

# GENERAL SALES CONDITIONS

## 1. DEFINITIONS

- 1.1. "CENA" here after refers to VIRGILIO CENA & FIGLI S.p.a. located at Via Oberdan, 39, 25128 - Brescia – Italy.
- 1.2. "Purchaser" here after refers to the company indicated on the Purchase Order as Purchaser of the Products.
- 1.3. "Products" here after refers to the products indicated on the Purchase Order.
- 1.4. "INCOTERMS 2000" here after refers to the official rules of the interpretation of commercial terms of the Chamber of International Commerce, published in 2000.
- 1.5. "Parties" here after refers to both CENA and the Purchaser.
- 1.6. "Purchase Order" here after refers to the document which contains the objective elements of a possible sale of the Products between the Purchaser and CENA, which becomes a sales contract following the explicit or tacit acceptance by the Order Confirmation (as outlined here under).
- 1.7. "Order Confirmation" here after refers to the form sent by CENA to the Purchaser, referring to the present General Sales Conditions and which, if not refused within 2 working days of reception (proof of e-mail or fax sent by CENA), render the Purchasing Order binding between the Parties as a sales contract and subject to the present General Sales Conditions.
- 1.8. "Services" here after refers to the services to be rendered according to the Purchase Order.
- 1.9. "General Sales Conditions" here after refers to the present General Sales Conditions.

## 2. SOLE AGREEMENT

- 2.1. The present General Sales Conditions constitute the only sales conditions and the sole agreement between the Parties regarding the sale of the Products and substitutes any and all other related preceding agreements. The reception of the Order Confirmation by the Purchaser without any written objection within 2 working days following its reception results in the acceptance of the present General Sales Conditions on behalf of the Purchaser. No other declaration will be considered to have been made outside of those indicated in these General Sales Conditions.
- 2.2. Any issues conflicting with the present General Sales Conditions, indicated in any written document (including correspondence between the Purchaser and CENA), are null and only the present General Sales Conditions will be applied unless otherwise officially communicated by CENA and signed by the legal representatives of both Parties.
- 2.3. Should any individual aspect of these General Sales Conditions be void, wholly or partially, the remainder will continue to be valid and fully effective.

## 3. APPLICABILITY

- 3.1. The present General Sales Conditions apply to any and all Purchase Orders stipulated with CENA from the date of their acceptance, unless otherwise officially indicated in writing by CENA.

## 4. DELIVERY

- 4.1. CENA will deliver the Products in conformity to the INCOTERMS 2000, agreed upon by the Parties and indicated in the Purchase Order. CENA will respect the delivery terms agreed upon in the Order Confirmation. In case the delivery of the Products were to become impossible respecting the agreed upon terms for substantial production problems, the Parties will do their utmost to agree on new delivery terms keeping the above mentioned problems in consideration.
- 4.2. The delivery times and dates of delivery are only approximate. CENA shall endeavour to respect these. At any rate, CENA shall be entitled, even if binding dates of delivery have been agreed upon, to extend the delivery time sufficiently without being obligated to pay any compensation or penalty, if unforeseen circumstances, acts of God, interruption of work and particularly strikes or delay in the arrival of necessary material should occur. If in such a case it were found that by such interruptions it is impossible for CENA to fulfil the contract, CENA shall be entitled to withdraw from the contract without being liable to pay any damages whatsoever.
- 4.3. Should for any reasons whatsoever, especially if it is impossible for CENA to fulfil the contract, the latter be cancelled, the assertion of claims for damages in respect of compensation for any indirect or direct loss will be excluded.
- 4.4. It will be to CENA's discretion to effect partial shipment if it should be necessary. Each partial shipment can be invoiced separately.
- 4.5. When the Purchaser is notified of the Products being ready for despatch, the Purchaser must retrieve the Products immediately. Should the Purchaser fail to do so or should there be no possibility of shipping the Products, CENA shall be entitled to store the Products at CENA's discretion and at the Purchaser's risk and expense and to charge the Products as delivered ex works thereby entitling CENA to invoice the Products. The Purchaser cannot refuse any shipment or any partial shipment.

## 5. RESERVATION OF THE TRANSFER OF PROPERTY

- 5.1. The propriety of the Products will pass to the Purchaser only upon complete payment of the relative Invoice on behalf of the Purchaser, according to Article 7 of the present General Sales Conditions. CENA will remain proprietor of the Products sold and eventually delivered until the complete payment on behalf of the Purchaser. Therefore, all CENA sales are always stipulated with the above stated reserve of propriety of the Products. The Purchaser, on the other hand, assumes all risks and responsibilities relative to the Products as indicated in the Purchase Order as well as in the INCOTERMS 2000 and, therefore, must be insured against these risks and responsibilities.
- 5.2. The presentation of a letter of credit or other commercial documentation does not constitute complete payment.
- 5.3. Until the property of the Products passes to the Purchaser, the Purchaser will hold the Products as trustee holder of CENA, but will have the faculty of using the Products for his normal commercial activities.
- 5.4. The Purchaser will have to stock the Products sold by CENA until their complete payment, in a way that they remain clearly identified as property of CENA, and cannot remove, hide or modify stickers or marks present of the Products which permit the identification of the Products as being property of CENA. Furthermore, the Purchaser will allow CENA to access its stores with the scope of inspecting the Products.
- 5.5. If the Products not yet completely paid for are non identifiable and are stocked with other Products of the same type supplied by CENA, it will be assumed that those Products are the unpaid Products and object of reservation of property of CENA.
- 5.6. In the case of non payment, and without any prejudice for the interests of these General Sales Conditions, CENA can request the restitution of the Products at the Purchaser's risk and cost.
- 5.7. In case the Purchaser were not to return the Products immediately, the Purchaser can be obligated to do so coercively resorting

to judicial intervention, which authorizes CENA to take possession back of the Products, for which CENA continues to reserve the property, at the Purchaser's address or elsewhere, all at the Purchaser's expense. It is the Purchaser's obligation to assure that this clause be imposed and applied to respect the spirit of this clause in case the Products were in a country that does not apply this specific clause.

- 5.8. CENA reserves the copyright to any and all documentation created by CENA. All details or documentation pertaining to CENA offers or Order Confirmations will remain property of CENA. No extract or information supplied by CENA may be copied, communicated, sent or made available to third parties.

## 6. RISKS

- 6.1. The Purchaser is responsible for all risk of loss or damage to the Products from the delivery of the Products in conformity to Article 4 of the present General Sales Conditions until the complete payment of the Products as per Article 7 of the present General Sales Conditions.

## 7. PAYMENTS

- 7.1. Unless otherwise agreed upon, CENA will produce an invoice for the Purchaser at the moment of dispatch of the Products in conformity to the present General Sales Conditions and the Purchaser will effect the payment according to the terms indicated in the invoice.
- 7.2. Unless otherwise clearly indicated, all payments are to be considered in advance.
- 7.3. Unless otherwise clearly indicated, all payments are to be made by bank transfer.
- 7.4. In any moment, CENA has the faculty to request guarantee of payment to the Purchaser, if CENA feels it to be necessary.
- 7.5. All sums overdue are subject, at CENA's faculty to renounce, to interests to be calculated daily on a yearly rate of 700 base points (7.00%) plus the ECB rate, as of the overdue date which will be due without the request by CENA. Upon overdue payments, CENA will have the faculty to resolve all or part of the Purchase Orders with the Purchaser and/or completely or partially suspend deliveries to the Purchaser of the Products based on Purchase Orders. The Purchaser will have 5 working days to respond to a communication of this faculty as of the date of reception of this written position made by CENA.
- 7.6. In any case, any claim or legal action undertaken by the Purchaser for any reason will not entitle the Purchaser to any retention or compensation right of any nature whatsoever.
- 7.7. Unless otherwise clearly indicated, all prices indicated by CENA are in EURO and are considered ex works Brescia, Italy without packaging included, VAT excluded and without any tests or special supply characteristics.

## 8. WARRANTEE

- 8.1. CENA warrants, for a period of 12 months from the delivery date, that the Products supplied or produced by CENA are conform. CENA also warrants that the Products are conform to the specifications outlined in the Purchase Order. CENA does not warrantee that the Products are appropriate for the use and scopes specified in any way.
- 8.2. The Purchaser must inform CENA within 5 days of the discovery of an occult defect, or 5 days from the date in which a diligent purchaser should have known the occult defect and within 15 days of the delivery of the Products in the case of an obvious defect. The lack of a written communication from the Purchaser to CENA within these lead times relieves CENA from any responsibility of any nature.
- 8.3. CENA's responsibility following this warrantee will only be limited to the substitution or reimbursement of the purchasing price of the defective Product.
- 8.4. Any legal action of any nature is to be taken within 12 months from the date of delivery of the Products by the Purchaser.
- 8.5. CENA only responds for the Products and not for any other supplies or Services from other companies.
- 8.6. CENA's warrantee obligations are not applicable to any Products or parts of these which (i) are normally consumed during the use, (ii) have a normal life time inferior to the above stated warrantee, (iii) were not correctly stocked, installed, used, maintained or repaired or differently modified from the instructions indicated by CENA or without having obtained CENA's approval, (iv) have undergone any kind of non correct use or dangerous exposure, or were part of a dangerous event of which CENA cannot absolutely be responsible for.

## 9. RESOLUTIONS

- 9.1. In case the Purchaser were in financial difficulties, becomes insolvent, or declares bankruptcy, CENA will have the faculty to resolve all Purchase Orders immediately with the Purchaser.

## 10. LIMITATION AND EXCLUSION OF RESPONSIBILITY

- 10.1. CENA's responsibility for any damage, cost, expense or loss of any nature whatsoever, resulting from the execution or non execution of a Purchase Order will be limited to the compensation for direct or indirect damages, costs, expenses and losses for the total amount no greater than twenty-five per-cent (25%) of the value of the Purchase Order and nevertheless no greater than one hundred thousand EURO (100.000 euro).
- 10.2. None of the Parties will be responsible to the other for loss of profitability, of turnover, of sales, or for any indirect damage (for example loss of production, cost of productive structure, labour costs, general administration and management expenses).
- 10.3. Any right non expressly indicated in these General Sales Conditions will not be taken into consideration and is to be considered non applicable.

## 11. RESPONSIBILITY OF RESPECT OF THE LAW RELATIVE TO THE USE OF THE PRODUCTS

- 11.1. The Purchaser will have to respect the laws and regulations relative to the use of the Products.

## 12. APPLICABLE LAWS

- 12.1. The Purchase Order is regulated in any and every aspect by the Italian law.
- 12.2. Any controversy rising from the Purchase Order and/or these General Sales Conditions, including its validity, interpretation, execution and resolution will be dealt with in legal forum of Brescia Italy.