

# General Terms & Conditions of Sales

The conditions of sale and terms set forth on or near the price page of our proposals and additional conditions set forth below express the complete and entire agreement between the BUYER and the SELLER herein known as Frigel ASIA PACIFIC and herein described as the SELLER and BUYER. No prior agreements, negotiations or representations made by SELLER or any authorized representative of SELLER shall be deemed to affect, alter, modify, amend or supplement the terms and conditions herein. None of the terms and conditions contained herein may be amended, supplemented, modified, superseded or otherwise altered without the prior written consent of SELLER. This Agreement and SELLER's liability are expressly conditioned upon BUYER's agreement to the terms and conditions in this document. SELLER hereby objects to and rejects any and all additional or different terms proposed by BUYER, whether contained in BUYER's request for quotation, purchase order, purchasing or shipping release forms.

1. COMPLIANCE WITH WORKPLACE SAFETY AND HEALTH LAWS:
2. SELLER's equipment is designed for safe operation around the world. Because of varied interpretations of safety standards in different countries, states, cities and communities, SELLER cannot warrant that the machine meets all requirements of the Occupational Safety Health Laws. Where possible, SELLER will modify the equipment at purchaser's specific request at prices then in effect. BUYER is solely responsible for compliance with Occupational Safety and Health Laws and all other state and local environmental, worker health and safety requirements for both the installation and use of the equipment.
3. BUYER is responsible for completeness and accuracy of application data and for changes to Scope of Work after order placement. The equipment, system and services specified, described and priced in this proposal document are based on BUYER supplied design parameters and the capabilities and specifications of our product line. Alterations in layout details including dimensions, materials and/or specified design parameters described in this proposal may result in changes in system performance, equipment selection(s) and/or pricing (CHANGE TO SCOPE OF WORK). SELLER assumes no responsibility for equipment performance in cases where complete application details are not made available by the BUYER. If BUYER changes SCOPE OF WORK beyond the SELLER'S control or expectation or if BUYER requires larger or different equipment than originally anticipated, the SELLER will provide the same at a reasonable price.
4. ACCEPTANCE OF ORDERS / AUTHORITY TO PURCHASE / CREDIT APPROVAL FOR SHIPMENT: Confirmed shipping date(s) will be acknowledged after receipt of BUYER's written, formal purchase order(s). Orders become binding on SELLER only upon SELLER's written acceptance as evidenced by BUYER's receipt of an executed order confirmation with agreed purchase price from SELLER. CREDIT APPROVAL: All shipments and deliveries shall be subject to SELLER's approval. SELLER reserves the right, prior to delivering the Order to Shipper, to require from BUYER satisfactory security for performance of BUYER's obligations. If BUYER fails to fulfill the terms of payment in accordance with conditions herein, or BUYER's financial condition becomes unacceptable to SELLER, then SELLER may defer or decline to deliver the Order to the Shipper unless and until SELLER receives satisfactory security, or cash payment in advance; in the event SELLER does not receive satisfactory security, or cash payment in advance, SELLER may terminate this Agreement without liability to BUYER in accordance with the termination provisions provided herein. No failure by SELLER to exercise any rights accruing from any default of BUYER hereunder shall impair SELLER'S right with respect to any subsequent default by BUYER of either the same or a different kind)
5. PAYMENT PERFORMANCE: If BUYER does not make full payment when due BUYER shall pay a delinquency charge at a rate of 24% (2% per month) on any unpaid balance(s). If BUYER does not make full payment within 60 days, reasonable costs of collection, including attorney's fees and legal expenses will be added to the balance to SELLER. Should BUYER require SELLER to delay shipment, or completion of the work under this order, it is agreed that payment for the Equipment shall NOT be delayed. BUYER hereby grants to SELLER a purchase money security interest in the Equipment and any and all additions and accessions thereto, and proceeds thereof, to secure payment of the Price and performance of all BUYER'S obligations hereunder. Until default under this contract, BUYER shall have possession and use of the Equipment subject to the provisions hereof.
6. CANCELLATION: Unless otherwise agreed, BUYER may cancel all or any part of the order by written notice received by SELLER no later than 60 days before the scheduled shipping date. For orders with a less than 60 day lead-times, the BUYER will have one week to cancel the order without penalty. On receipt of such cancellation notice, all work on the order or part thereof cancelled will be stopped as promptly as is reasonably possible. BUYER will then be invoiced for and will pay to SELLER as liquidated damages a cancellation charge. For completed items, the charge will be equal to their established prices. For items not completed, the charge will be equal to 140 percent of SELLER'S full cost as determined by SELLER in accordance with SELLER's standard accounting practices plus a charge for any packing and storage, less a credit for the balance of the material as scrap. The full cost includes burden and overhead costs incurred by SELLER or by any of SELLER'S affiliates.
7. SELLER warrants that at delivery and installation the equipment will have the capacity to substantially conform to the Requirements set forth within the proposal, provided that BUYER operates the Equipment in accordance with the instructions of SELLER. SELLER also warrants against defects in materials or workmanship for a period of time specified in the proposal, and agrees to repair or replace any part found by SELLER to be defective in material or workmanship within the stated warranty period. The SELLER shall not be liable for any special or consequential damage or loss for breach of the above warranties, the SELLER's liability and the BUYER's exclusive remedy being expressly limited to repair or replacement of defective Equipment or parts thereof under the terms and conditions set out above. BUYER agrees to notify SELLER of performance, maintenance or damage issues as they become known so SELLER can determine cause and responsibility for any Warranty Issue. The above warranty shall not apply to any equipment, or components thereof, which have been subject to abnormal or improper use, negligence or accident or which have been altered or repaired by other than SELLER or SELLER'S authorized representative. No Equipment, System or portion of System shall be returned without written permission from SELLER.
8. The warranties contained above are the only warranties made by the SELLER or anyone else with respect to the equipment being sold hereunder and are in lieu of any other warranties, expressed or implied including but not limited to a warranty of merchantability or fitness for a particular purpose. No oral warranties or guarantees of any kind have been made to the BUYER. The warranties herein shall NOT be binding upon SELLER unless all payments, called for by the terms of this contract, are and continue to be paid on the dates specified.
9. STOP WORK: In the event that SELLER or an affiliate of SELLER is unable to proceed with the manufacture and shipment of BUYER'S order either due to BUYER'S request or as a direct or indirect result of any governmental action or regulation SELLER shall promptly notify BUYER and:
  - a. Stop all work on the order as promptly as reasonably possible and store all finished and unfinished items at BUYER'S risk.
  - b. SELLER shall invoice BUYER and BUYER shall pay the established costs pursuant to paragraph 2 and 3 above.
  - c. Reinstatement BUYER'S order at the earliest possible date, subject to BUYER'S acceptance of prices, terms and shipping schedule quoted preliminary to such reinstatement. SELLER shall allow BUYER appropriate credit for parts held in storage by SELLER as BUYER'S property if such parts can still be used in filling BUYER'S Reinstated order.
  - d. In the event SELLER is not permitted to reinstate BUYER'S order within 30 days of our notification of stop work, we shall scrap BUYER'S stored property and credit BUYER with the scrap value.
  - e. FORCE MAJEURE: SELLER shall not be liable for any delay in performance or non-performance which is due to war, fire, flood, acts of God, acts of third parties, acts of governmental authority or any agency or commission thereof, accident, breakdown of equipment, strikes, differences with employees or similar or dissimilar causes beyond our reasonable control, including but not limited to, those interfering with production, supply or transportation.
10. The BUYER will pay when due all taxes on the Equipment or for its use and will keep the Equipment free of any adverse lien or encumbrance and in good order and repair and will not waste or destroy the Equipment, or permit it to be attached by legal process or used in violation of any statute or encumbered, misused or abused until full payment of the price and any other amounts due hereunder have been received by SELLER.
11. The SELLER may, at its option, pay taxes, discharge encumbrances and pay for insurance, repairs and maintenance on the Equipment, and any sums so paid by the SELLER or for which it shall become obligated shall be repaid by the BUYER to the SELLER upon demand.
12. At the request of the SELLER, the BUYER will join with the SELLER in executing one or more financing statements pursuant to the Uniform Commercial Code in form satisfactory to the SELLER and BUYER hereby appoints SELLER its attorney in fact to execute such financing statements on its behalf, so that the statements will be signed by BUYER as debtor, said power being one coupled with an interest and not revocable.
13. The BUYER shall be in default if he: defaults on any payment or any other obligation hereunder; or there occurs the death, dissolution, termination of existence, insolvency or business Failure, or appointment of a receiver of any part of the property of, assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the BUYER or any guarantor or surety for the BUYER. Upon such event of default and at any time thereafter, the SELLER may declare all obligations hereunder immediately due and payable and shall have all of the rights of a secured party under the Illinois Commercial Code as it is in effect at the time of exercise of such right. The SELLER may require the BUYER to assemble the Equipment and make it available to the SELLER at a place to be designated by the SELLER, which is reasonably convenient to both parties. The SELLER may sell the property subject to the security interest created hereby at public or private sale following repossession at which sale SELLER may be a purchaser. In the event of such sale, the SELLER shall be entitled to reasonable attorneys' fees and legal expenses.
14. No waiver by the SELLER of any default shall operate as a waiver of any other default or of the same default on a future occasion.
15. All rights and obligations of each party hereunder shall inure to the benefit of and be binding upon the successors and assigns of the party.
16. BUYER is to prepare the premises and provide equipment for unloading, proper size openings to receive the Equipment, and except when stated specifically to the contrary, BUYER is also to furnish and install, where required, and in accordance with local codes the following: electrical connections, lighting, communications connections (phone or Internet), water, sewer and drain connections; steam supply and exhaust connections; concrete pads, foundations; structural support for equipment, electric wiring; control wiring, all permits, certificates of inspection and fees thereof. BUYER is to provide sufficient space at the location where the equipment is installed so that SELLER or SELLER'S agents may service such equipment if SELLER elects to do so. BUYER will allow SELLER or SELLER'S agent to document work, equipment and installation activities including taking pictures, videotaping, and otherwise documenting the SELLER'S equipment, system and activities at BUYER'S location.
17. When installation of the Equipment is specifically called for as a part of this contract, the date of "start-up" of Equipment shall be considered date of shipment for warranty purposes. Such installation work shall be performed only during the usual working hours except when stated specifically to the contrary. Start-up, as used herein, means the date on which the Equipment is first started and operated where installed.
18. If requested by SELLER, BUYER will give its written approval of the Equipment after installation or delivery, but in any event, the Equipment shall be deemed approved by BUYER unless BUYER notifies SELLER in writing, by registered mail, at SELLER'S office within ten days after delivery of the Equipment to BUYER, or if installation is specifically called for by this contract, then within ten (10) days after start-up, that the Equipment fails to meet the Requirements of this contract specifying the failings. If BUYER notifies SELLER that it does not approve of the Equipment, SELLER shall then have reasonable time to make necessary repairs and adjustments. If Equipment then fails to fill the Requirements herein specified, SELLER may, at its sole option, remove the Equipment upon refunding all moneys paid therefore and there after no liability whatever shall exist in favor of either party as against the other and this contract shall thereupon be terminated.
19. In the event that changes in the Requirements or the Equipment are made after the acceptance hereof, the terms and conditions contained herein, including the limitations of warranty and the grant of a security interest, apply to such substituted or additional Equipment.
20. APPLICABLE LAW. The transaction contemplated hereby shall be governed by and construed in accordance with the laws of Italy.

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**Frigel Firenze S.p.A.**

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R.I. di Firenze n° 00390240489 – Capitale Sociale € 239.405,00 (i.v.) – Società soggetta a direzione e coordinamento di Fiordo S.r.l.

[www.frigel.com](http://www.frigel.com)