

## **2 GENERAL TERMS AND CONDITIONS OF SALES**

### **1. SUBJECT**

The present General Terms and Conditions of Sales (hereinafter called 'GTCS') are applied to all offers/quotations and, after the relevant negotiations, to all contracts of sales of Goods/Turn-Key contracts (hereinafter 'Contract') awarded to NG-TECH SRL with legal address Via Veneto,10- 36015 Schio (VI) Italy VAT Number/ Fiscal Code: IT03776950242 (hereinafter 'NG-TECH' or 'the Supplier' or "Seller") by its customers (hereinafter called the 'Client/s' or 'Buyer/s') even if such Contract should be executed through a Purchase Order issued by the Buyer, followed by Order Confirmation issued by the Supplier.

The Scope of Contract is the manufacturing and, if agreed between Seller and Buyer, to assembly, install and commissioning of the following: Cutting Machines, Drilling Machines, Chamfering Machines, Boring Machines, Working Machines, Grinding Machines, Ovens and Dryers, Automatic Metal Sheet Loader, Automation Systems, others; related Spare Parts (Hereinafter called 'Goods' or 'Products' or 'Machine/s' or 'Equipment/s').

NG-TECH and the Buyer shall be referred separately as 'party/the party' and jointly as "parties/the parties "

### **2. ORDERS AND EXECUTION OF THE CONTRACT:**

**2.1.** These GTCS are expressly accepted by the Buyer when NG-TECH sends its proposal/quotation to the Buyer.

**2.2.** The Client acknowledges and accepts these GTCS as the only terms and conditions regulating the Contract

**2.3.** The Contract of Supply is considered executed only after sending by NG-TECH of the Order Confirmation to Client or when the Contract is signed by the Parties.

### **3. TERMS, DELIVERY AND EXECUTION OF NG-TECH'S OBLIGATIONS**

**3.1.** The delivery date indicated on the Contract is only approximate and not essential. In any case, 30 (thirty) working days of grace period shall be applicable on delivery date indicated in the Contract.

**3.2.** In case of delay in the delivery of the Goods, Supplier shall not be liable for any loss or damage of any kind whatsoever directly or indirectly caused by any delay in the delivery of the Goods or completion of the supply. Moreover, in no event the Contract regulated by these GTCS shall be automatically terminated in case of late deliveries, nor shall the Client be entitled to terminate the Contract in case of late deliveries.

### **4. WARRANTY**

**4.1.** Whereas the Warranty is subject to full payment of Contract's Amount by the Client, NG-TECH guarantees that the Goods comply with specifications in accordance with the Contract.

**4.2.** The Seller guarantees capacity of the Equipment and quality characteristics of Products only in accordance with those specified in the Contract

**4.3.** The Seller's Warranty is valid for 12 (twelve) months from the date of shipment of the Goods (hereinafter referred as 'Warranty Period'). Supplier's obligation in case of not-conforming Goods is limited, at Supplier's sole discretion, to repair or replace of defective parts of the Goods. During the period of such activities for which the Equipment could not be properly used, Warranty Period is extended for a time during which the Goods was idling because of defects found. In any case Warranty Period shall not exceed 15 (fifteen) months from the date of shipment.

**4.4.** If the Seller should not eliminate the defects of the Goods in the agreed time, the Buyer shall have the right to eliminate the revealed defects of the Goods independently or through engaging a third party charging the Seller with the actual direct costs to eliminate them. It is agreed that such third party shall prepare a detailed estimate list of the costs which should be reasonable also in accordance with the normal tariff applied by the Seller. In any case, the huge amount of these expenses shall not exceed 50% (fifty percent) of Total Contract Price. Third party, in lieu of Supplier, shall undertake to guarantee the Equipment to the Buyer.

**4.5.** In the event of defects of the Goods discovered during the Warranty Period, the Buyer shall neither independently nor through third parties carry out any repair work without prior written consent of the Seller sub poena of forfeiture of the warranty.

**4.6.** Seller shall not be held liable and the warranty shall not apply for defects and/or damage attributable to the following causes: unsuitable or improper use or use of the Equipment beyond the normal use or outside the use specified in the Contract, faulty operation by Buyer or its personnel, improper or careless handling (particularly overloading), unsuitable working materials, substitute materials, faulty civil construction, unsuitable building sites, influence of chemicals, electro-chemical or electrical nature; any other cause not ascribable to Seller's negligence

**4.7.** Where NG-TECH is entrusted with assembly, installation and start-up, NG-TECH shall be liable for defects and/or failures to fulfil performance of the Contract only where the Buyer should prove that these non-compliances are exclusively attributable to NG-TECH. In such a case, NG-TECH shall have to provide for proper necessary activities to solve the issues

**4.8.** Except for causes of fraud, the reimbursement of any damage claimed by the Buyer due to the fact attributable to the Seller shall not, in any case, exceed the corresponding amount of the parts, components etc. of the Equipment which was found defective.

### **5. EXCLUSION OF CONSEQUENTIAL LOSSES/DAMAGES AND LIMITATION OF SUPPLIER'S RESPONSIBILITY**

**5.1.** To the fullest extent permitted by applicable law, in no event shall NG-TECH be liable to the Client, Client's assignee and/or any other third party for any claim, whether arising under Contract, tort (including negligence), strict liability or otherwise, for loss of revenue, loss of profit or loss of use of capital, downtime of facilities, standby of equipment/plant, standby of personnel, loss of business reputation or opportunities, loss of production, loss of product and/or for any special, in direct, incidental or consequential loss or damage of any nature (including any penalty or liquidated damages apply by Buyer's Clients to Buyer) arising at any time or from any causes whatsoever and whether or not foreseeable, even if caused or contributed to by the negligence or breach (statutory or otherwise) of NG-TECH in relation to Contract.

**5.2.** Notwithstanding any other provisions on the contractual documents, maximum cumulative responsibility of NG-TECH towards Client for whichever reason shall not exceed the amount paid by the Client for the claimed Goods which should be recognised defective by the Supplier .

## 6. PAYMENTS AND DELAYS ON BUYER'S OBLIGATION

- 6.1. In any case, Warranty shall be subjected to the full payment of Contract's Amount by the Buyer
- 6.2. In no event shall any claim on the Products, defect or non compliance of the Products, even when expressly acknowledged as such by NG-TECH and/or delays of delivery of the Products give the Client the right to suspend the relevant payments and/or any other payment for whichever reason due to NG-TECH (Solve et repete).
- 6.3. Notwithstanding any other provisions, NG-TECH shall be authorized to terminate the Contract, for right cause, should the Client fail to provide for the payment within 15 (fifteen) days from receiving of notice to pay from the Supplier.

## 7. RETENTION OF TITLE

- 7.1. NG-TECH shall be the sole owner of the Products supplied under these GTCS until full payment of the same effected by the Client. Notwithstanding the moment of the actual transfer of title on the Products, all the risks relevant to any loss or damage of the Products are borne by the Client upon when Goods are ready for the collection in Supplier's warehouse as per ex works updated Incoterms provisions.

## 8. CONFIDENTIALITY

- 8.1. Both Parties understand and acknowledge that, by virtue of Contract, they may both receive or become aware of information belonging or relating to the other Party, its business, business plans, affairs or activities, which information is confidential and proprietary to the other Party and in respect of which they are bound by a strict duty of confidence ("Confidential Information").

## 9. EXCLUSION OF VIENNA SALES CONVENTION

- 9.1. The application of any of the provisions of the United Nations Convention on Contracts for International Sale of Goods (Vienna Sales Convention year 1980) to these GTCS, or incorporation of such provisions into any contractual document, at any time is expressly excluded in all respects

## 10. ARBITRATION CLAUSE, SETTLEMENT OF DISPUTES AND APPLICABLE LAW

- 10.1. All disputes in connection with contractual documents/commercial relationship/Contract or the execution thereof shall be settled through friendly negotiations between the Parties.
- 10.2. All disputes arising out the contractual documents/commercial relationship/Contract, including those concerning their validity, interpretation, performance shall be referred to an Arbitral Tribunal consisting of one Arbitrator, according to Arbitration Rules of the Chamber of National and International Arbitration of Milan (Italy), which the Parties declare that they know and accept in their entirety. The Arbitrators shall decide according to the Italian Law. The language of Arbitration shall be the English language. The seat of arbitration shall be Milan (Italy).

Schio (VI) Italy June the 1<sup>st</sup> 2020.

The Supplier

The Client

The Client hereby states and declares to expressly approve, for the purposes and to the extent provided by articles 1941 and 1942 of the Italian Civil Code, the following provisions of these GTCS:

Article	1	Execution of the Contract and exclusion of Client's general conditions
Items	2.1., 2.2.	Limitation of Supplier's responsibility in case of delay in delivery of the Goods
Item	3.1.	Full payment of Contract's price as condition for Warranty validity
Item	3.3.	Limitation of warranty to the sole reparation or substitution of the defected Goods.
Items	3.4.	Limitation of Supplier's responsibility for warranty in case of failure of elimination of defects
Item	3.6.	Causes of exclusion of Supplier's warranty
Item	3.7.	Limitation of Supplier's warranty in case of supervision of installation
Item	3.8.	Limitation of Supplier's warranty
Item	4.1.	Exclusion of Indirect/Consequential damages/losses
Item	4.2.	Limitation of Supplier's cumulative responsibility
Item	5.1.	Warranty subjected to full payment of Contract's Amount by the Buyer
Item	5.2.	Solve et Repete
Item	5.3.	right to terminate the Contract in case of delay of payment by the Client
Item	6.1.	retention of title in favour of NG-TECH
Item	8.1.	exclusion of Vienna Sales Convention year 1980
Items	9.2.	arbitration clause, settlement of disputes and applicable law

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The Client