

GENERAL TERMS OF SALE

1. TERMS AND DEFINITIONS

In these General Terms of Sale the following terms have the meaning hereinafter specified:

- GTS: the General Terms of Sale;
- TMRCF or the Seller: TMR Cederna Srl;
- Buyer: the client of TMRCF which has accepted the Sale Agreement via the issued Order Confirmation
- Sales Agreement: the agreements made between TMRCF and the buyer, regulated by these GTS;
- Parties: TMRCF and the Buyer;
- Incoterms: set of internationally recognized rules which define the responsibilities of sellers and buyer specifying who is responsible for paying for and managing the shipment, insurance, documentation, customs clearance, and other logistical activities;
- Order: the order and/or orders sent to TMRCF by the Buyer, directly or through agents, distributors, representatives and or sales assistants/executives of TMRCF;
- Confirmation of Order: the notice sent by TMRCF to the Buyer containing the acceptance of such Order;
- Agents: agents, distributors, representatives and sales assistants operating on behalf of TMRCF;
- Goods: the object of the Sale Agreement;
- Defects: the defects of Goods such as lack of quality or defects of any kind;
- Contract Price: the price of Goods as specified in the Confirmation of Order.

2. OBJECT OF THE GENERAL TERMS OF SALE

2.1 These GTS regulate the Sale Agreements made between TMRCF and the Buyer, whose Confirmations of Order and/or invoices refer and/or direct to the GTS.

2.2 The sales terms [ex works, delivered duty paid, etc.] used in the Sale Agreements and in these GTS have the meaning provided for by Incoterms.

3. EFFECTIVENESS OF THE GENERAL TERMS OF SALE AND DEPARTURES

3.1 These GTS are effective and binding between the Parties and are automatically accepted by the Buyer in their entirety without reserve upon issuing of the Order Confirmation.

3.2 Any departure from these GTS should result from written agreements signed by both Parties under penalty of cancellation.

4. EXECUTION OF SALE AGREEMENT

4.1 Orders received by TMRCF are contractual proposals which bind the Seller only after formally written acceptance of the same Order by issuance of an Order Confirmation.

4.2 The Sale Agreement is executed when the Buyer receives the Order Confirmation sent by the Seller.

5. WORKING INSTRUCTIONS AFTER THE ORDER PRESENTATION

5.1 If the Buyer has reserved the right to give any working instruction or specification for the Goods (i.e. colour, variations, raw fabric etc...) after the Order presentation, such instructions or specifications must be sent by the Buyer - by fax, e-mail or registered letter - and received by TMRCF at least 4 (four) weeks before the collection/delivery date of the Goods as specified in the Order Confirmation and no later than any other term agreed by the Parties in writing.

6. DELIVERY AND PACKAGING

- 6.1 Unless otherwise agreed in writing, the Sale Agreement is intended Incoterm - Ex Works our Cimbro di Vergiate warehouse.
- 6.2 The collection of Goods by the Buyer shall take place at the date specified in the Order Confirmation or at any other date agreed by the Parties in writing.
- 6.3 If the Buyer collects or accepts the delivery of Goods which do not comply with the Order by type or quantity without raising objections or expressing reservations, Goods collected or delivered will be deemed as accepted. However, any objection or reserve will be of no effect, if they are not raised or expressed by the Buyer in writing no later than 8 (eight) days after collection or delivery of Goods.
- 6.4 The Seller can extend - up to a maximum of 30 (thirty) days - the collection/delivery date of Goods as shown in the Order Confirmation, provided that he sends written notice to the Buyer at least 15 (fifteen) days before the date specified for collection/delivery of Goods in the Order Confirmation.
- 6.5 Whether any Force Majeur factor precludes the execution of the Sale Agreement by the Seller, the Seller can postpone - up to a maximum of 60 (sixty) days or, particularly serious cases, up to 120 (one hundred and twenty) days – the collection/delivery date of Goods as specified in the Order, provided that the Seller gives prompt written notice to the Buyer.
- 6.6 Goods will be collected/delivered packaged only when expressly agreed by the Parties in writing. Contract Value does not include the packaging of Goods which, where agreed in the above-mentioned terms, will be invoiced to the Buyer at the industrial cost at the time of invoicing of Goods.

7. PAYMENT TERMS AND CONDITIONS

- 7.1 The payment of the Contract Value shall occur within the terms specified in the Order Confirmation, at the offices of the Seller or on the bank current account indicated by the same.
- 7.2 If the Buyer delays payment of the Contract Value with respect to the terms specified in the Order Confirmation, the Seller - subject to the provisions of article 14) herein - will be entitled to suspend the execution of the Sale Agreement and he will automatically acquire the right to obtain the payment of interest on arrears, to the extent provided for by the Italian Law Decreto n. 231/2002. In that case, the Seller will have the right to request the obligation and the Buyer to fulfil the whole Sum to the Seller.
- 7.3 Unless otherwise stated, the Contract Value is always deemed per linear meter of fabric. Any taxes or charges relating the sale of Goods are charged to the Buyer.
- 7.4 The Buyer authorizes the Seller to issue payment documents to cover the entire Contract Value. If such payment documents are not duly accepted within 30 (thirty) days, the Seller - subject to the provisions of article 14) herein - will be entitled to suspend the execution of the Sale Agreement, to accelerate the Buyer's obligation and issue payment documents at sight for the whole amount of the Contract Value still due.
- 7.5 Any payments made by the Buyer to Agents will be deemed as made only and exclusively when the Seller collects the relevant outstanding amounts.

8. DIFFERENCES IN QUALITY AND QUANTITY OF GOODS

- 8.1 Each and any feature and quality (weight, size, price, performance, colour, etc.) of the Goods specified and/or indicated in catalogues, schedules, circulars, advertisements, price lists or any other illustrative document to be referred to the Seller, as well as features and quality of Goods samples which the Seller has delivered to the Buyer, are provisional and rough information. Specifically, such features and qualities have no binding or compulsory value for the Seller, but to the extent that they are expressly requested as such by the Buyer in the Order and confirmed by the Seller in the Order Confirmation, subject to tolerance of use.
- 8.2 When the Order Confirmation refers to a sample of Goods delivered by the Seller to the Buyer, or to a sample delivered by the Buyer to the Seller, such sample will be significant only as far as its visible features and qualities are concerned, which will be anyway provisional and rough information. All this unless otherwise agreed in writing by the Parties and subject to tolerance of use.
- 8.3 The Buyer accepts from now on that the Goods may have features and qualities which are different from what specified in the Order Confirmation, provided that those differences do not make the Goods unsuitable for the expected use and, as far as length in meters, width and weight are concerned, they are within the limits of 10% (ten per cent), 2% (two per cent) and 6% (six per cent), respectively.

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9. COMPLAINTS

9.1 The Buyer is committed to inspect the Goods upon collection and/or delivery, carrying out the ordinary controls and audits regarding the external features and technical qualities of the same.

9.2 Subject to the provisions of articles 6.3) and 8), the Defects of Goods, whether patent, should be notified by the Buyer in writing, by way of registered letter with advice of receipt, sent beforehand by fax, to be sent to the Seller no later than 8 (eight) days after the collection/delivery date of the same Goods, and containing specific and detailed information regarding the Defects of Goods which are being notified.

9.3 Subject to the provisions of articles 6.3) and 8), the Defects of Goods, whether hidden, should be notified by the Buyer in writing, by way of registered letter with advice of receipt, sent beforehand by fax, to be sent to the Seller no later than 8 (eight) days after the date at which the Defects of Goods have been discovered, and containing specific and detailed information regarding the Defects of Goods which are being notified.

9.4 If the Buyer breaks only one of the provisions under articles 9.2) and 9.3) above, the Buyer will be deemed to lose definitively any warranty regarding the Defects of Goods.

9.5 Notwithstanding the provisions of the articles above, the Seller will not be committed to provide a warranty for the Defects of Goods:

9.5.1 After 6 (six) months from the collection/delivery date of the same Goods;

9.5.2 if the Buyer – without the prior written agreement of the Seller – has transferred, worked, modified and/or (anyway) used the Goods at issue pursuant to articles 9.2) and 9.3) above.

9.6 If the Seller acknowledges the Defects of Goods, or if they are ascertained as existing by way of a final judgement, the Seller will be entitled alternatively:

9.6.1 to replace the defective Goods within a reasonable term, as well as commensurate with type and quantity of the same; or, at his absolute discretion

9.6.2 to give back to the Buyer the Contract Value paid and, simultaneously, to recover Goods at the Buyer's expenses.

9.7 Subject to the provisions of article 9.6), the Buyer will not be entitled to receive from the Seller any compensation for damages and/or on any account or reason related, connected to and/or arising from the acknowledgment and/or assessment of any Defect of Goods, provided that such defects are not attributable to fraud or gross negligence by the Seller.

9.8 The Seller's warranty provided for by this article 9) supersedes and incorporates any other and/or further warranty provided for to the charge of the Seller also by law provisions, where any right of the Buyer to request compensation for damages, or the reduction of Contract Value or the termination of the Sale Agreement is deemed to be waived.

9.9 If Goods are collected/delivered in partial/multiple deliveries, any complaint for Defects of Goods regarding one or more deliveries will not affect previous or subsequent deliveries.

9.10 Except for the case under article 9.6.2) above, no Goods return can be carried out by the Buyer without the Seller's prior agreement.

9.11 Even when the Buyer has notified Defects of the Goods pursuant to the provisions of articles 9.2) and 9.3) above, or a dispute or a judicial controversy is pending between the Parties regarding the Defects of Goods, the Buyer cannot suspend the payment of Contract Value due, which will have anyway to be paid fully by the same.

10. PLACE OF EXECUTION OF SALE AGREEMENT

10.1 For all legal purposes, the place of execution of the Sale Agreement, and specifically, the collection/delivery place for the Goods and payment of Contract Value, is the Seller headquarter.

11. COMMUNICATION OF PERSONAL DATA, OBLIGATIONS OF THE BUYER

11.1 The Buyer guarantees that if, within the Sale Agreement, he notifies to the Seller information identified as personal data pursuant to current regulations, he will do that only after obtaining the relevant authorization by the holder of such information. Anyhow, the Buyer is committed to indemnify and hold the Seller harmless against any claim arising from the communication of such information by the Buyer.

12. COMMUNICATION AND PROCESSING OF PERSONAL DATA BY THE SELLER

12.1 For the purposes and according to current regulations, the Buyer represents that he acknowledges and accepts that the Seller enters into possession and holds data regarding the Buyer during and in compliance with the Sale Agreement.

12.2 The Seller represents that data indicated under article 12.1) above will be processed in compliance with current regulations. Specifically, the Seller represents that data at issue will be kept until no later than the term provided for by law and will not be used or processed except for the following purposes: i) in fulfilment of regulatory obligations, including tax and accounting obligations; ii) in fulfilment of contractual obligations with respect to the Buyer; iii) historic filing of data; iv) advertisement and/or promotion and/or surveys about customer satisfaction; v) in order to provide reference for the Seller, also including the name of the Buyer in the Seller's customer list.

12.3 The Buyer authorizes the Seller to notify data at issue, for the purposes indicated under article 12.2) above: i) to any rightful addressee of notices provided for by the law and/or regulations; ii) to the Seller's advisors; iii) to other companies, also foreign companies, with which the Seller keeps up correspondence; iv) to potential clients of the Seller, for the purposes specified under article 12.2) point v) and disclosed together with the client list and the Seller's credentials. The Buyer represents that he accepts that data at issue can be notified and transferred also abroad, outside the European Union. The Buyer can anyway address the Seller, at the offices indicated in the Confirmation of Order, to enforce his claims provided for by current regulations.

13. TERMINATION OF SALE AGREEMENT BY THE BUYER

13.1 The Buyer can decide, pursuant to article 1456 of the Italian Civil Code, the termination of the Sale Agreement, limited to that portion of the same which has not been executed by the Seller, sending to the Seller a registered letter with advice of receipt, sent beforehand by fax, in the following cases:

13.1.1 If - except for the cases under articles 6.4) and 6.5) - the Goods cannot be collected/delivered within 15 (fifteen) days after the collection/delivery date indicated in the Order Confirmation, because of fraud or gross negligence of the Seller;

13.1.2 If the Goods cannot be collected/delivered within 15 (fifteen) days after the expiry of the extension of the collection/delivery date established by the Seller pursuant to the provisions under articles 6.4) and 6.5).

13.2 In the cases outlined in the articles above, the Sale Agreement is deemed to be terminated on the day on which the Seller receives the registered letter under article 13.1.

13.3 If the Sale Agreement is terminated pursuant to article 13.1 above, the Seller is not committed to compensate the Buyer for damages; the Buyer will be entitled exclusively to the reimbursement of any Contract Value already paid regarding the Goods not collected/delivered.

14. TERMINATION OF SALE AGREEMENT BY THE SELLER

14.1 The Seller can decide, pursuant to article 1456 of the Italian Civil Code, the termination of the Sale Agreement, sending to the Buyer a registered letter with advice of receipt, sent beforehand by fax, in the following cases:

14.1.1 If the Credit insurance company, to which the Seller has applied, rejects entirely or partially the covering of credits due to the Seller pursuant to the Sale Agreement;

14.1.2 If the Buyer fails to send the working instructions or specifications pursuant to article 5.1) within the term therein specified;

14.1.3 If the Buyer fails to collect and/or waives to deliver the Goods at the relevant dates specified in the Order Confirmation;

14.1.4 If the Buyer is late more than 30 (thirty) days in the payment of one installment plans for the Contract Value with respect to the terms specified in the Order Confirmation;

14.1.5 If the Buyer does not return the payment documents duly accepted pursuant to article 7.4) above, within the terms therein specified.

14.2 In the cases described in the articles above, the Sale Agreement is deemed to be terminated on the day on which the Buyer receives the registered letter pursuant to 14.1 above.

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14.3 If the Sale Agreement is terminated pursuant to article 14.1 above, the Buyer is committed to immediately return the Goods collected/delivered, the Contract Value which has not been duly paid, and to compensate the Seller for damages incurred and ongoing incurring.

14.4 If the services rendered by the Seller, due to extraordinary or unforeseeable events, become exceedingly onerous with respect to the Contract Value due by the Buyer, the Seller can determine, pursuant to article 1467 of the Italian Civil Code, the termination of the Sale Agreement, by sending to the Buyer a registered letter with advice of receipt, sent beforehand by fax. For these purposes, the services rendered by the Seller are deemed to become excessively onerous, when the Contract Value for the Goods specified in the Confirmation of Order turns out to be lower than 20% or more with respect to the market price of the Goods at the time of collection/delivery. In such a case, the Sale Agreement is deemed to be terminated on the day on which the Buyer receives the registered letter as herein provided.

15. RESERVATION OF PROPERTY CLAUSE

15.1 All Sales Agreements are governed by the Reservation of Property clause here mentioned and such clause is automatically accepted upon issuance of the Order Confirmation (as clearly stated in the bottom right corner of such mentioned document). It is hereby understood and agreed that the ownership of the products shall pass to the Purchaser only upon the full and complete payment of the price and of any sums due to the Seller howsoever and whatsoever arising from or in connection with the products. For avoidance of any doubt, in case the price shall be paid in whole or in part after the delivery of the products, such products shall remain in the Seller's sole and exclusive property and rights until the full and complete payment of the price by the Purchaser.

16. MISCELLANEOUS

16.1 Any notice between the Parties must be in writing and by way of registered letter with advice of receipt, sent beforehand by fax.

16.2 Any reference contained in the Orders and/or Confirmations of Order to price lists, general terms of sale or to any other material and/or documents attributable to the Seller is intended to be referred to the documents applicable when the Sale Agreement is executed, unless otherwise specified by both Parties in writing.

16.3 The representations by the Parties or their behaviour during negotiations and/or the execution of the Sale Agreement will be applicable only with respect to the relevant Sale Agreement and, however, they cannot depart from the GTS or from the Sale Agreement, unless otherwise expressly agreed by the Parties in writing.

16.4 Subject to the provisions of article 3.2) above, any departure from the GTS will be effective exclusively with respect to the Sale Agreement to which such departure refers and cannot be constructed extensively or applied by analogy to other Sale Agreements between the Parties.

16.5 If any provision of the Sale Agreements or the GTS becomes void and/or unenforceable, the Parties agree from now on to replace the provision at issue with another provision by mutual agreement; such new provision will comply with the terms which were not met by the original provision, maintaining the balance of mutual obligations arising from the Sale Agreement and/or the GTS.

17. GOVERNING LAW AND JURISDICTION

17.1 The Parties agree that the Sale Agreement and the GTS are subject to and governed by Italian laws.

17.2 With respect to any dispute arising between the Parties regarding the Sale Agreement or the GTS, the Milan Court will have jurisdiction pursuant to article 28 of the Italian Code of Civil Procedure.

For all intents and purposes, the Buyer - pursuant to article 1341 of the Italian Civil Code - represents that he has read, he knows and specifically approves, for the purposes of paragraph II of the above-mentioned regulation, the provisions under the following articles: 21), 3.1), 3.2), 4.3), 5.1), 6.3), 6.4), 6.5), 7.2), 7.4), 8.1), 8.2), 8.3), 9.2), 9.3), 9.4), 9.5), 9.5.1), 9.5.2), 9.6), 9.6.1), 9.6.2), 9.7), 9.8), 9.11), 13.3), 14.1), 14.1.1), 14.1.2), 14.1.3), 14.1.4), 14.1.5), 14.3), 14.4), 15.1), 16.4), 17.1) and 17.2).

Executed and delivered by TMR Cederna Srl

TMR CEDERNA SRL

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