

General Conditions of Sale

All sales entered into by the Vendor are to be governed exclusively by the following General Conditions of Sale. Any clause or condition drawn up by the Buyer shall become null and void if found to be in conflict with the following conditions.

1. Quotes, orders and order acknowledgements

1.1. Estimates issued by the Vendor, including the description, technical features and prices of the goods shall not in any case be considered as a binding sales agreement, but rather a quote. The conditions set forth in said quote shall lose all validity and effect thirty days from the time they are transmitted to the Customer, unless the Vendor receives an Order from the Customer in the meantime.

1.2. Any order sent by the Buyer shall be understood as an irrevocable purchase proposal, which shall be valid for 30 days, from the date it was received by the Vendor, unless said term is explicitly extended by the latter from time to time.

1.3. The Buyer's Order must include indication of the quantity and name of the products required.

1.4. The mere sending of the Order by the Buyer shall imply that the Buyer has read and is familiar with all these General Conditions of Sale, which shall consequently be fully accepted unconditionally and without restriction by the Parties.

1.5. Buyer's Orders only become binding for the Vendor after the latter has sent an Order Acknowledgement to the Buyer.

1.6. Information provided in catalogues, schedules and price-lists is not binding for the Vendor, which reserves the right to make any modification whatever to its products and to prices thereof in view of which, the Vendor is to be considered bound only by such details as appear in the relative Order Acknowledgements

1.7. The Vendor's catalogues have been drawn up with the utmost attention in order to ensure the accuracy of information, however, the Vendor declines responsibility for any errors or omissions contained in the same, as the Parties are only bound by the contents of Orders, Order Acknowledgements and these General Conditions of Sale.

2. Conclusion of the contract

2.1. The contract of sale shall only be considered as concluded with the Vendor's explicit acceptance thereof by means of the Order Acknowledgement issued by the Vendor.

3. Prices

3.1. The contract prices are those set forth in the Order Acknowledgement, and are to be considered as being for merchandise made ready by the Vendor "ex-works" (EXW), according to Incoterms (International Commerce Terms).

3.2. Any amendment to the contract requested by the Buyer after its conclusion shall be null and void unless accepted in writing by the Vendor, specifying new terms of delivery, prices and terms of payment where applicable.

3.3. Prices as stated in the Order Acknowledgement may be subject to possible variation by the Vendor at the time of delivery, in compliance with the "Price review" clause on the Vendor's initial Estimate or on the Order Acknowledgement.

4. Delivery dates

4.1. The terms of delivery stated on the Order Acknowledgement are indicative, without prejudice to the Vendor's undertaking to observe the same as far as possible.

4.2. In any event, given the indicative nature of the terms of delivery, the Vendor shall in no circumstances be held responsible for any direct or indirect damage to the Buyer on account of late delivery.

4.3. The Vendor is entitled to postpone the delivery deadline or suspend the delivery of the contractual material, at its unchallengeable discretion:

a) should the Buyer fail to observe the conditions of payment established or be late in fulfilling its contractual obligations (such as, by way of a non-limiting example, the sending of advances, granting of guarantees, issue and presentation of credit instruments and other financial fulfilments) including those relating to previous relations with the Vendor;

b) force majeure and like instances, such as, by way of a non-limiting example strikes, lock-outs or abstention from labour, epidemic, war, requisition, fire, flood, processing incidents and stoppages and/or delays in transportation, blackout or inadequacy of power supplies and any other event that cannot be attributed to the Vendor or its suppliers;

c) failure on the part of the Buyer to provide the Vendor, in good time, with any information it has undertaken to provide and necessary for the supply and/or materials to be delivered.

d) when amendments are made to the Order, even with the Vendor's acceptance;

e) in the event of difficulties in procurement of raw materials.

In cases in which suspension of supplies or extension in delivery deadlines are due to causes that can be referred in any way to the Buyer (such as, by way of a non limiting example, those cases set forth in the previous paragraph under points a, c and d), the Vendor shall be entitled to claim compensation from the Buyer for the damage suffered.

4.4. Delayed delivery shall not in any case entitle the Buyer to claim for compensation for damage.

5. Suspended or cancelled orders

5.1. In the event of the Buyer's suspending or cancelling an order, the Vendor reserves the right to invoice the Buyer in respect of:

a) the cost, calculated pro-rata, of materials utilized and of work accomplished in filling the order thus far. The merchandise in this instance remaining at the Buyer's disposal;

b) increased expenditure ensuing to the Vendor from the Buyer's failure to settle, in addition to 20% of the difference between the order sum-total and the amount previously arrived at by the application of point a).

6. Deliveries

6.1. Delivery is usually understood as ex-works (EXW) at the Vendor's premise.

6.2. Specifically, delivery may be said to have taken place, to all intents and purposes, with the sending of notice (which may simply take the form of an invoice) either to the effect that merchandise is available for testing (where applicable) or for collection by the Buyer, or to the effect that it has been handed over to the freight company.

6.3. Once notice has been received that the goods are ready, the Buyer must swiftly indicate the name of the freight company, when appointed by the same, which will collect the goods. The Buyer must also arrange insurance cover for transportation.

6.4. In case of the late collection of merchandise made ready by the Vendor for any reason whatsoever not attributable to lack of goodwill on the part of the Vendor, once eight days have elapsed from the time notification was given that the goods were ready for collection, they shall be considered delivered, with the following consequences:

a) the Vendor shall be entitled to issue the relative invoice and claim fulfilment of the terms of payment established;

b) the Vendor may package, transport or store the material at the Buyer's expense, without prejudice to its right to claim for any damage suffered, including the costs for warehousing, keeping and storage of the goods.

7. Payment

7.1. Payments must be remitted to the Vendor's place of business, and made in accordance with such conditions as are agreed; any remittance made at location or in manner differing therefrom, may not be deemed valid and shall consequently not have a redeeming effect for the Buyer

7.2. In the event of late payment at the agreed deadlines, the Vendor shall be entitled to charge penalty interest pursuant to Legislative Decree no. 231 of 9th October 2002.

7.3. Any claims or disputes give no right to the Buyer to suspend or delay the payment of invoices.

7.4. The issue of bills of exchange, IOUs, drafts, cheques or any other form of payment or guarantee shall not cause any amendment to the contract or any of the contract clauses (specifically, it shall not change the place of jurisdiction in the case of a dispute) and shall be exclusively considered as aimed at facilitating the definition of the relationship, without having any novation effect.

7.5. Advance payment to the Vendor shall always be non-interest bearing.

8. Freightforwarding

8.1. All transactions regarding transport, insurance, customs and excise, handling, and delivery are at the care, expense and risk of the Buyer, whose responsibility it is both to check the merchandise upon arrival and to make any claim against the freight company by direct approach, even where merchandise has been dispatched carriage-paid.

8.2. In those cases where the Vendor's transport facilities are utilized for shipping merchandise, the latter is to be dispatched, ex-works at best, with the Buyer duly assuming total responsibility thereof.

9. Claims

9.1. Any claim or contestation on the part of the Buyer with regard to merchandise supplied, must be forwarded in writing to the Vendor within 20 working days of the date of delivery of the goods and sent to the Vendor's registered offices, following the instructions contained in Vendor's website www.rossi.com.

9.2. In the event of claims for tampering with or shortage of goods, the Buyer shall promptly notify the freight company in writing at the time the goods are received.

10. Warranty

10.1. The Vendor guarantees the good operation of the standard Rossi products of the catalogues effective at the moment of the contract and sold to direct customers and customers of authorized ISO 9000 certified distributors for 3 (three) years from the date of their dispatch.

The 3-year warranty applies to products operating in two shifts (two years, for operating in 3 shifts).

For the accessories purchased on the market (such as, by way of a non-limiting example, joints, baseplates, and motors) the warranty shall have a one-year duration.

10.2. The warranty is limited to repair or replacement of parts at the Vendor's unchallengeable discretion, forwarded carriage-paid to an address specified by the Vendor, which show recognizable defects due to defective materials or manufacturing. The parts replaced remain property of the Vendor.

10.3. The warranty does not cover parts that are subject to natural wear or deterioration (such as, by way of a non-limiting example, seal rings).

10.4. No other compensation of any kind is envisaged by the warranty, neither can there be any question of claims for damages of any kind, direct or indirect, (including by third parties), even in respect of temporarily suspended use of the merchandise purchased. Examination of such defects and the causes thereof is to be carried out at one of the Vendor's factories, by the Vendor.

10.5. Expenses relating to operations (such as, for example, labour, dismantling, reassembly, transport, board and lodgings) by the Vendor's personnel to outside locations for the purpose, are chargeable to the Buyer, even in case the right to repairs under warranty has been acknowledged. The Vendor will be chargeable only for the costs of replaced parts and the time needed to replace them.

10.6. The warranty ceases to be effective for products chosen (specifically, as a non-limiting example, in relation to: service factor, daily lifetime, radial loads, etc.), stored, installed (protection from bad weather, irradiation and pollution, lubricants) utilized or maintained in a negligent or improper manner, i.e. not in accordance to the Vendor's instructions, or modified and/or repaired in any way whatsoever, or entirely or partially disassembled (see "Installation and Maintenance Instructions for gear reducers and gearmotors. UT.D 045" which can be consulted on and downloaded from our website www.rossi.com).

10.7. The warranty also excludes damages and/or defects and/or abnormalities deriving from external components (such as, by way of a non-limiting example, couplings, pinions, pulleys, motor for gearmotors without motor, etc.) or their wrong assembly.

10.8. The warranty mentioned in article 10 replaces and excludes any other form of warranty, even legal.

10.9. The Buyer's entitlement to the warranty mentioned in this article shall be null and void in the case of non-performance of even just one of the contractual obligations assumed, specifically as regards the conditions of payment.

10.10. Any repairs under warranty and/or not under warranty are to be required in writing by the Buyer to the Vendor, following the instructions contained in Vendor's website www.rossi.com.

10.11. For replaced or repaired parts and for these alone, the warranty period recommences and expires three months after the conclusion of the replacement or repair operation.

11. Liability

11.1. Should the Vendor be liable for faulty products, the compensation shall not in any case exceed the purchase price of the same faulty products.

11.2. The Vendor shall not in any case be liable for indirect damage such as, for example, loss of clientele, turnover, production, profit, image or any damage to the Buyer for any action taken against it by third parties.

11.3. The Vendor shall not in any case be liable when product defects are due, by way of a non-limiting example, to:

- a) improper, incorrect or excessive use;
- b) improper, incorrect or inadequate maintenance
- c) product use that is unusual or contrary to the Vendor's warnings or, in any case, different to its intended use;
- d) use of product with non-original components;
- e) improper conservation

12. Applicable law, jurisdiction and place of jurisdiction

12.1. Any dispute concerning the stipulation, validity, interpretation, execution and termination of this agreement shall be governed by Italian Law and the court of Modena shall have sole jurisdiction, with the exclusive jurisdiction of the Italian judge, with the explicit exclusion of any other court.

13. Proprietorship of goods. Indemnity

13.1. The property of the goods forming the subject of this sale is of the Vendor and shall be transferred to the Buyer only upon full payment of the agreed price by the Buyer pursuant to articles 1523 f. of the Italian Civil Code.

13.2. Non-payment within the established terms of even just one instalment amounting to over one eighth of the sale price or non-payment of two instalments regardless of the sum of the same, according to the agreed terms, shall automatically invalidate the Buyers' acceleration clause, with the Vendor consequently being entitled to full and immediate payment, in a single settlement of the full residual credit.

13.3. Furthermore, when preferred by the Vendor, it shall be entitled to terminate the agreement and consequently obtain immediate return of the material delivered, withhold as indemnity, all the installments paid and demand payment of the instalments expired and 3/5 (three fifths) of those yet to expire, without prejudice to compensation for further damage.

14. Confidentiality and secrecy obligation. Penalty clause

14.1. The Buyer is obliged to observe the utmost confidentiality as regards all technical and commercial information received from the Vendor in execution of this contract.

14.2. In relation to such information, even after the execution of this agreement, the Buyer is obliged to:

- keep it with the utmost diligence and confidentiality and return it to the Vendor, when requested to do so;
- refrain from reproducing, copying, transmitting or revealing it to third parties, unless within the limits explicitly authorised in writing by the Vendor;
- refrain from applying for patents;
- refrain from producing or having third parties produce, or providing third parties with, for any reason, directly or indirectly, products using the above technical information;
- to impose and guarantee observance of the obligations deriving from this article on any subject cooperating with the same Buyer, in any form and in any case, and therefore also partners, employees, professionals, consultants, sub-suppliers and, in any case, whoever may directly or indirectly become privy to the information passed on by the Vendor to the Buyer.

14.3. In the event of violation of the confidentiality and secrecy obligation set forth in this article, the Buyer shall be obliged to pay the Vendor, as a penalty, the amount equal to 10% of the goods purchased in a solar year, whose congruence in relation to the total interests shared by the Parties has been previously assessed and accepted. This shall, naturally, not affect the Vendor's right to obtain compensation for any further damage suffered.

15. Form of the agreement

15.1. This agreement represents the only negotiation instrument governing relations between the Parties.

15.2. Any agreements to derogate, amend and/or supplement these General Conditions of Sale shall be stipulated and proven in writing.

15.3. The Buyer hereby agrees to have received and carefully examined the technical documentation provided by the Vendor, drawn up in Italian and English, regarding the material acquired.

The Buyer may also ask the Vendor to provide a copy of said technical documentation in one language of its choice of either French, German or Spanish.

16. Applicable version

16.1. This agreement has been drawn up in Italian and English.

16.2. In the event of conflicts or doubts with regard to the interpretation of the agreement or the technical documentation mentioned in the previous article, the Parties hereby declare that the Italian version shall prevail.

17. Invalid clauses

17.1. The Parties hereby explicitly agree that the invalidity of one or more provisions of this agreement shall not affect the validity of the agreement as a whole.

The Buyer

Pursuant to article 1341, subsection 2 of the Italian Civil Code, the Parties hereby declare to have negotiated, carefully read and consequently to unconditionally approve the following clauses of these General Conditions of Sale:

1. exclusion of the Vendor's responsibility in the preparation of catalogues;
2. conclusion of the agreement;
3. exoneration from responsibility for late delivery; Vendor's right to suspend delivery; Buyer's renunciation of termination of contract and damage compensation for delay in performance by the Vendor;
4. solution for suspension or cancellation of orders;
5. renunciation to suspend or delay payment; penalty clause;
6. term for complaints and expiry;
7. warranty: discipline and limitations;
8. applicable law, jurisdiction, and place of jurisdiction;
9. proprietorship and indemnity;
10. confidentiality and secrecy obligation; penalty clause.

The Buyer

Please note that the above mentioned General Conditions of Sale can be consulted on and downloaded from our website www.rossi.com.

