

# GENERAL TERMS AND CONDITIONS OF SALES

## 0. SUBJECT

1. The present 'General Terms and Conditions of Sales' (hereinafter called 'GTC') are applied to all offers/commercial offers/quotations and to all contracts of sales effected by PRO-DO-MIX® Srl with legal address in I Strada no. 5 35026 Conselve (PD) Italy VAT Number: IT04577470281 (hereinafter 'PRO-DO-MIX' or 'the Supplier' or 'Seller' ) in favour of customers (hereinafter called the 'Client/s' or 'Buyer/s') with subject the manufacturing of agitators and other mixing and dosing equipment (including design and/or installation if expressly agreed between PRODOMIX and the Client) or any other product PRO-DO-MIX should decide, at its own discretion, to manufacture or market (Hereinafter called 'Good/s' or 'Product/s' or 'Supply/ies'). As regards those products marketed by Supplier and manufactured by NOV Process & Flow Technologies UK Ltd., PRO-DO-MIX reserves the right to notify the general terms and conditions of sales of the manufacturer which shall be applied instead of GTC.

2. Each supply effected by PRO-DO-MIX is deemed to be regulated by these GTC save otherwise specified in the particular conditions contained in Order Confirmation prepared by Supplier.

## 1. ORDERS AND EXECUTION OF THE CONTRACT:

1.1. These GTC are expressly accepted by the Buyer when PRODOMIX sends its proposal/quotation to the Buyer .

1.2. The Client acknowledges and accepts these GTC and Order Confirmation issued by Supplier (Together hereinafter called 'Supply Agreement' ) as the only terms and conditions regulating the purchase of Supplier's Goods

1.3. Each order issued by the Buyer in favour of PRODOMIX implies the acceptance, without exceptions, of these GTC.

1.4. In no case any general condition of purchase in any manner inserted, mentioned, quoted in the Client's correspondence and forms shall be considered as applicable in the supply of PRODOMIX's Products

1.5. Save a shorter validity is expressly indicated in PRODOMIX's documents, Proposal/quotation is valid and effective only if the complete and definitive Purchase Order is sent by the Buyer to the Supplier within 2 (two) months from the date of proposal/quotation. The shipment date/s shall be fixed by PRODOMIX only on Supplier's Order Confirmation

1.6. Any and all technical specifications requested by the Client for the Goods, when approved by Supplier, shall be considered as integral part of contractual' documentation and shall be considered as an integral part of the Purchase Order. In case such technical drawings and development/s shall be made by PRODOMIX, these should be expressly approved in writing by the Client within 7 (seven) days from dispatch. In case the Client should require any additional technical specifications, after the issue of PRODOMIX's Order Confirmation, these further requirements shall not be considered valid unless expressly accepted in writing by PRODOMIX.

1.7. Any possible change, cancellation or addition of the above mentioned documents by the Buyer shall become effective only if previously authorized by PRODOMIX in writing.

1.8. It is understood that the Client is solely and fully liable for the choice of the technical specifications and shall keep PRODOMIX harmless from any claim that any third party may raise in connection to wrong, mistaken, improper specifications. In no case the Supplier may be held liable or responsible for any verbal or written comment or suggestion given in relation to the technical specifications, unless such a liability or responsibility is expressly agreed in writing as part of a collateral consultancy agreement.

1.9. The Supply Agreement is considered awarded only after PRODOMIX sent the Order Confirmation to Client.

## 2. PRICES

2.1. Prices and currencies are those indicated in Order Confirmation. Unless otherwise stipulated, the prices of the Goods neither include the VAT

(Value Added Tax) amount nor other taxes, duties etc related with the Goods (hereinafter called as 'Taxes'). Amount of Taxes in relation with the supply of the Goods shall be at the Buyer's expense and shall be invoiced by PRODOMIX to the Buyer in the commercial invoice or through a separate invoice.

2.2. If PRODOMIX grants a discount, it shall be applicable only for the specific Supply for which the discount has been granted and mentioned on the Order Confirmation.

## 3. TERMS, DELIVERY AND EXECUTION OF PRODOMIX'S OBLIGATIONS

3.1. Manufacturing of the Goods is in accordance with the terms and conditions of Order Confirmation, except for unexpected events and force majeure.

3.2. The delivery date indicated on Order Confirmation is only approximate and not essential. In any case, 30 (thirty) working days of grace period shall be applicable on delivery date indicated by PRODOMIX.

3.3. 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 Agreement. Moreover in no event the Supply Agreement shall be automatically terminated in case of late deliveries, nor shall the Client be entitled to terminate the Supply Agreement in case of late deliveries.

3.4. No penalties shall be applicable by the Client to PRODOMIX in case of late delivery of the Goods.

3.5. The events which can prevent or delay the supply are, by the way of an example, strikes, insurrections, wars, locks-out, earthquakes, fires, flooding, atmospheric events, imports embargoes, delays in deliveries by the suppliers of PRODOMIX, limitations of supply of energy, limitations on traffic circulations are expressly recognized by the Buyer as force majeure events, for which PRODOMIX shall not be considered responsible in case of delay in the deliveries .

3.6. Prices offered are intended ex works PRODOMIX's warehouse in Conselve (Padova) Italy as per updated Incoterms

3.7. In case of delay in the collection of the Goods ready for shipment, the Client shall bear all the expenses concerning the occupation of PRODOMIX's warehouses and yards. It being understood that the risks of damage, deterioration and/or theft of the Products are to be borne by the Client from the date of delivery indicated in PRODOMIX' Order Confirmation.

3.8. Packaging is included in the offered price and it is normally constituted by pallets/cartons/crates/cases depending on type of Supply . Extra packaging must be required specifically by the Client before PRODOMIX offer and shall be quoted separately.

3.9. PRODOMIX guarantees that the Goods comply with specifications in accordance with PRODOMIX's Order Confirmation.

## 4. CANCELLATION OF THE ORDER

4.1. The Buyer shall not have the right to cancel all or any part of the Purchase Order unless agreed in writing by PRODOMIX. In case of any agreed cancellation, all the costs borne by PRODOMIX till the termination shall be paid by the Buyer.

## 5. WARRANTY

5.1. PRODOMIX warrants that Goods shall be in compliance with technical characteristics as per PRODOMIX' Order Confirmation. The Products are also in compliance with CE Machines Regulations and, if expressly agreed, to other applicable Norms.

5.2. In any case the Client shall not be entitled to refuse the Products or require modifications thereof, should the inconsistencies with the mentioned parameters be trivial and/or fall within the normal and/or agreed tolerances and limits.

5.3. The warranty period is of 18 (eighteen) months from the relevant delivery or 12 (twelve) months from start-up of the Goods, whichever comes earlier

5.4. The warranty may be claimed by the Client only, whilst the Client's assignees or other

third parties shall not have any direct claim against PRODOMIX

5.5. The warranty shall not apply in case of defects, damages or failure of the Goods resulting as a consequence of and/or from:

5.5.1. Improper transport, improper loading/unloading operations, improper storage by the Client, maintenance, installation, use, application;

5.5.2. operations beyond estimated capacity;

5.5.3. damages caused by accident, fire or other casualty or negligence not ascribable to PRODOMIX;

5.5.4. failures resulting from unauthorised modifications or alterations of the Products;

5.5.5. any damage, loss or consequence deriving from defects or non compliance of the Products caused by failure, deficiencies and/or mistakes in the information or technical specifications supplied by the Client;

5.5.6. any damage, loss or consequence deriving from failure by the Client to comply with guidance in documents supplied by PRODOMIX

5.5.7. any other cause, not ascribable to PRODOMIX's negligence

5.6. The Client forfeits from warranty if he doesn't provide to suspend immediately the use of the Goods in case of discovery of a non-conformity or of a defect on the Goods

5.7. During the warranty period, PRODOMIX shall repair or, at its sole discretion, replace free of charges the Products found not in compliance with delivery Ex-works (Incoterms ® 2020) at PRO-DO-MIX premises. PRODOMIX, at its sole discretion, may authorise the Client to return the defected Goods against the repayment of the price originally invoiced. If required by the Supplier, the replaced Goods should be returned, at the Client's costs, to PRODOMIX's premises .

5.8. The Client shall, sub poena of forfeiture of the warranty, notify in writing by fax/email with Supplier's confirmation of receipt of such communication or by registered letter with return receipt, any non compliance or discovered defects, within and no later than 8 (eight) days from the date of delivery of the Goods. In case of hidden defects within and no later than 8 (eight) days from the date of relevant discovery. The burden of proving the date of the relevant discovery lies with the Client. In no case claims for non compliance or for defects shall be accepted if received by PRODOMIX after 18 (eighteen) months from the date of delivery of the relevant Products or after 12 (twelve) months from start-up of the Goods, whichever comes earlier .

5.9. Any further express or implied warranty of fitness or merchantability as well as any reimbursement of costs or other obligations or liability either direct or by the way of redress are, to the extent permitted by law, expressly excluded and waived.

## 6. EXCLUSION OF INDIRECT/CONSEQUENTIAL DAMAGES AND LIMITATION OF RESPONSIBILITY

6.1. In no event shall PRODOMIX 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 PRODOMIX in relation to Supply Agreement

6.2. Notwithstanding any other provisions on the contractual documents, maximum cumulative responsibility of PRODOMIX towards Client for whichever reason shall not exceed the amount paid by the Client for the claimed Goods.

## 7. RETIRE AND DELIVERY OF ORDERED GOODS

7.1. At the expire of the agreed delivery terms, but in any case not later than 10 (ten) days

from the notice of Goods ready for collection, the Buyer is obliged to provide for the collection of the Goods (in case of delivery ex works) or to accept the Goods at final destination (in case of delivery in the agreed place of destination with transport of Goods arranged by Supplier) as indicated in the Order Confirmation

7.2. The above term elapsed, PRODOMIX shall be authorised to issue the relevant invoice and shall start the terms of payment as indicated in Order Confirmation and the relevant Goods shall be stocked in PRODOMIX's yard at Client's costs and risks, with forfeiture of warranty without any responsibility for the Supplier. PRODOMIX in addition shall be authorized to debit to the Buyer 1 (one) euro for each cubic meter of used area for each day of stocking of the Goods.

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

8.1. Unless otherwise agreed, payment of the Goods shall be effected by swift bank transfer in favour of PRODOMIX in its bank account within 7 (seven) working days from sending of Order Confirmation by PRODOMIX.

8.2. PRODOMIX's invoices shall be exclusively paid at its domicile

8.3. Should the Client delay or fail to comply with the payment terms, even if the Client is in delay, even if for only one payment term, PRODOMIX shall be entitled to suspend all the pending deliveries, until full payment of the outstanding credits, even if related to other Supply Agreements and/or until receipt of proper guarantees (such as Irrevocable and confirm L/C or Irrevocable and confirm Stand By L/C) for any future delivery. In case of delay on payment terms, Buyer shall pay to PRODOMIX for each/part of week of delay 0,5% (zero point five percent) of penalty calculated on the delayed amount.

8.4. In no event shall any claim on the Products, defect or non compliance of the Products, even when expressly acknowledged as such by PRODOMIX 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 PRODOMIX (Solve et repete).

8.5. In case of plurality of contracts, if the Buyer doesn't provide to pay or delay in the payment even if for only one invoice, PRODOMIX is authorized to suspend the outstanding Supply Agreements, without prejudice to any other rights PRODOMIX may have or to any other damages to be paid by the Client to PRODOMIX in accordance with any other provisions of Order Confirmation

8.6. Notwithstanding any other provision, PRODOMIX shall be authorized to terminate the Supply Agreement, for right cause, should the Client fail to provide for the payment within 30 (thirty) days from receiving of notice to pay from the Supplier.

#### 9. SUPPLIER'S RIGHT TO TERMINATE THE SUPPLY AGREEMENT

9.1. PRODOMIX shall have the right to terminate all or any part of the Supply Agreement, without any responsibility, in the following circumstances:

- the Buyer becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or a receiver is appointed for a substantial part of Buyer's assets.

#### 10. SEVERABILITY

10.1. If any provision of these GTC shall be found invalid or unenforceable, the invalidity and unenforceability shall not affect the other provisions of GTC which shall remain in full force and effect. The Parties agree to attempt for replacing any invalid or unenforceable provision with a valid or enforceable provision which achieves to the maximum possible extent, the objectives of the invalid or unenforceable provision.

#### 11. RETENTION OF TITLE

11.1. PRODOMIX shall be the sole owner of the Products supplied under Supply Agreement 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.

#### 12. CLIENT'S AUTHORIZATION TO USE CLIENT'S AND PRODUCT'S REFERENCES FOR SUPPLIER'S MARKETING AIMS

12.1. Applicable only if the Client is a corporate firm: Client expressly authorizes PRODOMIX, waiving all rights of objection and/or actions, claims demands and/or damages towards Supplier whatsoever, the use, including the use in PRODOMIX web site, to expose or to exploit for Supplier's marketing aims, any and all photos and movies of the Equipment, also after the installation in the site of the Client or of the final user (in such case the Client shall obtain a proper authorization from the final-user). In addition the Client authorizes PRODOMIX to publish or permit to publish to the press or other media any information regarding the award of the Contract, the project, the Client

#### 13. EXCLUSION OF VIENNA SALES CONVENTION

13.1. 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 Supply Agreement, or incorporation of such provisions into any contractual document, at any time is expressly excluded in all respects

#### 14. ARBITRATION CLAUSE AND SETTLEMENT OF DISPUTES

14.1. All disputes in connection with contractual documents/commercial relationship regulated by these GTC or the execution thereof shall be settled through friendly negotiations between the Parties.

14.2. All disputes arising out the contractual documents/commercial relationship regulated by these GTC, 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 Arbitrator shall decide according to the Italian Law. The language of Arbitration shall be the English language. The seat of arbitration shall be Milan (Italy).

Conselve (Padova) Italy, January 1st 2019

THE SUPPLIER

THE CLIENT

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

Item 1.4.	exclusion of Client's general conditions
Item 1.8.	limitation of Supplier's responsibility for technical specifications
Items 3.3.,3.4. and 3.5	limitation of Supplier's responsibility in case of delay in delivery of the Goods
Item 4.1.	Cancellation of the Order and relevant consequences for the Buyer
Item 5.4.	Limitation of warranty in favour of the sole Client
Item 5.5.	exclusion of warranty for reasons not attributable to Supplier
Item 5.6.	exclusion of warranty in case of use or processing of the Goods
Items 5.7. and 5.9.	limitation of warranty to the sole reparation or substitution of the defected Goods
Item 5.8.	forfeiture of warranty and burden of proof
Item 6.1.	Exclusion of indirect/consequential damages
Item 6.2.	Maximum Supplier's responsibility
Item 7.2.	Consequences for the Client in case of delay in collecting or accepting the Goods
Item 8.3.	Suspension of deliveries in case of delay or failure to pay
Item 8.4.	Solve et Repete
Item 8.6.	right to terminate the Supply Agreement
Item 11.1.	retention of title in favour of PRODOMIX
Item 12.1.	Client's authorization to use Client's and Product's references for Supplier's marketing aims
Item 13.1.	exclusion of Vienna Sales Convention year 1980
Items 14.2.	Arbitration clause and settlement of disputes

Conselve (Padova) Italy, January 1st 2019

THE CLIENT