

## **Deloro Microfusione S.r.l. - GENERAL TERMS AND CONDITIONS OF WORKS CONTRACTS**

### **Recitals**

1. Under these terms and conditions, "raw materials" constitute a means to carry out the works, while the principal purpose of the contract shall consist of processing the raw materials through industrial transformation into castings which, due to their singular and unique character, are not regularly manufactured and distributed by Deloro Microfusione S.r.l. These general terms and conditions, therefore, establish the rights and obligations of Deloro Microfusione S.r.l. (hereinafter the "Contractor") and of its customers (hereinafter the "Principal" and/or customer) and apply to all agreements entered into between the parties for the manufacture of cast parts and/or the provision of ancillary services (hereinafter the "Products"), without prejudice to specific conditions or changes mutually agreed between the parties in writing.

2. The Contractor hereby declares that it is in its interest to carry out the works under the Contract.

3. Deloro Microfusione S.r.l. declares under its own responsibility, subject to order acceptance:

- a) that it has taken due note of the scope and type of works to be carried out;
- b) that it has, or shall arrange to obtain, the resources, skilled labor, technical staff, equipment, machinery, installations, vehicles and whatever else may be necessary, to a suitable and adequate extent, to ensure the successful performance of the work required to manufacture castings and/or provide the ancillary services commissioned by the customer;
- c) that it satisfies the legally prescribed requirements in connection with the works to be carried out for the manufacture of the parts commissioned by the customers;
- d) to meet the financial and other obligations prescribed by the applicable Italian national collective bargaining agreement, as well as to comply with the accident-prevention rules currently in force, hereby holding the principal harmless against any liability in this connection.

### **Definitions**

The following terms and/or expressions shall have the meaning set out below:

- **Contractor:** Deloro Microfusione S.r.l., with registered office at Via G. Di Vittorio 24, 20090 Pieve Emanuele (Milan), Italy – Share capital 3,990,025 EURO fully paid-in

– fiscal code and Milan Companies Registry registration No 01486740168 – VAT number IT 12901740154 – Milan Chamber of Commerce (R.E.A.) reg. No 1605723 - website [www.deloro.com](http://www.deloro.com)

- **Principal and/or customer:** the natural person or public or private body corporate that engages Deloro Srl to manufacture special-purpose products for reasons strictly related to the performance of the customer's business and/or industrial and/or professional activity.

- **Contract:** the Contract entered into in the manner specified under articles 1 ff and composed of these General Terms and Conditions of Works Contract, of the Order Proposal and Order Confirmation, as well as of the annexes signed between the parties, which form an integral and essential part thereof.

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### **Article 1. Contractor's Offer**

The Principal's orders shall be preceded by an offer from the Contractor drawn up on the basis of the pre-contractual arrangements between the parties which, unless otherwise specified, shall be valid for a maximum of 30 days.

### **Article 2. Characteristics of the products**

By its Order Confirmation, the principal acknowledges that it has carefully examined the technical, functional and visual characteristics of the products commissioned, which are fit for their directly or indirectly intended purpose. The principal also agrees that it is aware of and shall comply with the product's proper instructions for end use.

### **Article 3. Fee quotation/Price - Changes**

Deloro Microfusione srl's offer shall contain these general terms and conditions of works contract, duly signed, and specify the ordered products and their technical specifications, quantity, unit and aggregate price, terms of payment, place of destination and any other additional instructions for delivery.

The contract shall be concluded when the customer signs and accepts the offer containing these general terms and conditions of works contract and sends it to the Contractor, together with the Order Confirmation, by the relevant deadline.

Unless otherwise specified, the prices of the products are stated in Euro, without VAT and do not include packaging.

Unless otherwise specified, shipping costs are not included and shall be borne by the principal.

In any case, the prices shall not include customs duties and

fees, export duties and taxes and similar charges.

Prices could be subject to revision in order to take into account exceptional variations beyond the Contractor's will, notably including variations in prices of materials and/or alloys, cost of labor and costs of fuel and power, when such variations occur between the date of acceptance of the offer and the contractually agreed delivery date. In the circumstances, the Contractor undertakes to promptly notify the principal of any such variation, and the principal shall be bound to accept the resulting price adjustment up to a maximum of 25%.

If the adjustment exceeds one fourth (25%) of the price originally agreed, the Contractor may terminate the agreement and claim fair compensation to be determined based on the status of the works and the value of the contract.

If significant variations exceeding one fourth (25%) of the total agreed price occur, the Principal may terminate the agreement and shall be required to pay fair compensation to be determined based on the status of the works and the value of the contract.

#### **Article 4. Quantity**

In case of a non-recurrent order and/or an order for small amounts, due to unpredictability of the yield rate, the Principal hereby agrees to request up to 2% more of the ordered quantity at the agreed price, separately specifying the quantity requested and the excess percentage applied.

#### **Article 5. Inspection and Payment**

Before delivery, the principal shall inspect the works, as soon as the Contractor puts it in a position to do so.

Within 10 days from completion of the inspection, the parties shall sign the relevant report. In case of successful outcome of the inspection, the report shall also contain an unconditional acceptance of the works.

Where, despite the Contractor's request to do so, the principal fails to carry out the inspection or to inform the Contractor of the outcome of its inspection within 10 days from its completion, the works shall be deemed to have been accepted.

The works shall be deemed to have been accepted also if the principal raises no objections upon delivery of the works, even if no inspection was carried out.

If, as a result of the inspection, it appeared that further processing and/or formalities were required in order to comply with the contractual conditions and/or project

specifications, the inspection report shall specify the nature of such actions, set a deadline for their completion and state the manner in which an inspection thereon shall be conducted.

Should the works be accepted with reservations due to the presence of flaws or defects or should a written statement of non-acceptance be issued, describing the reasons for such non-acceptance, the inspection report shall specify the actions to be taken in order to remedy any such flaws and/or defects within a fair period of time.

If the works concern batches rather than single pieces of products, either party may request that only some of the pieces in the batch be inspected.

It is hereby expressly agreed that the Contractor shall be entitled to payment of the agreed consideration following delivery of the products and issue of the relevant invoice. The customer shall make the relevant payment into the bank account specified by the Contractor in accordance with the agreed terms of payment.

The principal shall submit upon each payment a statement clearly identifying each of the Contractor's invoices, the date of payment and the amount paid for each.

In the event that payment is made after the period stated in the invoice, the principal shall be automatically liable, with no need for sending a notice of default, to late-payment interest at the rate stated in legislative decree 231/2002.

The Contractor shall be entitled to suspend the processing of current orders until full payment of prior supplies.

The Contractor shall retain all rights at law pertaining to collection of unpaid amounts owed by the principal under the Contract, and the Principal shall reimburse the Contractor for all costs associated with such collection activities including reasonable attorney and/or court fees.

#### **Article 6. Access**

The principal may enter the Contractor's facility which is performing the order only on reasonable notice and during regular business hours, subject at all times to the Contractor's safety rules and rules pertaining to limitations necessary to comply with applicable import and export regulations and/or protection of the confidential information and/or of the intellectual and/or industrial property of the Contractor and/or its customers.

Upon its visits during the performance of the works for the manufacture of the commissioned products, the principal shall have the right/duty to carry out conformance checks in

order to ascertain full and proper performance of the works under the contract with a frequency suitable to ascertain that they are regularly carried out.

Conformance check reports will be carried out.

The activities necessary for the conformance check shall be performed at the customer's expense.

#### **Article 7. Transportation/Delivery**

Unless otherwise agreed in writing between the parties, the Principal shall always be liable to the risks associated with the goods in transit.

Any complaints as to the quantity or the good state of packaging (boxes, containers etc.) or products shall be directly made to the carrier upon delivery, by stamping the wording "*accepted with reservations*" on the consignment or delivery note.

Any discrepancy between the order and the quantity of goods manufactured and ready for delivery shall be agreed in advance.

#### **Article 8. Force Majeure**

The Contractor shall not be liable for delays in filling an order or failure in the performance of any of its obligations hereunder for reasons beyond the Contractor's reasonable control, including, but not limited to, accidents, terrorist acts, wars, shortages of materials, fuel or power, floods, earthquakes or other acts of God, intentional acts or omissions of the Principal, delays in transportation or lack of transportation facilities, priorities required, requested or granted for the benefit of the Italian government, restrictions imposed by law or any rules or regulations, or any cause beyond the Contractor's reasonable control.

#### **Article 9. Warranty**

The Contractor warrants that the goods manufactured and delivered to the principal under these General Terms and Conditions of Works Contract shall conform to the principal's specifications and be free from flaws and/or defects and/or discrepancies in material and workmanship for a period of twelve (12) months from the date of delivery of the manufactured products.

The warranty does not apply if the principal accepted the works, and the discrepancies or flaws were known to it or were visible, provided that they were not intentionally concealed by the Contractor.

The customer shall report any flaws, defects and non-conformance to the Contractor, under penalty of forfeiture of the warranty, within 60 days from the relevant discovery.

The parties agree that the products installed/used by the Principal shall be deemed to have been accepted when the customer fails to carry out the relevant inspection. Likewise, the Contractor may not be held liable and shall not be expected to indemnify the customer for damage caused by improper use of the products.

The Contractor agrees to repair, correct or replace at no cost to the Principal any such products which prove to be flawed, defective or non-conforming, and the Principal shall have an obligation to return them to Deloro Microfusione Srl. The Contractor may participate in the failure investigation of the causes for the alleged flaw, defect or non-conformance of the products, it being understood that this shall not constitute an admission of liability.

Repair, correction or replacement of any non-conforming products shall constitute an alternative remedy for the Principal, without prejudice for its right to ask for a proportional decrease of the price in the event that the Contractor is unable to remedy within reasonable time, based on the nature / complexity / difficulty of the product.

The above shall be without prejudice for the customer's right to claim termination of the contract due to non-compliance, resulting in the repayment by Deloro Microfusione Srl of the price paid and the applicability, on an exclusive basis, of the penalty clause under Article 10 of these general terms and conditions of works contracts as the sole compensatory remedy for any and all damage.

In any event, the warranty shall not apply to facts attributable to the Principal who, based on its professional experience, is fully aware of the risk assumed, i.e.:

- errors in the design, in the choice of the materials used (such as, for instance, alloys), in the size or the products and/or their compatibility with the use of the installation, machinery, equipment and/or related to the production process;
- assembly errors;
- incorrect storage, keeping and maintenance of the product;
- use of the product in combination with another at a different level of wear and tear;
- tampering with or direct attempts at repairing or modifying the product;
- taking late action to control the damage caused by the product's improper functioning;
- regular wear and tear of the product.

Furthermore, the warranty shall exclusively apply to materials used in manufacturing the product and purchased directly by the Contractor. Deloro Microfusione Srl shall not be liable for defects in the materials supplied by the principal, not discovered during the performance of the works.

**Article 10. Penalty clause, limitation to compensation for damage due to severe delay and/or non-compliance**

In the event of non-compliance or severe delay in compliance, the Contractor shall pay the customer, as maximum damages, 25% of the contractual value of the order, the parties having agreed that compensation shall be limited to the works to be performed under the contract and shall not be extended to any other damage. This amount is agreed as the maximum compensation claimable by the principal, who shall not be entitled to any additional payment for any reason.

**Article 11. Material Return Authorization Procedure**

The return of all flawed, defective or non-conforming parts shall be authorized by the Contractor via this material return authorization procedure (RMA). All RMA requests shall require the Contractor's prior authorization. An MRA number will be issued to the Principal within ten (10) working days of notification of the Principal's request in writing to the Contractor. The Parties will agree in writing any instructions associated with the return of such product at the time the MRA number is issued by Deloro Microfusione S.r.l.

**Article 12. Limitation of Liability**

The warranty for the quality of the products supplied is provided with reference to the product technical specifications and/or technical enclosure (*allegato progettuale*), which the Principal declares to be acquainted with.

Subject to the above limitations, Deloro Microfusione S.r.l. exclusively warrants that the products delivered are compliant with those ordered and not that they are fit to meet specific needs of the Principal or any third parties, even if they were the object of the order accepted, through the full description of the conditions of operation of the installation and/or the equipment and/or the vehicle and/or the machinery and/or productive process.

Therefore the Principal shall be solely responsible to ensure that:

- a) products are properly designed,
- b) the relevant safety regulations for their operation are observed,
- c) the relevant materials and test procedures are properly selected
- d) the engineering specifications and the engineering documents and drawings and whatever else has been provided to the Contractor are free from errors and/or omissions, particularly with regard to their intended use.

The principal warrants that the information provided by it does not breach any intellectual and/or industrial property rights and/or other third-party rights.

The Contractor shall be solely liable for the design made in accordance with the Principal's technical specifications.

**Article 13. Termination**

The Principal may not terminate an order without the Contractor's prior written consent. If the Contractor consents to termination, it shall assess the amount of the aggregate costs and charges incurred and of the lost profits, claiming refund as a condition for the lawful exercise of the principal's right to termination, to be made concurrently with payment within ten (10) business days after submission of the relevant calculation.

**Article 14. Amendments**

Any changes requested by the Principal which change the basis of the Contractor's quote and/or order confirmation, including these general terms and conditions, will require Deloro Microfusione srl's written consent and may be subject to price and/or delivery adjustments as determined by the Contractor.

**Article 15. Confidentiality and Intellectual Property**

Documents supplied by the Contractor to the Principal in connection with the manufacture of the product, such as quality plans, specifications, presentations, qualification files, shall constitute the Contractor's intellectual and/or industrial property and may not be transmitted to third parties without the Contractor's prior written consent.

Information contained in certificates of inspection and conformity, issued individually, is supplied exclusively in order to demonstrate the conformity of the supplied Products to the Principal's technical specifications. Any statistical analysis result carried out based on the compilation of this data, irrespective of the author thereof shall remain the property of the Contractor and may not be transmitted to any third parties.

The Principal agrees to keep confidential and not to disclose to third parties, any administrative, trade or contractual information on the contract for the goods (price, terms of payment, warranty etc.).

**Article 16. Ownership of tooling**

Ownership of the tooling listed as a line item in the client's orders (e.g., tools, molds etc.) shall vest in the client once full payment therefor has been made.

**Article 17. Trade compliance**

The products, services and information supplied under this order are subject to Italian import/export laws and regulations and may be subject to EU and other applicable countries' export/import rules and regulations as well. For shipments outside the EU, the Principal will be responsible for checking that in its Home country there are the legally prescribed conditions for the Contractor to effect the exportation. For shipments outside the EU, the Contractor shall not be liable to the Principal in the event that an export license is not approved or is later withdrawn or suspended.

**Article 18. Dual Use Compliance**

In the event that final destination of goods is a Black Listed country according to EU regulations, the principal is responsible for declaring this and for providing End-User-Certificate at the moment of the order. The Contractor shall have no liability to the client in the event that an export license is not approved or is later withdrawn or suspended.

**Article 19. Waiver**

The Contractor's failure to exercise any of its rights – or failure to claim compliance with the provisions of this Contract or of the Italian civil code – shall in no case constitute a waiver of his rights, but only an occasional deviation from enforcement.

**Article 20. Governing Law – Official Language – Jurisdiction, Place of Fulfillment**

These general terms and conditions of works contracts and all orders between the Contractor and the Principal shall be governed by and construed in accordance with Italian law. The official language shall be Italian.

The parties agree that the exclusive place of jurisdiction for any dispute arising between them, including, but without limitation, any disputes in connection with the validity, existence, non-enforceability, interpretation, performance, application of these general terms and conditions of works contracts, non-compliance and/or termination, contractual and/or non-contractual liability directly and/or indirectly

derived from the agreement, and disputes on the nature of the relationship deriving from the agreement entered into between the parties, shall be exclusively the Court of Milan. Unless otherwise stated in an order confirmation, the place of fulfilment for all of the Contractor's obligations shall be the location of the latter's production facilities. The place of fulfilment for any payments due to the Contractor shall be in Pieve Emanuele, Milan, Italy.

Date and client's stamp and signature by way of confirmation and acceptance



The Customer hereby declare that it has read and taken due note of the above General Terms and Conditions of Works Contracts and, within the meaning and for the purposes of articles 1341 and 1342 of the civil code hereby expressly approves the following clauses of the General Terms and Conditions of Works Contracts: Article 3 (Fee Quotation/Price-Changes); Article 4 (Quantity); Article 5 (Inspection and Payment); Article 7 (Transportation/Delivery); Article 8 (Force Majeure); Article 9 (Warranty); Article 10 (Penalty clause, limitation to compensation for damage due to severe delay and/or non-compliance); Article 12 (Limitation of Liability); Article 15 (Confidentiality and Intellectual Property); Article 17 (Trade compliance); Article 18 (Dual-use Compliance); Article 20 (Governing Law – Official Language – Jurisdiction, Place of Fulfillment).

Date and customer's seal and signature by way of confirmation and acceptance.

