



Janoušek S.p.A. with Sole Shareholder - Terms and Conditions of Sale

The following are the standard conditions of sale of Janoušek S.p.A. with registered office in Muggia, post code 34015, Strada per i Laghetti, 3 (Italy) (hereafter referred to as the “**Seller**”). The company purchasing goods from the Seller shall hereinafter be referred to as the “**Buyer**”. It is understood by the parties that the Buyer is not a consumer within the meaning referred to in the Legislative Decree no. 206 of 6 September 2005.

1. General

- a. These conditions of sale, excepting possible derogations specifically agreed on in writing, regulate all present and future sales contracts between the parties. Possible general conditions of purchasing will not be applied to the agreements between the parties if not expressly accepted in writing; in such a case, however, excepting a written derogation, they will not exclude the effectiveness of the present general conditions with which they must be coordinated.
- b. The placing of an order for or the acceptance of the goods by the Buyer shall indicate unqualified acceptance of these conditions of sale (they can also be downloaded at the following address: www.janousek.com).
- c. Any contract related to the sale of the goods shall be entered into between the Seller and the Buyer when the Buyer's order is accepted by the Seller.
- d. Each order accepted by the Seller shall create a separate contract between the Seller and the Buyer.
- e. All references to possible commercial delivery deadlines (FCA, Ex-works, Ex-factory, FOB, CIF etc.) will be understood as relating to the Incoterms of the International Chamber of Commerce of Paris, according to the text in force at the time of the drawing up of the contract.
- f. Adherence to these conditions of sale as well as all subsequent contracts and dealings of the parties and regulated by them, excepting a different written stipulation, does not imply conferring on the buyer any exclusive franchise or the establishment of concessions, commissions or mandates, with or without representation, just as it does not confer on the Buyer itself the right to utilize in any form whatsoever the trademarks or brand names of the Seller.
- g. The offers made by agents, representatives and auxiliaries of the Seller should not be considered binding until they are confirmed by the Seller.
- h. These conditions of sale does not imply in itself the acceptance of possible offers in the field of ongoing negotiations; however, they substitute and prevail over the previous proposals of one of the parties. Eventual general purchasing conditions on the part of the



Buyer will be applied only in the case of expressly written acceptance on the part of the Seller.

- i. The sending, on the part of the Seller, of price lists or descriptive details of products which do not expressly bare the label "offer" or an equivalent, does not constitute a sales proposal nor is it in any way binding on the Seller. The labels "without obligation", "depending on availability", "if not sold" or similar attached by the Seller to an offer, does not bind the Seller to the terms of the order even when the offer is accepted by the Buyer unless followed up by written confirmation on the part of the Seller. The offer of the Seller is to be considered irrevocable only if it is stated to be so in writing by the Seller and specifies a closing date for the validity of the order.
- j. The Seller may amend or update at any time its conditions of sale, including price lists and its offers.

2. Conditional sales

- a. In case the payment has to be made, wholly or in part, after delivery, the ownership in the goods shall remain with the Seller until the Seller has received payment in full for all goods supplied by the Seller.
- b. The Buyer may not sell or otherwise dispose of the goods as agent for the Seller before payment in full has been made to the Seller, unless differently agreed in writing between the parties.
- c. So long as the ownership in the goods remains with the Seller, the Buyer shall hold the goods as depositary of the Seller and store the goods so as to clearly show them to be property of the Seller, and the Seller shall have the right, without prejudice to the obligations of the Buyer to purchase the goods, to retake possession of the goods at any time (and for that purpose to go upon any premises occupied by the Buyer). It is understood by the parties that the Buyer shall act as depositary for free.
- d. Nothing in this clause shall confer any right upon the Buyer to return the goods. It is understood by the parties that the Seller maintains any remedy provided by the laws to seek the payment of the price notwithstanding that ownership in the goods shall not have been vested with the Buyer.

3. Risk of loss or damage

- a. Subject to the above clause (2), the Buyer shall keep the Seller indemnified for all risk of loss of and damage to the goods from the time when the goods are delivered to a carrier for delivery to the Buyer or the prior delivery of the goods to the stipulated place of delivery, either of which events shall constitute delivery to the Buyer.
- b. From the delivery of the goods to the Seller until the price for the goods is paid in full, the Buyer shall:
 - i. indemnify and keep indemnified the Seller against all loss of and damage to the goods and against reduction in the re-sale value thereof below the price to be paid



therefore by the Buyer;

- ii. insure and keep insured the goods in an amount at least equal to the price to be paid therefore by the Buyer; and
- iii. transfer immediately to the Seller absolutely all proceeds of such insurance.

4. Delivery

- a. Unless otherwise stipulated in writing, the sale will be understood to be carried out by FCA delivery terms even when it has been stipulated that the delivery (or part of it) should be supervised by the Seller; in such cases the latter will act only as an agent for the Buyer, it being understood that transport will be at the expense and risk of the latter.
- b. Any times quoted for delivery are estimates only and the Seller shall not be liable for failure to deliver within the time quoted. In particular, the Seller shall have no liability for any late delivery fees or any costs the Buyer might otherwise seek to charge on the Seller.
- c. The Seller shall be entitled to make partial deliveries or deliveries by installments and the terms and conditions herein shall apply to each partial delivery.
- d. The Buyer undertakes not to reject the goods or to claim for damages and pay at the contract rate for the quantity of the goods delivered in case of deviations in quantity of the goods (representing not more than 10 per cent by the value) from that stated in the contract.
- e. In case the Buyer does not carry out the withdrawal of the goods within the term set by the parties, then the Buyer shall reimburse the Seller for storage charges, fixed at a flat-rate equal to 5% (five percent) of the sum of the invoice relating to the goods themselves for every week of delay; at the end of a 30 (thirty) day-term, the Seller can, moreover, sell, by any means they deem fit, the goods on behalf of the Buyer, deducting from the consideration, the entire sum owed by the Buyer (no matter what the terms of payment stipulated) as well as any expenses it may have incurred.

5. Complaints and warranty for defects

- a. Any complaints relating to packaging, quantity, number or exterior features of the goods (apparent defects), must be notified to the Seller, by registered letter with return receipt and anticipated via fax or by certified email to the following email address janousek.spa@cert.assind.ts.it, within 7 days from receipt of the goods; failing such notification the Purchaser's right to claim the above defects will be forfeited. Any complaints relating to defects which cannot be discovered on the basis of a careful inspection upon receipt (hidden defects) shall be notified to the Seller, by registered letter with return receipt, within 7 days from discovery of the defects. It is understood that the right to the warranty for defects shall expire, in any case, within 12 months from delivery.
- b. The Seller undertakes to remedy any defects, lack of quality or non-conformity of the goods for which it is liable, provided such defects have been timely notified in accordance with clause 5 (a). The Seller shall replace the goods which have shown to be defective. The goods replaced under the warranty will be submitted to the same guarantee for a period of



six months starting from the date of replacement.

- c. The Seller does not warrant that the goods conform to any special specifications or technical features or that they are suitable for particular usages except to the extent such characteristics have been expressly agreed upon in the contract or in documents referred to for that purpose in the contract.
- d. Except in case of fraud or gross negligence of the Seller, the Seller's only obligation in case of defects, lack of quality or non-conformity of the goods will be that of replacing the defective goods. It is agreed that the above mentioned guarantee (i.e. the obligation to replace the Products) is in lieu of any other legal guarantee or liability with the exclusion of any other Seller's liability (whether contractual or non-contractual) which may anyhow arise out of or in relation with the goods supplied (e.g. compensation of damages, loss of profit, recall campaigns, etc.).

6. Default by Buyer

- a. If the Buyer fails to comply with any of these conditions of sale, (including stipulations as to payment), any contract in force shall be deemed as terminated and the Seller shall have the right (without prejudice to any other remedies) to cancel any uncompleted order and withhold or suspend delivery of further goods as well as to demand payment forthwith of all sums due by the Buyer to the Seller.
- b. In the event the Seller stops goods in transit because of the Buyer's default, the Seller may at its option resell such goods at public or private sale without notice to the Buyer and without affecting the Seller's rights to hold the Buyer liable for any loss or damage caused by breach of contract by the Buyer.

7. Payment

Payment for goods supplied shall be made within 30 days of the end of the month in which the invoice is issued by the Seller, unless specifically agreed otherwise in writing by the Seller.

8. Force Majeure and excessively onerous contracts

The Seller shall not be under any liability of whatever kind for non-performance in whole or in part of its obligations under the contract due to causes beyond the control of the Seller or beyond the control of the Seller's suppliers including, but not limited to, war, (whether an actual declaration thereof is made or not), sabotage, insurrection, riot or other act of civil disobedience, acts of the Buyer or a third party, failure or delay in transportation, acts of any Government or any agency or sub-division thereof, Government regulations, Judicial actions, labour disputes, strikes, embargoes, illness, accident, fire explosion, flood, tempest or other acts of God, delay in delivery to the Seller or the Seller's suppliers or shortage of labour, fuel, raw materials or machinery or technical failure.

9. Assignment

The Buyer shall not assign or transfer or purport to assign or transfer to any other subject



the contract or the benefit of any condition, warranty or other term or condition (express or implied) forming part thereof or relating to the goods.

10. Intellectual property and confidentiality

All intellectual property rights in the goods (including but not limited to copyright, patents, design rights and confidential rights) shall remain the absolute property of the Seller. Any intellectual property or any confidential information passed to the Buyer shall be treated as confidential by the Buyer, its employees, agent and contractors. It shall not be reproduced or disclosed to any third party for any purpose other than for the purpose for which it was disclosed or until it is lawfully in the public domain or comes into the Buyer's possession bona fide from a third party.

11. Specific of the goods

The Seller undertakes that it will use its reasonable endeavors to ensure the goods supplied correspond with any samples or specification provided by the Buyer. However, such samples or specification do not constitute a warranty or guarantee of the properties or condition of the goods or their suitability for the intended purpose. It is the responsibility of the Buyer to satisfy itself that the goods meet its requirements. The Buyer shall examine the goods upon receipt and prior to processing them to ascertain that the goods correspond with any sample and comply with any specification provided by the Buyer. The Seller shall be under no liability if such goods are not fit for any purpose whether the same be made known to the Seller or not. Where type samples have been submitted for general consideration by the Buyer they shall not be regarded as definitive and shall be exclusively used within internal purposes of the Buyer for laboratory tests. The Buyer shall be liable for any damages, direct or indirect, arising from samples used in final product for external tests or retail sale and shall keep the Seller harmless from any third party's action and/or claim against the Seller relating to such damages.

12. Governing law and jurisdiction

- a. The construction and validity of these conditions of sale and each single contract shall be governed by Italian law and in the case of international sales, by the Vienna Convention 1980 on international sales of goods. Eventual derogations or appeals from the parties concerning specific articles of the Italian law will not imply a partial or total exclusion of the application of the above named regulations as far as they are compatible with contractual regulations.
- b. The parties agree to submit any dispute to the exclusive jurisdiction of the Court of Trieste. Notwithstanding to the foregoing, the Seller shall be permitted to bring legal proceedings in any other court of competent jurisdiction including the jurisdiction where the Buyer is based.

Date: _____



For the acceptance

The Buyer

Pursuant to and for the purposes of Articles 1341 and 1342 of the Italian Civil Code, the following clauses are specifically approved in writing:

- Clause 2. Conditional sales;
- Clause 3. Risk of loss or damage;
- Clause 4. Delivery;
- Clause 5. Complaints and warranty for defects;
- Clause 6. Default by Buyer;
- Clause 8. Force Majeure and excessively onerous contracts;
- Clause 9. Assignment;
- Clause 11. Specific of the goods;
- Clause 12. Governing law and jurisdiction.

The Buyer
