



POWER FROM WITHIN

# STANDARD CONDITIONS OF SALES

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### 1. APPLICABILITY

- 1.1. All sale of products manufactured and/or sold by Mecc Alte International S.A. (hereinafter the “**Seller**”) to any customer (hereinafter the “**Buyer**”) will be solely governed by these Terms and Conditions (hereinafter the “**Conditions**”).
- 1.2. The Conditions form integral and essential part of each sale agreement (hereinafter the “**Agreement**”) concerning the supply of products manufactured and/or distributed by the Seller (hereinafter collectively the “**Products**” and individually the “**Product**”). All technical and/or production details and specifications – as available on the website [www.meccalte.com](http://www.meccalte.com) and/or on the Seller’s order confirmation(s) – concerning the Products form integral and essential part of each Agreement. The Conditions will be applicable to all supplies of standard Products, as well as to all Products manufactured according to designs or specific instructions or requests received by the Buyer.
- 1.3. Unless otherwise agreed by the Seller and the Buyer (hereinafter collectively the “**Parties**”), the execution of any Agreement by the Buyer implies the acceptance of these Conditions as well as the explicit and unconditional inapplicability of the General Terms and Conditions of Purchase, if any, of the Buyer, which therefore will be not applicable, even if expressly mentioned in the orders or in the orders’ confirmation notified to and/or by the Seller.
- 1.4. The Seller’s website [www.meccalte.com](http://www.meccalte.com) and/or catalogues shall not be deemed as a sale offer and the Seller shall be entitled, at its sole discretion, at any time and without notice, to vary the above mentioned specifications or to cease manufacturing any of the Products as technical, economic or business context may require.
- 1.5. Upon execution of an Agreement with the Seller, the Buyer expressly acknowledges, and commits to comply with, all the provisions of law in force and, particularly, undertakes to use and/or to sell the Products in compliance with all laws and regulations in force from time to time in any applicable jurisdiction and consistently with the provisions and instructions set forth by the Seller, in these Conditions, in the technical specifications as well as in any other additional document provided for by the Seller.

### 2. ORDERS

- 2.1. The Buyer must place a written order for the Products (“**Order**”). The Seller shall be entitled to accept or deny, as its sole discretion, the Orders notified by the Buyer within 30 (thirty) days from the date of receipt and during such period the Order shall be deemed to be firm and irrevocable by the Buyer.
- 2.2. Each Order shall be considered accepted if the Seller alternatively:
  - ( ) notifies in writing the acceptance; or, even failing such written acceptance
  - ( ) commences the supply of the Products provided for by the Order. In this case, the Seller will promptly inform the Buyer of the commencement of the supply.
- 2.3. With reference to any Order, an acceptance different from the Order shall be considered as tacitly accepted by the Buyer, unless written notice by the Buyer within 8 (eight) days from Seller’s acceptance.
- 2.4. In case of acceptance of the Order or of the new proposal pursuant to clauses 2.2. and 2.3 above, the Agreement will be considered as finally entered and executed and binding between the Parties.
- 2.5. The Seller issues standard documentation required for the ordinary sale transactions, namely invoice and packing list. Any additional document must be required by the Buyer upon issuance of the Order since it has to be taken into consideration as part of Seller’s commercial

offer. The Seller reserves the right to deny the issuance of documentation requested after delivery of Products when it was not previously considered at the time of the Order.

### **3. PRICES**

- 3.1. The prices of the Products (hereinafter collectively the “Prices” and individually the “Price”) are net of any tax, customs duty, or other charges such as, but not limited to, VAT, which may be levied on the Products in Seller’s and/or Buyer’s country.
- 3.2. The Prices shall be those set out in the Order confirmation, or, if no Price is quoted therein, the Prices set out in the Seller’s website [www.meccalte.com](http://www.meccalte.com) and/or in the published price list in force as at the date of the Order confirmation.
- 3.3. Prices and Prices’ calculation methods shall be considered fixed and not amendable. Any Price amendment proposed by the Buyer after Seller’s Order confirmation, will not be binding unless express written acceptance by the Seller. If the Seller does not accept the proposed Price amendments, the Buyer shall not be entitled to cancel the Order.
- 3.4. Exception made for the provisions set forth in clause 3.3. above, it is expressly acknowledged and agreed that the Seller shall be entitled to vary Prices due to exceptional circumstances, such as but not limited to the increase cost of raw materials and cost of labor, which exceed 2% (two per cent) of the Price stated in the Order confirmation, subject to the Buyer’s right in respect of standard Products to cancel the relevant Order by written notice to the Seller sent no later than 5 (five) days from receipt of the Seller’s Price variation notice sent to the Buyer.
- 3.5. Upon request of the Seller, the Buyer shall inform the Seller of any reselling of the Products to third parties and the terms and conditions thereof, specifying if the resale is related to Products which either (i) have been installed into a generator set or (ii) are sold separately by other components.

### **4. PAYMENT TERMS AND CONDITIONS**

- 4.1. Terms and conditions of payment are set forth in Seller’s Order confirmation.
- 4.2. Payments shall be considered made on confirmation by the Seller’s bank that the relevant cleared funds have been received.
- 4.3. If the Buyer does not comply with the terms and conditions of payment set forth in Seller’s Order confirmation, the Buyer will pay interests on the due sum from the date of the payment’s expiration to the date of the effective payment, at the rate applied by the Seller’s bank on overdrawn accounts, and the Seller being immediately entitled to terminate the Agreement and stop any further delivery of any other Product.
- 4.4. Payments of the Products cannot be postponed or suspended in case of unavailability of the equipment which the Products are to be interfaced with, even if such unavailability is not due to Buyer’s default. Further, payment of Products cannot be postponed or suspended in case the Products have been not collected or tested due to the Buyer’s fault.
- 4.5. The Buyer shall pay all amounts due under the Agreement in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Seller may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by the Seller to the Buyer.

### **5. DELIVERY**

- 5.1. Unless otherwise stated in the Order confirmation, the delivery of Products will be made “FCA” according to the definition ICC INCOTERMS 2020 (as amended and/or supplemented), at the Seller’s premises, or at the different place notified by the Seller. Any cost and/or risk concerning the transport of the Products will be solely borne by the Buyer.
- 5.2. All risks concerning the Products shall pass to the Buyer at the place and time of delivery

- thereof.
- 5.3. Delivery terms and conditions provided by the Order confirmation shall not be of the essence, unless otherwise agreed in writing by the Parties. Any delay and/or stop in the delivery of the Products shall not be considered as a breach of the Agreement by the Seller and shall not entitle the Buyer to cancel the Order, to claim direct or indirect indemnification or the cost reimbursement, or additional charges. The Buyer shall be entitled to cancel the Order by means of a written notice, providing the Seller with a final term for the delivery which shall be at least 45 (forty-five) working days after the delivery date set forth in the Order confirmation of the Seller.
- 5.4. In the event of delays in delivery due to any cause beyond the reasonable control of the Seller (including Force Majeure – as defined under clause 10 below – and delays caused by sub-contractors in manufacturing Products' components), the Seller shall be entitled, at its sole option, either to postpone deliveries for a period equal to the period of duration of such cause or to terminate the Agreement.
- 5.5. The Seller shall be entitled to deliver the Products by means of partial lots, even if not expressly provided by the Order confirmation. Any delay in delivery or defect in any such lot shall not entitle the Buyer to cancel any other lot.
- 5.6. The Buyer must store the Products under the instructions specified by the Seller in its technical documentation, or as specified during a technical consultation performed for the Buyer. The Seller will not be responsible for any loss or damage if the Buyer does not comply with the specified storage instructions.

## 6. TESTS

- 6.1. Specific tests requested by the Buyer, to be carried out on the Buyer's premises and/or by its representatives, must be specified in the Order confirmation and are always at Buyer's expense. Expenses concerning additional testing and/or installation of the Products, which are not caused by Seller's default, shall be exclusively borne by the Buyer.

## 7. RETENTION OF TITLE

- 7.1. Without prejudice to the provision set forth in clause 5.2., the Seller will retain title to the Products sold and title shall pass to Buyer only upon its payment of the entire Price due.
- 7.2. During the period in which the Seller retains the title on the Products, the Buyer shall sell the Products as a Seller's agent and for its account to solvent purchasers, at a normal commercial price, and on condition that the benefit of all agreements for the sale and the proceeds of all sales of any of the Products shall be held by the Buyer on trust for the Seller and the amount thus collected shall be set aside for payment of the Products' Price.

## 8. GUARANTEE

- 8.1. Upon careful review of the technical details and specifications as available on the website [www.meccalte.com](http://www.meccalte.com) and/or on Seller's Order confirmation(s), the Buyer acknowledges that the Products are consistent for Buyer's intended use and do not have deficiencies which may significantly diminish their value.
- 8.2. Save for any different written agreement between the Parties concerning the term of the warranty period on the Products, the Seller guarantees, for a period of 24 (twenty-four) months from the delivery, as governed by clause 5. above, that:
- ( ) the Products are free from defects in material and workmanship;
  - ( ) the Products comply with the technical details and specifications as available on the website [www.meccalte.com](http://www.meccalte.com) and/or on the Seller's Order confirmation(s);
  - ( ) the Products are not subject to efficiency variation over +/-10% (ten per cent), which

is deemed as the usual tolerability.

- 8.3. By placing an Order, the Buyer acknowledges that the Products will comply with laws and regulations, if any, in force in EU Countries.
- 8.4. During the warranty period set forth in clause 8.2. and subject to the timely payments of the Price by the Buyer, the Seller shall replace or repair (as the case may be), free of charge, except for transport expenses, any Product found to be defective pursuant to clause 8.2.
- 8.5. The guarantee set forth under this clause 8. is not effective in case of lack of compliance or the defects of the Products are due to their not correct installation and/or assembling, to abnormal usage conditions or to usages different from those indicated by the Seller or made available on website [www.meccalte.com](http://www.meccalte.com) or elsewhere and to which the Product is intended, to defective maintenance, to inappropriate conservation or storage or to the normal wear, to untrue or uncompleted information provided by the Buyer, to modifications of the Products made or required by the Buyer and to any action in general performed by the Buyer or third parties on the same Product.
- 8.6. The only guarantee granted by the Seller is the guarantee set forth under this clause 8., that absorbs and supersedes any other guarantee for defects or lack of quality or operating. Namely, in no case the Seller shall be held liable for damages, including any indirect damages and/or loss of profit which the Buyer may suffer arising out of or caused by defective Products such as, but without limitation to, cancellation of orders by its clients, penalties for late deliveries, forfeitures or indemnification of whatsoever nature.

## 9. CLAIMS

- 9.1. The Buyer shall examine the Products promptly and with due diligence and care at the time of the delivery of the Products.
- 9.2. In order to be entitled to the guarantee provided for by clause 8. hereinabove, the Buyer shall, under penalty of forfeiture, notify immediately the Seller in writing that the Products are defective or not in compliance with their technical details and specifications upon their delivery.
- 9.3. In case the defect or the lack of compliance are not recognizable upon the delivery, the Buyer shall inform the Seller within 8 (eight) days from the date in which the defect or the lack of compliance have been discovered or should have been discovered based on an ordinary diligent inspection. Notice by the Buyer shall be made in writing and shall contain a full description of the defects and faults and the details of the supply (in particular, date and order number, date of delivery, date and number of the invoice, lot number).
- 9.4. Upon expiry of a 30-days term from the date of the delivery without the Buyer claiming for defective or non-complying Products, the delivered Products shall be deemed as definitively and conclusively accepted by the Buyer.
- 9.5. In no event shall the Seller be responsible for failures, defects or any lack of conformity of the Products upon elapse of (i) 24 (twenty-four) months or (ii) the different period agreed in writing between the Parties, in both case starting from delivery and the Buyer shall not be entitled to claim any compensation after the expiry of such period of time.
- 9.6. The Buyer shall keep the defective Products in separate storage at its own expenses and shall allow the Seller to inspect such Products at any reasonable time. Upon written request by the Seller, the Buyer shall return to the Seller the defective Products at Buyer's own costs.
- 9.7. Any claims made by the Buyer pursuant to this clause shall not entitle the Buyer to cancel an Order or to suspend the payments of the Price.

## 10. FORCE MAJEURE

- 10.1 The Seller shall not be liable for any delay in the delivery, breach and/or damage, direct or indirect, incurred by the Buyer and/or third parties caused by Force Majeure or any other

unexpected events or occurrence beyond the control of the Seller.

- 10.2 “**Force Majeure**” shall mean any event beyond a Party’s reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party’s), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

## **11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

- 11.1. Data, models, notes, technical and commercial nomenclatures, samples, information, know-how, trademarks and logos, as well as any other information which the Seller will notify or provide to the Buyer will exclusively remain property of the Seller. The Buyer expressly undertakes not to reproduce or communicate any of the abovementioned information, without the prior written consent of the Seller.

## **12. EXPRESS TERMINATION CLAUSE**

- 12.1. Without prejudice for any other provision of these Conditions, the Seller may terminate the Agreement with immediate effect by giving written notice to the Buyer upon occurrence of any of the events mentioned in clause 12.2. hereof.
- 12.2. For the purposes of clause 12.1., the relevant events are:
- (i) the Buyer does not pay any Seller’s invoice within 30 (thirty) days after the term specified thereto;
  - (ii) the Buyer does not use the Products in compliance with the instructions provided by the Agreement or by the Seller, so to cause direct or indirect damages to goods and/or persons;
  - (iii) Buyer’s breach of the provisions set forth under clause 1.5.;
  - (iv) Buyer’s breach of the provisions set forth under clause 11.;
  - (v) Buyer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts;
  - (vi) the Buyer is the subject of a bankruptcy petition or order;
  - (vii) a creditor of the Buyer attacks or takes possession of, or a distress, execution, seizure or other such process is levied or enforced on or sued against the whole or any part of Buyer’s assets and such attachment or process is not discharged within 14 (fourteen) days;
  - (viii) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
  - (ix) the Buyer’s financial position deteriorates to such an extent that in the Seller’s opinion the Buyer’s capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy.
- 12.3. Without limiting any other right or remedy, the Seller may suspend delivery of the Products under an Agreement or any other contract between the Buyer and the Seller if the Buyer is subject to any of the events listed in clauses 12.2. (i) to 12.2. (ix), or the Seller reasonably believes that the Buyer is about to become subject to any of them.
- 12.4. Upon termination of the Agreement for any reason the Buyer shall immediately pay to the Seller all the Seller’s outstanding unpaid invoices and interest (if due).
- 12.5. Termination of the Agreement, however arising, shall not affect any of the Parties’ rights, remedies, obligations and liabilities that have accrued as at termination.

12.6. Clauses which expressly or by implication survive termination of the Agreement shall continue in full force and effect.

**13. INVALIDITY/ INEFFECTIVENESS**

13.1 In case of invalidity or ineffectiveness of one or more clauses provided under these Conditions, such clauses shall be deemed not applicable, without prejudice for any other clauses of these Conditions which shall remain entirely valid and effective.

**14. CODE OF ETHICS - LEGISLATIVE DECREE NO. 231/2001**

14.1 The Buyer commits to adhere and to cause its directors, officers, consultants, staff, employees, subcontractors, to adhere to the ethical-behavioral principles that Seller's group has set out in its Code of Ethics, published on the website [www.meccalte.it](http://www.meccalte.it), which the Buyer declares to have read and which forms an integral and substantial part of the Agreement, and commits to conduct its business in such a way that does not constitute criminal offence as described in the Italian Legislative Decree no. 231/2001. Any Buyer's action or behavior which does not comply to the provisions of the Code of Ethics of Seller and/or of the Legislative Decree no. 231/2001, gives Seller the right to terminate all relationships with the Buyer with immediate effect, without prejudice to the right to claim compensation for any damage suffered.

**15. LAW AND JURISDICTION**

15.1 The sale of the Products between the Seller and the Buyer, any Agreement and these Conditions shall be governed by the laws of Italy. The Courts of Vicenza (Italy) shall have exclusive jurisdiction for any disputes that may arise in connection with these Conditions and/or any Agreement.

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