

GENERAL SALE CONDITIONS

1. DEFINITIONS

Purchaser

The purchaser of Products by Eliwell Systems Srl, or Customer.

Products

The products that Eliwell Systems Srl will supply, also in fulfilment of contracts already underway.

Eliwell

Eliwell Systems S.r.l. Via Dell'Industria 10, 32016 Alpago (BL) Italy VAT 01012280259;

Appropriate Use

The installation, use and maintenance of the Products in accordance with the specific purposes of use for which they have been designed and realized and that the Purchaser declares to know for: i) having received appropriate information from Eliwell during development of the product and/or formulation of the offer and/or the stipulation of the contract, or ii) having viewed technical properties and specifications on the website of the respective supplier and/or manufacturer (as for Eliwell Controls Srl, at the link <https://www.eliwell.com/it/>, Products).

Force Majeure

By way of example, but not exhaustively, strikes, labour disputes, accidents, fires, explosions, acts or omissions of law or government, wars, riots, acts of terrorism, delays or impossibility of supply from their suppliers, breakdown of essential machinery and equipment and other causes similar to those listed above.

2. GENERAL PROVISIONS

- 2.1 Unless otherwise agreed in writing, the supply of the Products is regulated by these Conditions.

These Conditions apply to the sale of the Products, as identified in point 1) (Definitions).

Any order placed by the Purchaser constitutes acceptance of these general sale conditions.

An order is understood as accepted when Eliwell has issued an order confirmation or has delivered the Products to the Purchaser (which of the two is before).

- 2.2 Unless otherwise agreed in writing, the purchase offer expires 90 (ninety) days after it has been sent to the Customer.
- 2.3. With the formulation of the purchase order, the Purchaser declares to know the features and functions of the Products and to have found them suitable for its needs.
- 2.4 The Purchaser is responsible for verifying the required quantity and suitability of the Products for its own applications. If Eliwell develops the Products on the basis of specific requests and technical specifications provided by the Purchaser, the latter will be responsible for verifying the conformity and functionality thereof before sending the order to Eliwell.

- 2.5 In the event that Eliwell, for any reason, accepts the cancellation of an entire order or part of it, the Purchaser is required to pay in full the costs incurred by the same - also for the purchase from third parties of the Products - until the time of cancellation or, if the production of the Products has already been completed, the full price of the Products.
- 2.6 If Eliwell shall accept the return of the Products outside the terms indicated in the guarantee, the repair and transport costs will be borne by the Purchaser.

3. DELIVERY

- 3.1 Unless otherwise stated in the offer, in the estimate or in the order confirmation, the delivery of the Products is carried out EX-WORKS at the Eliwell premises (Incoterms 2010 as amended from time to time). Delivery terms such as FCA, FOB, CIF etc. referred to in an estimate, in an offer, in an order or in an order confirmation shall be interpreted in accordance with INCOTERMS 2010 as amended from time to time.
- 3.2 The risks in relation to the Products are transferred to the Purchaser upon delivery according to the Incoterms applied. The Purchaser is required to take delivery of the Products within 5 (five) days from the date on which Eliwell notified that the Products are ready for delivery.
- 3.3 Regardless of the Incoterms applied to the sale and without prejudice to the laws in force, the risk in relation to the Products is also transferred to the Purchaser when: (i) the Purchaser refuses or informs Eliwell that it does not wish to take delivery of the Products or (ii) Eliwell fails to deliver the Products within the agreed terms because the Purchaser has not provided adequate instructions, documentation, licenses, or authorizations.
- 3.4 If one of the events foreseen in article 3.3 occurs, the Products are considered delivered to the Purchaser, which from that moment is also required to incur all the related costs, including - for example - transport, storage and insurance.
- 3.5 The delivery terms indicated in the order confirmation are not an essential term pursuant to and for the effects of article 1457 of the Civil Code.
- 3.6 The Purchaser has the right to terminate or withdraw from the contract if the delay in delivery is more than 60 (sixty) days from the date indicated in the order confirmation.
- 3.7 In no case will Eliwell be liable for delays in delivery or for non-delivery due to actions or omissions of the Purchaser or to Force Majeure Events as further defined in article 9.
- 3.8 The responsibility of Eliwell in the event of non-delivery is limited to the issue of credit note for the relative contractual value.
- 3.9 The quantity of the individual lots of Products registered by Eliwell as shipped from its premises constitutes definitive evidence of the quantity received by the Purchaser upon delivery, unless proof of the contrary by the Purchaser.

4. PRICE

- 4.1 Unless otherwise agreed in writing, the price of the Products is not inclusive of VAT and is the one indicated in the purchase offer, without prejudice to any additional costs or expenses not foreseeable at the date of signing thereof (by way of example relating to loading, unloading, transport and insurance), which will be charged to the Buyer at the time of payment.
- 4.2 In the event that a law or regulation involving the increase or reduction of the costs of execution of the Contract enters into force at a time subsequent to the offer of Eliwell, the price contractually established will be adapted accordingly.
- 4.3 If there is an increase in the prices of raw materials necessary for the production of the Products, or an increase for Eliwell of the purchase costs of the Products and/or their components, Eliwell may increase the price of the Products ordered by the Purchaser to an extent that reflects the increase in the aforementioned costs.

5. PAYMENT CONDITIONS

- 5.1 The payment of the Products is due upon expiry of the term indicated on the invoice. All payments must be made in the currency indicated in the order confirmation, in the pro-forma invoice and/or in the final invoice to the current account indicated by Eliwell.
- 5.2 If the Purchaser shall not pay on the due date, Eliwell will be applied the default interest pursuant to Legislative Decree 231/2002 and subsequent amendments/additions.

6. GUARANTEE

- 6.1 The guarantee does not include defects attributable to: (i) normal wear and tear; (ii) accidents, improper installation and/or use, negligence, use not in accordance with the Appropriate Use; (iii) additions, repairs or modifications to the Products, made without the consent of Eliwell; (iv) designs, technical specifications and/or instructions provided by the Purchaser, software and firmware programs developed by the Purchaser and used on the Product and more generally any defect attributable to fault or however to activities on the Product made by the Purchaser without the written consent of Eliwell.
- 6.2 The legal guarantee operates only on condition that Eliwell receives a written notification of the defect within 8 days from identification and only if it is offered the possibility to examine the Products according to the procedures set out in points 6.5, 6.6 and 6.7.
- 6.3 The defective Products included in the guarantee will be, at the discretion of Eliwell, repaired or replaced and Eliwell will have thus fulfilled all the requirements associated with the guarantee.
- 6.4 In any case, Eliwell shall not be liable for defects, faults or damages that occurred or were identified 12 months after delivery of the Products.
- 6.5 Before proceeding with the return of defective Products, the Purchaser must inform Eliwell in writing, which will send a specific handbook to the Customer, indicating the procedure to be followed.

- 6.6 The Purchaser may return the Products only after receiving the authorization from Eliwell.

The authorization shall be issued through the communication of a reference number that must be indicated by the Purchaser on all documents issued for returns. If the Products are no longer under guarantee, an estimate of the repair costs will be provided.

- 6.7 Products returned must be accompanied by: (i) a pro-forma invoice indicating the value of the Products for customs purposes (if the Purchaser is not based in Italy) or the transport document if the Purchaser is based in Italy; (ii) a declaration stating that the Products are returned for examination/repair.

7. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

- 7.1 No title on the Industrial and Intellectual Property Rights of Eliwell shall be transferred to the Purchaser under these Conditions.
- 7.2 The Purchaser may not, in the absence of written consent by Eliwell, obscure or otherwise alter the trademarks or any other distinctive mark on the Products or attached to them.
- 7.3 Eliwell shall not transfer any ownership rights on any software provided to the Purchaser. In this case, the Purchaser shall be granted a non-exclusive personal use license for the sole purpose of internal use in the country in which the software was provided and for the execution of the system (application on the system) for which the same has been provided. The Purchaser shall be entitled to make copies of the software for back-up purposes only.
- 7.4 The Purchaser may not modify the software, conduct reverse engineer, decompiling, disassembling or license it to third parties (without prejudice to the hypothesis in which, for the type of software provided, licensing to third parties is implicit or is in any case provided for in the specific contract with the Purchaser).

8. RESPONSIBILITIES

- 8.1 Without prejudice to the provisions of article 6, the responsibilities of Eliwell in relation to the Products shall be limited to direct damages. In no case shall Eliwell be liable for indirect damages or however damages such as, by way of example but not limited to, damages to image, damage deriving from loss of use, production or goodwill; losses due to higher operating costs, financial or economic losses, loss of profit, losses caused by increases in operating costs or financial or economic losses.
- 8.2 Eliwell shall not be liable for damages, direct and/or indirect (as defined in point 8.1) that may arise as a consequence of the failure of Appropriate Use of the Products.
- 8.3 In case of sale of source codes, Eliwell shall not be liable for any faults and/or damages arising from the development and/or update of the software, made by the Purchaser and/or third parties, guaranteeing only the version provided.
- 8.4 The Purchaser undertakes to indemnify and/or to hold Eliwell harmless from any claim on the assets, also of third parties, originating from and in any case attribu-

table to: i) failure of Appropriate Use of the Products; ii) changes to the Products and/or their components, aimed at adapting them to the specific needs of the Customer; iii) in the case of sale of source codes, to the development and/or update of the version provided by Eliwell.

- 8.5 The overall responsibility of Eliwell for all claims for any kind of loss or damage arising from the execution or non-performance of these Conditions in each year may not, under any circumstances, exceed an amount equal to the value of orders accepted during the aforementioned year.

9. FORCE MAJEURE

- 9.1 Without prejudice to the payment obligations provided for in article 4, neither party shall be liable for the non-fulfilment or delay in fulfilling the obligations indicated in these Conditions, if the same is due to fortuitous events or force majeure (Force Majeure Events).
- 9.2 If the fulfilment of its contractual obligations shall be prevented or delayed by Force Majeure Events, the term for compliance shall be deferred accordingly, provided that if the Force Majeure Event lasts longer than 3 (three) months and the parties have not agreed different terms and conditions, each party will have the right to withdraw from the Contract by written notice to the other party to be sent with written notice of not less than 30 (thirty) days.

10. TERMINATION

- 10.1 Each party shall have the right to terminate the contract immediately, upon written notice to be sent to the other party, in the following cases: (i) the other party shall commit continued and substantial non-fulfilment of any provision of these Conditions and, if such non-fulfilment is remediable, shall not remedy within 15 (fifteen) days from receipt of the remedy request; (ii) the other party shall become insolvent, or in any case a procedure has been initiated against it aimed at declaring the state of insolvency or bankruptcy, or liquidation has been resolved or the same has activated and/or is subject to insolvency proceedings in relation to its assets.
- 10.2 If the events referred to in article 10.1 involve the Purchaser, Eliwell shall have the right to request the return of Products for which the Purchaser has not yet made payment and which are located at the premises of the Purchaser or in any case in its possession.

11. OTHER

- 11.1 The invalidity, illegitimacy, nullity, inapplicability or ineffectiveness of any provision of these Conditions or any part thereof shall not affect the validity, legitimacy or effectiveness of the remaining provisions, which will continue to be valid and effective and, if necessary, shall be interpreted in the sense in which they can have some effect and in such a way as to attribute to each one the sense resulting from all of these Conditions.

12. COMMUNICATIONS

12.1 Any communication shall be valid if made in writing and delivered by hand, by registered mail or certified e-mail to the registered office or administrative office of the parties indicated in the purchase offer and/or order confirmation.

13. APPLICABLE LAW AND JURISDICTION

13.1 These Conditions and any related Contract shall be understood as drafted in Italy and are regulated by Italian law. All disputes arising out of or relating to these Conditions shall be the sole responsibility of the Court of Belluno (Italy). The foregoing shall not affect the right of the parties to request precautionary and interim measures such as seizures, injunctions, urgent measures or restrictive orders at any other jurisdiction.

_____, date _____

The Buyer

Pursuant to and for the effects of articles 1341 and 1342 of the Civil Code, the following articles are specifically approved: article 2.1 (scope of application of the general sale conditions); article 3.5 (delay in delivery); articles 3.7 and 3.8 (responsibility for non-delivery); articles 4.2 and 4.3 (price adjustment); article 5.2 (default interest); article 6.1 (exclusion of guarantee); article 6.2 (methods for reporting defects); article 6.3 (responsibility for defective products under guarantee); article 6.4 (time limit of responsibility); articles 6.5, 6.6. and 6.7 (methods of exercising the guarantee); articles 8.1, 8.2 and 8.3 (limitation of responsibility); article 8.4 (indemnity); article 8.5 (compensation limit); article 10.1 (termination by law), article 10.2 (Product return right), article 13 (Applicable law, Jurisdiction).

_____, date _____

The Purchaser
