

ROFA France

General Conditions of Sale and Supply applicable to the company ROFA France.

1. General

These general conditions of sale and supply codify the commercial practices of the company ROFA France whose administrative and registered office is located at 7 Z.A. Béton Ouest – 25160 Oye et Pallet - France. They comply with the rules of contract law and competition law. They supplement the common will of the parties for all points where this has not been clearly expressed. They constitute the legal basis of the contracts, unless otherwise specified. These general terms and conditions apply to the contractual relationship between ROFA France, hereinafter referred to as "the Manufacturer", and the client company, hereinafter referred to as "the Client". They are governed by sales law when they apply to the supply of standard products or whose characteristics are determined in advance by the Manufacturer. They are governed by the law of the business contract and, where applicable, by the law of the subcontracting contract, when they apply to the manufacture of a product on the basis of specifications or to a service. Any derogation from these general conditions must be expressly accepted in writing by the Manufacturer. "Writing" means, within the meaning of these general conditions, any document drawn up on paper, electronically or by fax. These general conditions apply to any contract, any order, as well as to orders placed within the framework of an "open order".

2 - Scope of the contract

Are an integral part of the contract:

- these general conditions / the special conditions accepted by both parties / the order accepted by any means, in particular by acknowledgment of receipt or order confirmation / the Manufacturer's documents supplementing these general conditions / the studies, estimates and technical documents communicated before the formation of the main contract and accepted by the parties / the delivery note / the invoice.

Are not part of the contract: documents, advertisements, prices not expressly mentioned in the special conditions, the conditions of assembly and installation at the "customer" forming part of separate contracts.

3 - Method of placing orders

- The order must be established in writing or computerized.

- The contract is perfect only subject to express acceptance of the order by the Manufacturer.

- The acceptance of the order is made by any written or computerized means.

- Any order expressly accepted by the Manufacturer, whether closed or open, shall be deemed to entail acceptance by the Customer of the Manufacturer's offer.

- The closed order specifies in a firm manner the quantities, prices and deadlines.

- Any modification of the contract requested by the Customer is subject to the express acceptance of the Manufacturer.

3.1 - Order cancellation

The order expresses the Customer's consent irrevocably; he cannot therefore cancel it, unless expressly agreed in advance by the Manufacturer. In this case, the Customer shall indemnify the Manufacturer for all costs incurred (in particular specific equipment, study costs, labor and supply costs, tools) and for all direct and indirect consequences resulting therefrom. In addition, the deposit already paid will remain with the Manufacturer.

4 - Characteristics and status of the products ordered

4.1 - Destination of the products

The Customer is responsible for the implementation of the product under foreseeable normal conditions of use and in accordance with the safety and environmental legislation in force in the place of use as well as with the rules of the art of his profession.

In particular, it is the responsibility of the Customer to choose a product corresponding to his technical needs and, if necessary, to check with the Manufacturer that the product is suitable for the intended application.

4.2 - Transmission of information relating to the product

The Customer undertakes to transmit the information useful for the implementation of the product to the possible sub-purchaser. The Manufacturer ensures the traceability of the product until the day of delivery to the Customer, in accordance with article 7.2 of these general conditions.

4.3- Use of the COFRAC mark on certified reference products.

The customer undertakes not to use the COFRAC accreditation mark except for the full reproduction of the certificates issued by the manufacturer. The manufacturer reserves the right to carry out checks with these customers. Any misuse or abusive use of the reference to the accreditation observed by the manufacturer or brought to its attention will lead to the suspension of all commercial relations.

5 - Intellectual property and confidentiality

5.1 - Intellectual property and know-how of documents and products

All intellectual property rights, as well as the know-how incorporated in the documents transmitted, the products delivered and the services performed remain the exclusive property of the Manufacturer.

Any transfer of intellectual property rights or know-how must be the subject of a contract with the Manufacturer.

The Manufacturer reserves the right to dispose of its know-how and the results of its own research and development work.

5.2 - Confidentiality clause

The parties reciprocally undertake a general obligation of confidentiality relating to all oral or written information, whatever it is and whatever the medium (discussion reports, plans, exchanges of computerized data, activities, installations, projects, know-how, products etc.) exchanged within the framework of the preparation and execution of the contract except for information which is generally known to the public or that which will become so other than by the fault or the act of the Customer or unless the manufacturer is obliged to do so by law or by contractual provisions.

Consequently, the parties undertake to:

- keep all confidential information strictly secret, and in particular never to disclose or communicate, in any way whatsoever, directly or indirectly, all or part of the confidential information, to anyone, without the prior written authorization of the other part;

- Not to use all or part of the confidential information for purposes or for an activity other than the performance of the contract;

- Not to copy or imitate all or part of the confidential information.

The Customer undertakes to take all necessary measures to ensure compliance with this obligation of confidentiality, throughout the duration of the contract and even after its expiry, and guarantees compliance with this obligation by all of its employees.

This obligation is an obligation of result.

5.3 - Warranty clause in the event of counterfeiting

The Customer guarantees that at the time of the conclusion of the contract the content of the plans and the specifications and their conditions of implementation do not use the intellectual property rights or know-how held by a third party. He guarantees to be able to dispose of it freely without contravening a contractual or legal obligation.

The Customer guarantees the Manufacturer against the direct or indirect consequences of any action for civil or criminal liability resulting in particular from an action for infringement or unfair competition.

6. Delivery, transport, verification and receipt of products

6.1 - Delivery times

Delivery times run from the later of the following dates:

- Date of the acknowledgment of receipt of the order

- Date of receipt of all materials, materials, equipment, tools, specific packaging, and execution details owed by the Customer.

- Date of performance of prior contractual or legal obligations owed by the Customer

The agreed deadline is an important element which must be specified in the contract as well as its nature (delivery period, presentation period for acceptance, delivery period, legal acceptance period, etc.). However, the stipulated deadlines are only indicative and non-binding, and they may be called into question in the event of the occurrence of circumstances beyond the Manufacturer's control.

6.2 - Terms of delivery

Unless otherwise stated, Condition Incoterm: EXWORKS. The risks are therefore transferred to the Customer upon delivery without prejudice to the Manufacturer's right to invoke the benefit of the retention of title clause or to make use of its right of retention.

The delivery is made

- By notice of availability / or, by delivery by a carrier designated by the Manufacturer / or, if the contract provides for it, by delivery to a carrier designated by the Customer.

If the Customer has undertaken the transport and assumes the cost thereof, the Customer shall bear all the financial consequences of a direct action by the carrier against the Manufacturer.

6.3 - Transport - customs - insurance

Unless otherwise agreed, all transport, insurance, customs, handling and bringing to work operations are at the expense and expense, risk and peril of the Customer, who is responsible for verifying shipments on arrival and to exercise, if necessary, its recourse against the carriers, even if the shipment was made free.

In the event of shipment by the Manufacturer, shipment is made postage due, at the lowest rates, unless expressly requested by the Customer, in which case the additional transport costs are passed on to the Customer.

6.4 - Verification of products

The Customer must, at his own expense and under his responsibility, verify or have verified the conformity of the products with the terms of the order.

6.5 - Receipt of devices or parts

The Customer is required to carry out the legal acceptance of the products by which he acknowledges their conformity with the contract. Acceptance constitutes recognition of the absence of apparent defects.

a) The customer therefore decides on the technical specifications which sets the specifications called upon to define, in all their aspects, as well as the nature and methods of the inspections, checks and tests imposed for their acceptance.

b) In the absence of specifications concerning the checks and tests to be carried out on the devices or parts, the manufacturer only carries out a simple visual and dimensional check on the main dimensions.

ROFA France

7. - Cases of un-foreseeability and force majeure

7.1 - Hardship clause

In the event of the occurrence of an event beyond the control of the parties that compromises the balance of the contract to the point of prejudicing the performance of the Manufacturer's obligations, the parties agree to negotiate in good faith the modification of the contract. The following events are particularly targeted: variation in the price of raw materials, modification of customs duties, modification of exchange rates, changes in legislation, modification of the financial situation of the customer. In the absence of agreement between the parties, the Manufacturer shall have the option of terminating the contract subject to one month's notice

7.2 - Force majeure

None of the parties to this contract may be held liable for its delay or failure to perform one of its obligations under the contract if this delay or failure is the direct or indirect effect of a case of force majeure understood in a broader sense than French case law such as:

- occurrence of a natural disaster / earthquake, storm, fire, flood, etc. / armed conflict, war, conflict, attacks / labor dispute, total or partial strike at the "Manufacturer" or the Customer / labor dispute, total or partial strike at Manufacturers, service providers, suppliers, carriers, posts, public services, etc.
- Imperative injunction from public authorities (import ban, embargo) / operating accidents, machinery breakdown, explosion / shortage of natural resources, shortage of raw materials.

Each party will inform the other party, without delay, of the occurrence of a case of force majeure of which it becomes aware and which, in its view, is likely to affect the performance of the contract.

If the duration of the impediment exceeds 10 working days, the parties must consult each other within 5 working days following the expiry of the 10 working day period to examine in good faith whether the contract should continue or end.

8. - Establishment of the price

8.1. - Payment

8.2 - Payment deadlines

In accordance with article L441-6 of the French Commercial Code order n°2012-387 of March 22, 2012 – art 121 (V) the period agreed between the parties to settle the sums due may not exceed forty-five days end of month or sixty days from the date of issue of the invoice.

Any clause or request tending to set or obtain a payment period greater than this maximum period which represents the professional uses of the mechanical industries, and except for objective reason, motivated by the Customer, may be considered abusive within the meaning of Article L 442-6-1 7 of the Commercial Code as it results from the law on the modernization of the economy n°2008-776 of August 4, 2008, last update August 26, 2021. NOR: ECEX0808477Let is liable in particular to a civil fine of up to 750,000 euros.

8.3 - Late payment – recovery indemnity

In accordance with article L441-6 al 12 of the French Commercial Code, last update August 26, 2021. NOR: ECEX0808477Let any late payment will give rise to the application of late payment interest equal to the most recent refinancing rate of the European Central Bank increased by ten points.

Any delay in payment of a due date entails, if the Manufacturer sees fit, the forfeiture of the contractual term, with all sums due becoming immediately payable.

The fact that the Manufacturer avails itself of one or other of these provisions does not deprive it of the ability to implement the retention of title clause in Article 11.6.

In the event of late payment, the Manufacturer may stop deliveries, production and supplies of raw materials, and interrupt any service, as long as the Customer does not settle the late payments. The Customer being himself solely responsible for this situation, any damage resulting from this situation will be the full responsibility of the Customer, thus no action for damages may be brought against the Manufacturer.

In the event of recovery, a fixed compensation of 40 euros for recovery costs may be collected on each invoice in application of articles L441-3 and L441-6 of the Commercial Code.

8.4 - Change in the client's situation

In the event of a deterioration in the Client's situation noted by a financial institution or evidenced by a significant delay in payment or a delay in the return of drafts or when the financial situation differs significantly from the data made available, delivery will only take place in return for immediate payment.

In the event of late payment, the Manufacturer has a right of retention on the manufactured products and related supplies.

In the event of sale, assignment, pledge or contribution to a company of its business, or a significant part of its assets or equipment by the Customer, the Manufacturer reserves the right and without notice:

- To pronounce the forfeiture of the term and consequently the immediate payment of the sums in
- To note on the one hand, the resolution of all the contracts in progress and on the other hand to practice the retention of the payments received, tools and parts held, until fixing of the possible compensation.

8.5 - Settlement of payments

The Customer is prohibited from any illegal practice of debiting or having automatically, to invoice the Manufacturer for any sum which has not been expressly recognized by the latter as part of its liability.

Any automatic debit will constitute an unpaid amount and will give rise to the application of the provisions of article 11.2 in terms of late payment.

However, the parties reserve the right to resort to legal or contractual compensation of debts.

8.7 - Retention of title

The Manufacturer retains full ownership of the goods covered by the contract until effective payment of the full price in principal and incidentals. Failure to pay any of the installments may result in the claim of these goods.

However, from the time of delivery, the Customer assumes responsibility for any damage that these goods may suffer or cause.

9 - Liability and warranty

9.2 - Limits and exclusion of the Manufacturer's liability

The Manufacturer's liability shall be limited to direct material damage caused to the Customer resulting from faults attributable to the Manufacturer in the performance of the contract. The Manufacturer is not required to repair the harmful consequences of faults committed by the Customer or third parties in connection with the performance of the contract.

The Manufacturer is not liable for damage resulting from the use by the Customer of technical documents, information or data emanating from the Customer or imposed by the latter. Under no circumstances will the Manufacturer be required to compensate immaterial or indirect damages such as: operating losses, profit losses, loss of opportunity, commercial loss, and loss of earnings.

The Manufacturer's liability is excluded:

- for defects arising from materials supplied by the Customer / for defects arising from components supplied by a supplier imposed by the Customer / for defects arising from a design carried out by the Customer / for defects resulting in whole or in part from normal wear and tear of the part, damage or accidents attributable to the Customer or a third party / in the event of modification, abnormal or atypical use or not in accordance with the destination of the product, the rules of the art or the recommendations or Manufacturer's recommendations

In the event that the penalties and indemnities provided for have been agreed upon by mutual agreement, they have the value of fixed compensation, liberating and are exclusive of any other sanction or compensation.

The Manufacturer's civil liability, all causes combined with the exception of bodily injury and gross negligence, is limited to a sum capped at the amount of the supply collected on the day of the service.

The Customer guarantees the waiver of recourse by its insurers or third parties in a contractual relationship with it, against the Manufacturer or its insurers beyond the limits and exclusions set out above.

10 - Termination

In the event of a serious breach by one of the parties of only one of its contractual obligations, the termination of the contract will be automatically incurred, 30 days after a formal notice has remained without effect.

11-Treatment of customer complaints

In the event of a customer complaint, the manufacturer makes available, at the request of said customer, the procedure PO_PMA_02 Procedure for handling non-conformities and malfunctions.

12 - Amicable settlement of disputes

The parties undertake to attempt to settle their disputes amicably before seizing the competent court.

In the event of a dispute of a technical nature relating to the products or work of the Manufacturer, and in the absence of an amicable agreement between the parties, in the presence or without the presence of their respective insurers, the parties agree to implement a procedure Codified amicable expertise allowing to obtain the opinion of an expert in accordance with the regulations of the National Commission of qualified engineers experts at the judicial and administrative courts of appeal (Cnideca).

13 - Jurisdiction

In the absence of an amicable agreement, it is expressly agreed that any dispute relating to the contract will be the exclusive jurisdiction of the court in whose jurisdiction the Manufacturer's domicile is located, even in the event of an appeal and multiple defendants.

In the event of international sales, and unless expressly agreed otherwise, the applicable law is French law.

14 - Language

These general terms and conditions of sale and supply are written in French, and an English translation may be made available for information.

In case of dispute, only the original version written in French is authentic.