



ELMA Srl

Via Foresto 13 - 31058 SUSEGANA TV - ITALY

Tel. +39 0438 402897 Fax. +39 0438 405042

www.elmaestrusi.it

amministrazione@elmaestrusi.it - ordini@elmaestrusi.it - tecnico@elmaestrusi.it

GENERAL TERMS AND CONDITIONS OF SALE

1) Definitions

In these Conditions, the following definitions apply:

- “Elma”: Elma S.r.l. Via Foresto, 31 Susegana –TV- VAT IT04175980269;
- “Customer”: any company, corporation or legal entity that buys Elma’s products from Elma itself;
- “Products”: goods produced, assembled and / or sold by Elma;
- “Order(s)”: all purchase requests for Elma’s goods that have been sent by fax (0039 438 405042) or e-mail by a Customer;
- “ Sale(s)”: each sale contract concluded between Elma and the Customer, after Customer reception of Elma’s written order confirmation;
- “Trademark”: all brands/trademarks owned by Elma;
- “Intellectual Propriety Rights”: all Elma intellectual and industrial propriety rights, including, without limitation: patents (of inventions), design, utility models, trademarks, *know-how*, technical specifications, data, that have been registered or not, as well as any application or registration related to these rights and any other right or form of protection of a similar nature or having equivalent effect.

2) Purpose

2.1 These terms and conditions of sale are applied to all sales of products.

In case the conditions agreed for a single sale are in conflict with the terms and conditions here defined, the terms of the latter will prevail. Elma will not be bound by Customers’ terms and conditions of purchase (CCP), neither if they are mentioned nor referred to in any Customer purchase order or documents, without the previous written consent of Elma. Elma will not be bound by CCP even in case of tacit agreement.

2.2 Elma reserves the right to add, modify or delete any condition of these Terms and Conditions of Sale. It being understood that any addition, modification or cancellation will be applied to all Sales concluded, starting from the thirteenth day after all Customers have been notified about additions, modifications and/or cancellations.

3) Orders and Sales

3.1 The Customer must send Elma specific Orders containing products description, required quantity, price and expected delivery time.

3.2 Sale will be considered as concluded when:

- 1) the Customer receives by Elma the written order confirmation (order confirmation could be sent by e-mail, fax or others electronic means) in compliance with Order terms and conditions;
- 2) the Customer receives by Elma a written order confirmation that differs from the original order, and after two working days from receiving the confirmation, does not send to Elma any written notification;
- 3) the Products will be delivered to the Customer, even if there’s no written order confirmation by Elma.

3.3 The Orders that have been accepted by Elma cannot be canceled by Customers without the written consent of Elma.



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4) Prices

4.1 The prices of the Products are those defined in the current price list or in the specific offers sent to Customers at the time of the Order reception by Elma. Or, if the Product is not included in the price list or the price list is not available, the prices to be considered are those specified in the Order and confirmed in writing by Elma at the time of the acceptance of the Order. Except where otherwise agreed in writing between the parties, the above mentioned prices are ex works, excluding VAT and discounts. Those prices do not include transport costs, so that all related charges and expenses shall be paid by Customers.

4.2 Elma will remain the owner of the goods until the total amount of the order will be paid. The Customer shall fulfill all obligations required by local legislations in order to validate and make it executable, against third parties, this retention of title clause.

4.3 Elma reserves the right to unilaterally modify, without notice and with immediate effect, the prices of the price list when the adjustment is due to circumstances that are beyond the control of Elma (for example: an increase in raw materials prices and in the cost of labor or changes in exchange rates). In all other cases, the change will be notified to Customers and will affect all Orders received by Elma starting from the thirtieth day after the Customer has been notified.

5) Delivery

5.1 Except where otherwise agreed in writing between the parties, Elma will deliver the Products ex works at its plant. Such as the term "ex works" is defined in ICOTERMS 2010 published by the International Chamber of Commerce in their latest version, that is the current one at the time of delivery. If required, Elma will organize the transport of the goods, it being understood that all related risks and expenses are in charge of the Customer.

5.2 Delivery time is approximate and is not an essential term in accordance with art. 1457 of the Civil Code. In any case, delivery time do not include transportation time.

5.3 With the exception of what is defined in the art. 5.2 here above, Elma is not responsible in case of delays or failed deliveries due to circumstances that are beyond the control of Elma, such as (the list here below is used as an example and is not intended to be exhaustive):

- a) inadequate technical data, inaccuracies or delays in the transmission to Elma of any information or data required for shipment;
- b) difficulties due to the procurement of raw materials;
- c) problems associated with the production or planning of the orders;
- d) total or partial strikes, power failure, natural disasters, special measures imposed by local authorities, transport difficulties, riots, terrorist attacks and all others accidents out of Elma control;
- e) delays of the courier.

5.4 If any of the events above-mentioned occurs, the Customer is not entitled to ask Elma a compensation for damages, or refunds of any kind.

6) Transport

6.1 Except where otherwise agreed in writing between the parties, the Customers bears all risks and costs related to the transportation of goods. If Elma is asked to organize the transport of goods, in accordance



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with art.5.1, Elma will choose the mean that is considered as the most appropriate if the Customer doesn't provide any specific instruction about it.

7) Payments

7.1 Except where otherwise agreed in writing between the parties, Elma, at its discretion, will invoice goods at the time of order confirmation or delivery.

7.2 Payments must be made in Euros within 30 days end of the month after invoice date, except where otherwise agreed in writing between the parties.

7.3 In case of non-payment or delay exceeding 15 days Elma has the right to suspend deliveries and solve every single sale that has been signed. This will not give the Customer the possibilità to claim any refund.

7.4 In no case, any claim concerning goods and/or their delivery could justify any suspension or delay in payments.

8) Non conformity

8.1 Any discrepancy between the delivered goods and the type and quantity confirmed in the order must be notified in writing within 8 days from the delivery date. If there is no communication within the period here specified, the delivered goods are considered as compliant with the ordered ones.

9) Guarantee

9.1 Except where otherwise agreed in writing between the parties, Elma guarantees that the Products are free from defects (with the exception of the goods that are not produced by Elma) for a period of 1 year from delivery date.

9.2 Guarantee is not valid for those Product whose defects are due to

9.2.1) damages during transport;

9.2.2) careless or improper use of the Products;

9.2.3) non-observance of the instructions provided by Elma and related to the mode of operation, maintenance and preservation of the Products;

9.2.4) reparations or modifications made by the Customer or third parties, without the previous written permission of Elma.

9.3 If the claim of the customer is notified according to the terms of warranty here above specified, Elma, at its own discretion, will replace or repair the product or any of the defected component of the good itself.

9.4 The Customer must notify within 8 days from delivery date in written form to Elma any clear defect. If the defect is not immediately detectable it must be notified in written form to Elma within 8 days from its becoming evident.

9.5 Except where otherwise agreed in writing between the parties, the products displaying such defects must be immediately sent to Elma's plant or any other location indicated by Elma at customer own expenses to allow all the necessary controls. The warranty does not cover damage and / or defects in the Products arising from problems caused by, and / or related to, assembled parts / added directly by the



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customer or by the final consumer.

9.6 In any case, the customer does not have any warranty right if he did not fulfill all payments conditions, including all the pending payments, previously agreed.

9.7 Elma does not recognize any warranty stemming from extra-UE regulations.

9.8 Except from what it is stated in art. 9.3 and in case of fraud or negligence, Elma will not be responsible for any damages incurred and/or connected to the defects of the products. In any case, Elma will not be responsible for any indirect or consequential damages of any kind.

9.9 If the same defect in a Product occurs repeatedly and it is due to the same cause during a period of 12 months from the delivery date to the final customer, and, in any case, for a period not superior to 24 months from the delivery to the Customer, Elma will reimburse, within the limits set forth in the following art. 9.10, all damages sustained by the Customer and properly demonstrated, related to a recall campaign of the defective Products. This, including also any other additional cost connected with the reparation and replacement of defective goods. On condition that the Customer is reasonably committed to limit all losses that Elma could have suffered. The Customer will follow Elma's instructions for the recall campaign.

9.10 In any case, the maximum amount that can be corresponded for any defective or non-conforming Product, correspond to the invoiced price of the Product itself.

10) Intellectual Propriety Rights

10.1 All intellectual and propriety rights are entirely owned by Elma. Their communication or use within these Terms and Conditions do not give the Customer any right in relation to them. The Customer agrees to take no action in conflict or incompatible with the ownership of these intellectual propriety rights.

10.2 The Customer acknowledges that:

- Elma is the sole owner of the Trademarks;
- he won't use or register any Trademark that is similar to or can be confused with Elma's ones;
- he will use Elma's Trademarks only in accordance with the instructions provided by Elma itself and only for the purposes here defined in this Terms and conditions.

11) Termination Clause

11.1 In accordance with art. 1456 of the Italian Civil Code, Elma may terminate, at any time and by written notification, any single sale in case of non-fulfillment of the Customer's obligations defined at:

Art. 4 - Prices,

Art. 7 – Payments,

Art. 10 – Intellectual propriety rights.

12) Change in the financial circumstances of the Customer

12.1 In accordance with art. 1461 of the Italian Civil Code, Elma will be entitled to suspend the fulfillment of its obligations arising from the sale of Products, if the change in the financial conditions of the Customer could endanger the payment of the service except in cases where it is given sufficient guarantee.



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13) Legal address, applicable law and jurisdiction

13.1 Elma is legally domiciled at its headquarter (31058 – Susegana).

13.2 This Conditions of sale and every single sale will be governed and interpreted according to the Italian Law, with the exception of the Vienna Convention of 1980 on Contracts for the International *Sale of Goods*.

13.3 Any dispute arising out of or in connection with these Conditions and/or any single sale will be subject to the exclusive jurisdiction of the Court of Treviso.

Pursuant to and by effect of art.1341 C.C, when placing an Order, the Customer acknowledges that these Conditions are read, understood and fully accepted.

In case of doubt or differences of interpretation between the Italian version and any other language, the Italian language shall prevail.

ELMA S.R.L.