

# **General terms and Conditions of sale**

# General Terms and Conditions of Sale

## 1 - GENERAL PROVISION

**1.1** In addition to the terms and expressions defined elsewhere in these General Terms of Sale, the terms and expressions listed below – starting with a capital letter – shall have the meaning conventionally ascribed to them or specified in this art. 1.1:

- “Buyer”: refers to the natural or legal person from which the Seller receives the order;
- “Contract”: refers to the Buyer’s purchase order accepted by the Seller, comprehensive of the General Terms of Sale;
- “EXW”: (also known as Ex Works – Franco Fabbrica) refers to the relevant rights and obligations of Buyer and Seller provided for in the Incoterm 2020 of the International Chamber of Commerce of Paris;
- “Parties”: refers to the Buyer and the Seller jointly;
- “Products”: refers to the products of the Seller resulting from the price list and sales catalogs year by year in force;
- “Seller”: refers to Marazzi Group S.r.l. a socio unico, with registered office in Viale Regina Pacis, 39 - 41049 Sassuolo (MO), Italy.

**1.2** The terms and conditions set out below (the “General Terms of Sale”) shall form part of any and all the agreements entered into between the Seller and the Buyer for the sale of the Products, and they shall prevail over every general terms of the Buyer, unless expressly accepted upon in writing by the Seller

**1.3** The Seller shall reserve the right to modify, supplement or amend the General Terms of Sale, by indication of such variations in the offers or any other written communication to the Buyer. If the Buyer does not accept the modifications, supplements or amendments of the General Terms of Sale within 15 days from the date of communication, the previous General Terms of Sale shall apply, without prejudice to the Seller’s right to terminate the Contract entered into with the Buyer, if any, within 30 days thereafter.

## 2 - OFFERS AND ORDERS

**2.1** The offer to the Buyer made and/or the order to the Seller sent by agents, brokers or other intermediaries shall not be binding upon the Seller until the order of the Buyer is accepted by the Seller according to art. 2.2 of the General Terms of Sale.

**2.2** No order submitted by the Buyer shall be deemed to be accepted unless and until confirmed in writing by the Seller. If an order is not confirmed in writing by the Seller, the issuance by the Seller of the relevant invoice or the performance by the Seller shall be deemed to be an acceptance of the order.

## 3 - TERMS OF DELIVERY

**3.1** The delivery of the Products shall be EXW. The Seller shall deliver the Products by making them available to the Buyer according to the terms and at the place as specified in the Contract (the “Delivery”). Upon Delivery, the Seller shall only assume the obligation to load the Products on the load vehicle, any other obligation being excluded.

**3.2** The Seller shall not be liable for any loss or damage to the Products after Delivery to the Buyer; under no circumstances shall the Buyer be released from its obligation to pay the price of the Products upon the Delivery.

**3.3** Without prejudice to the remedies set forth under art. 9, if the Buyer does not fulfill the obligation to pay the price of the Products, the Seller shall be entitled to suspend the Delivery.

**3.4** All the deadlines in connection with Products’ delivery and return – although defined as mandatory – shall be considered as merely indicative, and binding on the Seller within the normal tolerance range. The Delivery terms – even though indicative – are only, and exclusively, those specified in the order confirmation of the Seller.

**3.5** In case of delay in the Delivery that exceeds the normal tolerance, the Buyer may only cancel the part of the order relating to Products not delivered within 30 days following the date of receipt by the Seller of

the cancellation notice of the Buyer to be sent through registered letter with return receipt.

**3.6** The Buyer cannot cancel its order or withdraw from the Contract in case the Delivery is delayed due to the occurrence of events of force majeure referred to under art. 6 if the delay of the Delivery does not exceed 60 days.

**3.7** In case of occurrence of events of force majeure referred to under art. 6, the Seller may terminate the Agreement by written notice to the Buyer.

**3.8** In case the Delivery does not take place for any reason related to the Buyer, upon simple communication to the Buyer that the Products are at its disposal, the Delivery is considered performed for all purposes (including to the effect of the terms of payment and the issuance of the invoice). After 15 days from the communication warehouse, expenses are applied and the Seller is relieved from any responsibility for destruction, damage or loss of value of the Products.

**3.9** In case of non-delivery of the Products at the place of destination indicated in the transport document, or in case the Products are delivered in a place other than that indicated in the transport document, the Buyer undertakes to inform the Seller within 120 hours after the scheduled date for delivery at the place of destination through registered letter with return receipt also containing the copy of the signed transport document. Following the receipt of the communication including the documentation, the Seller provides to the regularization of invoices issued charging VAT according to Italian Presidential Decree no. 600/1973. The Buyer shall indemnify the Seller for any taxes, surcharges, interest and penalties of any kind – as well as legal expenses – should any amounts be charged by tax authorities as a result of failure to provide such notification in writing or, however, the delivery of Products at the place of destination other than that indicated in the transport document. The Buyer, having acknowledged the notice that the Seller requires the carrier to sign, undertakes to communicate to the carrier any change or modification of the destination of the Products. In case the Buyer fails to comply with the aforementioned obligation, the Seller shall charge the Buyer for any taxes, surcharges, interest and penalties of any kind – as well as legal expenses – should any amounts be charged by tax authorities as a result of said failure.

**3.10** Except in cases of willful misconduct or gross negligence, the Seller shall not be liable in any way for damages arising from late Delivery or non-Delivery (total or partial) of Products.

## 4 - PRICES AND TERMS OF PAYMENT

**4.1** The prices of the Products indicated in the price list year by year are EXW; therefore, any other charges or expenses related to shipping, delivery and / or transport of the Products are the sole responsibility of the Buyer. The Seller is entitled to amend the price list at any time. The funding necessary to deal with any Buyer’s charges and expenses is anticipated by the latter to the Seller; by way of example only, such expenses and charges comprise costs of additional packaging, shipping cost, accessories, tax charges, stamp duties, customs fees, and any additional charges not including the prices. The prices of the Products may be subject to corrections due to printing errors.

**4.2** Prices of the Products are exclusive of VAT at the rate applicable by law, to be paid in accordance with the invoice.

**4.3** Should an increase in the cost of raw materials, energy, labour, fuel, production costs, transport costs, etc. occur between the date of the order and the date of delivery, the Seller would be entitled to increase the agreed price by notifying the Buyer in writing, also by e-mail. However, if such price exceeds more than 20% the price agreed upon at the time of the order, the Buyer may withdraw from the contract with a notice to the Seller by registered letter within 10 days from

receipt of the notice of the price increase. Failing this, the new price shall be deemed accepted.

**4.4** The place of payment is at the registered office of the Seller even in the case of drafts, cash orders or bills. The acceptance by the Seller of payment in the form of bills, promissory notes, endorsed bills or bank cheques shall always be «subject to collection» and without scope for novation of the debt. Payment is due in full upon Delivery of the Products, unless otherwise agreed in writing.

**4.5** In addition to other remedies provided by law and / or the Contract, the Seller shall apply default interest on late payments in accordance with the provisions of Legislative Decree, no.231 of 2002.

**4.6** If the Products are resold online, the Buyer undertakes to comply with the terms set forth in the “Special Conditions for Online Sales” made available by the Seller. In the event that the Buyer breaches any one of its obligations under the Special Conditions for Online Sales, the Seller has the right to terminate the Contract pursuant to art. 1456 of the Italian Civil Code.

**4.7** The Buyer is free to decide the prices of resale of the Products purchased from the Seller. The Seller reserves the right to notify the Buyer of the commercial terms or published prices to be applied during the launch of specific new Products and the duration of the launch promotional offer, in accordance with the relative legal framework. In the event that the Buyer breaches the terms set for the launch promotional offer, the Seller has the right to terminate the Contract pursuant to art. 1456 of the Italian Civil Code.

## 5 - TERMS OF WARRANTY

**5.1** The Seller warrants that the Products are free from defects and flaws for a period of 12 months from Delivery. The warranty operates within the limits of art. 1495 of the Italian Civil Code, subject to the additional restrictions provided for in this article and in the provincial collection of uses of 2005 foreseen by the Chamber of Commerce of Modena for the ceramics and the normal tolerances. Any indications of weights, measures, dimensions, colors, shades and other data contained in catalogs, brochures, folders, of the Seller are merely indicative and not binding. The warranty of the Seller is in any case limited to first choice Products – as indicated by the 2005 principles and rules set out by the Chamber of Commerce of Modena for ceramic products – i.e. with a percentage of defective tiles not exceeding 5%, for the part exceeding that percentage. The warranty does not operate for Products different from those of first choice. Except in cases of willful misconduct or gross negligence, the Buyer cannot claim differences in tone as vice of Products. Moreover, in view of the variability of ceramic products, the characteristics of samples sent to the Buyer by the Seller previously shall be considered guideline and not binding.

**5.2** Pursuant to the warranty obligation of the Seller, the latter undertakes to replace the defective and / or damaged product within the limits of the Contract and without any further obligation of indemnification for direct and / or indirect and / or consequential damages caused by defective Products to the Buyer and / or third parties, save for the mandatory provisions of law. The Parties acknowledge and agree that the Seller’s aggregate liability to the Buyer hereunder shall, in all cases, be limited to the amount of the price paid by the Buyer for the Products giving rise to the Supplier’s liability.

**5.3** The liability for defects and flaws no longer applies following the installation of the Products; any claims must be made before the installation through registered letter with return receipt to be addressed to the Seller, and must indicate in detail the vices and defects found. The complaint does not give the Buyer the right to suspend or delay, in whole or in part, the payment.

**5.4** It is understood that the warranty referred to in this article is excluded from the installation as well as where the flaw and / or defect of the Products is

caused by incorrect use, modification or alteration of the same Products attributable to the Buyer.

## **6 - FORCE MAJEURE**

**6.1** The Seller may suspend the execution and / or withdraw from the Contract if performance is objectively impossible or excessively burdensome because of unforeseeable events beyond its control, such as, for example, strikes, labor disputes, accidents, explosions, boycott, lockout, fire, war, civil war, riots, epidemics, requisitions, embargo, energy, flood, acts or omissions of law or government, acts of terrorism, delay or failure to supply of its suppliers, equipment or essential equipment breakdowns, and other causes similar to those listed above.

## **7 - ANTI-CORRUPTION, CODE OF ETHICS**

**7.1** The Buyer shall comply with any law, regulation, directive and applicable law of any authority, governmental entity, and any other national and international institution relating to practices and offences of corruptive nature (the "Applicable Law"), including, rules concerning illegal payments or offers or promises of money or other benefits to public officials or persons in charge of public services for the performance of their duties or powers.

**7.2** In particular, Buyer shall comply with the US Foreign Corrupt Practices Act, the Convention on Combating Bribery of Foreign Officials in International Business Transactions of 1997, and any other Applicable Law relating to bribery.

**7.3** The Buyer shall, and shall procure that its officers, directors, employees, contractors or consultants shall, not undertake, directly or indirectly, any action in the performance of any Contract and supply provided for therein, which may constitute a breach of any Applicable Laws, and, in particular, the Buyer shall, and shall procure that its officers, directors, employees, contractors or consultants shall, not: a) offer, make or authorize any contribution, payment or gift or other benefits to public officials or persons in charge of public services officials, employees or agents of any authority, governmental entity, and any other national and international institution; (b) make any contribution, of any nature, to any candidate to a public office.

**7.4** The Buyer shall comply with the provisions of Legislative Decree no. 231/2001, as subsequently amended and supplemented. For these purposes, the Buyer represents to have examined the Code of Ethics of the Seller (the "Code of Ethics"), and the Model of Organization, Management and Control pursuant to Legislative Decree no. 231/2001 (the "Model"). The Code of Ethics, the Code of Conduct and the Model may be consulted on the following web site: [www.marazzi.co.uk/download-area/](http://www.marazzi.co.uk/download-area/).

The Seller undertakes to perform the supplies under the Contract in compliance with the rules provided under the Code of Ethics, and the Model.

**7.5** The Buyer shall, and shall procure that its officers, directors, employees, contractors or consultants which will be in contact with the Seller in the performance of the supplies under the Contract shall, promptly inform the Supervisory Body of the Seller of any act, fact or action of which it became aware, and may constitute a crime included in the scope of Legislative Decree no. 231/2001, and may imply the administrative liability of the Seller.

**7.6** If during the execution of the Contract, the Buyer incurs in a conduct described in art. 2635 of the Italian Civil Code, the Seller has the right to terminate the Contract.

**7.7** In case of breach of the Buyer of its undertakings under articles 7.3 and 7.5, the Seller has the right to terminate the Contract pursuant to art. 1456 of the Italian Civil Code.

**7.8** The Buyer represents and warrants that it is not designated on, owned by or associated with, any party designated on any U.S., E.U. or other government restricted parties' lists, including without limitation, the U.S. Treasury Department Office of Foreign Assets

Control's Specially Designated Nationals and Blocked Persons List, and the Buyer agrees that it will not sell or transfer any goods to such persons. The Buyer shall comply with all applicable U.S., E.U. or other applicable economic sanctions and export control laws and regulations, including without limitation, the regulations administered by the Office of Foreign Assets Control.

**7.9** In case of breach of the Buyer of its undertakings, representations and warranties under art. 7.8, the Seller has the right to terminate the Contract pursuant to art. 1456 of the Italian Civil Code.

## **8 - PERSONAL DATA PROTECTION**

**8.1** For the purpose of executing the Contract, the Parties undertake to comply with all the obligations set out in the General Data Protection Regulation (UE) 2016/679 on "the protection of natural persons with regard to the processing of personal data and on the free movement of such data" (hereinafter "GDPR"), as well as, within the limits of its applicability, Italian Legislative Decree 196/2003 ("Privacy Code"), as most recently amended by Italian Legislative Decree 101/2018 and in the provisions of the Italian Data Protection Authority.

**8.2** By signing this Contract, the Parties, each to the extent of its respective competence, acknowledge that their own personal data and/or of their employees and/or collaborators involved in the activities referred to the Contract, will be communicated to the other Party and processed by the latter as an autonomous Data Controller for purposes strictly functional to the setting up and execution of the Contract.

**8.3** In particular, the Buyer acknowledges that the Seller will process his personal data and/or of its employees and/or collaborators, involved in the activities referred to the Contract, as autonomous Data Controller for the purposes and in accordance with the modalities specified in the information notice provided pursuant to Articles 13 and 14 of the GDPR available on the website [www.marazzi.co.uk/privacy-policy](http://www.marazzi.co.uk/privacy-policy), which the Buyer undertakes to bring to its employees' and/or collaborators' knowledge.

## **9 - TERMINATION OF THE CONTRACT**

**9.1** The Seller has the right to terminate any Contract with the Buyer, with immediate effect, in accordance with art. 1456 of the Italian Civil Code, by notice sent through registered letter in the following cases:

a) if the Buyer fails to fulfil its obligations under articles 3.9, 4 and 7 of these General Terms of Sale;

b) if the Buyer is in material breach of the Contract.

**9.2** The Seller has the right to withdraw with immediate effect by each Contract by notice sent through registered letter to the Buyer in the following cases:

a) the Buyer fails to fulfil its obligations under articles 1.3, 3.7, 6.1;

b) the Buyer is subject to enforcement, insolvency or liquidation proceedings;

c) the Buyer's economic and financial situation can be reasonably considered a situation of crisis;

d) shares and / or quotas representing the majority or the Buyer's control of share capital - in case of corporate - are directly or indirectly sold, disposed of, or restricted in guarantee.

## **10 - RETENTION OF TITLE**

**10.1** The Seller shall retain title to the Products until full payment of the agreed price has been made.

**10.2** Products subject to retention of title may not be pledged or transferred by way of security to third parties prior to full payment of the agreed price. The Buyer shall immediately inform the Seller in writing if an application for the opening of insolvency proceedings is filed or if third parties assert rights over the Products owned by the Seller.

**10.3** In the event of failure to pay the agreed price, the Seller shall be entitled to:

- terminate the contract pursuant to Article 1456 of the Italian Civil Code; and/or

- demand the return of the Products on the basis of the retention of title.

The request for return shall not automatically result in termination of the contract: the Seller may limit itself to requesting the return of the Products, reserving the right to terminate the contract. These rights may be exercised only after granting the Buyer an adequate period for payment, unless such a period is not required by law.

**10.4** Until revoked by the Seller, the Buyer is authorised to resell and/or process the Products subject to retention of title in the ordinary course of business. In such case, the following provisions shall apply:

(a) The retention of title shall extend to the products resulting from the processing, mixing or combination of the Products, for their full value. Where, in the event of processing with third-party goods, the ownership rights of such third parties remain in force, the Seller shall acquire co-ownership in proportion to the invoiced values of the goods involved.

(b) The Buyer hereby assigns to the Seller, by way of security, the receivables arising from the resale of the Products or the processed products, for the full amount or in an amount corresponding to the co-ownership share. The Seller hereby accepts such assignment. The Buyer's obligations under Clause 10.2 shall also apply to the assigned receivables.

(c) The Buyer shall remain authorised to collect the receivables, unless revoked. The Seller undertakes not to collect the receivables as long as the Buyer fulfils its payment obligations, no issues of solvency arise and the retention of title pursuant to Clause 10.3 is not exercised. Otherwise, the Seller may require the Buyer to disclose the assigned receivables and the relevant debtors; provide all information necessary for collection; hand over the relevant documentation; and notify the debtors of the assignment.

The Seller shall also be entitled to revoke the Buyer's right to resell and/or process the Products subject to retention of title.

The Buyer shall be liable for any damage to or loss of the Products after delivery, including damage or loss caused by accidental events, force majeure or other events not attributable to the Buyer.

## **11 - APPLICABLE LAW - COMPETENT JURISDICTION**

**11.1** These General Terms of Sale and each Contract entered in to by the Buyer with the Seller shall be governed by Italian law.

**11.2** Any dispute arising between the Parties concerning the interpretation, validity or enforcement of these General Terms of Sale and any Contract shall be referred to the exclusive jurisdiction of the Court of Modena.

**11.3** Only the Seller, at its discretion, has the right to waive the exclusive jurisdiction of the Court referred to in previous art.

**11.4** To take legal action against the Buyer at his residence and at the Court therein competent.

**11.5** In order to interpret the terms of return of the Products and other commercial terms used by the Parties, reference is made to the Incoterms 2020 of the Chamber of Commerce of Paris and 2005 principles and rules set out by the Chamber of Commerce of Modena for ceramic products.

## **12 VENDOR'S BRANDS, LOGOS AND IMAGES**

**12.1** The trademarks, logos, and other distinctive signs, domain names, designs and models, texts and graphics, images, and any advertising material of the Seller and/or related to its products (hereinafter, collectively and in each of its elements, the "Seller's Property") are the exclusive property of the Seller and are protected by the current regulations on industrial and intellectual property. The Buyer is therefore authorized to use the Seller's Property only in accordance with the conditions set forth in this article, excluding any further or different use. In case of violation, the Buyer will be solely responsible and

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commits to indemnify the Seller from any harmful consequences that may arise even in the face of claims or actions by third parties in this regard.

**12.2** In particular, the Seller's Property must be used:

- reproducing only what is made available or directly attributable to the Seller, excluding images, reproductions, and similar obtained elsewhere;

- exclusively for descriptive/referential purposes of the Seller's original products, as they are functionally and directly related to the sale of the products themselves by the Buyer and therefore limited to descriptive/referential material related to the sale of products purchased by the Buyer, displayed, made available or distributed at its points of sale, through direct marketing activities and/or published on its institutional website and its social network channels. It is understood that in the aforementioned descriptive/referential material, the Seller's trademarks must be reported in association with the related products, while it is permitted but not mandatory, to reproduce the link to the Seller's sites/channels and/or institutional contacts;

- faithfully reproducing the shapes, sizes, colors, and proportions, which cannot be modified in any way.

**12.3** The Buyer may not, under any circumstances, even temporarily, make the Seller's Property available to third parties, as any form of transfer/assignment, license or concession in use, as well as any use in ways or forms other than those authorized, is prohibited. It is strictly forbidden:

- to deposit and/or register identical and/or similar trademarks anywhere in the world, as well as web domain names and/or accounts/pages/groups

etc. (including personal ones) of social networks, containing signs identical and/or similar to the Seller's trademarks;

- to use the Seller's trademarks as the company name, designation, or trade name of the Buyer;

- to use the Seller's Property in the context of the Buyer's advertising/communication initiatives on third-party media (such as: press, television, cinema, radio, public billboards and websites/social network channels of third parties, or Ad-words for search engines), in public relations, and in the context of sponsorship activities or during promo-advertising events outside the points of sale, without written permission from Marazzi Group;

- in particular (but without limitation), it is strictly forbidden to use the Seller's Property reproducing it on unauthorized media and/or gadgets and merchandising items, even distributed for free;

- removing trademarks and/or other indications present therein;

- in a way that leads the public to believe that the Seller is a sponsor of (or in any way promotes) the Buyer's activity or an event (for example, sporting) or that there is a commercial relationship between Seller and Buyer other than that between manufacturer and reseller (e.g., creating a website identical or similar to that of the Seller, even through framing);

- in a way that damages the image, reputation, and commercial positioning of the Seller, its trademarks, and/or its products;

- in the context of misleading or comparative advertising, that is, in comparison with third-party products.

**12.4** The use of the Seller's Property outside the

permitted cases must be necessarily agreed in writing and in advance with the Seller. For example, any use of the Seller's Property on the Buyer's letterhead must be agreed in advance in writing with the Seller. The Seller reserves the right to request at any time, at its discretion, the cessation, with immediate effect, of any use of the Seller's Property that does not comply with this article or is otherwise unauthorized, as well as the right to take legal action to protect its rights. In any case, the Buyer's right to use the Seller's Property as provided in this article will automatically cease upon the termination, for any reason, of the Buyer's sale of the Seller's products based on these General Conditions of Sale. The Buyer is also required, during the relationship with the Seller, to promptly inform the Seller of any violation of the Seller's Property by third parties, as well as any claim or action brought by third parties in relation to the Seller's Property, of which it should become aware.

### 13 - FINAL PROVISION

**13.1** The invalidity in whole or in part of any provision of these General Terms of Sale shall not affect the validity of the remaining provisions.

**13.2** These General Terms of Sale may be amended, supplemented, varied, only in writing by the Seller.

## Special Terms and Conditions of Supply and Delivery

**1** - This price list annuls and replaces the previous copies.

**2** - Selling UM is the following:

MQ = Square Meter

PZ = Piece

ML = Linears Meter

**3** - We reserve the right to change the current prices with a notice of 30 days.

When the new price list has entered into force, all existing orders at net prices will maintain their prices for one month; existing orders at a discounted list price will maintain the old price list for one month, after which the discount will be calculated on the basis of the new price list.

**4** - The prices indicated exclude VAT.

**5** - Except as otherwise agreed upon in writing between the parties, or any order which are sent at special prices agreed on in advance for quantities less than the contents of one pallet, the contractual conditions arranged for each customer will apply.

**6** - Returned goods will not be accepted unless agreed in advance and authorised in writing by the company's sales staff.

**7** - Any product ready for shipment must be collected on the agreed date, of which the customer DDS should be informed when possible.

**8** - Cancellations of any product which has already been registered on the bill of lading (DDS) will not be accepted and a penalty of € 25,00 for any DDS's line cancelled shall be immediately charged to the Buyer if the Buyer cancels a DDS in whole or in part or fails to collect the products on stock for more than 30 days (and, in such an event, the DDS will be considered cancelled also by Marazzi Group).

All the above does not prejudice to the right of Marazzi Group to claim for any additional damages incurred by this later.


**9** - Unless the payment terms already in use in business between the parties are shorter, for invoices amounting to less than € 1,000.00 a collection order will be issued after 60 days. The amount of VAT and any

transportation costs to the destination will be charged in full at the first payment date and in any case within 60 days of the delivery.

**10** - For complete pallets packaging is free of charge.

**11** - The shipment of partial boxes is not accepted.

**12** - Boxes containing prime quality material are marked by the wording "prime quality".

**13** - Boxes containing second quality material are marked by the graphic .

**14** - Goods will be returned ex our works unless otherwise expressly agreed.

**15** - For shipments of personalised goods (e.g. for flats) a surcharge of € 2.00 per sq.mt. will be applied.