

TERMS AND CONDITIONS OF SALE OF SERIAL CATALOGUE PRODUCTS AND CUSTOMIZED PRODUCTS BREVETTI WAF

1. PREAMBLE

1.1 These Terms and Conditions govern the sale of the Brevetti WAF products included in the general catalogue at the time the contract is concluded.

2. CONCLUSION OF THE CONTRACT

2.1 The contract shall be considered concluded when Brevetti WAF has sent written acceptance of an order within ten days of receiving it.

2.2 If Brevetti WAF has established in its firm offer a deadline for acceptance, the contract shall be considered concluded when the buyer has sent written acceptance before the expiry of that term and, in any case, within 2 working days from the offer.

3. DESCRIPTIVE DOCUMENTS AND PRINTED MATERIAL REGARDING USE AND MAINTENANCE

3.1 The weights, dimensions, capacities, prices and other data contained in the catalogues, prospectuses, circulars, advertisements, illustrations and price lists have no mandatory value unless the contract refers to them explicitly.

3.2 Brevetti WAF undertakes to provide the customer free of charge – and at the latest at the beginning of the warranty period – with the technical information sheets containing instructions on the use and maintenance of the products.

4. PACKAGING

4.1 Unless otherwise specified:

a) the prices indicated in the price lists and in the catalogues refer to products with “standard” packaging; Brevetti WAF reserves the right to negotiate and agree with the customer, when the order is made, on prices and packaging proportionate with custom orders and special services performed in the conceptualisation, design and production of the customized products;

b) prices quoted in firm offers and in the contract include the costs of packaging or the means of protection necessary to prevent damage or deterioration of the goods under normal conditions of transport to the destination established in the contract. In all cases, the provisions of art. 4.1.a are applicable;

5. TRANSFER OF RISK

5.1 When there is no indication of the terms of sale in the contract, the goods are to be considered sold “ex works”.

5.2 Unless otherwise agreed between the parties, the transfer of risk is determined as follows:

a) for “ex-works” sales, the risk passes from the seller to the buyer at the moment the goods have been made available to the buyer in accordance with the contract, i.e. when Brevetti WAF informs the customer that the goods are ready for shipment and can therefore be withdrawn (collected) by the customer. Brevetti WAF shall undertake in any case to give sufficient prior notice to allow the buyer to take the measures that are normally necessary to make the withdrawal;

b) for “free carrier” sales or “carriage paid to ...” sales, the risk passes from the seller to the buyer at the moment when the carrier takes control of the means of transport with the relative load;

c) for “FOB” or “CIF” sales, the risk passes from the seller to the buyer at the moment the goods have effectively passed the ship’s bulwarks in the agreed port of shipment;

d) for “delivered at frontier” sales (without other specifications) or “delivered at the frontier of the exporting country” sales, the risk passes from the seller to the buyer when the customs formalities of the customs office at the border of the exporting country have been completed;

e) for “delivery duty paid” sales (established border post of the importing country or place established within the country of importation), the risk passes from the seller to the buyer upon arrival of the goods in the agreed place and at the moment the buyer is required to take delivery of the goods;

f) in each of the cases referred to in letters b), c), d) and e) above, the seller must inform the buyer with sufficient

notice that the goods have been shipped, so as to enable the buyer to take all necessary measures.

5.3 In the case of another form of sale, the moment of transfer of risk will be determined on the basis of the agreements between the parties.

6. SHIPPING AND DELIVERY

6.1 Unless otherwise agreed, the delivery period (to be understood in all cases as the “shipping period”), begins on the last of the following dates:

- a) the date the contract is concluded;
- b) the date Brevetti WAF receives the advance payment or the balance specified in the contract before delivery of the goods.

6.2 Brevetti WAF undertakes to send the goods ordered by the customer within 4 weeks of the date provided for in paragraph 6.1 above, except in cases of force majeure or when it is impossible to execute the contract as governed by art. 10 of these general terms and conditions, without prejudice to the terms of paragraph 6.5 below.

6.3 If Brevetti WAF does not send the goods after the expiry of the deadline specified herein, the buyer is entitled to terminate the contract – by simply sending a letter to that effect – in regard to all undelivered goods and also all delivered goods that cannot be conveniently used in the absence of the undelivered goods. If the buyer thus terminates the contract, he/she has the right to obtain reimbursement of any amount paid for both the undelivered goods and the already delivered goods that are unusable without the undelivered goods, to reject the delivered goods that cannot be used and to recover all justified expenses incurred in carrying out the contract; this with exclusion of any other action against the seller for the delayed delivery.

6.4 If the buyer does not collect the goods in the place and time established in the contract for any reason other than an action or omission of Brevetti WAF, the buyer must nevertheless make all payments contractually provided for as if the goods had been delivered. In this case, when the goods have been identified, Brevetti WAF shall provide for their storage at the expense and risk of the buyer. Brevetti WAF also has the right to the reimbursement of all justified expenses it has incurred to execute the contract and which have not been covered by the payments received. Brevetti WAF also reserves the right, at its sole discretion, to charge the customer for the cost of storage of goods already ready for shipment but not withdrawn by the customer for any reason other than an action and/or omission of Brevetti WAF, starting from the 7th (seventh) day following the formal notice sent to the customer for collection of the goods.

6.5 In the event that Brevetti WAF has conceived, or designed, or manufactured and/or packaged the goods in fulfilment of a particular and customized order of the customer, it reserves the right to send the goods in different terms from those indicated in art. 6.2; however, these will be agreed with the customer in relation to the particularities, technical difficulties and customization of the product itself.

7. PAYMENT

7.1 Payments must be made within 60 days of the end of the invoice month, unless the parties agree on different payment methods and payment deadlines. It is expressly required of and accepted by the customer that his/her first order must be paid fully in advance, with the application of a discount to be agreed on from time to time between the parties, and that only when payment is received shall the delivery and shipping terms set forth in these terms and conditions of sale become applicable

7.2 If the buyer is late in making any payment and the delay is not due to an action or omission of Brevetti WAF, Brevetti WAF may:

- a) suspend the fulfilment of its obligations until the payment has been made; and
- b) demand, by written notification sent in a timely manner to the buyer, late payment interest from the due date, to the extent provided for by the current Legislative Decree 231/2002.

7.3 If, after one month from the date of expiry, the buyer is still in default in paying the sum due, Brevetti WAF is entitled to terminate the contract – by simply sending a letter to that effect – and with exclusion of any other action against the buyer for the buyer’s delay and without prejudice to its right to be reimbursed for all sums due for the delivered goods and for all justifiable expenses incurred for the execution of the contract.

8. RIGHTS OF THE BUYER

8.1 During the period sufficient for the goods to be inspected the buyer can refuse any goods that do not comply with the contract, except for those with defects occurring after the transfer of risk, unless, before the buyer exercises this right, Brevetti WAF has the possibility to remedy at its own expense the defects of the goods in a reasonable amount of time. In any case, the buyer expressly accepts and confirms that if Brevetti WAF designs, realizes and/or packages a product to fulfil a specific and customized customer order, it is permitted a tolerance of about 5% between the quantity ordered and the quantity produced, due to the particularity of the construction of the product and the craftsmanship of the product itself.

8.2 The buyer's right of refusal also extends to the goods already delivered and accepted that cannot be properly used without the goods mentioned in paragraph 8.1.

8.3 Brevetti WAF has the right to have the goods refused by the buyer returned to it at the risk and expense of the buyer.

9. WARRANTY

9.1 Within the limits of the following provisions, Brevetti WAF shall undertake to remedy any imperfection resulting from a defect in design, materials or workmanship.

9.2 This commitment is limited to defects that occur during the period (called "warranty period") that begins with the transfer of risk and lasts for 12 months from the date of delivery of the goods. The customer also expressly acknowledges and agrees that in the case of design, creation and production by Brevetti WAF of a customized product (or in any case corresponding to specific technical and/or aesthetic characteristics desired by the customer), the warranty is limited to serious technical errors attributable to Brevetti WAF or to the use of incorrect materials and components compared to the initial design, while it does not cover merely aesthetic defects, it being recognized and accepted that the customized product is to be considered as a "one-of-a-kind piece" (even if reproduced serially), made with the highest degree of craftsmanship.

9.3 For specific portions of goods that are expressly mentioned in the contract, a different warranty period may be agreed (if so desired) for each of them.

9.4 The parties may stipulate in the contract that Brevetti WAF will not assume any responsibility other than that arising from "gross negligence", as defined in paragraph 9.10.

9.5 To exercise the rights deriving from this article, the buyer must notify Brevetti WAF in writing and without delay, or in any case within the maximum term of 8 days from receipt of the goods, of all the defects that have appeared. Upon receipt of this statement, Brevetti WAF must, at its discretion and if the defect is covered by the provisions of this article:

- a) repair the defective goods where they are located, or
- b) have the goods or the defective parts of the goods returned to repair them, or
- c) replace the defective goods, or
- d) replace the defective parts so as to allow the buyer to carry out the necessary repairs at the expense of Brevetti WAF.

9.6 If Brevetti WAF has the defective goods sent back to it to replace or repair them, the buyer assumes, unless otherwise agreed, the costs and the risk of transport. The return to the buyer of the goods or parts thereof that have been repaired or replaced will be at the expense and risk of Brevetti WAF unless otherwise agreed.

9.7 The defective goods or parts replaced on the basis of this article will be made available to Brevetti WAF.

9.8 The liability of Brevetti WAF extends only to defects that appear under the conditions of use provided for in the contract and during correct use of the product according to the technical specifications provided at the time of purchase. In particular, it does not cover defects deriving from defective maintenance or repairs carried out by someone other than the seller or its agents, nor from modifications made without the written consent of Brevetti WAF, nor from normal deterioration.

9.9 Subject to the provisions of Article 8 and without prejudice to the provisions of this article, starting from the transfer of risk of the goods and also for defects whose cause existed prior to such transfer, Brevetti WAF will not as-

sume any other responsibilities. It is expressly agreed that the buyer cannot make any claim for injury to persons or for damage to things other than those that are the subject of the contract, or for loss of profit, unless it is apparent from the circumstances of the case that Brevetti WAF has committed a gross negligence.

9.10 The term "gross negligence" does not include any and all lack of proper care or expertise, but it means an act or an omission of Brevetti WAF that implicates either a failure to take into consideration the serious consequences that a conscientious supplier would normally have foreseen as likely to occur, or a deliberate disregard for any consequence deriving from such an act or omission.

10. CAUSES OF EXEMPTION FROM EXECUTION

10.1 Any circumstance independent of the will of the parties that arises after the conclusion of the contract and prevents the reasonable execution thereof is considered as a cause for exemption from the execution itself. Pursuant to this article, circumstances that do not derive from any fault of the party invoking this article are considered independent of the will of the parties.

10.2 The party claiming to be exempt from the execution of the contract for any of these circumstances must inform the counterparty of the occurrence and termination of said circumstances, in writing and without delay.

10.3 If due to one of the circumstances defined in paragraph 10.1 the execution of the contract within a reasonable time becomes impossible, each party has the right to terminate the contract by giving written notice thereof to the other party. In this case, if necessary, money will be refunded and goods or anything else will be returned in a fair and equal measure, if the circumstances contemplated in paragraph 10.1. allow it.

11. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

11.1 Brevetti WAF reserves in every case and within the limits of the laws in force the right to protect, with a patent, the conceptualisation, design and/or realization of its own work (or that of its employees) related to the products or materials or even of the particular processing techniques, if they have industrial application.

11.2 The customer expressly acknowledges and agrees that if the conceptualisation and design of a particular product is commissioned to Brevetti WAF (even if it is not included in the general catalogue of Brevetti WAF products), Brevetti WAF is entitled to request reimbursement of all costs incurred and of all the sums that Brevetti WAF had to pay for this realization, when the project does not lead to the realization of the final product. Brevetti WAF expressly reserves the right not to request reimbursement of expenses and costs incurred when the project leads to the actual realization of the final product.

11.3 It remains however understood between the parties that even if the projects cannot be subject to industrial property rights (even only as utility models), the buyer recognizes and undertakes not to disclose them and to ensure they are respected and may use them only with the express written authorization of Brevetti WAF.

12. RESOLUTION OF DISPUTES AND APPLICABLE LAW

12.1 Notwithstanding the provisions of law in force, any dispute arising from (or even connected to) the application of these terms and conditions of sale that the parties have not managed to settle with an amicable agreement will be decided by the Court of Vicenza.

12.2 Unless otherwise stipulated, the contract is governed by Italian law.