

## TERMS AND CONDITIONS OF COMMERCIAL SALE ("Terms and Conditions")

### 1. APPLICABLE TERMS.

These Terms and Conditions govern and shall form integral part of all agreements for the sale of goods ("**Products**") entered into by the Seller Nexum Ltd., Obrtniška ulica 11, 1370 Logatec, ("**Seller**"), and purchased by the Buyer ("**Buyer**"), regardless of the fact that Buyer may have its own terms and conditions. These Terms and Conditions shall be applicable unless it is agreed otherwise for specific elements of Agreement by Seller and Buyer (also referred to as: "**Party**" or "**Parties**").

### 2. INQUIRY, OFFER, ORDER, CONFIRMATION AND AGREEMENT

2.1. Inquiry of Buyer is not an offer to conclude an agreement.

2.2. If Seller submits to Buyer an Offer, Seller's Offer is open for acceptance within the period stated by Seller in the Offer or, when no period is stated, within thirty (30) days from the date of the Offer, but any Offer may be withdrawn or revoked by Seller at any time prior to the receipt by Seller of Buyer's acceptance related thereto.

2.3. Offer of the Seller is a valid offer only if it includes number of the offer, date, name of employee submitting the offer and signature of the authorised representative of the Seller.

2.4. An acceptance by Buyer of any Offer made by Seller, or acceptance by Seller of any purchase Order of the Buyer shall constitute an Agreement between Seller and Buyer ("**Agreement**").

### 3. PRICES

3.1. Prices and payment terms are: (i) as stated in Seller's proposal, or if none are stated; (ii) Seller's standard prices in effect when Seller receives Buyer's purchase order.

3.2. Unless otherwise stated, prices are in Euros (EUR).

3.3. Taxes, Shipping, Packing, Handling. Unless stated in writing by Seller, Seller's prices exclude charges for freight, unloading, insurance, taxes, fees, duties or other government charges related to the Products. Buyer will pay these amounts or reimburse Seller. If Buyer claims a tax or other exemption or direct payment permit, Buyer will provide a valid exemption certificate or permit. Seller's prices include the costs of its standard domestic packing only.

### 4. PAYMENT

4.1. Unless otherwise stated in Seller's proposal, all payments are due net fifteen (15) days from the invoice date. For the first order advance payment of the whole purchase price is required.

4.2. Credit Approval. All orders are subject to credit approval by the Seller. The Seller may modify, suspend or withdraw the credit amount or payment terms at any time. If there is doubt as to Buyer's financial condition, Seller may withhold shipment, require cash payments, or require other satisfactory security. Seller may recover shipped Products from the carrier

pending such assurances.

4.3. Installment Shipment. Where Products are delivered in shipments Buyer will separately pay for each shipment. When only part of a shipment fails to comply with this Agreement, the Buyer may only reject the non-compliant portion.

4.4. Disputed Invoice. If Buyer disputes all or any portion of an invoice, it must first deliver written notice to Seller of the disputed amount and the basis for the dispute within eight (8) days of receiving the invoice. Failure of Buyer to timely notify Seller of any dispute constitutes a waiver of Buyer's claim. If Buyer only disputes a portion of the invoice, Buyer must pay the undisputed portion.

4.5. Suspension Right. Seller may suspend deliveries if an invoice is more than fifteen (15) days past due.

4.6. Seller may suspend deliveries if Buyer is in default with payments, if it is insolvent or if an insolvency procedure had been initiated against the Buyer.

4.7. Late Payments. Late payments shall bear interest at an annual percentage rate as prescribed by law in the Republic of Slovenia (statutory default interest rate).

## 5. DELIVERY AND QUANTITIES

5.1. Delivery, Title, Risk of Loss. Products will be delivered F.O.B., or ex works (Seller), depending on the way of delivery. Title and risk of loss or damage are passing to Buyer at that point. In case shipment is made by mail, passing of risk occurs when submitting the package to the Post Office. Buyer is responsible for all transportation, insurance taxes, duties or documentation fees. Seller may make partial shipments. Any shipping and delivery dates are estimated dates only. Seller is not liable for any loss or expense incurred by Buyer or Buyer's customers if Seller fails to meet its delivery schedule.

5.2. Transportation. When Products are ready for shipment, Seller will inform Buyer, and Buyer will then promptly give shipping instructions to Seller if they haven't been agreed in advance. If Buyer fails to provide timely shipping instructions, Seller will ship the Products by normal transportation means to Buyer or to a storage location selected by Buyer. Buyer will pay or reimburse any excess transportation charges for special or expedited transportation.

## 6. RESCHEDULING AND CANCELLATION

No order or any part thereof may be rescheduled or cancelled without Seller's prior written consent. If order is modified by Buyer, Buyer shall bear expenses caused by such modification or cancellation, which may be full price of Products.

## 7. PRODUCT RETURNS

Buyer has no right to return Products, unless consumer protection legislation provides otherwise. Return of Products may be agreed between Parties, but only if Products are not used, undamaged and in original package, and handling costs of 7 - 10% of the purchase price are paid.

## 8. FORCE MAJEURE, DELAYS

If Seller's performance is delayed by any cause beyond its reasonable control (regardless of whether the cause was foreseeable), including without limitation strikes, fire, accident, war or civil disturbance, delays of carriers, cyber-attacks, terrorist attacks, or acts or inaction of government, governmental regulations and/or similar acts, freight embargoes, non-availability of any permits, Seller's time of performance will be extended by a period equal to



the length of the delay plus any consequences of the delay. Seller will notify Buyer within a reasonable time after becoming aware of any such delay.

## 9. LIMITED WARRANTY AND DISCLAIMER

9.1. Seller warrants that: (i) each Product is free from defects in material and workmanship; (ii) each Product materially conforms to Seller' specifications that are attached to; and (iii) at the time of delivery, Seller has title to each Product free and clear of liens and encumbrances (collectively, the "Warranties").

9.2. Conditions to the Warranties. The Warranties are conditioned on: (i) no repairs, modifications or alterations being made to the Product other than by Seller or its authorized representatives; (ii) Buyer handling, using, storing, installing, operating and maintaining the Product in compliance with any parameters or instructions in any specifications attached to, or incorporated into this Agreement; (iii) compliance with all generally accepted industry standards; (iv) Buyer discontinuing use of the Product after it has, or should have had, knowledge of any defect; (v) Buyer providing prompt written notice of any warranty claims within the warranty period described below; (vi) at Seller' discretion, Buyer either removing and shipping the Product or non-conforming part thereof to Seller, at Buyer's expense, or granting Seller reasonable access to the Products to assess the warranty claims; and (vii) Product not having been subjected to accident (including force majeure), alteration, abuse or misuse.

9.3. Exclusions from Warranty Coverage. The Warranties do not apply to any equipment not provided by Seller. Normal wear and tear is excluded, including any expendable items that comprise part of the Product (such as fuses, light bulbs and lamps). Seller does not warrant or guarantee that any Product will be secure from cyber threats, hacking or similar malicious activity. Products that are networked, connected to the internet, or otherwise connected to computers or other devices must be appropriately protected by Buyer and/or end user against unauthorized access.

9.4. Warranty Period. Buyer must provide written notice of any claims for breach of Warranties by twelve (12) months from shipment for legal entities (by 24 months from shipment for individuals).

9.5. Remedies. Buyer's sole and exclusive remedies for breach of the Warranties are limited, at Seller' discretion, to repair or replacement of the Product, or its non-conforming parts, within a reasonable time period, or refund of all or part of the purchase price. The warranty on repaired or replaced parts is limited to the remainder of the original warranty period. Unless Seller agrees otherwise in writing, Buyer will be responsible for any costs associated with: removal, disassembly, replacement, installation, or reinstallation of any equipment, materials or structures to permit Seller to perform its warranty obligations. All exchanged Products replaced under this Warranty will become the property of Seller.

9.6. The Warranties in this Article are Seller' sole and exclusive Warranties. Seller is not liable for: loss of use, revenue, profit, or opportunity, costs of capital, costs of replacement or substitute use or performance, loss of information and data, loss of power, claims arising from Buyer's third party contracts, or for any type of indirect, punitive, incidental or consequential damages, or for any other loss or cost of a similar type. Seller' maximum liability under this Terms and Conditions is the actual purchase price received by seller for the product that gave rise to the claim.

## 10. CONFIDENTIALITY

10.1. Both during and after the term of this Agreement, the Parties will treat as confidential all information, which are obtained from the disclosing Party and all information compiled or generated by the disclosing Party under Agreement for the receiving party, including but not limited to business information, manufacturing information, technical data, drawings, etc., information about suppliers, buyers, terms of supply, and terms of sale, and other commercial terms, unless such information are publicly available.

10.2. Nothing in this Agreement requires a party to treat as confidential any information which: (i) is or becomes generally known to the public, without the fault of the receiving party; (ii) is disclosed to the receiving party, without obligation of confidentiality, by a third party having the right to make such disclosure; (iii) was previously known to the receiving party, without obligation of confidentiality, which fact can be demonstrated by means of documents which are in the possession of the receiving party upon the date of this Agreement; (iv) was independently developed by receiving party or its representatives, as evidenced by written records, without the use of discloser's confidential information; or (v) is required to be disclosed by law, provided that the party required to disclose by law will promptly advise the originating party of any requirement to make such disclosure to allow the originating party the opportunity to obtain a protective order and assist the originating party in so doing.

## **11. COMPLIANCE WITH IMPORT/EXPORT LAWS**

If the delivery of Products is subject to granting of license to be imported to the country of Buyer (*i.e.* outside Slovenia), Buyer is responsible to obtain such license.

## **12. ASSIGNMENT AND SETOFF**

Buyer shall not assign any rights or obligations under these Terms and Conditions or any Agreement without the prior written consent of Seller.

Buyer shall not set off any of its obligations to Seller with counterclaims it may have against Seller.

## **13. GOVERNING LAW AND FORUM**

12.1. Offers, Confirmations and Agreements, are governed by and construed in accordance with the laws of Republic of Slovenia. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

12.2. All disputes shall first be attempted by Buyer and Seller to be settled through consultation and negotiation in good faith and a spirit of mutual understanding. All disputes that are not so settled within a period of thirty (30) days from the date the relevant party notified the other party to that effect, may be submitted to the courts of Ljubljana, Republic of Slovenia. Seller shall always be permitted to bring any action or proceedings against Buyer in any other court of competent jurisdiction.

## **14. BREACH AND TERMINATION**

Agreements (confirmed orders) cannot be cancelled unless it is so agreed in writing between Parties.

If long term supplies are agreed, Agreement can be terminated by any Party with 30 day notice without stating reason.

In event of cancellation, termination or expiration of any Agreement the Terms and Conditions regarding confidentiality shall survive such cancellation, termination or expiration.

## 15. SEVERABILITY

In the event that any provision of the Agreement or these Terms and Conditions shall be held invalid or unenforceable by a court of competent jurisdiction or by any legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions thereof. The Parties shall replace such provision with another provision having the same or most similar economic effect. If the Parties shall not replace such provision, the Agreement shall be construed in the way that would be as close to the original intent of the Parties as possible.

## 16. NOTICES

All notices and communications to be given under these Terms and Conditions shall be in writing and shall be deemed delivered three (3) days after deposit in the mail of the home country of the party by registered mail, addressed to the parties at their addresses set forth on the Offer, Confirmations and/or Agreement, or sent to the e-mail of the Seller [matevz.socan@nexum.si](mailto:matevz.socan@nexum.si), or of the Buyer, which the buyer used for its e-mail correspondence during negotiations or during performing the Agreement.

## 17. MODIFICATIONS AND CHANGES

Seller reserves the right to make any amendments or modifications to these Terms and Conditions at any time. Such amendments and modifications shall have effect (i) on all Offers, Confirmations and Agreements referring to such amended or modified Terms and Conditions as from the date of such Offer, Confirmation or Agreement, and (ii) on any existing Agreement thirty (30) days from notification of such amendments or modifications by Seller to Buyer, unless Buyer has notified Seller within such thirty (30) days period that it objects thereto.

Terms and Conditions are posted on the website of the Company [www.nexum.si](http://www.nexum.si), and apply from December 1, 2018.

Logatec, December 1, 2018.

Nexum Ltd., Logatec