

## GENERAL CONDITIONS OF SALE and DELIVERY

### **Art. 1 - Contractual regulations**

**1.1.** The General Conditions of Sale (hereinafter referred to as "GCS") of TOP CUSCINETTI srl, based in Mezzanino (PV), Italy, Via Malpensata at no. 23 (hereinafter, for brevity, "TOP" or "Seller"), can be downloaded in pdf format from the following website address: <http://www.topcuscinetti.it>, barring any exceptions specifically agreed in writing, and govern all sales and supply contracts in respect of the customer (hereinafter abbreviated to "Customer") and relatively, both to the products covered by the first supply (hereinafter abbreviated to "Products") and any subsequent deliveries made in favour of the same Customer on the basis of orders subsequently forwarded to the Seller and accepted by the same upon a special Order Confirmation.

**1.2.** Any other general conditions of Customer's purchase order shall not apply to relations between the Parties if not expressly accepted in writing by TOP, considering the current GCS to prevail; In addition, even in this case, unless a written exemption is provided, it will not exclude the application of the present GCS which, must in any case must be arranged accordingly.

**1.3.** All sales contracts between the parties as well as the current GCS shall be governed by Italian law or, in the case of international sales, the Vienna Convention of 1980 on the International Sale of Goods.

**1.4.** Any use and / or practices established between the parties are not binding on TOP.

### **Art. 2 - Composition and terms of contract**

**2.1.** The order issued by the Customer is considered firm and comprises an irrevocable contract.

**2.2.** The placing of an order by the Customer entails the simultaneous and full recognition as well as knowledge and acceptance of these GCS.

**2.3.** The orders are accepted, subject to approval by TOP, which reserves the right to an exclusive and absolute discretion on taking charge of the proposed order, by sending a confirmation of order.

**2.4.** Except as provided in the previous article, TOP will only accept orders duly signed and issued by the Customer in the following ways: (a) order form with Buyer's letterhead, or (b) a fax registered to

the Customer or (c) confirmed by the Customer with an official stamp and signature on the offer or (d) by e-mail, via Annex containing the standards referred to in sub-paragraph a). Any telephone orders will be accepted at the discretion of TOP and not be deemed binding on TOP unless confirmed in writing.

2.5. An order by the Customer that does not comply with the previous offer by TOP is considered to be rejected unless expressly confirmed in writing by TOP.

2.7. TOP is free to modify and update their GCS at any time, including their own price lists and their offers. In the case of a written bid, the conditions stated therein will be maintained as valid to the Purchaser for the time period specified therein.

2.8. Printing errors, writing and calculation in offers, order confirmations or invoices TOP, where recognisable with due diligence, do not bind the Seller who reserves the right to charge any differences later.

2.9. Any advertising material sent by TOP (catalogues, brochures, price lists or other descriptive material of products) which does not expressly bear the term "offer" or its equivalent, cannot be considered as a sale proposal and is not binding upon TOP.

The conditions "without commitment", "subject to availability", " prior sale" or other similar tags attached by TOP to an offer, do not bind the seller to the terms of the offer in the event of acceptance of the offer by the Customer - subject to a subsequent written confirmation or execution compliant to Top Cuscinetti.

### **Art. 3 - Data and technical documents; samples**

3.1. The technical data, dimensions, characteristics, capacities, colours, weights, prices and other data for the products listed on the website and / or contained in the technical documentation and advertising of TOP (eg. Catalogues, , circulars, price lists, drawings, data sheets, graphics), as well as the characteristics of samples and models by TOP if sent to the Customer, are merely indicative. These data are not binding except to the extent that they have been expressly mentioned in the offer and / or

the written confirmation of the order by TOP . Any statements or advertisements of third parties are not binding in any way on TOP.

**3.2.** TOP will provide, together with the product, the technical documentation it deems necessary or that has been previously agreed with the Buyer, which is inherent and in conformity with the provisions of the relevant technical standards. In any case, the technical documentation must be requested by the Customer at the time of the offer.

#### **Art. 4 - Manufacturer's liability**

**4.1.** The products marketed by TOP are manufactured in accordance with the legislation in force in Italy and in the European Union; any specific technical requirement shall be mutually agreed in writing between the Parties and the Customer assumes the entire risk of a possible discrepancy between the Italian rules and those of the country of destination of the products, upholding to indemnify the Seller in mitigating circumstances.

**4.2.** TOP may be liable for damage to persons or property, arising from products sold only if gross negligence is proven in the manufacture of the products and incorrect compliance with the specifications provided by the Customer; in no case can it be liable for indirect or consequential damages, as such, and not limited to financial losses, customer losses, production downtime or lost profits.

**4.3.** Notwithstanding the above, the Customer shall indemnify TOP in all third-party claims based on liability arising from the products sold or damages arising from claims in question.

#### **Art. 5 - Delivery**

**5.1.** Unless otherwise agreed in writing between the parties, TOP will deliver the goods free to the destination. The cost of transport and packaging will be valued in each case, and unless otherwise agreed, is included in the price of products purchased by the Customer and budgeted for by TOP, provided that the risks associated with transport will remain the sole responsibility of the Customer.

5.2. The terms of the product delivery are indicative and not binding on the Seller, and have been clearly expressed in the clause "**barring unforeseen circumstances**"

5.3. The Terms are based on working days with effect from the date of an individual sale; any changes or additions to the request by the Customer will bring into effect a new time scale and the issuance of a new order confirmation.

5.4. The Seller, whatever the delivery term chosen for the execution of the transport, is exempt from responsibility for delays in delivery and free from direct or indirect damages arising as a result of the delay without prejudice to the case of fraud or gross negligence attributable to it.

No liability will be accepted for any delay in delivery due to:

- a) Failure, total or partial, in the terms of payment by the Customer, the latter being able to avail themselves of the option referred to in art.1460 and 1461 of commercial code; TOP will not be required to begin production until the respective impediment is resolved;
- b) Force Majeure or unforeseeable circumstances;
- c) Failure of transmission by the Customer under the terms established, of any technical data or of any specification of material already process, and necessary for the preparation of products.

5.6. It is understood that any complaint or objection does not entitle the Customer to suspend or delay the payments for the Products in dispute or, much less, of other supplies.

5.7. If the Seller had authorised the return of all or part of the goods, these must in any case be returned promptly under identical conditions of supply, without damage, signs of wear and tear or tampering or any other condition not present at the time of delivery. All costs for the execution of the return must be borne exclusively by the Customer.

5.8. In the event of any prior transport method or other means which may be the choice of carrier chosen for the Customer, the Customer will bear the responsibility of getting the load to the ex works of (plant) TOP using any suitable means of transport commissioned and in an appropriate mode, in very good condition and suitable with the type of transport considered. In the event that the means of

transport considered is not suitable for the type nor approved by TOP, or for other reasons that does not allow such transport in safe conditions, and that is enabled and authorised, for obvious safety reasons, TOP will not consent to proceed with loading, refusing to entertain from the start, any objections that the Customer may raise.

5.9. Any insurance on the forwarding and transport commissioned must be borne by the Customer and will be the sole responsibility of the latter, with TOP not being bound to that obligation, unless specifically agreed with Customer.

#### **Art. 6 - Pricing**

6.1. The prices specified by TOP in offers, order confirmations and invoices (and possibly the equivalent in other currency if agreed) are based on the internal price list in Euros, excluding VAT, in force on the day when the order is confirmed , and as assessed by TOP.

6.2. The invoices issued by TOP are considered accepted, if not contested in writing by the Customer within 10 (ten) days of receipt, subject to revocation.

#### **Art. 7 - Payment**

7.1. The payment arrangements and the terms are those previously agreed with TOP in the individual order; this must be done solely through bank details provided by the latter.

7.2 The payments by the Customer may not be suspended or delayed for any reason or cause, even in cases of disputes with the Seller. Any delay or irregularity in payment will give TOP the right to suspend deliveries and / or terminate contracts and / or cancel orders in progress, even if not relevant to the current issue, and the right to compensation for any damages. With effect from the payment due date, there will be automatically applied a default interest to the extent provided for by Legislative Decree no. 192/2012.

7.3. In no event shall the Customer reduce or offset the price with any credits, however contentious against TOP, without prior written approval of the latter. For the allocation of the payment, in each case, we refer to the provisions of art.1193, co. 2 c c

#### **Art. 8 - Property ownership**

8.1. In the event that payment is to be made after delivery, in whole or in part, the products delivered remain the property of TOP until full payment of the agreed price has been made, in accordance with art. 1523 c.c.

8.2. TOP is entitled to take possession of any product sold under property ownership for which the Customer will bear the costs and TOP is entitled to keep as a penalty any amount received in payment. The property ownership extends to products sold by the Customer to third parties and to the price of those sales, to the maximum extent permitted by law that governs this clause in the country of the Customer.

#### **Art. 9- Warranty**

9.1. Notwithstanding Articles 1490 and subsequently, the Civil Code and unless otherwise agreed between the Parties, TOP ensures that its products are free from defects / faults for the period of twelve (12) months from the date of delivery to the carrier. The goods under warranty must be sent by the Customer for repair or replacement, ex works of TOP; Once repaired or replaced, provided for by the conditions of the requirements, it will be made available to the Customer for collection from the ex works of TOP.

9.2. The guarantee will not extend to those products whose defects are due to: (i) damage caused during transport; (ii) negligent or improper use of the same by the customer; (iii) incorrect storage of the products according to the procedures outlined; (iv) incorrect installation of the goods made by the Customer.

9.3. On arrival of the goods at the destination, the Customer must proceed with the qualitative and quantitative verification. In case of apparent defects, the Customer must raise their reservations to the

carrier. Following the reservation, the Customer must report, on pain of forfeiture, to TOP the presence of damage or defects within 8 (eight) days of delivery, or, within eight (8) days of discovery in case of defects or hidden defects that are not detectable by a person of average diligence and no later than 30 (thirty) days from delivery.

9.4. Claims must be made in writing and must specify in detail the defects or the alleged non-compliance with references to the relevant invoice or DDT or confirmation of TOP order. In addition, at the request of TOP, complaints must be accompanied by adequate technical documentation and photographs. An incomplete claim will have no effect.

9.5. If a claim is totally or in part unfounded, the Customer shall indemnify expenses incurred by TOP as ascertained.

9.7. In any case, the Customer may not invoke the rights of guarantee toward TOP if the price of the products has been made under the conditions and within the agreed terms, even in the case where the non-payment of the price within the conditions and terms agreed to, refer to products other than those for which the Customer intends to make a warranty. - The payment even after the deadline will result in the resumption of effectiveness of the guarantee until its original maturity.

9.8. TOP will not be liable for any damages incurred and / or connected to the defects of the products. Anyway, TOP will not be liable for any indirect or consequential damages of any kind including, without limitation, damages, the end of a line, lost profits, etc.)

#### **Art. 10 - Force Majeure**

In all cases of force majeure that might occur (for example and not exhaustive: a lack of supplies and insufficient raw material ,even partially, significant or unforeseen increases in the price of the same, fire, collapses, flooding, disruption, strikes, lockouts or other similar events that prevent or reduce the production capacity of TOP or block the transport within the plant in TOP and the place of destination of the products), TOP will be entitled to an extension of the terms of delivery of the products to be agreed between the parties. After the agreed deadlines, if the situation of force majeure persists, the

Customer may terminate the contract by submitting written notice to TOP by registered letter, sent in advance by fax or e-mail. TOP will not be, in any case, held to any obligation to compensate the Customer for any direct or indirect damages related to or arising from late or non-performance of the contract.

#### **Art. 11 -Withdrawal**

The Seller reserves the right to terminate the contract and / or the individual order if it becomes aware of circumstances that call into doubt the Customer's solvency for the payment of the price within the agreed time.

#### **Art. 12 -General Provisions - Applicable Law - Jurisdiction**

**12.1** The site agreed upon for the performance of the service, for the payment of the price and for the fulfillment of the obligations arising from the legal relationship between the Customer and TOP, is Mezzanine (PV), Italy.

**12.2.** These general conditions of sale, as well as individual supplies of products from the Seller to the Customer shall be governed solely by Italian law; the United Nations Convention of 11 April 1980 on the International Sale of Goods (**Vienna / CISG Convention**), will apply to the extent that its provisions are not in conflict with the general conditions of sale. For the purposes of interpreting the terms of return and possibly other trade terms used by the parties, reference is made to **Incoterms 2000** of the International Chamber of Commerce, taking into account the provisions stipulated in these general conditions.

**12.3.** The conclusion of the contract - and in particular the agreement on jurisdiction and the inclusion of these general conditions of sale - as well as the rights and duties of the Parties - pre-contractual liability and obligations of accessories included - and its interpretation are governed exclusively by these Terms and conditions , by the Italian civil code or, as for those where not regulated by the Vienna Convention.

**12.4.** Any dispute concerning the conclusion, validity, interpretation, execution and termination of the supply and contractual relations arising from these GCS will be referred exclusively to the Italian judicial authorities and in particular, to the Court of Pavia, thereby having the parties intended to exclude the competence of any other jurisdiction and any other possibly competing court.

**12.5.** These general conditions are drawn up in both Italian and English; in case of conflict between the two versions, the Italian text will be considered the authentic text in the purpose of overriding their interpretation.

### **Art. 13 - Confidentiality**

**13.1** Any production and commercial information relating to TOP of which the Customer may become aware of in the course of transaction or supply (including and not limited to: technical information, drawings, specifications, commercial conditions) even though not covered by industrial property, will have to be essentially treated as confidential and can not be used or disclosed without prior written permission from TOP.

### **Art. 14 - Final provisions**

**14.1.** Any communication between the Parties will be sent to the address resulting from the business correspondence exchanged. All communications, declarations, notices etc. must be written in Italian or, in the case of a foreign customer, in English, unless otherwise agreed between the parties.

**14.2.** If TOP fails, at any time, to: a) perform any provision of these GCS, or b) at any time require the Customer to perform any provision of these Terms and conditions, this can not be construed as a waiver of this provision, for the present or the future or affect in any way the right of TOP to proceed with each of the provisions. The express waiver by TOP, of any of the provisions of the present GSC, shall not constitute a waiver of claim for compliance by the Customer in the future.

Place, date

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Customer signature and stamp

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Pursuant to and by the effects of art.1341 commercial code, the Customer as a result of careful consideration of the abovementioned conditions of sale, declares to expressly approve the following articles: Art. 2 (Composition and terms of contract); Art. 4 (Manufacturer's liability); Art. 5 (Delivery); Art. 7 (Payment) Art. 8 (Property ownership); Art. 9 (Warranty); Art.10 (Force Majeure); Art. 11 (Withdrawal) and Art.12 (Governing Law and Jurisdiction).

Place, date

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**Customer signature and stamp**

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