

Terms & Conditions of sale

Interpretation

In these Conditions:

'Buyer' means the person whose order for the Goods is accepted by Aerauliqa;

'Goods' means the goods (including any installment of the goods or any parts for them) which Aerauliqa is to supply in accordance with these Conditions;

'Aerauliqa' means AERAULIQA SRL registered at the Business Register in Brescia (Italy) under registration number REA BS-528635 whose registered office is at via Corsica 10 in Brescia (Italy) and whose offices/warehouses are at Via Mario Calderara, 39/41 a Montichiari (BS - Italy).

Conditions' means the standard terms and conditions of sale set out in this document that, unless any special terms and conditions agreed in writing and signed by authorized representatives of the Buyer and Aerauliqa, govern any Contract for the supply of the Products or Services between Aerauliqa and the Buyer and that always take priority over any terms and conditions of the Buyer;

Contract' means the contract for the purchase and sale of the Goods, defined as underneath described;

'in Writing' includes facsimile transmission and comparable means of communication.

1 Basis of the sale

1.1 The Contract will come into effect when, after having received the order inquiry, Aerauliqa shall send the order confirmation together with these Terms and Conditions of Sales and when Aerauliqa will receive the same order confirmation duly undersigned by the Buyer for acceptance.

1.2 In any case, even without any acceptance in Writing from the Buyer, the Contract will come into effect subject to these Conditions and to those written in our order confirmation if any request of either cancellation or change will not be received within 24 hours.

1.3 The Contract is always considered enforced at the registered office of Aerauliqa.

2 Orders and specifications

2.1. No order submitted by the Buyer shall be deemed to be accepted by Aerauliqa unless and until confirmed in Writing by Aerauliqa.

2.2. The Buyer shall be responsible to Aerauliqa for ensuring the accuracy of the terms of any order (including any applicable specifications) submitted by the Buyer, and for giving Aerauliqa any necessary information relating to the Goods within a sufficient time to enable Aerauliqa to perform the Contract in accordance with its terms.

2.3. The supply will include only the Goods and the services clearly indicated in Writing in the order confirmation by Aerauliqa. The quantity, quality and description of and any specification for the Goods shall be those set out in the Aerauliqa's order confirmation.

2.4. In any moment before the dispatch, Aerauliqa reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements or which do not materially affect their quality or performance.

3 Drawings and technical information

3.1. All drawings and technical documents relating to the Product or its manufacture submitted by one party to the other, prior or subsequent to the formation of the Contract, shall remain then property of the submitting party.

3.2. Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

4 Price of the Goods

4.1. The price of the Goods shall be the Aerauliqa's list price, unless otherwise notified in Writing to the Buyer by Aerauliqa, for example through a specific quotation. All prices specifically quoted are valid for ninety (90) days only after which time they may be altered by Aerauliqa without giving notice to the Buyer.

4.2. Aerauliqa reserves the right to modify the price list and its validity in any moment without any notice.

4.3. Aerauliqa reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give Aerauliqa adequate information or instructions.

4.4. Except as otherwise agreed in Writing between the Buyer and Aerauliqa, all prices are given on an EX-WORKS basis at our warehouse address in Montichiari (BS). Where Aerauliqa agrees to deliver the Goods otherwise than at Aerauliqa premises, the Buyer shall be liable to pay the Aerauliqa's charges for transport, packaging and insurance.

4.5. The price refers to the Product only and is exclusive of any applicable value added tax, duties, packaging and others, including insurance.

5 Terms of payment

5.1. The payments, unless otherwise agreed in Writing between the Buyer and Aerauliqa, shall be settled at due time at our offices in Montichiari (BS) and/or registered office, unless via bank transfer.

5.2. Subject to any special terms agreed in Writing between the Buyer and Aerauliqa, Aerauliqa shall be entitled to invoice the Buyer for the total amount due in respect of the Goods on or at any time after Aerauliqa has notified the Buyer that the Goods are ready for collection.

5.3. The Buyer will have to pay the total amount due for the Goods in Euro within thirty (30) days from Aerauliqa invoice date end of the month (unless otherwise agreed in Writing) and Aerauliqa has the right to receive the full amount due, regardless of whether the delivery has not taken place and possession of the Goods has not passed to the Buyer. The date of payment of the total amount due is an essential element of the Contract.

5.4. The Buyer has no right to suspend or modify payments in any way even if a dispute has arisen between the parties for any reason, albeit with regard to the guarantees provided by Aerauliqa.

5.5. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Aerauliqa, Aerauliqa shall be entitled to:

5.5.1. cancel the Contract or suspend any further deliveries to the Buyer;

5.5.2. appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and Aerauliqa); and

5.5.3. charge the Buyer for interest on late payment pursuant to Italian Legislative Decree 231/02.

5.6. In case of installment payment, if the Buyer fails or delays the payment of even one installment, this special payment term to the Buyer shall lapse and Aerauliqa shall be entitled to claim for the payment of the total amount due at that time.

6 Delivery

6.1. Except as otherwise agreed in Writing between the Buyer and Aerauliqa, the Goods are delivered on an EX-WORKS basis at our warehouse address in Montichiari (BS)

6.2. The dates quoted for delivery of the Goods always and in any case refer to the date when the Goods are ready for the collection at our warehouse in Montichiari (BS).

6.3. Any dates quoted for delivery of the Goods are approximate only and Aerauliqa shall not be liable for any delay in delivery of the Goods.

Time for delivery shall not be of the essence of the Contract unless previously agreed by Aerauliqa in Writing. Possible delays will never entitle the Buyer to cancel any order, neither partially.

6.4. Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by Aerauliqa to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.5. If the Buyer fails to take delivery of the Goods within 7 days from Aerauliqa's notice to the Buyer that the Goods are ready, Aerauliqa may, without prejudice to any other right or remedy available to Aerauliqa, charge the Buyer for the costs of storage, safekeeping and maintenance, defined as an across-the-board rate of 2% of the invoice amount per each working day of delay.

6.6. Risk of damage to or loss of the Goods shall pass to the Buyer:

6.6.1. in the case of Goods delivered at Aerauliqa premises, at the time when Aerauliqa notifies the Buyer that the Goods are available for collection; or

6.6.2. in the case of Goods delivered otherwise than at Aerauliqa premises, when the Goods are given to the forwarder (in any case Goods travel under the Buyer's liability)

7 Claim

7.1. Any claim of either breakdown or damage during the transport or lack of Goods, the Buyer shall have to act immediately against the Forwarder.

7.2. Where any claim in respect of any of the Goods which is based on any defect in the quality, quantity or condition of Goods or their failure to meet the specification (whether or not the delivery is refused by the Buyer) shall have to be notified to Aerauliqa in Writing within eight (8) days from the Goods delivery. In case the delivery is not refused and the Buyer does not notify Aerauliqa accordingly, the Buyer shall not be entitled to reject the Goods and Aerauliqa shall have no further liability for the defect or non-conformity and the Buyer shall be obliged to pay the price as if the Goods had been consigned in accordance with the Contract.

7.3. Where any claim in respect of any of the Goods which is based on any defect in the quality, quantity or condition of the Goods or their failure to meet specification is notified to Aerauliqa in accordance with the above condition, Aerauliqa shall be entitled to replace the Goods (or the part in question) free of charge or, at Aerauliqa's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price) but Aerauliqa shall have no further liability to the Buyer whatsoever.

7.4. In no event shall the Buyer be entitled to reject the Goods on the basis of any defect or failure which is so slight that it would be unreasonable for the Buyer to reject them.

8 Property

8.1. In the case of deferred payment, the sale of the Goods is carried out with a retention of title agreement pursuant to art. 1523 and 1524 of the Italian Civil Code. Therefore, the ownership of the Goods will be transferred to the Buyer only with the full payment of the price.

8.2. Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as Aerauliqa's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as Aerauliqa's property.

9 Warranties

9.1. Goods supplied by Aerauliqa shall be guaranteed in respect of defects/failures in the Goods arising as a result of faulty designing, faulty production materials or faulty workmanship for a period of twenty-four (24) months from the dispatch of the Goods to the Buyer, unless otherwise agreed in Writing between Aerauliqa and the Buyer.

9.2. The performance of this guarantee of Aerauliqa comes into effect with the replacement or repair of the defective Goods.

9.3. To obtain the performance of the guarantee, the Buyer, risk forfeiture, shall:

9.3.1. notify the claim in Writing with the received notification of Aerauliqa within eight (8) days from the delivery of the Goods in respect of apparent and clear failures/defects; or within eight (8) days from the disclosure in respect of hidden failures/defects;

9.3.2. return, only after receiving the Aerauliqa's written confirmation, the Goods, carriage paid, at the site indicated by Aerauliqa, within (thirty) 30 days from the receipt of the confirmation.

9.4. After the technical check of Aerauliqa, the products that Aerauliqa, at its sole discretion, determines to be defective/failed, will be repaired or replaced. The defective/faulty product or the components removed under the guarantee, remain an exclusive property of Aerauliqa.

9.5. The foregoing guarantee shall not apply and is not due (including, but not limited to) in case of:

9.5.1. lack or delay in payment from the Buyer;

9.5.2. fair wear and tear;

9.5.3. carelessness, alteration or damages caused during the transport;

9.5.4. willful damage, negligence, carelessness or incapacity;

9.5.5. abnormal working conditions or misuse;

9.5.6. damages from external causes;

9.5.7. alteration or repair of the Goods without Aerauliqa's approval;

9.5.8. failure to install and operate the Goods, because not in compliance with the Aerauliqa's instructions;

9.6. The foregoing guarantee shall not apply to Goods supplied by Aerauliqa which are not manufactured by Aerauliqa. For Goods not produced directly by Aerauliqa but supplied to Aerauliqa by third parties, the guarantees applicable to suppliers apply.

10 Liability

10.1. Even if not clearly written in this Contract, what indicated in point 9 (Warranties and liability) represents the sole and total liability of Aerauliqa in respect of possible defective Goods supplied by Aerauliqa. Therefore Aerauliqa shall not be liable to the Buyer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss whatsoever including, but not limited to, any direct, indirect, special or consequential loss or damage (whether for the loss of profit, loss of business, loss of goodwill, loss of sales, increased costs or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of Aerauliqa, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of Aerauliqa under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.

10.2. Our sales are always to be considered as being stipulated between professionals. The Buyer shall be sure that the specification of the quoted Goods complies with its own needs. In case the Goods selection or the commercial offer is done by Aerauliqa based on the Buyer's specification, Aerauliqa shall not be liable for any failure due to incorrect or imprecise or incomplete data.

10.3. Aerauliqa shall not be liable for defects/failures due to the drawing, design or specification supplied by the Buyer.

10.4. Aerauliqa shall not be liable for any defect/failure of the Goods due to willful damage, negligence, abnormal working conditions, misuse, alteration or repair of the Goods without Aerauliqa's approval, or due to failure to install and operate in compliance with the Aerauliqa's instructions.

10.5. Aerauliqa shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Aerauliqa's obligations in relation to the Goods, if the delay or failure was due to any cause beyond Aerauliqa's reasonable control (including, but not limited to, acts of God, explosion, flood, tempest, fire, accident, war or threat of war, sabotage, import or export regulations or embargos, strikes, lockouts, difficulties obtaining raw materials, labour, fuel, parts or machinery, power failure or break down in machinery).

10.6. In case of sale of the Aerauliqa Product in European Union countries, the Buyer undertakes to verify that the installation and usage instructions of the product packed in the Aerauliqa box include the specific language of the country of destination. In the event that this does not happen, the Buyer undertakes to request Aerauliqa to integrate the product instructions so that the language required for the export of the Goods is contemplated.

11 Insolvency of Buyer

11.1. This clause applies if:

11.1.1. the Buyer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

11.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

11.1.3. the Buyer ceases, or threatens to cease, to carry on business; or

11.1.4. Aerauliqa reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

11.2. If this clause applies then, without prejudice to any other right or remedy available to Aerauliqa, Aerauliqa shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12 Order cancellation

12.1. Any order already confirmed by Aerauliqa cannot be cancelled by the Buyer, unless otherwise agreed upon by Aerauliqa in Writing: anyway the Buyer shall pay to Aerauliqa any loss (included loss of profit), cost (including the cost of the workmanship and material), damages, duties and expenses incurred by Aerauliqa due to the order cancellation.

13 Return

13.1. No return is accepted unless otherwise agreed in Writing.

14 General

14.1. Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

14.2. No waiver by Aerauliqa of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.3. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

14.4. The Contract shall be governed and construed in accordance with the laws of Italy and the Buyer and Aerauliqa hereby submit to the exclusive jurisdiction of the court of Brescia in relation to any matter or dispute arising out of or in connection with the Contract.

14.5. Aerauliqa shall not be bound by any representations made by its agents or employees unless such representation is confirmed in Writing by Aerauliqa and signed by an authorised representative of Aerauliqa.

14.6. Any advice or recommendation given by Aerauliqa or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by Aerauliqa and signed by an authorised representative of Aerauliqa is followed or acted upon entirely at the Buyer's own risk, and accordingly Aerauliqa shall not be liable for any such advice or recommendation which is not so confirmed.

14.7. Aerauliqa shall be entitled to correct any typographical, clerical or other error or omission in any sales literature, quotation, acceptance of offer, invoice or other document without any liability.