

BISAZZA GENERAL CONDITIONS OF SALE

INTRODUCTION

These general conditions:

- apply to all offers, estimates, sales, supplies, deliveries, as well as all measures and operations relating to or resulting from them taken or carried out by Bisazza S.p.a. and/or all/any of its overseas branch offices and/or all/any of the companies, whether Italian or foreign, in the Bisazza group (hereinafter referred to as “Bisazza” or the “seller”), submitted and/or entered into with its distributors and/or dealers and/or in any event professional subjects purchasing Bisazza products, not as final customers, but as part of their sales or business activities (hereinafter referred to as the “buyer”);
- all buyers are deemed to be familiar with them and they form an integral part of the order;
- they cancel and, in any event take precedence over any other conflicting clause printed and/or hand-written on orders, requests for offers or in the buyer’s correspondence.

1) OFFER AND ACCEPTANCE

- No offer made by Bisazza shall be treated as binding.
- An order which is sent by the buyer to the seller in written form (also by fax, e-mail or other electronic means) shall become binding on Bisazza solely and exclusively when the company sends the buyer its signed order confirmation.
- The supply shall include the materials and quantities of merchandise specified in the Bisazza order confirmation, which shall constitute the only document of reference when checking prices and quantities and shall have precedence over the offer and/or customer’s order.
- No request from the buyer for either cancellation or modification will be accepted by Bisazza once a period exceeding 2 days has elapsed from the date on which the order confirmation was issued, at which time it becomes irrevocable.

2) PRICES

- The prices applying to Bisazza products are those indicated in the order confirmation.

3) PACKAGING AND DELIVERY OF MATERIAL

- Standard packaging is included in the sale price.
- The product is packed in boxes loaded on pallets. The price of packaging other than the standard version shall be quantified when the order is placed.
- Bisazza packaging is not guaranteed in any way to provide the merchandise and products with waterproof protection.

4) MINIMUM QUANTITIES FOR EACH ORDER

- (a) Mosaic. Quantities ordered shall be rounded up to the nearest full box (excluding Oro mosaic tiling). A tolerance of 5% is permitted on the quantity ordered for products which are not standard but custom-produced.
- Cementiles. For orders of a full 12-piece box with the same code, the price is by the sqm. In all other cases (orders of less than 12 pieces or quantities not in multiples of 12), the price will be determined by the individual pieces. The Borders corner price is per piece, minimum selling quantity is 4 pieces (1 box).
- Marmo, Marmosaico and Wood. The minimum quantity per order may vary, depending on the item.

5) DELIVERY CONDITIONS

- Dates for delivery are not peremptory, unless otherwise agreed in writing.
- Delays do not therefore entitle the parties to make demands for damages or termination of the contract, even partially. The delivery date shall be taken to be that on which the delivery note is issued, or that on which the customer is notified that the goods are ready for delivery.
- Should force majeure prevent the seller from performing the contract, it may, at its discretion, without seeking the intervention of judicial authorities, either suspend execution until such time that the circumstances giving rise to the force majeure have ceased, or terminate the contract either in whole or in part, without seeking the intervention of judicial authorities and without being liable for damages.
- Force majeure is taken to cover any circumstances beyond the seller’s control which permanently or temporarily prevent the execution of the contract, such as war or threat of war, uprising, partial or general mobilisation, industrial strike, lack of raw materials, interruption in supply of goods by subcontractors, unforeseen events that affect the business, transportation difficulties, import or export restrictions, frost, fire, epidemic, natural or other disaster and other unforeseen restrictions that render the manufacturing or transportation of the goods either partially or totally impossible. The provisions of this article also apply when the aforementioned circumstances relate to factories, suppliers or other traders from whom the seller purchases goods or acquires services.
- The Bisazza company shall not be held liable any longer once the goods are handed over to the carrier (against whom the buyer must direct any complaints it may have). Shipment, either by sea or road, of supplies abroad must satisfy the conditions established as each case arises, set out in Incoterms approved by the International Chamber of Commerce in 2000 and subsequent versions thereof.

5A) FAILURE OR DELAY IN COLLECTING THE MATERIAL

Should the client fail to collect the ordered material, Bisazza reserves the right to bill the client for storage fees. Storage fees are charged at the equivalent of 10.00 euros per pallet, per calendar day starting from the thirty-first day after the date indicated on the order confirmation.

6) PAYMENT CONDITIONS

- Bisazza supplies must be paid for in full adopting the methods described in the order confirmation and/or in the invoice.
- The terms contained in the order confirmation and/or in the sale invoices must be treated as peremptory and exceptions thereto shall only be permitted if a prior written agreement has been reached with the seller.
- The Bisazza company is entitled to demand, at its absolute discretion, total payment in advance when the order is made.

7) DEFAULT OR DELAYED PAYMENT

- Once the payment date has fallen due, the buyer, if in breach of settlement, shall be considered automatically in default.
- Delayed payment, even partial, of invoices issued by Bisazza shall therefore immediately give rise to liability for default interest at the official reference rate increased by seven points and shall entitle Bisazza to charge any out-of-court legal expenses it has incurred in order to recover the amount outstanding.
- In the event of a delay on the part of the buyer or in the event that the seller has reason to fear that the buyer will breach its payment obligations, the seller may, without entitling the buyer to demand damages, without prejudice to any further rights or actions:
 - demand payment in advance or a guarantee;
 - refuse to process any other orders currently underway with the buyer;
 - suspend or revoke, either in whole or in part, the execution of all supply contracts currently underway with the buyer or those connected with it, preceding or following it;
 - revoke any favourable payment terms agreed upon, extending this to other contracts, thereby being entitled to demand immediately all sums currently owed by the buyer;
 - suspend all obligations imposed upon it by any other contracts entered into with the buyer.

8) WARRANTIES AND SPECIAL CHARACTERISTICS OF MATERIAL

- Bisazza warrants that its material conforms to the physical, chemical, mechanical and dimensional standards indicated in this catalogue/order, expressly specifying that the colour tones of all the products presented in the sample collections may undergo slight variations within production tolerance limits, and in particular in relation to:
 - Mosaic: the colour of the mosaic tiles is never perfectly uniform or even. Slight chipping in some tiles is a characteristic feature of the product. It is also clearly pointed out that it cannot be guaranteed that colouring in subsequent orders will be identical.
 - Cementiles: dimensional and chromatic variation is intrinsic of this production process which involves a number of manual steps and is a distinctive feature of the product.
 - Marmo and Marmosaico: differences in hue, veining and colour tones are a characteristic of any natural stone. Before installation, we recommend to check the material so that tiling of the surface harmonizes with the product natural features.
 - Wood: wood is uneven by its nature, therefore two samples of the very same wood will not ever be identical.
- The customer declares that it is aware of and expressly accepts the characteristics of the Bisazza product described, waiving the right to contest them in any way.

9) COMPLAINTS

- Complaints mean any protests made by the buyer that refer to the quality of the goods or items supplied. When the goods are received, the buyer must check them or have them checked to ensure that they conform to contractual specifications.
- The buyer may not claim that the goods supplied do not conform to the specifications contained in the order if it has failed to check the products in the manner described or has failed to notify the seller of the defect within the terms indicated in point 9.3 below.
- The buyer must report defects in writing to the seller within and not beyond a period of 8 days from receipt of the goods, upon pain of forfeiture. In any event, the right to take action to enforce these rights shall, without prejudice to the term of 8 days, become statute-barred one year after delivery of the goods.
- Complaints must be submitted in writing, giving the data contained in the order confirmation, the pack identification numbers and the invoice and bill of lading numbers.
- If a complaint is made, the buyer must ensure that the contested goods are made available to technicians and experts sent by the seller.
- In the event that a complaint is submitted in time and proves to be founded following checks carried out by Bisazza technicians, the company shall only be liable for replacing the non-conforming goods, without entitling the buyer to demand the rescission of the contract or the reduction of the sale price and/ or damages and the reimbursement of costs incurred of any kind.

10) CONDITIONS APPLYING TO RETURN OF GOODS

- The goods supplied may not be returned, even partially, unless prior written authorisation has been given by Bisazza.
- 1a Customized/bespoke goods which have been made to order, cannot not be returned or refunded at any time.
- In order to return goods, the company Bisazza must receive a written request from the buyer within eight days from receipt of the material. Requests received beyond that period will not be taken into consideration.
- A request to return goods must reach the company Bisazza before the goods are installed, otherwise it will not be accepted.
- Goods returned due to errors on the part of the customer (colour and/or quantity) or late variations to the order will not be accepted.
- The return of goods without Bisazza’s prior authorisation using the goods return authorisation form will not be accepted. As regards goods returned from within national territory, the return authorisation will indicate the transportation company that must handle the arrival of the goods at Bisazza’s expense.
- The goods must be returned in their original packaging, completely intact, loaded on pallets if necessary, and protected from damp.
- If the returned goods reach the Bisazza warehouse in a damaged state, they will not be accepted.
- The packaging must enclose a copy of the authorisation form with the final date for the goods to be returned clearly marked, as well as the buyer’s transportation document which indicates, clearly and legibly, the quantity and description of the goods returned.
- Bisazza reserves the right to charge any costs whenever, after the materials have been checked at its factory premises, the request for their return proves to be unfounded.

11) LIABILITY STEMMING FROM SUPPLIES

- The seller shall never be held liable for consequential damages, including loss of profits, actual damage, loss of income and down time.
- The limitations to liability described above do not apply in the event of fraud or serious fault on the part of the seller.
- The buyer holds the seller harmless against any claims that may be put forward by third parties, including the seller’s or buyer’s employees, relating to the goods supplied.

12) RESPONSIBILITIES CONCERNING THE LAYING OF MATERIALS

- Bisazza. does not in any way supply the service of laying the mosaic along with the supply of the material.
- Bisazza therefore declines all responsibility for defects and/or flaws that may be attributed to laying operations. The company does not therefore accept complaints or demands for compensation of damage stemming from defects and/or difficulties caused during laying operations that prejudice the use of the material supplied, if the physical, chemical, mechanical and dimensional characteristics of the said material conform to the standards established when it was ordered and supplied.

13) PATENTS, TRADEMARKS, DISTINCTIVE SIGNS, SOFTWARE

- The buyer expressly recognises that the BISAZZA name and logo, its graphic composition and know how relating to the products supplied constitute intellectual and industrial property owned by BISAZZA S.P.A. and/or companies in the group protected by laws relating to copyright and industrial property. Any improper use thereof shall be sanctioned in accordance with the law.
- The buyer may not, under any circumstances, use, cancel or remove any indication relating to patents, trademarks, business names or origin affixed by Bisazza to the products supplied without its prior written authorisation.

14) APPLICABLE LAW - JURISDICTION AND COMPETENT AUTHORITIES

- Any dispute stemming from these General Conditions and/or orders placed on the basis thereof shall be regulated, in so far as not covered by these conditions of sale, exclusively by the laws of the country in which the Bisazza company signing the order confirmation is domiciled.
- All disputes shall be referred to the exclusive jurisdiction of the ordinary courts of the state to which the Bisazza company signing the order confirmation belongs.
- As an exception to any legal or customary criterion, exclusive jurisdiction is also given to the courts of the city in which the Bisazza company signing the order confirmation has its registered office.