

TERMS AND CONDITIONS OF COMMERCIAL PURCHASE ("Terms and Conditions")

1. APPLICABLE TERMS

1.1. These Terms and Conditions govern and shall form integral part of all agreements for the purchase of goods ("**Goods**") entered into by the Supplier ("**Supplier**"), and purchased by Nexum d.o.o., Obrtniška ulica 11, 1370 Logatec ("**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 in writing for specific elements of Agreement by Supplier and Buyer (also referred to as: "**Parties**" or individually as "**Party**").

1.2. As used herein, the term "Goods" shall include both tangible and intangible goods, including software, spare parts and any related software and/or documentation that may accompany the goods, and *mutatis mutandis* any services purchased or commissioned by Buyer.

2. INQUIRY, OFFER, ORDER, CONFIRMATION AND AGREEMENT

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

2.2. Seller can accept offer of Buyer within time period stated in the offer. If there is no time period stated, the period to accept offer is 15 days.

2.3. Order of the Buyer is valid if it contains all of these elements: number of order, date, name of employee, who submits the order, and signature of the authorized representative of the Buyer.

2.4. If Buyer sends offer to Supplier, Buyer can withdraw the offer until it receives acceptance of the offer by the Supplier.

2.5. An acceptance by Buyer of any Offer made by Supplier, or acceptance by Supplier of any Offer made by Buyer shall constitute an Agreement between Supplier and Buyer ("**Agreement**"). Only an Agreement in writing is valid, which includes an Agreement made by exchange of e-mails.

3. PRICES

3.1. All prices are have to be in EUR and without value added tax (VAT). An Offer has to have separately quoted all taxes and duties, transportation costs and all other expenses if applicable. Total price shall be inclusive of all taxes, duties and expenses. No more taxes, duties and expenses can be invoiced to Buyer. If VAT is not applicable, invoice shall have a clause quoting legal provision which enables that VAT is not added to the purchase price.

3.2. If Buyer buys Goods on the basis of a price list of the Seller, the Seller shall inform the Buyer at least 30 days in advance that price list had been amended. If not, prices from the previous price list are applicable for the Buyer.

3.3. Supplier warrants that the prices for goods will not be less favorable than prices applicable to sales by Supplier to any other customer purchasing like quantities of substantially comparable products.

4. PAYMENT

- 4.1. Subject to acceptance of the goods by Buyer, payment shall be made upon a properly submitted invoice within 30 days following the date on which the goods are delivered.
- 4.2. Buyer shall, at all times, have the right to set-off any amounts owed by Supplier to Buyer against amounts owed by Buyer or any of its Affiliates to Supplier, including possible contractual penalties or damages, caused by the Seller to the Buyer.
- 4.3. In the event of Buyer's delayed payment the Supplier may charge to Buyer interest for delay at the interest rate not more than 3.5% per annum.
- 4.4. In the event of payment 10 days after receiving invoice, Buyer shall be entitled to a discount of 2% (*cassa sconto*).

5. TIMING

- 5.1. Time is of the essence for the purposes of Supplier's obligations under the Agreement.
- 5.2. In the event Supplier for any reason anticipates any difficulty in complying with any agreed delivery date or with any requirement of the Agreement, Supplier shall promptly notify Buyer in writing.
- 5.3. Supplier shall use its best efforts to accommodate any reasonable request by Buyer to reschedule confirmed delivery dates, or to change other parts of any Agreement.
- 5.4. Upon Buyer's request Supplier shall without delay provide information in writing concerning the status of any order, shipments due and payments and such other items relating to the business flow between Supplier and Buyer as Buyer may request.
- 5.5. Supplier undertakes to inform Buyer immediately when it anticipates constraints on its capacity to supply goods as ordered by Buyer, in which case Supplier will provide suitable assurances to Buyer that its requirements will be adequately serviced.

6. DELIVERY

- 6.1. All goods shall be delivered on the location of the Seller, specified in the order ("ex works").
- 6.2. Goods shall be ready for delivery on the day agreed in advance until 12 AM (noon). Goods shall be ready to load (in orderly packaging and with necessary markings). All necessary documents have to be submitted. Package shall be included in the price. Invoice shall not be made before Goods are delivered to Buyer.
- 6.3. Seller shall ensure that title to the goods (free and clear of any encumbrances) shall pass to Buyer on delivery.
- 6.4. If additional expenses occur to Buyer in case of late delivery (for example additional transportation costs because goods are not ready to be delivered and carrier has to wait, or if carrier has to collect the Goods again at a later point of time, those expenses shall be borne by Seller.
- 6.5. Where the Agreement provides for installation, commissioning or any other work to be carried out by Supplier such work shall be executed with good workmanship and using proper materials. As a minimum requirement, such goods shall comply with all applicable quality and certification standards.
- 6.6. Supplier shall pack, mark and ship the goods in such manner as to prevent damage during transport and which facilitates unloading, handling and storage. If Goods are damaged due to deficient packaging, even if Goods have already been delivered, damages shall be borne by Seller.

7. COMPLIANCE OF PRODUCTS WITH LAW, DOCUMENTATION

7.1. Supplier represents and warrants to Buyer that the goods will and have been designed, manufactured and delivered and/or the services will and have been performed in compliance with all applicable laws and regulations of European Union (including, without limitation, environmental, health and safety laws and regulations).

7.2. Seller shall submit to the Buyer, upon request of the Buyer, all documents regarding compliance with EU standards (CE), technical documentation and other documentation, which is necessary for storing, installing, processing and maintenance of Goods and for other similar purposes.

7.3. In the event of dangerous or hazardous goods, Supplier shall provide to Buyer written and detailed specifications of the composition of such goods and of all laws, regulations and other requirements relating to such goods in order to enable Buyer to properly transport, store, process and use such goods.

8. INSPECTION

Buyer shall have the right to inspect or test the goods at all times and places.

9. SUBCONTRACTING AND ASSIGNMENT

Supplier shall not assign any of its rights and obligations under the Agreement to any third party without the prior written consent of Buyer.

10. SOFTWARE

10.1. For all software, including and without limitation device drivers, firmware and any necessary software for the proper operation and support of the goods (collectively “**Software**”), Buyer is granted a perpetual, non-exclusive, irrevocable, royalty-free, worldwide right and license to use, reproduce, prepare derivative works of and distribute the Software in connection with Buyer’s distribution and support of the goods including without limitation distribution in electronic form (e.g. via Buyer’s website).

10.2. Supplier agrees to provide all updates and modifications to the Software to Buyer during the term of the Agreement without additional charges. Any license fees for Software shall be included in the purchase price or any other amounts payable under the Agreement.

11. INTELLECTUAL PROPERTY RIGHTS

11.1. Supplier agrees that any information, drawings, specifications, designs, technologies and other work products generated or developed in the course of work performed under the Agreement by Supplier and any intellectual property and other proprietary rights therein or thereto shall vest in Buyer in extent necessary to use or market Products.

11.2. Supplier shall indemnify and hold Buyer harmless from and against all liabilities, claims, suits, losses, damages, costs and expenses (including reasonable attorney’s fees), whether direct or indirect, arising from or relating to a third party’s claim arguing that the goods constitute(d) infringement, violation or misappropriation of any intellectual property right.

11.3. If Buyer submits technical information (drawings, designs, specifications, etc.), Seller may use them exclusively for performing the Agreement and for no other purposes.

12. CONTINUITY OF SUPPLY

12.1. In the event that Supplier is in default, Buyer may notify Supplier of its intent to have the goods manufactured by any third party if such default is not remedied within fifteen (15) days

or if within same period no precautions are taken by Supplier to Buyer's reasonable satisfaction to prevent future defaults with the same or substantially similar cause.

12.2. If Supplier does not remedy such default within such fifteen (15) day period after notice of Buyer to Supplier, Buyer will have the right to have the affected goods manufactured by a third party.

12.3. Supplier of goods which are used in manufacturing industry or elsewhere as components of other products, undertakes to notice Buyer of its intent to cease production of such goods. Supplier shall in such case manufacture and supply such goods at least for the period of five (5) years after Supplier's notice that it will cease to manufacture such goods, unless Parties agree otherwise in writing for each individual product.

13. WARRANTIES AND GUARANTEE

13.1. Without prejudice to any warranty extended, express or implied, by law, Supplier expressly warrants and represents to Buyer that all goods to be supplied to Buyer shall be new, of good quality, design, materials, construction and workmanship, and that all goods conform strictly to the specifications, approved samples, industry standards and all other requirements of the Agreement, and are suitable for the intended purpose.

13.2. In the case of non-compliance with this warranty, Buyer may, at its discretion and without prejudice to any other right or remedy available, reject the goods which do not comply with the provision 13.1. (hereinafter referred to as goods having a "defect" or "defective goods") by written notice to Supplier.

13.3. In the event of such rejection or if Buyer detects any goods having a defect after acceptance thereof, Buyer, at its option, shall be entitled to a full refund of the purchase price of the defective goods, or may require Supplier to remedy promptly the non-conformance or to replace the defective goods. In such event of defective goods Supplier shall be responsible for all cost of repair, replacement and transportation of the defective goods, as well as for all costs, expenses and damages (including, without limitation, recall, inspection, handling and storage costs, loss of revenues and other damages) incurred by Buyer or by third parties to which Buyer had sold such defective goods.

13.4. Warranty period shall be 24 months beginning when Goods start being used by the end user (user to which the Buyer has sold the Goods), and not more than 36 months after delivery of the Goods by the Supplier. Running of the guarantee period is interrupted by a written complaint by the Buyer. After defected Goods have been remedied (e.g. after deficient Goods have been replaced), the warranty period shall begin to run from start. Warranty period shall continue to run if negotiations to remedy deficiencies don't end with agreement.

13.5. In urgent cases when Supplier doesn't remedy deficiencies of Goods within a set time period, Buyer is authorised to remedy deficiencies itself at expense of Supplier. Buyer shall also be entitled to damages incurred because of deficient Goods or incurred in the course of remedying deficient Goods.

13.6. All expenses related to remedying deficient Goods (transportations, installation costs, salaries, etc.) shall be borne by the Supplier. Costs and expenses of end user are also to be covered by the Supplier.

13.7. Supplier shall have insurance policy covering defect Goods for the amount of at least EUR 50,000 for a single claim, and shall submit a document about such insurance policy to the Buyer. Insurance policy shall have no deductibles. Insurance premium shall be paid by Supplier.

14. EPIDEMIC DEFECTS

14.1. Supplier warrants that the goods will be free from epidemic defects.

14.2. An "epidemic defect" is a defect which appears in more than two percent (2%), or any lower percentage as specified in the specifications, of the goods of the same or substantially the same type delivered by Supplier to Buyer within any consecutive period of three (3) months, and which defect is either similar or substantially similar or has similar or substantially similar cause.

14.3. In the event of an epidemic defect, Supplier shall urgently and at its cost and expense repair or replace goods delivered to Buyer which show such epidemic defect within the reasonably expected time. Supplier shall indemnify Buyer for all losses and damages incurred by Buyer or third parties (buyers of such defective goods), including without limitation all costs and damages in relation to recall of any goods or products in which the goods are installed, from the market (whether defective or not), and damages in relation to the epidemic defect.

15. REPORTING OF DEFECTS

15.1. Buyer has to report defects of Goods immediately. It is deemed that defected goods are reported immediately if Supplier is notified within 7 days after Goods have been delivered and Buyer has had reasonable opportunity to check the Goods. When defect can be discovered only when Goods are processed or installed by the end user and in all cases of hidden defects, notice is timely when submitted within 7 days after defect has been discovered or after end user has informed the Buyer about such defect.

15.2. If Buyer reports defect because Supplier has submitted inaccurate, wrong or deficient information about quality or technical characteristics of Goods, reporting of defect shall be deemed timely if report is submitted within 7 days after Buyer has received complaint from the end user.

15.3. If Supplier has submitted inaccurate, wrong or deficient information about quality or technical characteristics of Goods, it shall be deemed (no matter what reason for that should be), that Supplier knew about characteristics or defects of Goods which were covered by such deficient information.

16. PENALTY

Should Supplier either fail to fulfill its obligations, or fail to fulfill obligations within deadlines defined in the agreement, it shall be liable to pay a penalty of 0.5% of the final contractual price for each calendar day of delay or non-fulfillment of his obligations; however, the amount of such penalty shall not exceed 10% of the final contractual price. In addition to penalty, Buyer shall also be entitled to claim reimbursement from the Supplier for any damage exceeding the penalty amount. Unilateral notices of Supplier that terms of delivery, for example delivery date, have been changed (so called "changed order confirmation" - COC), are not allowed and have no effect.

17. BREACH AND TERMINATION

17.1. Buyer may terminate all or any part of its obligations under any Agreement to purchase or accept goods at any time for its convenience upon written notice to Supplier. If Buyer provides written notice to Supplier at least thirty (30) days prior to the specified shipping date of the relevant goods, Buyer shall have no liability for the termination. If Buyer terminates an



Agreement on less than thirty (30) day notice, Buyer and Supplier will negotiate a reasonable termination charge, if any, based on all appropriate factors, including, without limitation, the percentage of work performed by Supplier prior to termination, Supplier's ability to resell or reuse the goods or services, and market conditions prevailing at the time of termination. Supplier has a duty to use its best efforts to mitigate any damages or losses resulting from a termination by Buyer.

17.2. If Supplier fails to comply with any obligations of the Agreement, Supplier shall be in default without further notice being required. In the event default, insolvency or bankruptcy proceedings are instituted against Supplier, Supplier is liquidated or dissolved, Supplier makes an unauthorized assignment for the benefit of creditors, Buyer shall be entitled to rescind or terminate the Agreement.

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

18. CONFIDENTIALITY

18.1. Both during and after the term of an Agreement, Parties shall 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 and drawings, information about suppliers and customers, purchase and selling terms, and other commercial information, unless they are publicly available.

18.2. Nothing requires from 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 an Agreement; (iv) was independently developed by receiving Party, 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 information 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 or assist the originating Party in obtaining a protective order.

19. SEVERABILITY

In the event that any provision of an 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.

20. 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 other Party at their addresses set forth on the Offer, Confirmations and/or Agreement, or sent to the e-mail of the Buyer



matevz.socan@nexum.si or of the Supplier, which the Supplier used for its e-mail correspondence during negotiations or during performing the Agreement.

21. GOVERNING LAW AND FORUM

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

21.2. All disputes shall first be attempted by Buyer and Supplier to be settled through consultation and negotiation in good faith and in 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 competent court in Ljubljana, Republic of Slovenia. Supplier shall always be permitted to bring any action or proceedings against Buyer in any other court of competent jurisdiction.

22. MODIFICATIONS AND CHANGES

Buyer 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 Buyer to Supplier, unless Supplier has notified Buyer within such thirty (30) days period that it objects thereto.

Terms and Conditions are posted on the website of the Company *www.nexum.si*, and apply from December 1, 2018.

Logatec, December 1, 2018.

Nexum Ltd., Logatec