

General Terms and Conditions of Sale - Design Combust Ltd

1 Definitions and Applicability

In these General Terms and Conditions of Sale Design Combust Oy is hereinafter referred to as the "Supplier", "Purchase Order" means the Purchase Order confirmed by the Supplier and "Purchaser" means a person, firm or company named as the Purchaser in the Purchase Order and "Products" are the subject of the Purchase Order. A "Quotation" means a fixed offer from the Supplier to the Purchaser purpose of selling and delivering Products to the Purchaser. Both the Supplier and the Purchaser is hereinafter referred to as "the Party".

These General Terms and Conditions of Sale shall be applied between the parties unless otherwise agreed in writing.

2 Quotation

A written Quotation is valid for 30 days unless otherwise noticed or agreed.

3 Terms of Delivery

The term of delivery is "Ex Works" Tampere, Finland (Incoterms 2000).

The delivery of Products is considered as received and accepted by the Purchaser unless notified to the Supplier within 8 workdays from the delivery.

The Purchaser has no right to deny partial deliveries of the Purchase Order. In case partial deliveries, the Supplier shall also be entitled to invoice the Purchaser according to the partial deliveries.

In case where the Purchaser has failed to fulfill earlier payments, payments in accordance to partial deliveries or other duties to the Supplier, the Supplier has right to postpone or cancel deliveries of already agreed Purchase Orders.

3.1 Packing

The Products are packed and protected in a sufficient way against transportation risks. The prices in the price-list or Quotation are applicable for unpacked Products and they do not include the costs of packing and protection unless specifically otherwise noted.

If agreed by the Parties, the Supplier can have an insurance of the delivery for transportation, in which case the Supplier is entitled to invoice it's costs from the Purchaser.

4 Delivery Time

4.1 Agreed Delivery Time

The Products shall be delivered to the Purchaser in the agreed delivery times.

Any period or date for delivery stated in Quotation or otherwise, is intended as an estimate only and is not a contractual commitment and the Supplier shall not be liable for any damages or losses arising out of delay. The Products can be delivered in one or more installments.

4.2 Notice of Delay

The Supplier informs the Purchaser immediately in writing if it can not deliver in accordance with the agreed delivery time and simultaneously inform the Purchaser the time when the delayed delivery shall be effected.

4.3 Purchaser's Refusal

If the Purchaser refuses or fails to take delivery of the Products delivered in accordance with the Purchase Order or fails to take any action necessary on its part for delivery or shipment of the Products, the Supplier shall be entitled to terminate the agreement made between the Supplier and the Purchaser with immediate effect, to dispose of the Products as the Supplier may determine and to recover from the Purchaser any loss and additional costs incurred as a result of such refusal or failure and in any event to retain any payment made prior to such refusal of failure.

If the Purchaser requests postponement of delivery beyond the estimated delivery date and the Supplier agrees to such postponement the Supplier may at its option exercisable by notice to the Purchaser treat the risk in the Products as having passed to the Purchaser and store the Products at the Purchaser's expense (but without liability).

5 Passing the Risk, Passing the Property

The risk of loss or damage of Products shall pass to the Purchaser in accordance in any agreed delivery term (Incoterms) in force at the date of the Purchase Order.

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The Products shall remain the property of the Supplier as legal and equitable owner and no property in or title to the Products shall pass to the Purchaser until their full price has been duly paid to the Supplier. The Purchaser is obliged to store the Products until passing of property in a way that the Products can be identified as owned by Supplier and when needed Products are returnable to the Supplier.

Until the title to the Products has been passed to the Purchaser, the Purchaser has no right to redistribute the Products (know-how, information or any other intellectual property of the Supplier) to any third parties without a written agreement from the Supplier.

6 Products for Testing Purposes

The Supplier may deliver Products to Purchaser for testing purposes. Such Products shall be at all times property of the Supplier and shall be returned to the Supplier unless otherwise agreed no later than 24 days after receiving such Products from the Supplier.

The returned Products must be in their original flawless condition including all packaging, accessories, cords, manuals etc.

If the Purchaser fails to return the Products in time or the Products have been damaged for whatever reason or time, including transportation, the Purchaser shall be obligated to pay to the Supplier against Supplier's invoice any costs of such damage.

7 Warranty

The Supplier warrants that the Products will be free from defects in material and workmanship under normal use. The Supplier's obligations under this warranty shall be discharged, at its option, by repairing, replacing, or giving credit for defective products. The Purchaser has to grant the Supplier a reasonable period for removing the defects; if the Purchaser refuses to grant such period, the Supplier shall be released from warranty. The Supplier's liability is limited to defects, which appear within a period of 12 months from the delivery of the Products.

The Purchaser has to give the Supplier notice of defects, in writing and stating sufficient reasons,

immediately but within 30 days as of delivery of the Products at the latest. Any defects that could not be detected within that period in spite of careful examination must be communicated to the Supplier, in writing and stating sufficient reasons, immediately after becoming known. Such notice of defects shall under no circumstance be given later than two weeks after the expiry of the warranty period mentioned above. In default of such immediate communication, any warranty shall be excluded.

The Supplier shall accept the returns only if the Supplier has particularly given consent in advance to the Purchaser.

All defected Products shall be sent to the Supplier. The Products must be packed and protected in a sufficient way against transportation risks. The Purchaser shall be responsible for the packing and shipping costs and shall bear the risk of loss associated with returning the defected Product to the Supplier. After the defect has been remedied by the Supplier, the Product shall be returned to the Purchaser.

If the Purchaser has given a notice of defects as mentioned above and no defect is found for which the Supplier is liable, the Supplier shall be entitled to compensation for the costs it has incurred as a result of such notice.

When a defect in a part of the Product has been remedied, the Supplier shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Product. The Supplier is not responsible for any data lost or damaged as part of the warranty returns or repair process nor for any associated data restoration.

The warranty shall be ruled out if the Products are handled, after their acceptance, in an improper manner or not in conformity with the instructions recommended by the Supplier. In the event that the serial number tag or any label or any other identification marks on the Product has been removed or tampered with, the warranty will be void. Finally the Supplier's liability does not cover normal wear and tear or deterioration.

The warranty shall also be ruled out if any software of firmware updates has been downloaded to the

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Product no matter what is the source of the SW/FW update.

The above-mentioned warranty does not include from the third party licensed technology incorporated in the Products.

The aforesaid warranty is expressly in lieu of all other conditions and warranties, expressly in lieu of all other conditions and warranties, express or implied, including, without limitation, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS and all other obligations and liabilities of the Supplier whatsoever, whether in contract or in tort of otherwise, with respect to any defect or deficiency of any Product or software supplied by the Supplier hereunder. IN NO EVENT WHATSOEVER SHALL THE SUPPLIER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, DAMAGES FROM LOSS OF USE, OR LOST PROFITS. In the event that the Purchaser shall grant to its end users any greater warranty rights with respect to Products, the Purchaser shall indemnify the Supplier and hold the Supplier harmless from and against any and all damages, liabilities or costs (including reasonable attorneys' fees) resulting from, based upon or arising under the warranty granted by the Purchaser to such end users

8 Prices

The prices for the Products shall be as set out in the Purchase Order, subject as hereinafter provided.

Unless otherwise specified, VAT and any other tax or duty payable by the Purchaser shall be added to the price.

For small deliveries (i.e. deliveries that contain less than 10 pieces of the Product) the Supplier has the right to charge an extra fee of EUR 60.

The prices shall be expressed and the payments shall be made in Euros unless another currency has been agreed on in writing by the Parties. In case the price is agreed in other currency than EUR and the change in the exchange rate is more than +/- 2 % the Supplier reserves the right to correct the price of the Product. Change is determined between the date of delivery and the date of Purchase Order.

The Supplier has the right to correct obvious calculation and typing errors in the price and quantity information.

The Supplier reserves the right by written notice given to the Purchaser before delivery of the Products to vary the price of the Products to take into account increases in costs including (without limitation) the cost of any components, materials, carriage, the increase or imposition of any tax, duty or other levy and any variation in exchange rates.

9 Terms of Payment

The Purchaser shall pay the Products delivered to it against an invoice sent by the Supplier. Payments shall be made within 14 days of the date of the invoice. The interest for the delayed payments from the day on which the payments were due shall be charged in accordance with the Finnish Interest Act.

In case of late payment the Supplier may, after having notified the Purchaser in writing, suspend any and all of the subsequent deliveries until it receives the payment in full.

The Purchaser must do any notices of the invoice within 8 days of the date of the invoice.

The Supplier has right to require a partial or full pre-payment in order to deliver the Products of the Purchase Order. The Supplier does not apply any interest payment for the pre-payment received.

10 Publicity

The Supplier has right to use Purchaser's name in reference customer lists and in other marketing information. Neither Party shall have right to disclose any other information than existence of the business relationship unless agreed by both Parties.

11 Recycling of the Products

When necessary, and in accordance of the liability set in waste legislation, the Supplier shall collect and recycle the Products and any product waste thereof. The Purchaser shall be liable for delivering the Products to the Supplier.

12 Title to Documentation

Copyright and title to all drawings, technical documents and other documentation related to development and manufacturing of the Products, which have been delivered by the Supplier to the

Purchaser in whatever form, shall remain to the Supplier.

13 Intellectual Property Rights

All intellectual property rights related to the Products that are the property of the Supplier shall remain the property of the Supplier.

The Supplier and Purchaser hereby recognize intellectual property rights including but not limited to know-how and other trade secrets, patent- and utility models, trademarks, trade names, domain names, copyrights, and commits not to make nor to assist any third party to make any claims in regard of their validity.

The Purchaser shall indemnify the Supplier against any and all liabilities, claims and costs incurred by or made against the Supplier as a direct or indirect result of the carrying out of any work required to be done on or to the Products in accordance with the requirements or specifications of the Purchaser involving any infringement or alleged infringement of any rights of any third party.

14 Force Majeure

A Party shall be released from liability arising out of non-fulfilling of a contractual responsibility in case the non-fulfillment is due to an event of force majeure. A ground for relief from liability includes any of the following reasonably unexpected events when it prevents one of the Parties from fulfilling its obligations in whole or in part, account being taken of fires, floods, earth quakes, war, whether declared or not, embargo, defects or delays in deliveries by sub-contractors and any other unforeseen event which temporarily or permanently prevents it from fulfilling its contractual obligations in whole or in part. In such situation the time for the fulfillment of contractual obligation shall be prolonged maximally with the time that the other Party has been hindered from fulfilling its contractual obligation for such a reason as can be proven. Notwithstanding the aforesaid, the due payments for the Supplier shall be paid immediately after the force majeure situation has ended.

In case the event of force majeure lasts longer than 3 months both Parties have the right to cancel and terminate the transactions and neither Party has the right to demand compensation from the other Party for such termination.

15 LIMITATION OF LIABILITY

The Supplier shall not be liable for any damage to property caused by the Product after it has been delivered and whilst it is in the possession of the Purchaser. Nor shall the Supplier be liable for any damage to products manufactured by the Purchaser, or to products of which the Purchaser's products form a part.

If the Supplier incurs liability towards any third party for such damage to property as described in the preceding paragraph, the Purchaser shall indemnify, defend and hold the Supplier harmless. The Supplier shall have no liability for any indirect, special or consequential damage, losses or expenses suffered by the Purchaser however caused, including but not limited to loss of anticipated profits, goodwill, reputation, business receipts or agreements, or losses or expenses resulting from third party claims.

16 Applicable Law and Arbitration

These General Terms and Conditions of Sale shall be governed by and interpreted in accordance with the laws of Finland.

Any dispute arising between the Parties out of or in connection with these General Terms and Conditions of Sale, which the Parties are unable to resolve through mutual negotiation within 30 days after written notice by one Party to the other of the existence of such dispute, shall be submitted to arbitration by single arbitrator, conducted in accordance with the arbitration rules of the Central Chamber of Commerce of Finland. Any such arbitration shall take place in Tampere, Finland in Finnish language.

Notwithstanding the foregoing, the Supplier shall be entitled at its option and sole discretion to have recourse to the general courts having jurisdiction on claims arising out of matured debts in case the value of the dispute or Supplier's demand is not more than EUR 50.000. An arbitration clause does not prevent the Supplier from requesting interim or conservatory measures from the competent general courts.