

## Terms and Conditions of Purchase

### 1) AGREEMENT COVERAGE

The present terms and conditions ("T&C") apply to the purchase of any materials, objects, products, components, software, and that of any related services (hereinafter referred to as "Goods"), performed, supplied or provided by the supplier (hereinafter referred to as "the Seller") to the Commesta OÜ (hereinafter referred to as "the Buyer"). These apply where any cost estimate or offers made by the Buyer to the Seller are concerned; as well as where the Seller makes any offer; and shall form an integral part of any order ("Order") placed by the Buyer with the Seller.

The present T&C shall imperatively apply, superseding any other terms and conditions; in particular, the Seller's general terms of sale, unless otherwise agreed in writing by the Buyer and the Seller.

Should any provisions of these T&C not be applicable, on whatever ground that might be, every other terms and conditions would remain valid however.

### 2) PRICES/INVOICING/TERMS OF PAYMENT

The Seller shall be bound by the price quotations and offers he made, for at least 60 days as of the Buyer receiving them.

The applicable prices are that mentioned on the order form or that arising from the price calculation methods stipulated on the order form. Prices always to be understood as firm and shall not be reconsidered, indexed nor adjusted following currency fluctuations.

The price is all-inclusive and, except by prior written agreement by the Buyer especially indicated on the order, no additional costs shall be allowed, be they cost-, risk-, or charge-pertaining to, or of any other nature in connection with, the carrying out of the order.

After each supply of Goods pursuant to an Order, the Seller shall issue the invoice in duplicate in compliance with legal and the Buyer's requirements, and mentioning the Buyer's Order/reference number and dates, the Seller's references, the level of order fulfilment justifying the provision of an instalment, its amount or, should the case occur, the balance still owed. No invoice shall refer to more than one order.

Issued in due form, the invoice shall be paid within 90 days of the end of the month following the Buyer's acknowledging receipt of the Order, unless a longer delay has been agreed upon between the parties.

However, the Buyer reserves the right to terminate payment should the Seller fail to comply with the Order. In such an event, the Seller shall not be entitled to any interest (not even on part of the price), penalty, or any other form compensation could take.

There not being an express rejection of an invoice does not constitute an acceptance of it. Payment of an invoice does not constitute an acceptance of the ordered or delivered Goods. For it to be valid, the acceptance of the Goods by the Buyer must be expressed and only constitutes the Buyer's sole acknowledgment of the delivery having been carried out.

### 3) DELIVERY/PACKING/TRANSPORT/PASSING OF THE RISK AND TRANSFER OF OWNERSHIP

Unless otherwise specified in writing, the Goods shall be sold in accordance with latest version of the Incoterms issued by the International Chamber of Commerce.

The Goods shall be delivered to the Delivery Point as indicated by the Buyer ("Delivery").

Prior to dispatching, the Seller shall check the Goods are in such manner as is required under the Order, in particular in terms of their quantities, qualities, weight and measurements as well as for any possible damage to the Goods or their packaging.

The Goods are to be packed in such a manner as shall prevent any damages occurring during handling and dispatching.

Each batch shall be clearly and legibly marked, in accordance with the regulations in force, and in particular in the case of dangerous goods, if necessary, as may be requested by the Buyer.

These markings shall at least include the Order number, Seller identification, the batch number, the delivery point, a description of the Goods, weights and quantities, along with any other identification markings that may be necessary to the receipt and correct assembly of the Goods.

The Seller shall be responsible for dispatching the Goods to the delivery point in such an appropriate manner as will prevent any damage to the Goods and to third parties, as well as any hazard while unloading the Goods at the Buyer's delivery point.

Unless otherwise specified by the parties, the transfer of ownership shall be effective as of the time of the delivery of the Goods at the Buyer's premises or any other location agreed upon by the parties. Any title retention clause the Seller may have shall be regarded as unwritten. However, the Seller shall bear the risks until the Goods have been formally accepted.

#### **4) DELIVERY TIMES / DELAYS**

The due times and dates for delivery shall be those specified on the order. By accepting the order, the Seller irrevocably binds himself to abide by the delivery times and dates thus defined.

The due times and dates for deliveries specified on the order are essential points and shall not be changed without the signed written consent of both parties.

Without the prior written consent, early deliveries are not permitted. In every instance, the Seller shall not be entitled to any early delivery premium.

The Seller shall swiftly notify the Buyer in writing of the detailed circumstances of any event likely to mean that the due date for delivery will not be met; this shall however not entitle him to a delivery time extension.

The Seller must ensure that every reasonable course of action will be taken so as to minimize the lateness of the delivery, as well as the consequences these delays shall have.

For late delivery time; the Buyer shall be entitled, without prejudice to any other rights, to damages amounting to 1% of the Order value for each full week's delay, and be no greater than 10%. The Buyer shall make their decision known as to recouping these damages at the latest on the date payment of the first invoice issued after a late delivery is due. These damages are due without prejudice to any other right to a compensation for damages, held by the Buyer.

Save in cases of force majeure, the Buyer may terminate the order without the Seller being entitled to any indemnity or compensation whatsoever and without prejudice to any rights the Buyer holds to a compensation for damages, losses or prejudices subjected to, following the delay, if the due delivery took place too late with regard to their needs, or if they have not been notified in advance and in writing of any delay.

#### **5) CHANGES AND SUBSTITUTIONS**

The Buyer shall have the right to change the order, without this modification being able in any way of violating or of invalidating the order. The Seller shall then quickly inform the Buyer of any changes in the price or delivery schedule brought about by the changes the Buyer requested and the said changes shall have to be approved in writing by the parties in an amendment to the order or a new order signed by both parties.

The Seller is not authorized to carry out, or propose, any modification or substitution whatsoever of the supplies nor is he authorized to deliver nonconforming Goods without the prior written consent of the Buyer.

#### **6) EXECUTION, INSPECTION AND REJECTION OF PRODUCTS**

The Seller shall grant the Buyer access to the Seller's premises while the order is being processed, so as to supervise the manufacturing processes, or give special orders, and to inspect and/or test the ordered Goods, using the Seller's means of testing and controlling in place at the Seller's plant. The terms and conditions pertaining to these inspections shall first have been approved by the Parties. This inspection shall not constitute any liability limitation for the Seller towards the Buyer.

The Buyer may reject Goods not in accordance with the order, the prerequisites or prior guidelines.

The Seller shall be quickly notified of the rejection of the Goods by registered letter, fax or by electronic message (i.e. Email) confirmed by registered letter. The Seller shall collect at his own expenses any delivered and thus rejected Goods within ten working days as from the date the notification of rejection is received. Beyond which time, the Buyer shall return the Goods to the Seller, at the latter's expense. An advance payment granting a discount for cash payment shall not constitute an acceptance of the Goods by the Buyer.

#### **7) WARRANTY / LIABILITY**

The Seller warrants that the Goods are in accordance with the specifications and requirements agreed upon, that they are state-of-the-art and fit for the specific intended purpose the Buyer has in mind for them, that they are free from defects, that they will strictly perform as the Buyer expects and requires, and that they comply with all relevant legal obligations and standards in force.



The Seller is contractually bound by each and every statement or warranty to be found in his catalogues, leaflets, sales documents and quality systems.

The Seller warrants that the Goods will perform as expected for two years as from their commissioning. All complaints filed under this warranty shall place the warranty period on hold until such time as the Seller shall have fixed the defect and the warranty period shall be extended by as much.

Throughout the duration of cover, the Buyer shall notify the Seller in writing of any defect or malfunction found in the Goods and the Seller shall, without delay, either repair or replace the Goods. At its discretion, the Buyer may also terminate the Order by notifying the Seller in writing, or accept the Goods as they are in return for a suitable price-cut.

If the Seller fails to fulfil his obligation to repair or replace, the buyer may, at his sole discretion, choose to replace or have the aforementioned Goods repaired by another supplier and shall demand refund to the Seller of all expenses incurred by the buyer in so doing.

All repaired or replaced Goods shall be subject to the provisions of this article and the aforementioned warranty period shall be back in effect fully as from the date of the said delivery or repair.

The Seller shall be liable for all direct, indirect, incidentals, consequential and special losses or damages, including loss of opportunity, the Buyer suffered as a result of late deliveries, defects found in the Goods, or any other way in which the Seller failed to process the order.

The Seller acknowledges that the aforementioned guarantees are in addition to legal ones and the guarantees the Seller expressly granted, others than the ones set forth in this document, as well as to any other guarantee, whether affirmative or implied, as may apply to the Order in question. These guarantees shall remain valid notwithstanding any inspection, testing, acceptance or payment on the part of the Buyer or any cancellation or agreement made by the Buyer to the orders.

The Seller agrees to provide the Goods, their parts or components for repair, maintenance or development for as long as was set at the time of the Order, including the warranty period, and shall also agree not to cease manufacturing or supplying them. Should the Seller decide to cease producing/supplying some or all Goods, the Seller shall inform the Buyer at least a year in advance, so that the Buyer may place further orders.

#### **8) INDUSTRIAL OR INTELLECTUAL PROPERTY**

The Seller warrants that the Goods supplied will not infringe any intellectual or industrial property rights whatsoever, including any patent, excise, on picture and model, copyright, or trademark rights of a third party. The Seller hereby declares he is the legal and rightful owner of all rights to manufacture, use or sell the Goods and that the Buyer shall have the right to use and resell the Goods. The Seller agrees to defend the Buyer against any claim or action for infringement of the intellectual or industrial property rights belonging to a third party, to pay all the expenses the Buyer incurred in its defence against any complaint or action filed, including a reasonable sum to cover legal fees, and to indemnify the Buyer for any damage, loss or prejudice it suffered, whether directly or indirectly as a result of this claim or action.

#### **9) INFORMATION PROPERTY AND CONFIDENTIALITY**

Every written or oral information the Buyer may pass on to the Seller, pertaining to the Buyer know-how, specifications, technical procedures, needs and other information, documents and data, shall be treated as confidential and shall not be disclosed to a third party without the prior written permission of the Buyer. Such information shall only be used in the performance of the Order or in order to prepare offers or estimates.

Property rights and copyrights pertaining to the designs, graphics, and samples and like documents it provided the Seller with; remain the Buyer property and shall not be reproduced or disclosed at any time to third parties without the prior written permission of the Buyer.

#### **10) INFORMATION PROPERTY AND CONFIDENTIALITY**

The party experiencing an event of Force Majeure must immediately notify the other party in writing, providing the latter with all relevant information and evidence pertaining to it, in particular specifying by how much the events is likely to delay the performance in due form of this Order. Strikes affecting the Seller or public transport, as well as any kind of other event affecting the Seller's subcontractors or suppliers are not regarded as events of Force Majeure justifying the non-performance of this Order. If the Seller is faced with an event of Force Majeure, at its discretion, the Buyer may: agree upon some additional delivery time with the Seller or terminate all or part of the Order at any time, without any other obligation or liability and ask for a refund of all sums already paid.

#### **11) TERMINATION**

At any time, even if the Seller does not fail to fulfil his obligations, the Buyer may choose to suspend the Order for a duration set by the Buyer or to terminate all or part of the Order by giving the Seller three days' notice. In the event of such a termination, the Seller may invoice the Buyer with the reasonable costs incurred by the Seller right up to the termination of that Order. The Buyer shall be under no further liability arising from incidental or indirect damages, or loss of opportunity which the Seller may incur. If the Seller fails to comply with any of the provisions of this Order, the Buyer reserves the right to terminate all or part of the Order, by written notice to the Seller, without prejudice to any other recourse, and demand the Seller be responsible for all expenses thus paid by the Buyer, for all expenses incurred by them, including the expenses of having the Goods supplied by another supplier by reason of the Seller's default, and to be indemnified for any loss or damage the Buyer suffered as a result of any delay in the performance on the part of the Seller. The same applies if the Seller is late in supplying or manufacturing or assembling the Goods in time to meet the terms of the Order.

Termination shall be notified by registered mail with acknowledgment of receipt, fifteen days after an express formal notice is sent. The Buyer reserves the right to terminate the Order with immediate effect and without another obligation or liability should it have good reasons to believe the Seller shall not be able to smoothly perform his obligations to the full.

#### **12) INSURANCE**

The Seller shall contract and keep in force every insurance policy needed to cover his responsibility as provided for in these T&C. The Seller shall provide the Buyer with the documentary evidence certifying that such insurance policies have been contracted and to the validity of contract these guarantees cover, and that they meet requirements set by the Buyer, including in matters of liability towards third parties and the Buyer.

#### **13) SUBCONTRACTING**

Should the Seller be allowed to sub-contract part or all of his obligations to third parties, the responsibility and costs of this subcontracting shall be solely and fully his. The Seller shall notify every subcontractor of the clauses of these terms and conditions, as well as of that pertaining to the Order, and shall pass on to them all information concerning requirements the Buyer may have.

#### **14) TRANSFERABILITY**

The Seller shall not cede this Order, nor any right resulting from it or any debt due by the Buyer, without the prior written consent of the Buyer.

All matters of dispute related to the contract concluded hereby between the Buyer and the Seller shall be settled under the exclusive jurisdiction of Tallinn, Estonia. All matters of dispute between the Buyer and the Seller shall be governed under the laws of Estonia.

