

GENERAL CONDITIONS OF PURCHASE

- 1. Foreword**
- 1.1.** These General Conditions of Purchase apply to all contracts executed between Purchaser and Supplier, based on Purchaser's orders issued to purchase raw materials, other materials, tools, molds, machines or any other goods, services, consultancy activity or other activities from the Supplier ("Products"). Conditions different from those set forth herein, which are attached, referred to, added or amended by the Supplier shall not be valid and are not effective between the Parties unless expressly and specifically accepted in writing by the Purchaser. For avoidance of doubt, this provision shall apply whether Supplier's terms and conditions are issued or delivered to the Purchaser prior or after the issuance of Purchaser's purchase orders.
- 1.2.** Unless otherwise agreed in these General Conditions of Purchase, every purchase order shall be deemed to make reference, explicitly or implicitly, to the Purchaser's drawings and technical specifications in force for the Products subject to the order. Acceptance of orders and/or of the Scheduling Plans (as defined below and where exists) therefore shall be deemed to be full and unconditional acceptance of all drawings and technical specifications which are an integral part of the sales contract.
- 1.3.** For the purpose of these General Conditions of Purchase (i) "Purchaser" shall mean IRCA S.p.A. Industria Resistenze Corazzate e Affini; (ii) "Supplier" shall mean any physical person or corporate, company, entity, associations or enterprise to which the Purchaser orders the Products; and (iii) "Parties" shall mean jointly Purchaser and Supplier.
- 2. Orders – Prices**
- 2.1.** The Purchaser is entitled to propose the purchase of the Products by means of the issuance of closed purchase orders or open purchase orders.
- 2.1.1. Closed purchase orders**
In case of issuance of closed purchase orders, the individual sale and purchase contracts of the Products are executed through the acceptance/confirmation of the closed orders by the Supplier pursuant to the terms and conditions set out below.
The Supplier shall inform the Purchaser of the acceptance of the closed order by sending him the relevant confirmation in an electronic way by means of the Supplier Network Collaboration (SNC) system within and not later than 3 (three) business days from the receipt of the order. If the Supplier does not have this system available he shall send the confirmation in writing or by the means of an internet system other than the one implemented by the Purchaser. In any case, even in the absence of written confirmation the sale and purchase agreement shall be considered to be executed – and governed by these General Conditions of Purchase – if the Supplier, even tacitly, executes or performs the order and the Purchaser accepts the Products delivered to him by the Supplier.
- 2.1.2. Open purchase orders**
In case of issuance of open purchase orders, the individual sales and purchase contracts shall be deemed to be executed by means of the issuance of the Products delivery plans to the Supplier ("Delivery Plans") on the basis of the related open order. With the open order, the Purchaser identifies the main terms that will apply to the aforementioned sales and purchase contracts, including the indication of the Products, the price and the delivery terms. It is understood that the open order does not obligate the Purchaser to purchase any Product and that the quantities of Products indicated therein are an estimation only and are not binding. The open order is considered accepted if the Supplier does not contest or reject it within 3 (three) days of its receipt. The Delivery Plans contain the quantities of Products indicated in the open order, the delivery dates and the reference to the latest updated revision of the drawings and technical specifications of the Products. These quantities and dates create different obligations between the Parties which vary on the basis of the proximity between the issuance date of the Delivery Plan and the delivery date of the Products, as better specified in the open order and/or in the Delivery Plan (Firm Zone, Trade-off Zone and Planning Zone).
Each subsequent Delivery Plan replaces the previous one. The Supplier may contest or reject the Delivery Plans no later than 3 (three) business days from their receipt. Failing that, the Delivery Plans are deemed to be confirmed and accepted by the Supplier.
The open orders are valid and effective for an indefinite period, without prejudice to the Purchaser's right to cancel them at any time, for any reason, without any responsibility or prejudice of any kind for the Purchaser. The cancellation of the order does not affect the Delivery Plans already issued and accepted at the date of cancellation.
- 2.2.** The prices indicated or referred to in the orders, whether they are closed or open orders, are fixed and cannot undergo any variation; other than the Products, the prices include packing to be made in accordance with the Purchaser's instructions for dispatch, as well as transport and customs clearance costs depending on the agreed delivery terms.
- 3. Invoicing**
- 3.1.** Unless otherwise agreed, invoices relating to the Products shall be issued by the Supplier and dated not before the delivery of the related Products. The invoices shall refer to each individual order and indicate the order number, material item code, delivery note number, quantity and description of the Products, unit price, total price, VAT, Supplier's code, agreed delivery terms, origin of the Products (if preferential or not preferential) and customs code (at least the first 4 digits). Otherwise the Purchaser shall have the right to refuse the Products.
- 3.2.** Payment of invoices relating to supplies in which non-conforming or defective Products have been found will not be made until such Products are replaced or repaired. Therefore, all charges arising out of the withdrawal of bank drafts, bills, or cash orders shall not be refunded by the Purchaser.
- 4. Place, documents and terms of delivery**
- 4.1.** All Products shall be delivered to the Purchaser's facilities as follows: (a) in case of a closed order, deliveries will be performed on the delivery dates and locations specified in that order; (b) in case of an open order, deliveries will be performed on the dates indicated as binding in the Delivery Plans (Firm Zone) and at the locations indicated in the open order. The terms and dates agreed for the delivery of Products subject to closed orders are mandatory for the Supplier; likewise are mandatory for the Supplier the binding delivery dates (Firm Zone) set out in the Delivery Plans. Therefore, any delivery performed prior or later than the agreed delivery dates is not accepted, unless required by the Purchaser.
- 4.2.** The Products shall travel with a delivery note that shows details of the order number, materials item code and description, measuring unit, quantity, number of units, number of packs per article, weight and origin of the goods.
- 4.3.** Save for Purchaser's right to claim further damages, if the Supplier delays delivery of the Products with reference to the dates provided for in the closed order or the Delivery Plan, the Purchaser shall be entitled to:
- charge the Supplier liquidated damages for an amount equal to 2% of the invoiced price of the Products per each seven days of delay starting from the first day following the date on which the Products should have been delivered, up to a maximum of 15%. The liquidated damages arise and become fully due on the first day of each seven days period of delay. The Parties agree that the amount of the liquidated damages consists in a genuine and fair estimation of the damages and losses that the Purchaser would suffer due to the delayed supply of the Products and, therefore, the Supplier waives any claims or requests of liquidated damages reduction even before any competent authorities;
 - save for to the liquidated damages set forth in a) above, terminate the contract due to non-fulfilment by the Supplier if the delay exceeds eight days.
- 4.4.** The Purchaser may return to the Supplier, at the Supplier's expense, any Products delivered in advance of the delivery date endorsed on the closed order or the Delivery Plan; such Products shall be considered not delivered. If the Purchaser decides to accept an early delivery, the terms of payment shall in any case apply from the agreed delivery date.
- 4.5.** At the moment of the delivery, the Products shall be accompanied by the documentation needed to guarantee the compliance with all Directives in force and/or the applicable national and international Regulations.
- 5. Packing**
- 5.1.** The Supplier guarantees that the packaging is suitable for the supplied Products and that the Products will be delivered intact and integral at the warehouse of the Purchaser.
- 5.2.** Packing shall be identified with a label that can be read in the Purchaser's automatic goods acceptance areas (e.g. DATAMATRIX).
- 5.3.** The label shall comply with the specifications written in the Purchaser's 0.20.02 manual and subsequent amendments, available for consultation and printout on the website www.zoppasindustries.com.
- 5.4.** If the Supplier is unable to apply a label of DATAMATRIX type according to the Purchaser's requested indications, he shall provide a label carrying the Supplier's name, net weight of the goods, quantity and number of packages, Purchaser's material item code and production batch number, Purchaser's order number.
- 6. Supply acceptance**
- 6.1.** The Purchaser has the right to inspect the Products ordered and refuse non conforming Products and/or Products which are supplied in excess number, and returning them carriage forward.
- 6.2.** Save for Purchaser's right to terminate the sale and purchase contracts or part of them, if Products are not accepted due to their non-conformities, the batches or units refused shall be replaced at Supplier's cost within 7 (seven) days from the Purchaser's communication of non-acceptance together with a request for replacement.
- 6.3.** In case of non-conforming Products, save for the right to claim Damages, the Purchaser is entitled to require, at his own discretion:
- free replacement of the faulty Products with conforming ones, or
 - termination of the contract with consequent credit of the amount involved.
- 6.4.** If the non-conforming Products need to be reworked and/or employment of labour to make them usable is required, the relevant costs shall be charged to the Supplier.
- 7. Warranty**
- 7.1.** Supplier guarantees that the Products work perfectly are free from any defects and quality issues and conform to the relevant drawings and technical specifications for thirty (30) months from the date of their delivery, unless otherwise agreed in writing. In case of supplies subject to open orders, the Products shall comply with and conform to the revision of the drawings and of the technical specifications referred to in the Delivery Plan. In case of discrepancy between the revision indicated in the open order and the revision indicated in the Delivery Plan, the revision referred to in the Delivery Plan shall prevail.
Further, the Supplier guarantees to transfer good title of the Products which are free from any encumbrances, pledges or seizure, as well as that Products comply with all applicable laws and regulations in force at the time they are delivered to the Purchaser.
- 7.2.** During the warranty period, at the request of the Purchaser the Supplier shall replace or repair faulty Products free of charge on the Purchaser's premises or at the facilities of Purchaser's Customer.
- 7.3.** If the Products supplied are used in the Purchaser's production processes, the Supplier shall also guarantee replacement of non-conforming Products where the non-conformity is not entirely due to the Purchaser's production process. The replacing or repaired units shall benefit from the same warranty terms applied to the replaced or repaired non conforming Products.
- 7.4.** The Supplier represents and warrants that the Supplier itself, its contractors, sub-contractors and the Products supplied to the Purchaser comply with all applicable national, European and international custom laws and regulations as well as the regulations on import and export controls including but not limited to export regulations of dual-use goods.
- 8. First production for approval**
- 8.1.** In order to start the Purchaser's approval procedure and therefore authorizing the purchase and use of the Product in his production process, the first delivery of a new Product shall comprise a lot of the Product manufactured with final production tools (preseries), suitably identified and provided with a report containing the tests made by the Supplier to certify Product conformity and compliance with the applicable standards/regulations in force.
- 8.2.** If the Products are manufactured on the basis of Supplier's project for which the Purchaser only provides the dimensions drawing (as well as any specifications), in addition to what above mentioned, the Supplier, when specially required by the Purchaser, shall deliver the drawings for the individual parts or other relevant documents; such documentation shall be promptly updated if, during the provision of supplies, the approved Product undergoes changes, formerly approved by the Purchaser.
- 9. Changes to the production process**
- 9.1.** As the purchase order presupposes prior approval of the Supplier and his production process, the Supplier shall inform the Purchaser well in advance and in writing about his intention to change the production process and/or move production of the Product to another place and/or change materials and/or Sub-suppliers and/or design.
- 9.2.** The Supplier shall obtain written approval from the Purchaser before making any changes and supplying Products made with the new manufacturing.
- 9.3.** The Purchaser shall therefore have the right to approve the Product before it is manufactured and sold with the new process and/or in the new place.
- 10. Industrial and intellectual property**
- 10.1.** The Supplier represents and warrants that the Products do not infringe any patents, copyrights or other Industrial and Intellectual Property Rights of third parties and undertakes to indemnify, hold harmless and compensate the Purchaser from and against any Damages (as defined in section 18) arising from claims by any third parties.
- 10.2.** All Intellectual and Industrial Property Rights arising out of the design phase, development or manufacture of a Product for the Purchaser shall vest in and absolutely owned by the Purchaser, except for Intellectual and Industrial Property Rights independently acquired by the Supplier without any support of the Purchaser, prior to the date on which the Purchaser entered into any discussion with Supplier in relation to the relevant Product. The Supplier shall indemnify and hold the Purchaser harmless from and against any and all claims made by its employees or inventors in relation to the aforementioned Intellectual and Industrial Property Rights.
- 10.3.** The Supplier grants and shall cause its employees, consultants, contractors and suppliers grant to the Purchaser, for a period of twenty years, a royalty-free, worldwide, irrevocable and non-exclusive license of their Intellectual and Industrial Property Rights to the extent they are necessary to use, sell, distribute or otherwise market the Products.

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10.4. For the purposes of these General Conditions of Purchase and of the supply relationships governed thereby, "Intellectual and Industrial Property Rights" means all intellectual and industrial property rights including, but not limited to, trademarks and designs, logos and other distinctive signs, drawings and models, inventions, utility models, patents and patent applications, trade secrets, know-how, domain names and all related registrations or applications for registration.

10.5. The Parties declare and agree that the purchase price of the Products is determined taking into consideration Purchaser's ownership of the Intellectual and Industrial Property Rights pursuant to this section 10.

11. Technical documentation – Tooling – Molds

11.1. The Supplier shall keep up-to-date the drawings and technical documentation received by the Purchaser, proceed with the updating of the internal documents he uses in his organisation or used by his suppliers and/or sub-suppliers and/or contractors and guarantee that the documents are available when and where the production and the quality controls are carried out; moreover he shall avoid that obsolete documents are used.

11.2. The Supplier shall exercise great care and confidentiality in keeping the drawings, samples and all other documents and/or materials received from the Purchaser, and shall return them whenever the Purchaser requires them. It is expressly prohibited for the Supplier to use and reproduce such documents and materials for purposes different from the Supplier relationship with the Purchaser.

11.3. The Supplier shall keep suitable records of the results of tests, checks and approval tests relating to both his own production and of any suppliers, sub-suppliers and contractors, to be produced when required by the Purchaser's Quality Dept. The Supplier shall keep the records of results for no less than the term provided for in laws or regulation concerning manufacturer's liability.

11.4. In any case the Supplier shall keep all the prescribed documentation for an even longer period than the period prescribed by the applicable law, when litigation is entered into, in court or out of court, up to the issuance of the final and definitive judgment.

11.5. The Supplier shall identify and provide for the maintenance of any molds and tooling or whatever goods belonging to the Purchaser and in Supplier possession, and insure them at his own expenses against theft and fire. Such molds, toolings and goods shall be used exclusively for the benefit of the Purchaser or companies – directly or indirectly – controlling or controlled by I.R.C.A. S.p.A. (I.R.C.A. S.p.A. and all such other companies shall be defined "ZOPPAS INDUSTRIES HEATING ELEMENT TECHNOLOGIES GROUP") and not for Supplier's or third parties' own purposes. Upon termination of the supply relationship or in any case at the request of the Purchaser the Supplier shall return the molds, tooling, and goods operational and complete in all their parts.

11.6. Tooling prepared by the Supplier and Purchaser together shall be very carefully used and kept by the Supplier and may not be modified, altered and/or destroyed and/or used by others without prior written authorization from the Purchaser. In any case the Supplier shall be held liable for any damages caused by non-availability and/or destruction of said tooling.

11.7. If anomalies occur during use, the elimination of which requires extraordinary maintenance, the Supplier shall inform the Purchaser in order to receive instructions about what to do (any damage/breakages shall be charged exclusively to the Supplier).

12. Confidentiality clause

12.1. All information, data and documents delivered to the Supplier or of which the Supplier should become aware, excluding only those that are in the public domain through no fault of the Supplier, are to be considered subject to the obligation of secrecy and confidentiality and, therefore, the Supplier undertakes to do not disclose or to make available them to third parties.

13. Organization Model and Code of Ethics

13.1. The Supplier declares that he is aware of the regulations regarding the administrative responsibilities of organisations and the principles included in the Purchaser's Organisation Model and Code of Ethics, available for consultation and printout on the website www.zoppasindustries.com, to be considered an integral part of these General Conditions of Purchase and commits himself, also on behalf of his partners, suppliers, contractors and sub-suppliers, to observe them.

13.2. Failure by the Supplier - and by all his partners, suppliers, contractors and sub-suppliers - to observe the provisions in the above-mentioned Organisation Model and/or Code of Ethics shall to all effects and purposes imply serious non-fulfilment of the contract and shall authorize the Purchaser to terminate the relationship with immediate effect and claim the suffered Damages.

14. Competent Court – Applicable law

14.1. These General Conditions of Purchase and the contracts subject to such general conditions are governed by the United Nations Convention on Contracts for the International Sale of Goods, Vienna 1980, even if Purchaser and Supplier have their registered office in the same Country; for all matters not governed by the abovementioned Convention, the substantial law of the Country where the registered office of the Purchaser is located at the date on which the Purchaser entered into the sale and purchase contract of the Products, will apply subordinately, with the express exclusion of the conflict of laws provisions.

14.2. Any and all disputes arising out of or connected to these General Conditions of Purchase and/or the contracts subject to such general conditions shall be settled exclusively by the competent Court of the place where the registered office of the Purchaser is located at the date the lawsuit is taken, being understood that in any case the Purchaser shall be entitled to sue the Supplier before any other court having jurisdiction.

15. Inspections on Supplier's premises

15.1. The Purchaser reserves the right to visit the Supplier's or contractual partners, suppliers, contractors or sub-suppliers premises, with notice and together with Purchaser's Customers and the government Authorities for the purpose of assessing their organization (equipment, labour, incoming materials, production process, final tests, dispatch, etc.).

16. No publicity

16.1. Publicity of any type that refers to supplies made to the Purchaser is not allowed unless authorized by the Purchaser in writing and in advance.

17. Counterfeit parts

17.1. The Supplier shall guarantee the absence of counterfeit parts in the supplies where counterfeit part is meant as an unauthorized copy, imitation, substitute, or modified part (e.g. material, part, component), which is knowingly misrepresented as a genuine part of an original or authorized part.

18. Liability and Damages

18.1. The Supplier shall compensate, indemnify and hold harmless the Purchaser and, to the extent permitted by the applicable law, the other Indemnifying Parties (see defined below), from and against any and all claims, demands, actions, damages, losses, costs, liquidate damages, fines, liabilities, proceedings, judgements and/or expenses including judicial and attorney costs and fees (collectively referred to as the "Damages") suffered by or charged to the Indemnifying Parties as result of or relating to non-fulfilment or breach of these General Conditions of Purchase or of the contracts governed by these General Conditions of Purchase, by the Supplier.

18.2. For the purpose of these General Conditions of Purchase, "Indemnifying Parties" shall mean jointly the Purchaser, the companies controlling, controlled by or under the common control with Purchaser and any other entity belonging to ZOPPAS INDUSTRIES HEATING ELEMENT TECHNOLOGIES GROUP, their officers, directors, representatives, employees, agents, customers, contractors and subcontractors.

18.3. By way of example, without any limitation purpose, the Damages shall include all the consequences that arise from or are connected to (i) personal injury, bodily injury, illness or death of any person; (ii) damage to properties; (iii) failure to perform, non-conformities, defects or lack of qualities of the Products; (iv) violation of laws, regulations, ordinances, permits, licenses or government orders (including but not limited to the violation of environmental protection, health, safety, export and import regulations); (v) counterfeiting or improper use of trademarks, patents, company secrets and know-how and any other Intellectual or Industrial Property Rights of the Indemnifying Parties; or (vi) breach or violation of any contractual or legal confidentiality obligation.

19. Assignment of contract and of rights and obligations

19.1. The Supplier shall not assign or otherwise transfer these General Conditions of Purchase, the contracts executed under these general conditions, as well as the rights and obligations arising out of such General Conditions of Purchase and contracts, without the prior written consent from the Purchaser.

20. Order of prevalence

In the event of any conflict between the English version and other versions of these General Conditions of Purchase, the English version shall prevail.

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