

**GENERAL TERMS OF SALE. V20171208**

**1- SCOPE**

1-1- These general terms of sale (hereinafter "GTS") apply to all orders (hereinafter "Order(s)") placed on the ITEC PRO site (the "Site"), accessible at [www.itec-pro.eu](http://www.itec-pro.eu), by professional buyers (the "Buyer(s)") for the purchase of products (hereinafter "Products") from Comex Euro Developments S.A. (hereinafter the "Seller" or "COMEX"), registered with the Luxembourg Trade and Companies Registry under number B 169.424 and editor of the Site. Business permit 10028115/3

1-2- These GTS apply to any Order placed on the Site, in their entirety and as the only contractual terms applicable between the Buyer and the Seller.

1-3- The Buyer who places an Order on the Site is deemed to be a professional acting in such capacity within the scope of the Luxembourg Consumer Code (*Code de la Consommation*) and to meet the legal conditions of that status. Accordingly, the provisions of the Luxembourg Consumer Code in respect of consumer protection do not apply to transactions concluded on the Site.

1-4- The aggregate price of any Order comprises the following:

- Price of the Products as advised on the Site ("Price");
- Cost of the delivery, if applicable, which is made by a subcontractor (hereinafter "the Carrier"), and includes packing, insurance and transport ("Costs"); and
- Where applicable, value-added tax (VAT) (collectively, the "Aggregate Price").

**2- CONTRACTUAL DOCUMENTS**

2-1- Any Order placed between the Buyer and the Seller is governed exclusively by these GTS, as supplemented by the special terms and conditions (the "STC") mentioned in the Order and displayed during the ordering process through the Site.

2-2- The Order confirmed on the Site constitutes the entire agreement between the Buyer and the Seller and shall prevail over any earlier agreement, express or implied, written or verbal.

2-3- COMEX reserves the right to modify these GTS without prior notice. Any modifications will be posted on the Site before they come into effect. The version of these GTS in force at any given date will govern the relationship between the Buyers and COMEX.

**3- PROMOTIONS, DISCOUNTS AND SPECIAL OFFERS**

3-1- Territories that are excluded from delivery can't be eligible for any promotion, discount or special offer.

3-2- In the event of a drop shipping partnership, free shipping is offered for the first ten orders. This offer is limited to orders with delivery address located in the same country as the drop shipping company.

**4- ORDERS**

4-1- The Site enables Buyers to place orders via a cart system (the "Cart System") enabling the selection of Products with a real-time quote depending on the quantity of Products ordered.

4-2- The acceptance of the Order placed by the Buyer takes place when the Buyer validates its Cart on the Site.

4-3- Orders made before 11 am (GMT+1) will be shipped on the same day (week-ends and public holidays excluded). Dispatch time takes into account the order preparation and is subject to availability of the

products ordered. Bulky items cannot benefit from this "Same day shipping" policy.

The Seller will only be bound by the time of delivery indicated on the order confirmation, regardless of the time of the order.

4-4- For every Order, the Seller may carry out a Buyer's credit check. The Seller may refuse the Order for any reason and, in particular, in case of a negative credit check of Buyer as advised by credit check agencies or factoring companies used by Seller.

Once the credit check has been carried out, the Seller shall send an email to the Buyer confirming the validation or cancelling of the Order.

4-5- An Order may be delivered in one or more deliveries as per the STC.

4-6- Orders of a value higher than 350€ (three hundred and fifty cents) will only be delivered at the invoicing address.

4-7- Any change, however minor, to the Order shall be subject to a prior written agreement between Buyer and Seller, through an amendment to the Order on the Site.

**5- PACKAGING, SHIPPING DOCUMENTS**

5-1- The Seller shall ensure that packaging of all Products is compliant with the specifications defined in the Order.

5-2- The Seller shall enclose with each shipment a delivery note indicating the packing list and the nature of the packaging as well as the information contained in the Order enabling the identification of the Products and the verification of the quantities.

**6- DELIVERY, EXECUTION, AND DELAYS**

6-1- Products order on the Site can be delivered in the Member States of the European Union with the exception of certain territories. Excluded territories can't be selected on the Site as delivery address. The list of excluded territories is available on request.

6-2- Delivery date(s) shall be specified on the Site during the Order validation. The Seller shall employ reasonable commercial efforts to accommodate the delivery date(s) requested by Buyer, and shall send an email to Buyer to confirm such date(s).

6-3- Terms of the delivery are indicated to the customer when the order is placed. Said terms are also available on the Site under "Terms of delivery" section. The delivery consists in the ordered product physical possession transfer to the customer.

6-4- In the event that the Order is not delivered on the confirmed delivery date(s), the Seller shall be provided a grace period of ten (10) business days. If the Order is not delivered by the end of the foregoing grace period, and the Buyer establishes that the Seller is the cause of the late delivery, a late performance penalty will apply as follows: 0.1% of the Price of the Order per business day or part thereof, up to a maximum of 10% of the overall Price of the Order, exclusive of VAT. For purposes hereof, a "business day" is any day that is not a Saturday, Sunday, or public holiday in the Grand-Duchy of Luxembourg.

6-5- No late performance penalties or claims for damages shall apply in respect of the Seller if the delay is caused by (i) the Carrier, (ii) incorrect information provided by the Buyer, or (iii) a force majeure event. A force majeure event is any event beyond the control of the performing party resulting from unforeseeable circumstances that materially impede the performance of the performing party's obligations. Upon occurrence of a force majeure event, the performing party may suspend the performance of its obligations, without incurring liability.

If performance is suspended for a period exceeding fifteen (15) days, the Buyer and Seller shall endeavor to find a mutually-agreed solution.

In the event that the performance cannot be resumed definitively, the concerned Order will be terminated and no payment shall be owing by the Buyer or in case of down payment of Buyer, Buyer will get refunded.

6-6- Comex shall be entitled to withhold performance of its obligations in the event of defective or partial performance by the Buyer of its obligations. Comex shall also withhold such performance when it is apparent that the other party is in apparent incapacity to perform its obligations. These cases include, notably but not exclusively, legal redress, judicial liquidation, bank overdraft and insolvency.

**7- GOODS REMOVAL BY BUYER**

7-1- By way of exception to article 6, the Buyer can take over its Order removal.

7-2- The Ordered Products will be available to removal each working Mondays following the Order; according that the Order is placed before 3pm on Wednesdays (GMT+1).

7-3- Only Orders paid in full can be eligible to be removed by the buyers.

7-4- The Orders removal will be made under EXW incoterm at TL Europe premises, located 6, rue des selliers – 57070 Metz Actipôle- France.

**8- ACCEPTANCE**

8-1- The Buyer has a period of 48 hours after delivery or Buyer's removal of the Products to refuse acceptance of such Products by sending an email (i) stating that the Products do not materially comply with specifications of the Order and (ii) describing why the Products do not materially comply with the Order (the "Refused Products"). If no email has been received by the Seller indicating refusal of the Products within 48 hours of delivery or Buyer's removal, the Products will be deemed to have been accepted by the Buyer.

8-2- The cost of returning the Refused Products to the site indicated by the Seller and other expenses shall be borne by the Buyer.

**9- PRICES, INVOICING AND TERMS OF PAYMENT**

9-1- The Prices of the Products, as well as the Aggregate Price, are set forth in the Order. Such Prices are firm and may not be modified. In case a price is clearly wrong or derisory, for whatever reason (human or technical error), Comex Euro Developments S.A. reserves the right to annul the order even though it may have been confirmed initially.

9-2- The Order must be paid for by bank wire transfer or by credit card to the account of the Seller, or to the account of the factor as advised by Seller, under the conditions of payment stipulated in the Order on the Site.

9-3- Payment of the Buyer's first Order is due immediately and in full on the date the Order is made. For the following Orders, the Buyer will be offered the possibility to pay the Order's price in full immediately or to defer the payment sixty (60) days after the Order's date, according to Site's conditions.

9-4- If the Products are refused by the Buyer as set forth in Article 6, the Buyer will contact the Carrier within 48 hours from such refusal. The Buyer shall arrange at its own expense for the Carrier to collect the Refused Products to be returned to the Carrier's warehouse. Within 5 days from return date of the Refused Products to the Carrier's warehouse, the Carrier will (i) confirm the reception of the Refused Products and (ii) assess the condition of the Products to the Seller and to the Buyer.

If the Carrier is unable to collect the Refused Products from the Buyer after two (2) attempts due to the lack of cooperation of the Buyer within a

maximum of ten (10) days from the initial delivery of the Product, the Products will be deemed to have been accepted by the Buyer.

In case of Orders removal by the Buyer itself, the Buyer will also arrange at its own expense the return of the Refused Products to the place of removal.

If the Products have been returned in good condition, as determined by an inspection of the Seller, a corresponding credit note will be issued from Seller to Buyer and, if applicable, Buyer will be refunded accordingly within 10 business days.

All Products that are accepted or deemed to be accepted pursuant to these GTS must be paid as per the conditions of payment stipulated in the Order on the Site.

If the Products are not returned in good condition, as determined by an inspection of the Seller, they will be deemed to have been accepted. The Buyer will then have to bear the costs of storage until it collects the Products.

9-5- Invoices are issued after Products are accepted or deemed accepted and cover one or more deliveries under one Order. They are sent to the invoicing address given in the Order. Invoices are not included with the deliveries.

#### **10- WARRANTY**

10-1- The Buyer, acting in its professional capacity, remains entirely responsible for its technical choices, whatever the degree of assistance that may have been provided by the Seller as part of the execution of the Order.

10-2- The Seller, acting in its professional capacity, warrants to the Buyer that the Products delivered are: (i) marketable in the European Union, compliant with the standards of good industry practice, suitable, under normal conditions of use, for the purpose specified by the Seller and for the functions and uses for which they are intended, and that they offer at least the minimum level of safety as required by applicable law, and are compliant with the drawings and specifications and any definition documents relating to the Products ordered; and (ii) free of any defect(s) resulting in particular from a design or manufacturing fault or consisting of poor operation.

10-3- Any apparent defect shall be declared by the Buyer by email to the Seller within a maximum of four (4) weeks from the date of delivery of the Product.

10-4- In case of damaged or defective Products delivered to the Buyer, the Seller's total liability shall not exceed the Price paid by the Buyer for the relevant Order.

#### **11- INDUSTRIAL AND INTELLECTUAL PROPERTY RIGHTS**

11-1- In case of a customized Order placed by the Buyer to Seller, the Order does not confer upon the latter any rights over trademarks, logos, distinctive signs or any other rights owned by the Buyer as industrial and commercial property.

11-2- The Buyer may not claim any rights over trademarks, logos, distinctive signs or any other rights owned by the Seller or the Chinese Manufacturers indicated on the Site, as industrial and commercial property.

#### **12- CONFIDENTIALITY**

12-1- Other than as may be required by law, or as specified in our Privacy Policy, the Buyer and the Seller shall refrain from disclosing to third parties any information, including, in particular, technical, commercial or financial information relating to their relationship without the prior written consent of the other.

12-2- However COMEX may access and disclose the information that the Buyer provides to the Company if requested to do so by law or if such action is reasonably necessary to comply with legal process,

deal with third-party claims, protect the rights of COMEX, or to enforce these GTS.

#### **13- DISCLAIMER**

13-1- The Site is edited by COMEX. All intellectual property used on the Site is either owned by COMEX or an affiliate of COMEX, or is licensed from third parties pursuant to a valid license agreement. COMEX makes no representation or warranty that the Site will function as intended without interruption or error, and COMEX hereby disclaims any and all liability in this respect. In particular, but not by way of limitation, COMEX does not make any representations or warranties regarding the proper functioning of any third-party software or platform that COMEX uses or relies upon to ensure the full functionalities of the Site.

13-2- NEITHER COMEX, ITS AFFILIATES, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, SUB-CONTRACTORS AND AGENTS ARE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS REVENUE) ARISING FROM THE SERVICES OR ANY PROVISION OF THIS AGREEMENT.

#### **14- TRANSFER OF OWNERSHIP AND RISK**

14-1- Comex retains ownership of sold goods until payment of the price in full, including principal and interests.

14-2- Comex reserve its right to retain ownership of sold goods until the full payment of debts arising from the contractual relationships between Comex and the Buyer.

14-3- In the event sold goods subjected to retention of title undergo any processing, combining or mixing process; Comex shall be entitled to receive co-ownership on the new product, up to the initial amount corresponding to the sold goods under the original contract. In such cases, Comex shall be considered as manufacturer.

14-4- In the event sold goods made available to the Buyer are resold to a third party, all receivables arising from such operation are assigned to Comex until the full payment of the price of sold goods. Resell of goods shall be authorized only if receivables are transferred to Comex.

14-5- In the event of failure to pay the first invoice on due date, the buyer shall at his expense keep the goods safe insured and identifiable as Comex property, when such goods fall outside the scope of articles 12-3 and 12-4 of the GTS. The goods shall also be returned to Comex at the Buyer's expenses.

14-6- Risks are transferred to the Buyer when the goods are delivered and available to the Buyer at the named place.

#### **15- INDEMNITY**

15-1- The Buyer shall indemnify and hold the Seller harmless from any damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, incurred relating to third-party claims as a result of the Buyer's breach of these GTS or any other actions or omissions in respect of the Site.

#### **16- WAIVER**

16-1- No failure or delay on the part of the Seller to exercise any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by the Seller preclude any further exercise thereof or the exercise of any other right.

#### **17- SEVERABILITY**

17-1- In the event that any of the provision of these GTS is held to be invalid or unenforceable by judicial decision or arbitration award, the remaining provisions hereof shall remain in full effect, and the provision held or declared invalid or unenforceable shall, wherever feasible, be automatically deemed severed or amended to the extent necessary to permit such provision to avoid such invalidity or unenforceability.

#### **18- JURISDICTION - APPLICABLE LAW**

18-1- These GTS shall be governed by the laws of the Grand-Duchy of Luxembourg.

18-2- The Seller and the Buyer will endeavour to resolve amicably any difference of opinion arising concerning the interpretation or execution of the Order within one month from the date on which such difference of opinion is identified in writing.

18-3- If the Seller and the Buyer do not reach an agreement during this one-month term, all disputes hereunder will be subject to the exclusive jurisdiction of the Courts of the Grand-Duchy of Luxembourg.

18-4- The provisions of the Vienna Convention on the International Sale of Goods are expressly excluded.

#### **19- LANGUAGE CLAUSE**

19-1- The whole text of the present General Terms of Sale, as well as the General Terms of Use and the privacy policy, has been written in English, French and German, all versions being deemed authentic. Should these three versions differ, the English version shall prevail.