

# GENERAL CONDITION OF SALE

di TENUTE® S.r.l.

with registered offices in Italy, 20122 Milan, V.le Angelo Filippetti, 39, and premises in Cambiago (MI), Via L. Da Vinci, 5  
C.F. 02893320156 – Company Register registration number n. 02893320156

## 1 - General Provisions

- 1.1 Tenute S.r.l. (Hereinafter "**Tenute**") is a company specialized in engineering sealing systems and manufacturing rub seals for a range of industries including, but not limited to, the steel industry, hydropower, petrochemical and mechanical (hereinafter referred to as "**Products**").
- 1.2 The function of these general condition of sale (hereinafter referred to as General Conditions of Sale "**GCS**") is to regulate the sales contracts between Tenute and its customers. Tenute distributes its products to professionals only (hereinafter referred to as "**the Customer**").
- 1.3 Once signed for acceptance by the Customer, or accepted by conclusive facts or otherwise known or recognised by the same, GCS will govern all sales contracts between Tenute and the Customer relating to the sale of the Products.
- 1.4 These GCS will always prevail to any purchase terms and conditions of the Customer, or any other provision incorporated in Customer's documents, except in the case of a different agreement expressly accepted in writing by Tenute.
- 1.5 The sale of the Products is therefore governed entirely by these GCS which may be accompanied by the purchase proposal and the order confirmation or any equivalent document signed by the parties that concludes the contract.
- 1.6 Each and any amendment or addition to the GCS will have to be made by the parties in writing under penalty of nullity. The Customer acknowledges that the personnel or Tenute's agents have no authorization or power of representation. Therefore, they cannot assume obligations, commitments or release appropriate statements to modify, supplement or derogate from the provisions of the GCS.

## 2 - Subject and Modalities of Formation of Contract

- 2.1 The individual contracts, unless otherwise agreed by the parties, will have as their object the sale of products manufactured or marketed by Tenute.
- 2.2 Any offers or quotations of prices of products that Tenute sends the Customer does not constitute, nor can in any way be understood as proposals for the sale of

products, and, therefore, those documents will have no contractual value.

- 2.3 The Customer who intends to proceed with the purchase of Products from Tenute will have to prepare and communicate, by fax or e-mail, a formal offer to purchase, or a purchase order (hereinafter "**the Order**").
- 2.4 The Order must contain at least the following information: (i) the type of product required and product code for standard products; (ii) the quantity of products; (iii) required delivery terms; (iv) in the case of customised products to be made on the specific instructions of the Customer, the indication of the type of product required, an indication of the technical characteristics along with technical drawings, where necessary.
- 2.5 Once the Order is sent to Tenute, it will be considered irrevocable for a period of 30 working days. If, after that period, Tenute has not accepted such Order in writing (hereinafter "**Order Confirmation**"), the Order will become permanently ineffective, unless the parties decided otherwise in writing.
- 2.6 The Customer acknowledges that Tenute will not have any obligation to accept the Order, and will therefore be free to act at its will. If the Order Confirmation is not received by the Customer within this period of 30 working days, the Customer in no event shall be entitled to consider the single sales contract as concluded.
- 2.7 The Contract of Sale will become binding on parties only where the Order Confirmation has been signed by Tenute and received by the Customer by fax or email.
- 2.8 If the price of the Products is not indicated on the Order, pursuant to Section 1474, 1st paragraph of Civil Code, the price is the one set forth in Tenute's official price list into force at the time of the formation of each contract of sale, or the one specified in the Order Confirmation of Tenute.
- 2.9 Tenute, in alternative to the acceptance of the Order through issuance of the Order Confirmation, shall be entitled to request the modification of the Order by sending the Customer a written proposal for amendment of the Order (hereinafter "**Proposal of Modification**").
- 2.10 The Proposal of Modification must be expressly agreed in writing by the Customer. In the absence of express acceptance by the Customer, within 5 days of receipt of

the Proposal of the Modification, it will lose its effectiveness and, consequently, the Customer will not have the right to accept such modifications without the prior consent of the Tenute. In case of acceptance of the Proposal of Modification, the single sales contract will be concluded upon receipt by Tenute of acceptance of the Proposal of Modification in written form.

- 2.11 Telephone and verbal Orders will not be accepted or in any case will not be considered as such and must be completed by a formal Order.

### **3 – Conditions of Sale**

- 3.1 The sale of the Products with respect to economic conditions, terms of delivery, Products characteristics and any other technical specification shall be governed also by the contract documents executed during the formulation of the single contract, incorporated by the GCS. Should the Customer need to assign the Products to special or heavy-duty uses, and require specific features, the same Customer will have the duty of indicating Tenute the use to which the product is intended, and request the necessary features. In the absence of a specific request to that effect the Product provided by Tenute will have "standard" features. In any case, the assessment of the suitability of Products for specific use planned by the Customer remains his exclusive competence and responsibility and therefore the Customer has to request the technical data and where necessary examine a product sample under appropriate acceptance test in order to verify its suitability for the intended use. Consequently, under no circumstances Tenute may be held responsible for any damages or problems arising due to improper use of the Products or a wrong choice of method or assembly errors of the same by the Customer.
- 3.2 Any and all possible request of qualitative or quantitative modification, after the formulation of the contract of sale, must be submitted by the Customer in writing to Tenute. In this case, Tenute will have the option not to accept the proposed changes, or, to change the delivery time or adjust the initially agreed amount, taking into account the nature and extent of the changes required. If the change in the total amount of the Order were to exceed 10% of the total amount originally expected for single sale, Tenute will give prior notice of the additional amount required for the completion of the changes requested by the Customer. If the Customer does not expressly renounce to variation within 5 days, such change same shall be deemed definitively approved as new conditions.
- 3.3 The price indicated by Tenute or that shown on price lists include only the sales of standard packaging

Products. Any non - standard or custom packaging must be specifically agreed upon during the formation of the contract, and in any case the amount thereof will be charged to the Customer, unless otherwise agreed.

### **4 - Terms and Method of Payment - Interest**

- 4.1 Tenute will have the right to indicate specific terms of payment of the consideration to be applied to the individual contract of sale, or to accept and / or modify, via Order Confirmation or the Proposal of Modification, the terms of payment proposed by the Customer through the Order.
- 4.2 In the absence of specific instructions in the Order or in the Order Confirmation or in the Proposal for Modification following terms of payment will be applicable:
- The balance of the full amount at the time of collection/delivery of Products or upon shipment of the same.
- 4.3 Tenute will have the right to subject the effectiveness of the Order Confirmation to the release of additional guarantees, to the payment of deposits, or the right to submit the same to conditions precedent.
- 4.4 The payment of the amounts due under the contracts will be subject to regular invoices.
- 4.5 Payments can be made directly at the address of Tenute at its office or by bank transfer to the bank account of Tenute, or by another mean of payment agreed between the parties. Payments made to third parties without a specific Collection order will not be enforceable. To this end, the Customer acknowledges that the agents and the sales personnel of Tenute are not authorized to receive any amount in the name and on behalf of Tenute, unless this has been specified in writing to the Customer in a given case.
- 4.6 If payments are made by means of bank cheques or other credit instruments, they should be made payable to the Tenute and issued in accordance with the law governing the completion and circulation of credit instruments. Tenute is exempted from any liability arising from the use of debt instruments not complying with the law. Any subsequent payment or other types of credit instruments do not constitute novation of the original legal relationship.
- 4.7 In any case, bank transfers, cheques or other credit instruments and bank receipts are treated as payments made only at the time for completion of the same. Cash payments will be accepted to the extent permitted by

applicable regulations that govern the means of payment.

- 4.8 In case of delayed payments, even resulting from repayment plans relating to unsolved or failed debts, the failure of payment of even only one instalment, will erode the Customer's benefit of the term granted pursuant to Section 1186 of Civil Code.
- 4.9 The payments will firstly be allocated to any interest and unpaid costs, and then to the capital, starting with debt maturing in more long standing.
- 4.10 In case of delayed payment, default interest will be due under Section 5 of Legislative Decree 231/2002. If this provision of the law is not automatically applicable to the signed contract, the Customer will in any case be required to pay default interest at the contractual extent similar to the provision of above Section 5, with effect from the payment due date, without the need for any prior formal notice by the Tenute.
- 4.11 If the Customer does not perform the payment in due time the same will be liable to compensate the costs incurred to recover the credit, notwithstanding the right to request for Tenute of any further damage suffered as a consequence of the failure (including any legal fees incurred for the recovery of credit).

## **5 - Terms and Product Delivery Methods**

- 5.1 Unless otherwise agreed with the Customer, the transport and delivery conditions will be EX WORKS (Incoterms 2010), at the premises of Tenute in Via Leonardo Da Vinci No. 5, 20040 Cambiagio (MI) for international sales and EX-WORKS for domestic sales, at the premises of Tenute S.r.l. via Leonardo Da Vinci, 5. 20040 Cambiagio (MI).
- 5.2 The terms of delivery indicated in the Offer or Order Confirmation are merely indicative, and for that reason are not binding for Tenute with exemption from any responsibility in case of delayed delivery of Products. If the Customer has specific requirements regarding the delivery, within the Order, shall have the duty to indicate specifically the request to obtain a binding delivery term by mentioning in the Order that a "**fixed binding deadline**" is requested. Such request must be specifically approved by the Tenute in written form. Even if the fixed binding deadline is approved it remains excluded the essential nature of the term in accordance with the provisions of Section 1457 Civil Code, and the Customer, in case of delay, will have the right to be recognized as a penalty a sum equal to 0.5% calculated on the value of Products subject to delivery, for each week of delay, this is for the only case in which

it is not exercised the right of withdrawal referred to in paragraph 5.3 below, excluding any further and additional damages. The amount of this penalty will in no case exceed an amount equal to 10% of the amount of non-delivered Products. The amount of the penalty will be recognized to the Customer by Tenute through the mechanism of discount price of Products.

- 5.3 In any case, regardless of the binding nature or else of the term, after a period of 120 days from the delivery date, under the contract, in the absence of delivery, the Customer shall be entitled to terminate the contract by sending a special notice by registered return receipt or certified mail. Following the withdrawal, the Customer is not entitled to indemnification or compensation, without prejudice to the repayment of any money paid as a deposit to Tenute.
- 5.4 The terms of delivery, regardless of its binding nature, will be suspended if it is not possible to proceed with the execution of the sale for events attributable to the Customer, or to force majeure. For example, are case of force majeure, atmospheric events of such magnitude to prejudice the possibility of the production of Products, the extraordinary events such as strikes, protests or acts of sabotage, disruption of supply of raw materials or energy necessary for the production of Products, as well as laws, rules, regulations or restrictions by the central or local public authorities.
- 5.5 The time of delivery will reassume from the day following the cessation of the interruptive event.
- 5.6 Depending on availability, Tenute shall have the right to carry out partial deliveries, subject to the obligation on the Customer to pay fee in proportion to the quantities delivered within the agreed time. This does not affect Customer's right to terminate the contract for the unperformed part after the expiration of the deadline indicated in clause 5.3.
- 5.7 For compliance with the delivery time, Products' availability for collection at the Tenute premises will be applicable, which will be communicated to the Customer by Tenute. In case of an exception to provision to these general conditions of sale, where Tenute has the duty to dispatch Products, the date of delivery of the Products to the carrier for transport will be relevant for compliance with the delivery time.
- 5.8 If the Customer does not proceed to the collection of Products at the warehouse of Tenute within 30 days of receipt of the notice of availability of Products, or from the date specified in the Order Confirmation, Tenute will have the right to terminate the sale contract for non-performance, by sending a letter of formal notice

pursuant to Section 1454 of Civil Code. Tenute will withhold eventual advance payment on the account for the damages suffered for breach of contract or it will have the right to require performance of the contract, in any case without prejudice to compensation for damages suffered.

## **6 - Suspension of execution**

- 6.1 Tenute shall have the right to suspend, without obligation of prior notification, the performance of existing contracts, or suspend the delivery of Products, at any time, where the Customer has committed a breach of its obligations, including failure to make the payment for existing contracts also if the Customer's breach of contract refers to completed contracts with Tenute other than the one whose execution is suspended.
- 6.2 In the event of advance payment before delivery of Products, Tenute retains the right to suspend the performance of the contract where Customer fails to comply with its obligation of payment.
- 6.3 If the reason of suspension does not persist, Tenute has the option to resume the performance of suspended sale (or suspended sales) or the delivery without any notices. However, where the reason of suspension (non-payment) continues for a period longer than 30 days from its occurrence, Tenute will have the option to permanently terminate all existing contractual relationship with the Customer for such breach after sending a letter of formal notice by registered mail with return receipt or by certified mail, pursuant to Section 1454 of Civil Code.

## **7 - Defects and Non Compliance**

- 7.1 The Customer has the right to check the compliance of Products according to the agreed quality and technical standards (external characteristics of the Products), either directly or through its professional advisers, within 8 days from receipt of the Products.
- 7.2 Where the Customer considers that the delivered Products have apparent defects, or are in any case not in compliance with the contractual agreement, it must report such fact in writing to Tenute, subject to forfeiture, within 8 days from the date of receipt pursuant to Section 1511 of Civil Code, by registered mail return with receipt or by certified mail. The complaint notice shall include, under penalty of invalidity, the precise nature of the alleged defects.
- 7.3 Where Tenute believes that the reported defects subsist, it shall have the option to replace Products as quickly as possible and within 60 days from the date of receipt of the complaint notice. The Customer in no case shall be entitled to suspend the payment of outstanding sums due to Tenute. Only after considering the existence of defects, Tenute will have the duty to replace them or

repair the defect or non-conformity found on the Products, to the exclusion of any and all further liability for damages of any kind.

## **8 - Warranty and Grounds of Non-Performance**

- 8.1 Tenute warrants that the Products are free from faults/defects or non-conformity for a period of 12 months from the date of delivery of the same to the Customer, provided that they have been promptly reported within 8 days from the date of discovery through a written notification sent by registered mail or certified mail in accordance with Section. 1495 of Civil Code. The warranty period shall in no case be suspended or extended.
- 8.2 The warranty does not apply with respect to those Products whose defects are due to:
  - Incorrect application or use by the Customer;
  - Negligent or improper use of the same by the Customer;
  - Failure to observe the instructions for the installation or maintenance;
  - Failure to observe the instructions regarding the storage of Products;
  - Repairs or modifications made by Customer or by third parties without the written consent of Tenute;
  - Normal wear and tear of the Products.

The guarantee is also excluded in case of non-payment for the Products under the conditions and within the agreed terms. Similarly, the warranty does not apply if the fault/defects at the time of the sale were known or easily recognized by Customer and were not reported within the periods specified under clause 7.2.

- 8.3 Provided that the complaint of faults/defect from the Customer to Tenute is covered by the warranty and communicated within the time and the manner referred to in the preceding paragraph 8.1, Tenute reserves the right, at its sole discretion, to return, even partially, the selling price of Products or to repair or replace the Products, or parts of them, that Tenute establishes that are defective, with the express exclusion of any and all possible further claims for damages.
- 8.4 The verification of the suitability for use of the product remains the sole responsibility of the Customer therefore, in any case, any right to compensation for damage of any kind that the Customer may suffer as a result of any mistake in the Products choice or of improper use thereof.
- 8.5 Provisions of Consumer Code relating to product warranties, except in the cases where the Customer has the status of "Consumer" under the law, shall not apply to this GCS.

## **9 - Additional Clause**

- 9.1 Any agreements or additions do not replace or modify the present GCS, unless they are expressly accepted in

writing by Tenute and are set out in detail the paragraphs of the present GCS subject to modification or replacement.

## 10 - Privacy Policy

10.1 Complying with the provisions of Section 13 of Legislative Decree 196/2003 Tenute provides the following information concerning the processing of personal data used by Tenute.

### Purposes and Methods of Treatment

The treatment that Tenute will perform on the personal data provided is aimed to fulfil the obligations or the needs inherent in the marketing and sale of its products. The personal data will be processed for the following specific purposes:

- To follow up the requests, including those received in telematic and information technology methods,
- To provide information or technical specifications of Products,
- To make selling offers or to satisfy any further need inherent in the pre-contractual stage;
- To execute the concluded contracts;
- For the fulfilment of obligations under the law, with particular reference to accounting, administrative, tax and social security;
- For the conduct of statistical activities and internal control;
- To carry out marketing activities, information, trade and direct sales promotion of products of Tenute, or those of its subsidiaries or associated companies, where it is expressed specific consent for this type of treatment.

The data will be processed and stored on paper and on electronic devices by manual processing or electronic means, or automated, telematic and information technology, with criteria closely related to the purposes of the processing, and, anyway, in order to ensure the security and confidentiality of same data.

### Provision of Data

Providing personal data is optional; however, it is necessary in order to process the specific matters relating to pre-contractual stage and eventual execution of the contract. The lack of data makes for Tenute the impossibility of replying to requests for pre-contractual stage and to conclude and implement agreements. The provision of data for the performance of treatments is entirely optional; aimed to the execution of trade promotion activities, marketing or direct sales.

### Categories of persons to whom personal data may be disclosed

The data may be disclosed, strictly related to the aforementioned purposes, also to the following categories of persons:

- Natural persons, associates or subsidiaries, including those based abroad, or companies outside of which Tenute uses, for technical and organizational reasons, for the establishment and management of contractual relations with customers;
- Those with responsibility for transport of the products or goods;
- Banks, credit or insurance companies;
- Professionals, consultants, technicians or self-employees entrusted or retained by Tenute to carry out activities related to the assigned professional work;
- Agents, distributors, or third parties otherwise involved in promoting or offering to sell the Products of the Tenute or related companies or subsidiaries;
- Public bodies, administrative authorities or social security institutions where there is a legal or regulatory obligation to do so;
- Other persons who may become aware of the data as managers or agents.

### Rights of the individual concerned

Legislative Decree 196/2003 confers the rights indicated in Section 7 and could be found below entirely:

#### "Section 7 - Rights

1. *A data subject shall have the right to obtain confirmation as to whether or not personal data concerning him exist, regardless of their being already recorded, and communication of such data in Intelligible form.*
2. *A data subject shall have the right to be informed:*
  - a) *Of the source of the personal data;*
  - b) *Of the purposes and methods of the processing;*
  - c) *Of the logic applied to the processing, if the latter is carried out with the help of electronic means;*
  - d) *Of the identification data concerning data controller, data processors and the representative designated as per Section 5(2);*
  - e) *Of the entities or categories of entity to whom or which the personal data may be communicated and who or which may get to know said data in their capacity as designated representative(s) in the State's territory, data processor(s) or person(s) in charge of the processing.*
3. *A data subject shall have the right to obtain:*
  - a) *Updating, rectification or, where interested therein, integration of the data;*
  - b) *Erasure, anonymization or blocking of data that have been processed unlawfully, including data whose retention is unnecessary for the purposes for which they have been collected or subsequently processed;*
  - c) *Certification to the effect that the operations as per letters a) and b) have been notified, as also related to their contents, to the entities to whom or which the data were communicated or disseminated, unless this requirement proves impossible or involves a manifestly disproportionate effort compared with the right that is to be protected.*
4. *A data subject shall have the right to object, in whole or in part,*
  - a) *On legitimate grounds, to the processing of personal data concerning him/ her, even though they are relevant to the purpose of the collection;*
  - b) *To the processing of personal data concerning him/ her, where it is carried out for the purpose of sending advertising materials or direct selling or else for the performance of market or commercial communication surveys.*

### Data controller

The data controller is the Tenute S.r.l., with registered office in Milan, Viale Angelo Filippetti n. 39 as the legal representatives as pro tempore, Mr Raffaello Ravanelli to whom every request will be addressed, including that of exercise of rights under Section 7 of Legislative Decree 196/2003, also by e-mail to the following address info@tenutesrl.it. Employees of Tenute S.r.l. are in charge of processing of database management in relation to their area of expertise.

## 11 - Applicable law and Jurisdiction

11.1 The present GCS and the contracts for sale of Products governed by the GCS are governed by the Italian law. Each and any ancillary and indirect dispute or even caused by the GCS and single sales contracts, related to the formation, interpretation, execution and termination of the individual sales contract and the GCS

will be subject to the exclusive jurisdiction of the Italian courts.

11.2 Except where the Customer holds the position as a consumer within the meaning of the provisions of Legislative Decree 206/2005, any dispute relating to the interpretation, execution and termination of the individual sales contract and the GCS, the competent court and for exclusive territory will be that of Milan.

11.3 For international sales, the application of the Vienna Convention of 1980 regulating the international sale of goods is excluded.

## **12 - Retention of Title**

12.1 Ownership of the Products will be transferred to the Customer only when Tenute has received the all due payments in full for Products and any other sum or payable interest on the same basis to all outstanding amounts.

12.2 The risks and responsibilities relating to the Products are placed to the Customer upon delivery.

## **13 - Final Provisions**

13.1 The acceptance of these GCS results in the exclusion of any general or special conditions of purchase of the Customer even where these are added in any form to orders sent to Tenute or in documents for the acceptance issued by Tenute.

13.2 This Agreement supersedes any previous agreement or contractual practice.

13.3 In no event shall any tolerance, acquiescence or delays indulgences by the Tenute, in reference to the application of any provision of these Terms and conditions, as well as the grant of restructuring by the Tenute, prejudice, shall affect or restrict the rights and powers conferred under these provisions, Tenute and any waivers by Tenute, with reference to the obligations flowing from the above GCS shall not imply any waiver in respect of subsequent and ongoing failures.

13.4 If any provision of these GCS or part of it appears to be or is declared invalid, ineffective, unenforceable or void, it will not affect the validity and effectiveness of the additional conditions set out in these GCS which shall remain in full force and effect.

13.5 Any notice provided according to the following GCS must be in writing and shall be deemed duly effected if delivered by hand or by courier, or sent by registered mail, fax, electronic or certified mail to the addresses

and contact information that will be mutually communicated by Tenute and the Customer.

## **14 - VAT**

14.1 All considerations indicated by Tenute are net of VAT.

Cambiago, \_\_\_\_\_

\_\_\_\_\_

The Customer

Pursuant to and for the purposes of Articles 1341 and 1342 of the Civil Code, the following provisions of the contract are specifically approved: 1 (General Provisions also with specific reference to 1.3 and 1.4); 2 (Subject and signing of the contract); 3 (Terms of sale and methods for the formulation of the contract, with specific reference to sections 3.1 and 3.2); 4 (Terms and Methods of Payment - Interest); 5 (Terms and conditions for delivery of Products, also with specific reference to the points - 5.2 penalties for delay, partial deliveries 5.6 and 5.8 Termination due to failure to withdrawal); 6 (Suspension of Execution); 7 (Defects and Non-Compliance); 8 (Warranty and Causes of Its Non-Performance); 11 (Governing Law and Jurisdiction); 12 (Retention of Title); 13. (Final Provisions).

Cambiago, \_\_\_\_\_

\_\_\_\_\_

The Customer