

1 Scope, Offer, Conclusion of Contract

- 1.1 These General Terms and Conditions of Sale and Delivery ("GTC") shall apply to all business relations between Von Roll Italia S.r.l. ("Supplier") and its clients ("Purchaser") if they are declared applicable in the offer or order confirmation.
- 1.2 These GTC shall apply exclusively. Deviating, conflicting or supplementary terms and conditions of the Purchaser shall only form part of the contract if and to the extent that the Supplier has expressly agreed to them in writing. This requirement of consent shall apply in any case, in particular also if the Supplier carries out the delivery to the Purchaser without reservation in full knowledge of the terms and conditions of the Purchaser.
- 1.3 Individual agreements made with the Purchaser in individual cases (including secondary agreements, supplements and amendments) shall take precedence over these GTC.
- 1.4 All agreements and legally relevant declarations of the contracting parties shall be valid only if made in writing. Subject to the form of "hand-signed letter" specified in Clauses 7.3, 9.3, 9.4 and 11, the written form provided for in these GTC shall be deemed equivalent to the transmission of a legible declaration by fax or e-mail in which the person of the declarant is named.
- 1.5 The Supplier's offers are subject to confirmation and non-binding, unless the Supplier has expressly declared them to be binding in writing. Declarations of acceptance and orders by the Purchaser shall be deemed to be a binding contractual offer. The Supplier shall be entitled to accept this contractual offer within ten working days of its receipt by the Supplier. Acceptance can be declared either by written order confirmation or by delivery or service to the Purchaser. In the latter case, the invoice replaces the order confirmation.

2 Scope of Delivery and Services

Goods and/or services to be delivered by the Supplier ("Deliverables") are conclusively specified in the order confirmation or the binding offer of the Supplier, including attachments or documents incorporated by reference (e.g. product specification, technical standards). Supplements, amendments and secondary agreements shall only become binding upon written confirmation by the Supplier.

3 Technical Documentation

- 3.1 Information on product properties in descriptions valid at the time of conclusion of the contract, such as product data sheets, brochures and catalogues, are only approximations and may differ unless the Supplier expressly lists certain product properties in writing as being binding or forming part of the contract. Information about possible uses of the products is provided without warranty of any kind. It is the sole responsibility of the Purchaser to investigate the specific product's suitability for the use intended by the Purchaser.
- 3.2 The Supplier reserves all rights (including ownership, copyright, the right to register industrial property rights and other rights) to the documents belonging to the offer and to the drawings, information, samples and aids ("Supplier Property") made available to the Purchaser. All Supplier Property made accessible to the Purchaser by the Supplier shall be kept confidential from third parties and may only be made accessible to third parties with the prior written consent of the Supplier. At the Supplier's request, the Supplier Property shall be returned or destroyed once it is no longer reasonably required in the ordinary course of business by the Purchaser.

4 Prices

Unless otherwise agreed, all prices are quoted net, ex works of the Supplier (EXW according to INCOTERMS® 2020), without any deductions. All additional costs such as taxes (including VAT), freight, insurance, export-, transit-, import- and other permits shall be borne by the Purchaser.

5 Terms of Payment

- 5.1 Payments shall be made by the Purchaser in accordance with the agreed terms of payment to such account as

specified by the Supplier without deduction of cash discount, expenses, taxes, levies, fees, customs duties and the like.

- 5.2 Unless otherwise stated in the order confirmation, the invoice amount is due for payment within thirty days of receipt of the invoice.
- 5.3 Upon expiry of the agreed payment dates, the Purchaser shall be in default of payment without reminder. The receipt in the Supplier's account shall be decisive for the timeliness of the payment. The invoice amount shall bear interest during the period of default at the applicable statutory default interest rate. The Supplier reserves the right to compensation for further damage.
- 5.4 The Supplier shall be entitled to make the outstanding Deliverables – from the contract affected by the default in payment or from other contracts with the Purchaser – only against advance payment or provision of security if the Purchaser is in default of payment or if circumstances become known which are likely to reduce the creditworthiness of the Purchaser and as a result the payment of the Supplier's outstanding claims from the respective contractual relationship is jeopardised.
- 5.5 The Purchaser shall only be entitled to set-off rights to the extent that its claim has been recognised as *res judicata* or is undisputed.

6 Retention of Title

The Supplier shall retain title to its entire Deliverables until having received the full amount of the agreed payments. The Purchaser authorises the Supplier to make any necessary register entries in order to safeguard the Supplier's ownership claims.

7 Delivery-/Performance Time

- 7.1 Any delivery/performance times ("Delivery Period" or "Delivery Date") stated by the Supplier are generally non-binding, unless the Supplier has expressly confirmed them in writing as "binding" in the order confirmation.
- 7.2 If the cooperation of the Purchaser, e.g. receipt of all documents to be procured by the Purchaser, necessary approvals or releases, or compliance with the agreed terms of payment or other obligations of the Purchaser are delayed, a stated or agreed Delivery Period shall be extended or a stated or agreed Delivery Date shall be postponed for a period equal to the duration of the delay.
- 7.3 If a binding Delivery Date or a binding Delivery Period is exceeded, the Purchaser shall be entitled to demand liquidated damages for delay if the Supplier is negligently liable for the delay and the Purchaser has suffered damages as a result of the delay. The liquidated damages for delay shall not exceed 0.5% for each full week of delay, calculated on the contract price of the delayed part of the Deliverables, and shall not exceed 5% of the contract price of the delayed part of the Deliverables. The first two weeks of the delay shall not entitle the Purchaser to liquidated damages for the delay. After reaching the maximum of the liquidated damages for delay, the Purchaser may grant the Supplier a reasonable grace period by means of a hand-signed letter. If this is not complied with for reasons for which the Supplier is responsible, the Purchaser shall be entitled to withdraw from the contract with regard to the delayed part of the Deliverables by means of a hand-signed letter. If the Purchaser does not declare its withdrawal immediately after expiry of the period, the Purchaser shall, at the Supplier's request, declare within a reasonable period of time by means of a hand-signed letter whether it will withdraw from the contract due to the delay in the Deliverables or insist on the Deliverables. If the Supplier has effected a partial delivery, the Purchaser may withdraw from the entire contract only if the partial delivery (partial performance) is unreasonable. Further rights and claims, in particular also claims for further compensation are excluded.
- 7.4 The Supplier reserves the right to make partial delivery as well as to deliver excess or short quantity of weight and/or quantity up to +/- 10%.

General Terms and Conditions of Sale and Delivery
(International Edition 2020)**Von Roll Italia S.r.l.**

Via Rigolfo 73 – Zona Vadò

I-10028 Trofarello (TO) – Italy

8 **Packaging**
Unless otherwise stipulated in the order confirmation, the Supplier shall invoice the packaging separately and shall not take it back.

9 **Warranty, Incoming Inspection, Liability for Defects**

9.1 The Supplier only warrants that the Deliverables complies with the specifications agreed in writing or the qualities warranted in writing by the Supplier and is of good material, good construction and good workmanship. Any liability for defects going beyond this, in particular for usually assumed warranties or for the fitness for a particular purpose, even if this has been notified to the Supplier, shall be excluded. Insignificant production-related deviations from agreed or warranted qualities shall not entitle to warranty rights.

9.2 Unless otherwise agreed in writing, the warranty period for the Deliverables shall be 12 months from the passing of risk. For replaced or repaired parts, the warranty period shall begin anew from the time of their replacement or repair, but shall end no later than 24 months after the original passing of risk.

9.3 The Purchaser shall inspect the Deliverables immediately upon receipt for defects, completeness and conformity with the contract ("**Incoming Inspection**"). Defects which are recognisable during the Incoming Inspection shall be notified immediately, at the latest within ten days of receipt of the Deliverables, by means of a hand-signed letter. If defects become apparent later which were not recognisable during the Incoming Inspection, the Purchaser shall notify the Supplier without delay, at the latest within ten days of discovery, by means of a hand-signed letter. The timely dispatch of the notice of defects shall suffice in meeting the notification deadline. In the event of late notification of defects, the Deliverables shall be deemed accepted, unless the Supplier has fraudulently concealed the defect. If a notice of defect is unjustified, the Supplier shall be entitled to claim reimbursement from the Purchaser for the expenses incurred.

9.4 If the Deliverables have a defect, the Purchaser shall initially be entitled to rectification by the Supplier who, at its sole discretion, shall arrange for a replacement delivery of the defective part of the Deliverables or repair as soon as reasonable practical. If this remedy is not successful or only partially successful within a reasonable period of time set by the Purchaser in a hand-signed letter, the Purchaser shall be entitled to refuse acceptance of the defective part or, if partial acceptance is unreasonable, to withdraw from the contract.

9.5 The Purchaser has no rights and claims other than those expressly specified in Clauses 9.1 to 9.4 of these GTC in respect of defects in material, construction or workmanship as well as in respect of the absence of warranted qualities.

10 **Limitation of Liability**

Any claims of the Purchaser other than those expressly specified in these GTC, regardless of the legal basis, are excluded. In particular, all claims for compensation, reimbursement of expenses, reduction of the purchase price, cancellation of or withdrawal from the contract which are not expressly specified, are excluded. Under no circumstances shall the Purchaser have any right to compensation for losses not incurred by the Deliverables itself, such as loss of production, loss of use, loss of orders, lost profits, or other direct or indirect losses. This exclusion of liability does not apply in case of gross negligence or unlawful intent or insofar as it is contrary to mandatory law.

11 **Force Majeure**

No delay or other breach of contract exists if the Supplier is prevented from fulfilling its obligations by unforeseeable, unavoidable events which are beyond its control and which could not reasonably have been avoided by it under the given circumstances. Such events include, but are not limited to, laws, regulations, orders or other governmental measures, war, terrorist activities, fire, storm, flood, accident, strikes or other industrial disputes, as well as lack of or inability to procure raw materials, fuel, electricity or

means of transportation. In such events, a specified or agreed Delivery Period shall be extended or a specified or agreed Delivery Date shall be postponed by the duration of the disruption plus one month. If the disruption lasts longer than six months, either party shall be entitled to withdraw from the unfulfilled part of the contract by means of a hand-signed letter. This shall also apply if acceptance of the Deliverables cannot be reasonably expected from the Purchaser as a result of the delay.

12 **Arbitration and Applicable Law**

12.1 All disputes arising out of or in connection with the present GTC or a contract between the Supplier and Purchaser shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The seat and place of the arbitration shall be Basel, Switzerland. The language of the arbitration shall be English.

12.2 These GTC and any contract between the Supplier and Purchaser shall be governed by the laws of Switzerland, under exclusion of all conflict of laws rules and the United Nations Convention on Contracts for International Sale of Goods of April 11, 1980 (CISG).

13 **Severability**

If any provision in these GTC is held, in whole or part, to be invalid or unenforceable for any reason, the validity of the remaining provisions of these GTC shall not be affected, and shall continue to be valid and enforceable. The invalid or unenforceable provision shall be replaced with a valid provision which is as similar as possible in substance to the invalid or unenforceable provision.