

**1. SCOPE OF APPLICATION**

**1.1** These General Conditions of Sale apply to all sales of products made by Della Foglia S.p.A., with registered office in Milan, Via Fabio Filzi 27, and operational headquarters in Gorla Minore (VA), Viale A. Colombo 219, fiscal code and VAT number 01562490126 (hereinafter, **Della Foglia** or the **Seller**) in favor of subjects, entrepreneurs or professionals, who carry out a professional economic activity (hereinafter the **Purchaser**). The Seller and the Purchaser hereinafter jointly also the **Parties** and individually also the **Party**.

**1.2** These General Conditions of Sale made available on the Della Foglia website at the link <https://www.dellafoglia.it/company#Documents> and sent to the Purchaser together with the Seller's order confirmation must be understood as an integral part of the Purchaser's purchase order, the Seller's order confirmation and the related contract concluded between Della Foglia and the Purchaser. Therefore, with the sending of the purchase order in the manner set out in the following art. 2.3, the Purchaser declares to have read and fully accept these General Conditions of Sale, which will remain effective until they are expressly amended, terminated or replaced by means of a document written by Della Foglia.

**2. OFFER, PURCHASE ORDER AND APPLICABLE CONDITIONS**

**2.1** The Della Foglia offer is formulated on the basis of requests and data communicated by the Purchaser. The offer will remain valid and effective for the time indicated therein and, where not provided, for 30 (thirty) days from the date it was sent to the Purchaser. Once this term has elapsed without Della Foglia having received the purchase order from the Purchaser, in the manner and forms set out in art. 2.3, the offer becomes ineffective and Della Foglia reserves the right to vary it without any responsibility.

**2.2** Della Foglia may revoke the offer until the purchase order has been sent by the Purchaser.

**2.3** The purchase order will be valid if sent in writing to Della Foglia by e-mail to the address communicated by the sales office contact person.

**2.4** Once the Purchaser's purchase order has been accepted by Della Foglia in the manner and forms set out in the following art. 3, it will be subject to any conditions contained in the individual purchase order, if particular, as well as to these General Conditions of Sale, which replace and prevail over any previous agreement with the Purchaser. It is understood that any requests by the Purchaser to vary the special conditions indicated in the purchase order must be sent to Della Foglia in writing no later than the sending of the order confirmation by the latter, and will be considered automatically rejected if they are not expressly accepted in writing by Della Foglia in the order confirmation.

**2.5** Della Foglia will not be bound by any general conditions of purchase of the Purchaser and/or by any other document prepared and/or sent by the Purchaser, even if integrated and/or modified and/or annexed to the order proposal, unless explicitly accepted by Della Foglia and indicated in the Della Foglia order confirmation. In the event of a conflict between the Purchaser's general conditions of purchase and the Della Foglia General Conditions of Sale, the latter shall prevail.

**2.6** The Purchaser assumes direct and exclusive responsibility for its declarations relating, among other things, to the Purchaser's personal and fiscal data, to the qualitative and quantitative characteristics of the products requested as well as, by way of non-exhaustive example, the dimensions, the specifications as well as the shipping data, and undertakes to send the information and documents required by Della Foglia necessary for the correct execution of the contract. It is understood that any photos, images, characteristics, descriptions of the products and anything else relating to them not expressly indicated in the order confirmation will not be binding on Della Foglia.

**2.7** Any additions to the General Conditions of Sale and/or different provisions of the purchase order with respect to the General Conditions of Sale may not be interpreted extensively and will have effectiveness limited, unless otherwise expressly agreed in writing between the Parties, to the single order for which they will be expressly agreed and will not extend to different purchase orders.

**3. IRREVOCABILITY OF THE PURCHASE ORDER AND CONTRACT CONCLUSION RIGHT OF WITHDRAWAL**

**3.1** Each order proposal from the Purchaser is considered irrevocable, pursuant to art. 1329 of the Civil Code, until Della Foglia sends the order confirmation. Pursuant to articles 1326 – 1352 of the Civil Code, the relative contract is understood to be concluded in Gorla Minore once Della Foglia sends the order confirmation. Once an order has been confirmed by the Seller, any request for modification and/or integration and/or replacement (also in relation to the variety and/or quantity of products) by the Purchaser must be sent in writing to Della Foglia, and will be considered automatically rejected if it is not expressly accepted in writing by the Seller within 15 (fifteen) days from the date of its receipt. The Purchaser acknowledges and accepts that such modification and/or integration and/or replacement may involve a variation in the price of the products.

**3.2** The Purchaser acknowledges and expressly accepts that at any time, even after the conclusion of the contract, Della Foglia may, in relation to each individual order, suspend and/or cease the production and/or distribution of specific products, or replace some products with other similar ones, change the composition, packaging, denomination, quantity, decide to use specific commercial and/or distribution channels even only for some models of the products. In such cases, as well as in the event of non-availability of the product, Della Foglia will be able to execute even only partially the contract and the Purchaser will be promptly informed, even after the conclusion of the contract. However, this will not give it the right to revoke the order proposal and/or to withdraw from, or terminate the contract, which will therefore continue to be binding, *mutatis mutandis*, nor will the Purchaser be entitled to refunds and/or compensation and/or indemnity and/or reimbursements or other: the Purchaser expressly and irrevocably waives any and all disputes and objections in this regard.

**3.3** Della Foglia will have the right to withdraw freely, pursuant to art. 1373 of the Civil Code, from the contract concluded with the Purchaser until the moment of delivery to the Purchaser of the products ordered by it: in this case, Della Foglia will only be required to reimburse the price if and to the extent that it has already been paid by the Purchaser, without any liability and without the obligation to pay the Purchaser any amount as consideration for the right of withdrawal and/or for its exercise, or for any other reason.

**3.4** Once a purchase order has been confirmed by Della Foglia, the Purchaser may withdraw, in whole and/or in part, from the relative contract concluded with Della Foglia, paying Della Foglia, by way of consideration for the withdrawal, reimbursement of any costs deriving from the withdrawal, as well as an amount equal to:

- 10% of the price if the withdrawal is communicated by the Purchaser after the Seller's order confirmation;
- 50% of the price if the withdrawal is communicated by the Purchaser after the forging of the products;
- 75% of the price if the withdrawal is communicated by the Purchaser after the processing of the main components;
- 95% of the price if the withdrawal is communicated by the Purchaser after the assembly test.

**4. PRODUCT DELIVERY AND TRANSPORT**

**4.1** Unless otherwise agreed in writing between the Parties and/or communicated by Della Foglia, the delivery of the products will be made EXW as per Incoterms 2020 Gorla Minore. In the event that the products are not delivered EXW Incoterms 2020, the costs and risks of transport will be divided between Della Foglia and the Purchaser on the basis of the transport conditions agreed from time to time between the Parties.

**4.2** In any case, Della Foglia releases itself from the obligation to deliver the products to the Purchaser by returning the same products to the carrier and/or shipper, pursuant to art. 1510 of the Civil Code. In the event that the products travel at the risk and peril of Della Foglia, any loss, damage, destruction, theft - partial or total - or unsuitability and/or non-usability of the products will solely entail the obligation for Della Foglia to replace the products with others equal and/or similar or, in the event that such replacement is not possible, to refund the price if and to the extent that it has already been paid by the Purchaser, instead, expressly and in any case excluding any right of the Purchaser to returns, refunds, indemnities, refunds and similar rights.

**4.3** The delivery terms of the products indicated in the purchase order and/or possibly communicated by Della Foglia are purely indicative, unless their essentiality is expressly indicated in writing by the Purchaser at the time of the order and expressly accepted in writing by Della Foglia. Even if the delivery terms are essential, Della Foglia will in any case have the right to postpone any delivery term in cases where compliance with the same is not possible for reasons beyond its control and/or not attributable to it, including force majeure (ICC 2020) and unforeseeable circumstances, such as, by way of non-exhaustive example: strikes, lockouts, riots, insurrections, earthquakes, epidemics, pandemics, exceptional events and/or occurrences of a national or international nature, inability to procure raw materials or carrying out the deliveries of the products and/or provisions of the Authority,

as well as of the Government, whether local and/or national and/or international. Della Foglia undertakes to promptly notify the Purchaser in such a case.

**4.4** The products will be packed according to custom.

**5. PRODUCT NON-COLLECTION**

**5.1** If the Purchaser refuses or fails to collect the products, the Purchaser will automatically be deemed to be in default from the day on which the products were offered to be delivered to, or in any case made available to, the Purchaser. Furthermore, in this case Della Foglia, without prejudice to the right to take the most appropriate actions to protect its rights and interests, will have the right to suspend the execution of and/or no longer execute other deliveries of the products even if relating to other contracts/orders, as well as to modify the payment terms and conditions originally indicated in the relative order confirmation and/or communicated by Della Foglia.

**5.2** After 20 (twenty) days from the day on which the products were offered for delivery to, or in any case made available to, the Purchaser, Della Foglia will have the right to terminate the contract due to the fault of the Purchaser, by giving written notice: In this case, Della Foglia will be able to freely dispose of the products and the Purchaser will have to pay Della Foglia, as a penalty pursuant to art. 1382 of the Civil Code and without prejudice to the right to compensation for greater damages, an amount equal to 20% (twenty percent) of the order value, as well as reimburse Della Foglia for all transport and/or shipping and/or storage costs it may have incurred. However, Della Foglia will have the right to request the fulfillment of the contract by the Purchaser, without prejudice to the reimbursement of the costs of custody of the products until the actual collection thereof by the Purchaser, as well as the right of Della Foglia to compensation of the damage.

**6. FLAWS, DEFECTS, GUARANTEES AND WAIVERS**

**6.1** The Purchaser shall verify the quantity and quality of the products, as well as the absence of flaws and defects in the products, on the same day of delivery of the products to the Purchaser. Any disputes and/or complaints relating to quantity and/or quality and/or flaws and/or damage and/or defects of the products must be communicated in writing to Della Foglia by registered letter with return receipt or by PEC certified e-mail to the address [dellafoglia@certimpres.it](mailto:dellafoglia@certimpres.it) - or to a different address in the register of companies - to be sent, under penalty of forfeiture, no later than eight (8) days from the date of delivery of the products to the Purchaser.

It is understood that in the absence and/or in the event of generic disputes that do not allow Della Foglia to identify the flaw and/or defect, the products will be considered accepted by the Purchaser and free from flaws and/or defects.

**6.2** The Seller guarantees that the products are free from flaws and/or defects for a period of 12 (twelve) months from the date of delivery thereof to the Purchaser. The Purchaser forfeits the guarantee in the event of the use of non-original spare parts and/or interventions on the products carried out by personnel not authorized by Della Foglia.

**6.3** In the event of an objectively valid and well-founded dispute, Della Foglia will only have the obligation to replace the disputed products with other identical and/or similar products. In any case, any and all compensation for any direct and/or indirect damages suffered by the Purchaser is hereby expressly excluded: the Purchaser expressly and irrevocably waives any and all disputes and exceptions in this regard. Della Foglia does not recognize any guarantee relating to the marketability, the adequacy of the products for particular purposes and uses and/or the violation of third-party rights.

**6.4** Della Foglia may not even be held responsible for damages deriving from the choice made by the Purchaser and/or third parties of a particular use and/or purpose and/or conservation of the products other than that for which they are normally intended and/or indicated and/or not compliant with the provisions of the legislation applicable to the products.

**6.5** Under no circumstances is Della Foglia responsible for any loss of profit or earnings, for any other type of economic damage for direct and/or indirect damage, consequential, deriving or in relation to the use, conditions, possession, performance, maintenance, failed or delayed delivery of the products, even if Della Foglia has been informed or has become aware of such circumstances.

**6.6** No dealer, agent or employee of Della Foglia is authorized to make changes, extensions or additions to the provisions of this art. 6.

**7. PRODUCT PRICES AND PAYMENTS**

**7.1** The prices of the products are those indicated in the Della Foglia order confirmation. Della Foglia reserves the right to modify the prices of the products at any time, which will apply to all purchase orders sent by the Purchaser after such variation.

**7.2** All payments must be made by the Purchaser within the terms and in the manner indicated in the Della Foglia order confirmation. Any payment made by unauthorized persons and/or by unauthorized means of payment will be considered non-existent and as never having been made, and will not consequently release the Purchaser from its payment obligations.

**7.3** In the event of late payments by the Purchaser, Della Foglia (i) will be entitled to the payment of default interest pursuant to Legislative Decree no. 231/2002, unless the Purchaser demonstrates the impossibility of timely payment for reasons not attributable to it, as well as (ii) without prejudice to the right to promote the most appropriate actions to protect its rights and interests, it will have the right to suspend execution of and/or no longer proceed with execution of other deliveries of the products, as well as to modify the terms and conditions of payment originally indicated in the relative order confirmation by Della Foglia.

**7.4** Interest for late payments will automatically start from the day following the expiry of the payment terms indicated on the invoice, also applying art. 4 of Legislative Decree no. 231/2002.

**7.5** Della Foglia will also be entitled to reimbursement of the costs incurred for the recovery of all sums not paid to it promptly, without prejudice to the right to compensation for greater damages.

**7.6** Pursuant to art. 1462 of the Civil Code, until full payment of all amounts due to Della Foglia, the Purchaser has no right to raise any objection and/or exception in order to suspend or delay the payment; in particular, but without limitation, the Purchaser does not have the right to raise the exceptions referred to in articles 1460 and 1461 of the Civil Code, or exceptions based on any objection and/or counter-claim by the Purchaser against Della Foglia.

**7.7** Except for the cases expressly provided for in these General Conditions of Sale, the Purchaser will not have the right to obtain a refund of the price already paid.

**7.8** For some offers accepted by the Seller, at any time before the start of production of the products as well as during the production and/or procurement of raw materials, there may be a significant increase in the costs that Della Foglia must bear to produce and/or procure the supply requested by the Purchaser with respect to the date on which the price was first communicated to the Purchaser. In said case, Della Foglia will be entitled, at its sole discretion, to an adjustment of the unit price of a product due to the increase in costs (Cost Adjustment). The Cost Adjustment to the price of the accepted offer will be considered if the relevant index is increased and causes an increase in the cost of production and/or procurement of more than five percent (5%).

**8. OWNERSHIP RESERVE**

**8.1** Della Foglia will retain ownership of the products until the Purchaser has fully paid the relative price, as well as any amount due to the Seller: without prejudice to the foregoing, all costs and risks relating to the products will be transferred to the Purchaser pursuant to art. 4. At the request of Della Foglia, the Purchaser shall sign all the documents and/or contracts and/or deeds necessary for the purpose of rendering the retention of title in favor of Della Foglia enforceable against any of the Purchaser's creditors.

**8.2** Until the transfer of product ownership, Della Foglia has the right to access the places where the products are located and collect them.

**8.3** If the Purchaser transforms and/or assembles the products of which Della Foglia retains ownership to form part of a new object, Della Foglia automatically acquires ownership of the new object in proportion to the value of the unpaid products transformed and/or assembled in the new item, until the Purchaser pays the price of the initial products.

**8.4** In case of sale by the Purchaser of products for which it has not yet made full payment of the price, the Purchaser transfers as of now a part of the credit claimed by the latter against third parties deriving from said sale, for an amount equal to the consideration still due to Della Foglia for the products.

**9. FORCE MAJEURE**

**9.1** In addition to as established in other articles of these General Conditions of Sale, Della Foglia will not be held liable towards the Purchaser in the event of non-fulfillment of the obligations deriving from the contract, if said non-fulfillment is due to force majeure and not attributable to Della Foglia. By way of non-exhaustive example, the following are considered cases of force majeure: epidemics, pandemics, explosions, storms, floods, fires, accidents, war and/or threat of war, sabotage, insurrection, civil unrest, events and/or exceptional events of a national or international nature, requisitions, restrictions, prohibitions, measures of any kind adopted by the Government and/or Parliament and/or local authorities, provisions and/or rules relating to imports and/or exports and/or embargoes, strikes,



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blockades, industrial unrest or disputes, difficulty in finding raw materials and/or components of the production apparatus and/or breakdowns in the production apparatus and/or power outage, difficulties in carrying out product deliveries.

#### **10. LEGISLATIVE DECREE 231/2001 AND CODE OF ETHICS**

**10.1** The Purchaser acknowledges that Della Foglia has adopted the Code of Ethics and the Organizational Model pursuant to Decree 231/2001 (Organizational Model). The Purchaser declares and guarantees that, in carrying out the activities envisaged by the contract, those who hold representation, administration or management functions of the Purchaser and those who exercise, even de facto, the management and control thereof, as well as their employees, will not behave in any way, will not carry out any act or omission and will not give rise to any fact that does not comply with the provisions of the Code of Ethics and the Organizational Model from which a liability pursuant to the aforementioned Decree 231/2001 may derive against Della Foglia. In the event of even partial non-fulfillment by the Purchaser of this provision, Della Foglia will have the right to terminate the contract concluded with the Purchaser at any time and with immediate effect, pursuant to and for the purposes of art. 1456 of the Civil Code, without prejudice to the right of Della Foglia to compensation for damages that may derive from the aforementioned non-fulfillment.

#### **11. TRANSFER PROHIBITION**

**11.1** In the absence of written consent from Della Foglia, the Purchaser may not for any reason transfer the contract concluded with Della Foglia to third parties, directly or indirectly.

#### **12. TRADEMARK PROTECTION**

**12.1** The Purchaser undertakes not to use, in any form, manner, by any means and for any purpose, the trademarks, signs, logos, names or other designations as well as the certificates of ownership of Della Foglia outside the hypotheses permitted by Della Foglia and/or without having previously obtained the written authorization of Della Foglia and within the limits and in the manner of said authorization.

**12.2** The Purchaser undertakes to indemnify and hold Della Foglia harmless from damages and/or any prejudicial consequence that may derive from the violation by the Purchaser of any intellectual and/or industrial property right pertaining to the products.

**12.3** The Purchaser acknowledges that, should it violate this article, Della Foglia will have the right not to execute the order, even if it has already been confirmed.

#### **13. CONFIDENTIALITY**

**13.1** The Purchaser undertakes to keep strictly confidential and not to reveal or disclose, in any form whatsoever, to third parties any information of a technical and/or commercial nature originating from and/or pertaining to Della Foglia such as, by way of non-exhaustive example, information relating to Della Foglia know-how.

#### **14. EXPRESS TERMINATION CLAUSE**

**14.1** In addition to the cases provided for in the individual articles of these General Conditions of Sale, Della Foglia will have the right to terminate the contract concluded with the Purchaser with immediate effect, without the need for warning and/or formal notice, by sending the Purchaser simple written communication in this sense, in the following cases:

- non-fulfillment, in whole or in part, even with regard to just one of the obligations pursuant to articles 5.1, 5.2, 7.2, 7.3, 8.1, 10, 11, 12, 13. In this case, the Purchaser must also pay Della Foglia, as a penalty pursuant to art. 1382 of the Civil Code and without prejudice to the right to compensation for greater damages, an amount equal to twenty percent (20%) of the order value, as well as reimburse Della Foglia for all expenses incurred;

- if the Purchaser loses its legal capacity and/or becomes insolvent and/or goes into liquidation.

#### **15. COMMUNICATIONS AND ELECTION OF DOMICILE**

**15.1** Any communication relating to these General Conditions of Sale and/or the contract concluded between Della Foglia and the Purchaser must, for its validity, be made in writing, also by fax and/or e-mail and/or PEC certified e-mail, to the addresses indicated in the Della Foglia order confirmation, where the Parties also elect their domicile for all purposes relating to these General Conditions of Sale and to any contract concluded, including that of any judicial notifications.

#### **16. APPLICABLE LAW AND EXCLUSIVE JURISDICTION**

**16.1** Each Purchaser's purchase order, each Della Foglia order confirmation, the related contracts concluded between Della Foglia and the Purchaser as well as these General Conditions of Sale are subject exclusively to Italian law, with the express exclusion of the rules of private international law on the law applicable, and the Court of Milan will be the only competent court for any and all disputes that may arise in relation to them, with the express exclusion of any competing court.

**16.2** The applicability of the United Nations Convention on the International Sale of Goods is also excluded.