are exclusively governed by the Terms. Differing terms proposed in any form or manner by the Buyer shall not have any effect nor shall they be binding on the Parties, except upon Caprari's explicit evaluation and consequent acceptance in writing; likewise, any general/specific terms that the Buyer may have drafted do not apply and, upon signing the present Terms, the Buyer expressly waives such terms.

## 2. Orders and Agreements

2.1 The Buyer undertakes to comply with the provisions of the present article in placing any orders with Caprari. It is therefore understood that orders that do not comply with the following provisions, as well as incomplete or inaccurate orders shall not be processed by Caprari.

2.2 Caprari is not in any case obliged to accept orders from the Buyer, being free to make its own assessment of whether to accept an order or not and, consequently, whether to deliver the Products.

2.3 Orders of the Products shall be made by the Buyer by sending a written order to Caprari containing the elements indicated by Caprari itself as essential (by way of example: type of products, quantity, price).

2.4 Caprari - where intends to accept the order - shall send an order confirmation by electronic mail to the Buyer. The sale agreement shall be considered effective from the moment at which the Buyer receives the order confirmation by Caprari, and the order shall not be revoked or modified, in the absence of a written agreement between the Parties.

2.5 The order confirmation may contain other elements or values from those indicated in the order. It is Buyer's responsibility to verify the correspondence of the order confirmation to the order and to communicate, within 5 (five) days from the order confirmation, its disagree-

ment or its eventual acceptance. Upon expiry of the 5 (five) days period from the receipt of the order confirmation, without the Buyer having made any communication, the order confirmation shall be considered tacitly accepted by the Buyer and the agreement shall be considered concluded under the conditions proposed by Caprari at last.

## 3. Products Specification

3.1 Caprari reserves the right, at any moment, also after the execution of the agreement, to make modifications to the Products' specifications as necessary to comply with the applicable laws and regulations and/or that do not substantially alter the quality, efficiency or merchantability of the Products.

## 4. Price of the Products

4.1. The prices of the Products shall be those indicated in the order confirmation. Caprari reserves the right to change - at its sole discretion - its price list in accordance with the periodic updates communicated to the Buyers by Caprari itself. Changes to the price list shall have no effect on agreements undersigned, but not yet carried out, prior to the price changes.

4.2 Unless otherwise agreed, the prices given by Caprari are FCA Incoterms® 2020, Caprari's factory indicated in the agreement.

## 5. Payment terms

5.1 Payments shall be made by the deadline indicated in the agreement.

5.2 In any instance of delayed payment, Caprari has the indisputable right to: (i) suspend the performance of the agreement and/or, (ii) charge the Buyer interests provided under the Italian Legislative Decree 231/2002 "Implementation of Directive 2000/35/EC on combating late payment in commercial transactions" without sending a formal notice of default.

5.3 Any possible dispute between the Parties regarding the Products sold shall not allow the Buyer to suspend the payment of the price or to extend the related payments terms. Any legal action or enforcement procedure of the Buyer shall not be considered actionable in absence of full payment of the price.

5.4. The failure by the Buyer to pay, even only one instalment of the purchase price shall lead, without prejudice to any of other available rights or remedies of Caprari, to the forfeiture of the right to deferred payments on the part of the Buyer pursuant to article 1186 of the Italian Civil Code, with the consequent obligation of the Buyer to immediately pay the full price to Caprari. Furthermore, Caprari may be entitled to terminate the agreement

with immediate effect, pursuant to article 1456 Italian Civil Code, by simple notice to the Buyer and without prejudice to the right to damages compensation.

5.5 Should the Buyer fail to collect the Products, the deposit paid shall be retained by Caprari as a penalty, without prejudice to the right to compensation for further damages and/or payment of the entire agreed price and to the provisions of article 6 below.

## **6. Delivery, Packaging and Products Collection**

6.1. Unless otherwise agreed in the agreement, any sales is FCA Incoterms® 2020 Caprari's factory indicated in the agreement.

6.2. The terms of delivery indicated in the agreement are merely indicative. Until the delay does not exceed 90 (ninety) days from the term indicated for delivery, the Buyer has no right to request the termination of the agreement and to refuse the supply, unless otherwise agreed.

6.3 Under no circumstances shall Caprari be held responsible for any delay in deliveries not attributable to it and which is determined by: (i) events or incidents caused by "force majeure", (ii) the Buyer's failure to meet or delay in meeting its obligations, (iii) Public Authority acts or delays, including where they are not a consequence of a "force majeure" events; (iv) Caprari suppliers' acts or delays. In such cases the delivery term shall be extended for a period equal to the duration of the impediment.

6.4 As soon as the Products ordered are ready to be collected, the Buyer will receive a written notice of readiness of the Products (hereinafter also, "Notice").

6.5 The Buyer is obliged to collect the Products within the term of 30 (thirty) days indicated in the Notice. Should the Buyer fail to collect the Products within 30 (thirty) days from the Notice, all risks inherent to the Products shall be fully transferred to the Buyer and Caprari, without prejudice to the full payment of the price or to the termination of the agreement, will be entitled to deposit the Products not collected by the Buyer at the latter's risks and expenses. After 45 (forty-five) days from the Notice without the Buyer having collected the Products, Caprari shall have the right to apply a penalty equal to 2% (twopercent) of the value of the Products for each week of delay up to a maximum of the value corresponding to 20% (twentypercent) of the price of the Products, without prejudice for the right to compensation for further damages and to the to the right to terminate the agreement.

6.6 It is the right of Caprari and without the Buyer be entitled to claim for compensation or reimbursement, suspend deliveries and terminate the agreement in case it: (i) becomes aware of information that may cause doubts about the solvency of the Buyer; (ii) the Buyer is late with

the payments.

6.7 Caprari shall package the Products in compliance with its commercial practices. Specific packaging or delivery instructions required by the Buyer shall be agreed by the Parties in writing at the time of the order and the relevant costs shall be invoiced separately to the Buyer.

## **7. Testing**

7.1 The testing can be performed only if requested at the time of the order by the Buyer. In any case Caprari reserves the right to evaluate and confirm the feasibility of the testing.

7.2 The costs of the testing shall be fully paid by the Buyer and the testing date and the timing for the performance of the testing shall be chosen by Caprari.

## **8. Transfer of risk**

8.1 Unless otherwise agreed in the agreement, the risk of damage or loss to the Products passes to the Buyer "FCA" (FCA "Incoterms 2020") Caprari's factory indicated in the agreement.

## **9. Retention of title**

9.1. Regardless of the terms for delivery and the transfer of risk of the Products and of any other provision under the present Terms, ownership of the Products shall not be transferred to the Buyer until Caprari has received full payment for the price of the Products.

9.2 Until the full payment for the price, Caprari reserves the right toward third parties to repossess, sell or in any other way dispose of the Products for which Caprari retains ownership.

9.3 Should a third party attempt to seize or otherwise make use of the Products, the Buyer is obliged to raise the exception that the Products are the property of Caprari and immediately notify Caprari so as to allow Caprari to protect its rights by way of appropriate legal action.

9.4 The provisions under the present article shall remain valid and effective also after the termination (for any reason) of the agreement.

## **10. Confidentiality**

10.1 The Buyer shall keep confidential all information of technical nature (e.g.: drawings, technical prospectus, documentation and correspondence in general) and the information expressly categorised as confidential that it receives from Caprari and in any case learned in connection with the agreement's performance. The Buyer is obliged to maintain such confidentiality for a period of 5 (five) years from the delivery date of the last Product or batches of Products sold to the Buyer. Any industrial or intel-

lectual property rights regarding the materials or Products being sold (including drawings, manuals, brochures, etc. that are delivered with and/or in relation to the Products) belong exclusively to Caprari and to the relevant owners.

## **11. Warranties - Limitations of applicability of the warranties and of liability - Repairs and Collection Obligation**

11.1 Unless otherwise agreed in the agreement, all Products are warranted against defects or malfunctions for a period of 12 (twelve) months from the invoice date. The replacement of any components or Products under warranty does not extend the warranty duration.

11.2 Defects must be reported by the Buyer in writing, within 8 (eight) days of the defect being discovered under penalty of forfeiture pursuant to article 1495 Italian Civil Code. In reporting a defect, the defect discovered and the Products' identification details must be indicated: model, delivery date, serial number, invoice number. Caprari shall reserve the right to examine or have examined the Products that the Buyer declared to be non-compliant or defective.

11.3 The warranty is excluded in the following instances: (i) the Product has been improperly used (applications not provided in the operation manual provided by Caprari, incorrect installation, incorrect commissioning and/or adjustment); (ii) modifications or repairs to the Products carried out by the Buyer and not expressly authorized by Caprari; (iii) lack of the preventive and ordinary maintenance as specified in the operation and maintenance manual; (iv) replacement of components with non-original components; (v) the Products have been stored in unsuitable environments / not compliant with Caprari's instructions; (vi) natural wear and tear, galvanic currents, chemical corrosion, power supply anomalies, electrical connections not specified in the operation and maintenance manual, mechanical activation anomalies; (vii) incorrect selection by the Buyer of the product and/or system components, incorrect settings by the Buyer and/or defects related to secondary devices (i.e. activation, adjustment and control systems); (viii) damages caused during transportation; (ix) damages due to force majeure.

11.4 The warranty intervention is strictly subject to the timely compliance of the Buyer with all the obligations arising before the complaint and those expiring during the operations related to the warranty itself.

11.5 The warranty intervention, subject to a prior assessment by Caprari on the warranty applicability, shall include, at the choice of Caprari, the repair or replacement of the defective components, unless otherwise agreed in writing between the Parties. The Products that during the warranty period show malfunction defects or construction

defects must be sent, together with the document proving the purchase, upon written authorization by Caprari, "DDP" "delivery duty paid" (" Incoterms® 2020 ") by the Buyer to Caprari or to the authorized Service Center which, in case of positive verification of the warranty conditions, shall carry out the reparation or the replacement.

11.6 All costs relating to the dismantling of the Products from the place in which they were installed, to the transportation and to the subsequent reassembly are always under the Buyer own costs.

11.7 Once the reparation is completed, Caprari shall send a notice to the Buyer informing that the Products are ready to be collected (hereinafter, "Reparation Notice"). The Buyer is obliged to collect the repaired Products within 30 (thirty) days from the aforementioned notice and acknowledges that, in the event of missed collection in due time, Caprari shall have the right to deposit the uncollected Products by the Buyer at the latter's risks and expenses. The Buyer also acknowledges that, after 45 (forty-five) days from the Reparation Notice, without the Buyer having collected it, Caprari shall have the right to apply a penalty of 50.00 (fifty/00) Euro per week up to a maximum amount equal to half the purchase price of the Product, without prejudice to further damages.

11.8 In any case, the Buyer undertakes to collect the Products no later than 180 (one hundred and eighty) days from the Reparation Notice, expressly authorizing Caprari to dispose of the Products not collected within the aforementioned term. The same discipline shall also apply to Products not collected by the Buyer following the assessment (positive or negative) by Caprari regarding the applicability of the warranty.

11.9 If it is agreed that the repairs under warranty are carried out on the place, Caprari undertakes to replace, free of charge, the spare parts subject to the warranty terms.

11.10 Moreover, if it is required, Caprari shall provide specialized workforce for repairs with the prior agreement that these services shall be charged according to the rates of the A.N.I.M.A. bulletin (Federation of National Associations of Mechanical Industries) in force. At the Buyer's own costs are also all the means necessary for the handling of materials and the success of the repair and for the necessary labourers assistance which promptly shall be made available to Caprari personnel. The Buyer is also responsible for the costs of transportation, board and lodging of Caprari staff made available for repairs outside the Caprari offices.

11.11 In any case, the replaced parts remain the property of Caprari.

11.12 The reported Product's defects by Buyer to Caprari does not authorize the Buyer: (i) to suspend the

due payments; (ii) to consider terminated or to request termination of the agreement.

11.13 The warranty provided by Caprari is limited to the repair or replacement of the defective Products only. Any liability for any direct and/or indirect damages arising from the sale and use of the Products such as, but not limited to: line stops, interruption and/or loss of production, lost or limited revenues, costs, etc. is excluded. In any case, Caprari's liability as regard to the agreement with the Buyer or any other relationship is limited to the price paid by the Buyer for the Products.

11.14 Caprari shall not be responsible for any accident to persons or things for or during the use or due to or depending on the Products.

11.15 Caprari shall not be responsible in case of infringement to patents, trademarks, models or other industrial or intellectual properties' rights, if the Products are made at the request of the Buyer and / or the distributor or are based on drawings, indications or models provided by them.

11.16 Without prejudice to mandatory applicable legal provisions, Article 11 is the only warranty that Caprari provides in relation to the Products. The warranty is expressly provided in replacement of any other warranty or statement, whether explicit or implicit, including any warranty regarding the adequacy of the Products.

## 12. Miscellaneous - Communications

12.1 In the event of any supervening total or partial inapplicability of any clause under the present Terms, the unaffected clauses contained herein remain valid.

12.2 Information provided regarding offers, catalogues, circulars, advertising such as, by way of example, but not limited to, weight, services, measurements, delivery terms, etc. are merely indicative and do not constitute a commitment by Caprari' in this respect.

12.3 All communications required under the agreement and/or having regard to the Terms shall be made via electronic mail.

## 13. Applicable law, Jurisdiction

13.1 The Buyer and Caprari agree that the present Terms and the interpretation, fulfilment, performance, breach and validity of or compliance with them shall be governed by Italian law. The Parties expressly exclude the application of the 1980 Vienna Convention on the International Sale of Commercial Goods.

13.2 Any disputes that may arise in relation to the Terms or any agreement executed in connection with the Terms, and referred to their interpretation, execution, breach and validity and effectiveness, shall be subject to the sole jurisdiction of the Court of Modena.

## 14. Final provisions

14.1 The present Terms may be amended, modified and integrated solely by Caprari and in writing.

## 15. Privacy

15.1 Pursuant to Italian Legislative Decree 196/03 (the so-called "Privacy Code") and EU Regulation 679/2016 ("GDPR"), the Parties mutually agree that, in the execution of the activities provided by the Terms, any personal data relating to each activity shall be processed for purposes connected to the execution of the Terms pursuant to art. 6.1, letter b) of the GDPR, including the use of electronic means or to execute the obligations provided by the applicable law and competent Authorities.

Signed for acceptance

The Buyer

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Pursuant to articles 1341 and 1342 of the Italian Civil Code, the Buyer states to have read and to expressly approve the following Articles: Article 1. General, Article 2. Orders and Agreements; Article 3. Products Specification; Article 4. Price of the Products; Article 5. Payment terms; Article 6. Delivery, Packaging and Products Collection; Article 7. Testing; Article 8. Transfer of risk; Article 9. Retention of title; Article 10. Confidentiality; Article 11. Warranties - Limitations of applicability of the warranties and of liability – Repairs and Collection Obligation; Article 13. Applicable law, Jurisdiction.

The Buyer

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