



GENERAL SALES TERMS AND CONDITIONS

1. GENERAL PROVISIONS

- 1.1 Comer S.r.l, with offices in Via Oroboni n. 26/28, Vigevano (PV), is a company whose business is manufacturing and sale of rotating electric motors (hereinafter the "**Products**").
- 1.2 The purpose of the present GENERAL SALES TERMS AND CONDITIONS (hereinafter the "**GSTC**") is to govern each sales contract executed between Comer and the entities who will purchase Comer's Products. Comer supplies its own Products to professional operators (hereinafter the "**Customers**") and therefore the provisions of Legislative Decree 206/2005 are not applicable to sales contracts of the Products. Comer declares to have the necessary experience and to own adequate means, to have a suitable staff and organization for the exact and accurate performance of the sales contracts of the Products.
- 1.3 Once signed for acceptance by the Customer, or accepted in fact, or otherwise known, or possibly known by the Customer, the GSTC will govern all sales contracts between Comer and the Customer concerning the sales of the Products.
- 1.4 The GSTC will prevail in any case on any Customer's purchase conditions, or on any other provision contained in the Customer's documentation, except if a different agreement has been expressly achieved with Comer in writing.
- 1.5 The sale of the Products is fully regulated by these GSTC, which may eventually be integrated by the final offer and the order confirmation or other equivalent documents, signed by the parties, that prove the execution of the contract.
- 1.6 Any amendment or addition to GSTC if not executed by the parties in writing, shall be null and void. The Customer acknowledges that either Comer's staff or agents do not have any authorization or power of attorney and therefore they are not legally entitled to undertake on Comer's behalf obligations, commitments or make statements which can modify, integrate or derogate the provisions of the GSTC.

2. Object and procedure for contract execution

- 2.1 If not differently agreed, object of each sales contract shall be the Products manufactured and commercialized by Comer.
- 2.2 The Contracts may be finalized through the transmission by Comer of a sales offer (hereinafter the "**Offer**") to the Customer, which validity, unless otherwise indicated on it, shall be of 30 calendar days. If not accepted by the Customer within the validity term the Offer may no longer be accepted by the Customer, except if Comer's has expressed in written form its consent to extend the validity term of the Offer.
- 2.3 Once Comer will have received from the Customer, by fax or e-mail, the Offer duly signed for acceptance, together with eventual drawings and technical schedules prepared by Comer, the sales contract shall be legally deemed as concluded, without prejudice to the faculty of the parties to integrate afterwards the sales contract if such faculty has been expressly provided in writing.
- 2.4 Alternatively, the Contracts may be finalized through the transmission by the Customer, also via fax or e-mail, of a formal written purchase proposal (hereinafter the "**Purchase Order**"). The Purchase Order shall have to include at least the following items: (i) type of Product required and product code for standard Products; (ii) quantity of Products; (iii) required delivery terms; (iv) if the requested Product is to be manufactured under specific Customer indication, it shall have to be specified the type of the required product, the technical specifications with the relevant technical drawings if necessary.
- 2.5 The Purchase Order once forwarded to Comer, shall be irrevocable for a period of 30 working days. After the irrevocability term is expired, without Comer's acceptance through a written order confirmation (hereinafter the "**Order Confirmation**"), the Purchase Order will become definitively ineffective.
- 2.6 The Customer acknowledges that Comer will not have any obligation to accept the Purchase Order, and therefore will remain totally free to accept it or not. If the Customer does not receive the Order Confirmation by Comer within the above mentioned 30 working days term, the Customer shall not be entitled to consider as concluded in fact the sales contract.
- 2.7 After receipt by the Customer, also via fax or e-mail, of the Order Confirmation duly signed by Comer, the sales contract will become binding for both parties.
- 2.8 If the Purchase Order does not indicate the price of the products, in accordance with the provisions of paragraph 1 of Article 1474, of the Civil Code, the price applied will be the one indicated in Comer's price list in force on the date of execution of each sales contract, or the one indicated in Comer's Order Confirmation.
- 2.9 Comer, instead of accepting the Purchase Order, through the Order Confirmation, may alternatively require the modification of the contents of the Purchase Order by sending in writing to the Customer a proposal to amend the Purchase Order (hereinafter the "**Amendment proposal**").
- 2.10 The Amendment Proposal shall have to be expressly accepted in writing by the Customer. If the Customer fails to accept the Amendment proposal within 4 working days from receipt thereof such Amendment proposal will lose its effectiveness and the Customer will be no longer entitled to accept it, unless prior Comer's consent. In the event of acceptance of the Amendment Proposal, each contract will be deemed as executed on the date in which Comer receives the Amendment proposal duly signed for acceptance by the Customer.
- 2.11 Verbal or phone orders will not be accepted and anyway will not be deemed as Purchase Orders. Such orders to be taken into consideration by Comer must be followed by official written Purchase Orders.

3. Sales Conditions



- 3.1 The price, Products delivery terms, their characteristics and any other technical specification will be governed by final contractual documents executed by Comer and the Customer in connection to each sales contract and by the GSTC. If the Customer needs to use the Product for special or heavy applications which require particular specifications, the Customer must specify to Comer the intended use of the Product and require to Comer the specifications deemed necessary for such use. In absence of a specific request, the Product supplied by Comer will have "standard" specifications, i.e. those stated in Comer's informational material. Anyway, the assessment of the Products suitability for the specific intended use remains of exclusive competence and under responsibility of the Customer. Therefore, the Customer shall have to require all the technical information necessary to carry out, at its own care and expenses, proper assessment tests in order to check the real adequateness of the Product for the intended use. Thus, Comer will not be liable under any circumstances for any damage or problem arising from an improper use, or a wrong choice in the use of the Product, or a wrong installation thereof by the Customer.
- 3.2 The Products shall comply with the agreed and confirmed specifications; anyway, Comer remains free to make, at any time, those modifications to the Products which are deemed as necessary, convenient or useful. Any eventual modification request of the quality or quantity of the Products, after the sales contract execution, must be forwarded by the Customer in writing to Comer. In such case, any modification shall be subject to a specific written agreement between the parties. It is however understood that Comer will have the right not to accept the Customer's modification request, or, alternatively, to modify delivery term or to update the initially agreed purchase price in light of the type and extension of the required modifications.
- 3.3 The Products will be delivered packaged, in compliance with the applicable safety regulations, in order to protect their own integrity and the safety of the individuals responsible for loading, unloading, and controlling operations. The cost of standard packaging is mentioned in the contractual documents (Offer or Order Confirmation) for each sales contract. Customized or anyway non-standard packaging shall have to be specifically agreed during negotiation of the sales contract, and all related costs will be at charged on the Customer, unless if it is differently agreed. The packaging is not subject to return.

4. Payment terms and conditions – Interests

- 4.1 Comer shall have the right to indicate in the Offer the specific payment terms to be applied to each sales contract, or to accept and/or modify the payment terms proposed through the Customer's Purchase Order, by sending an Order Confirmation or an Amendment Proposal.
- 4.2 In absence of specific indication in the Offer or in the Order Confirmation or in the Amendment Proposal the following payment conditions shall apply: payment upon delivery.
- 4.3 Comer will have the right to make subject the effectiveness of the Order Confirmation or of the Offer to the issuance of additional guarantees, or to a down payment, or to certain conditions precedent.
- 4.4 The agreed selling prices are fixed and invariable, unless otherwise agreed in writing between the parties. The payment of the due amounts provided by the contracts will be requested by issuing regular invoices. The issued invoices will report: (i) the Order Confirmation number; (ii) the number of the relevant shipping document; (iii) the number of the Order; (iv) the Product code; (v) the quantity of the delivered Products; (vi) the price per unit and the total price; (vii) the VAT application range.
- 4.5 The payment is to be made by bank receipt or in another way previously agreed between the parties. Payments made to third parties to which Comer has not previously granted an authorisation to collect payments may not be opposed to Comer. For this purpose, the Customer acknowledges that Comer's agents and sales staff are not entitled to receive any amount on behalf of Comer, unless otherwise notified in writing to the Customer case by case.
- 4.6 If payments are made by means of bank cheques or other credit titles, they must be headed to Comer and issued in compliance with the laws regulating circulation and writing of credit titles. Comer shall remain exempted from any liability arising from the circulation of credit titles, which are not in compliance with all applicable laws. Any payment by cheque or other types of credit titles do not represent a novation of the original legal relationship.
- 4.7 In any case, bank transfers, cheques or other credit titles and bank receipts are considered as paid if and when they are completely cashed. Payments in cash can be accepted within the limits allowed by the current currency regulations governing payment means.
- 4.8 If postponed payments are agreed, also if in connection with outstanding debts, the failure or delay to make the payment, even of only of one of the agreed instalments, will cause the Customer loss of the benefit to the postponed payment terms pursuant to Article 1186 of the Civil Code.
- 4.9 The payments will be allocated before to eventual interests and expenses, if due, and then to the capital, starting from the debts with oldest due date.
- 4.10 In case of delayed payment will be due the interests on arrears provided by the Article 5 of the Legislative Decree 231/2002. If such law provision shall be not automatically applicable to the executed sales contract, the Customer shall be required to pay anyway the interest on arrears as per Article 5 of the above mentioned law, starting from due date of each payment, without need of a prior payment request by Comer.





If the Customer fails to pay any due amount on due date, it will be also required to refund all costs supported by Comer to collect its credit, without prejudice to Comer's right to demand further damages caused by the payment default (including, but not limited, to any legal, judicial or extrajudicial expenses incurred for credit collection).

5. Products delivery

- 5.1 Unless otherwise agreed the products sale, is agreed on an ex-works basis (i.e. with transport burdens and risks on the Customer's), with transport costs at Customer's charge, at the destination address mentioned on the contractual documents. The Products transport will be at Customer's total risk and danger, even if they are sold on a free delivery and packaging basis (therefore with partial derogation to such regime with sole transport obligation on Comer). In the event that Products are sold to a Customer with registered offices or plant out of the Italian Republic territory, unless otherwise specified, the transport and delivery conditions are agreed, on an "ex Works" basis (pursuant to INCOTERMS 2010 of the Chambers of Commerce of Paris) at the headquarters of Comer S.r.l., Via Oroboni 26/28, 27029 Vigevano.
- 5.2 The Products will be accompanied by a specific DDT (transport document) with clear indication of: (i) Order Number and/or Order Confirmation Number; (ii) Products code; (iii) delivered quantity.
- 5.3 The delivery terms indicated in the Offer or in the Purchase Order Confirmation are merely indicative and therefore they are not binding on Comer, who is exempted from any liability in case of delayed delivery of the Products. If the Customer has specific needs regarding the delivery deadlines, while accepting the Offer or placing the Purchase Order, it shall have to require to specifically provide on the contractual document the binding nature of the term by adding the wording "binding delivery term", which must be approved by Comer. Even in such case it remains anyway excluded the essential nature of the term, pursuant to provisions of Article 1457 of the Civil Code and the Customer shall be entitled, in case of delay, to liquidated damages (with exclusion of any right to claim any further damage) equal to 0,5% on the non-delivered Product value for each calendar week of delay, starting from the first week after the one in which delay has started provided that the right of withdrawal in paragraph 5.4 is not exercised. The amount of such a penalty cannot be anyway higher than 5% of value of non-delivered Products. The amount of the liquidated damages will be reimbursed to the Customer by Comer as a discount on the Product price.
- 5.4 Anyway, regardless if the term is binding or not, in case of delays of delivery exceeding 150 days from the of delivery term provided in the contract, the Customer will be entitled to withdraw from the contract by sending a communication through registered mail or certified e-mail.
- 5.5 The delivery term, regardless if binding or not, will be suspended if it shall be impossible to proceed to the implementation of the sales contract because of facts attributable to the Customer or because of to force majeure. Are intended as force majeure, just for example but not limited to, all strong weather events capable to jeopardise the possibility of Products manufacturing, unpredictable events such as strikes, riots or acts of sabotage, interruptions in the supply of raw materials or energy, necessary for Products manufacturing, as well as laws, provisions, rules or restrictions from central or local public authorities that prevent Comer's business activity.
- 5.6 The delivery term shall start again from the day after the cause of suspension has been resolved.
- 5.7 Comer shall be entitled to carry out partial deliveries, depending on availability of the Products, without prejudice to the Customer's obligation to pay what due in the agreed terms, proportionally to the delivered quantities of Products without prejudice to the Customer's right to withdraw from the contract in respect to the undelivered Products only, 150 days after the expired delivery term as per clause 5.4.
- 5.8 For the purposes of compliance with the agreed delivery term the delivery of Products shall be deemed as made on the date of collection of the Products at Comer's plant. Comer shall therefore have no liability in the event of failure and/or delayed delivery or for any total or partial damages of the Products attributable to the carrier, who shall remain the sole responsible for any eventual damages occurred because of Products transport.
- 5.9 If the Customer refuses to collect the Products delivered, the carrier will store the Products at a warehouse chosen by Comer which location shall be notified to the Customer. 15 days after storage of the Products, Comer is entitled to terminate the sales contract for breach, prior sending a formal notice to comply pursuant to Article 1454 of the Civil Code., withholding any amount already paid by Customer as a down payment on the damage caused by the Customer's breach of contract. As alternative Comer will have the right to request the implementation of the sales contract, without prejudice to claim compensation for suffered damages, including expenses incurred throughout the whole storage period of the Products.

6. Suspension of implementation

- 6.1 Comer is entitled to suspend any time the implementation of already agreed sales contracts or the Products delivery, without prior communication, in the event the Customer has not complied with his obligations, among which failure to pay the purchase price in connection to existing sales contract, even when the Customer's failure is referred to contracts different than the one which implementation is suspended.
- 6.2 If it has been agreed a prepaid payment or a payment upon the Products delivery Comer may refuse to deliver the Products if the Customer has failed to pay the due amount.
- 6.3 Once resolved the reason for which the implementation of the contract has been suspended, Comer is entitled to proceed again with the implementation of the suspended sales contract or delivery without any prior notice. Instead when the reason of suspension of implementation





is still in place after a period of 30 days, Comer is entitled to definitely terminate for breach any kind of contractual relationship with the Customer, prior sending a mandatory injunction to comply with the terms of the sales contract pursuant to Article 1454 of the Civil Code, to be sent by registered letter or certified e-mail.

7. Inspection, control, test and certification

- 7.1 The Customer may request, in a due time, to send at his own expenses his inspectors to Comer, in official working hours, to check manufacturing process and quality of the ordered products during manufacturing thereof. If specific tests are required, they will be made at the Customer's expenses. If the Customer cannot attend the tests, Comer will carry out the test and communicate the relevant results and details to the Customer and such test shall have the value as final testing. Anyway, Comer will have to ensure an adequate assistance to the Customer inspectors.
- 7.2 Certificate of Origin, testing and electric diagrams with accessories, are included in the supply and will be enclosed together with the Products.

8. Defects and non-conformity

- 8.1 The Customer, either directly or throughout a trusted professional, has to check upon receipt of the Products: (i) quality and quantity of Products; and (ii) Product's compliance with the Purchase Order and with the further contractual documents; and (iii) the absence of visible defects and faults.
- 8.2 If the Customer deems that delivered Products are affected by evident defects or that anyway they do not comply with the contractual agreement, he has to notify a complaint notice to Comer by registered mail or certified e-mail within 8 days from the date of Products receipt, subject to forfeiture, according to provision of Article 1511 of the Civil Code. The notice of complaint to be valid must contain the exact indication of the nature of the alleged defects.
- 8.3 If Comer has acknowledged the existence of the defects, shall have to replace the Product as soon as possible and anyway within 60 working days from the date of receipt of the complaint notice, except if a different term has been agreed. The Customer shall not be entitled to suspend the payment of any due amount to Comer. If Comer has acknowledged the existence of the alleged defects, it shall have only obligation to replace or repair the defected Products or resolve the reasons of non-conformity of the Products, with express exclusion of any and all further liability for damages of whatsoever type and nature, except in case of fraud or gross negligence of Comer.

9. Warranty and warranty limits

- 9.1 Comer guarantees good quality and construction of its Products and they are free from defects and non-compliances. During the warranty period, provided that fault/defect is covered by the warranty and the relevant claim has been notified in the terms and way provided in clause 9.2, Comer, as soon as possible, shall repair or replace, at its discretion, the Products or those parts thereof which are found to be defective because of materials poor quality or faulty assembly. All repair works will be carried out exclusively at Comer's plant in Vigevano (PV). The shipping cost of Products to Comer will be at Customer's expense while Comer will cover the cost for returning the Products to the Customer.
- 9.2 The Warranty period is of 12 months starting from Products delivery (hereinafter the "**Warranty Period**"), without prejudice to any eventual specific agreement provided that defects are notified to Comer within 8 days from discovery date thereof through registered e-mail or certified e-mail, pursuant to provision of Article 1495 of the Civil Code. The Warranty Period will end at the its expiry term though the Products have not been used by the Customer. The warranty period is not subject to any suspension or extension unless if so has been expressly agreed in writing.
- 9.3 The warranty is not applicable when the defects/faults of Products are due to:
- Wrong use or non-compliant use by the Customer;
 - Negligent or improper use by the Customer;
 - Failure to comply with instructions regarding installation and maintenance;
 - Failure to comply with instructions about storage;
 - Unauthorised modifications or repairs carried out by the Customer or by third parties without a written consent of Comer;
 - Normal wear of Products;
 - Force majeure events.
- 9.4 The warranty effectiveness shall be suspended if the Customer has failed to pay the agreed price for the Products sale within due dates agreed in the sales contract until the full due amount has been paid to Comer. Once the payment has been made, the warranty will be effective only for the remaining period of time of the Warranty Period.
- 9.5 The warranty shall not be effective even when the defects/faults were known or easily detectable at the moment of the sale and they have not been notified within the terms provided in clause 8.2.
- 9.6 The verification of the suitability of the Products to the intended use is under exclusive Customer's responsibility. In any case, it is excluded any and all rights to compensation for whatever damages that the Customer might suffer because of a wrong choice or improper use of the Products.





9.7 The provisions of the Consumer Code (D.lgs. 206/2005) shall not apply to the GSTC, except in case the Customer has the quality of "consumer", pursuant to the laws provisions.

10. Retention of title

10.1 The property of the Products will be transferred to the Customer exclusively when Comer has received the payment of the entire due amount for the Products sale as well as the payment of any other amount or interest which are accrued because of outstanding payments.

10.2 The risk and responsibility concerning the Products are transferred to the Customer at the moment of delivery.

11. Confidentiality and intellectual property on projects and technical drawings

11.1 Any information to the Customer qualified in writing as confidential, or if communicated by telephone or e-mail and after confirmed in writing as confidential, which are relating to implementation of these GSTC or referring the sales contract, shall be kept and remain confidential and reserved for the entire effectiveness duration of GSTC and of each sale contract and afterwards for a further period of 2 years (TWO).

11.2 The Customer undertakes to impose the same obligations of confidentiality on all its employees and collaborators, including external ones.

11.3 The Customer undertakes not to reproduce, use on his own or through third parties, or otherwise exploit any confidential information, logos, trademarks or patents, designs or technical drawings of Comer, unless if differently expressly agreed in written form between the parties.

11.4 This confidentiality clause shall not apply to: (i) any information that is or will become publicly available without the Customer's liability; (ii) any information made publicly available by Comer's written consent, (iii) any information legitimately made available by third parties, who have received it without violating any confidentiality agreement.

11.5 Comer will remain full owner of the intellectual property rights and copyright on projects and technical designs prepared for the execution or implementation of each sales contract of the Products and of all exploitation rights in accordance to all applicable national laws and international treaties including, but not limited to, the rights of publication, duplication, registration of the projects by Comer and more generally the right of reproducing the projects, the right to use the projects to accomplish tasks for third parties based on the projects and furthermore the right to assign or transfer the projects and the technical designs and the related intellectual property rights to third parties under any type of contractual scheme. Therefore, the Client shall refrain from registering the projects or the technical designs and in any other way to infringe Comer's intellectual property rights and exploitation rights thereof, or anyway carry out any activity which may cause prejudice to Comer's intellectual property rights.

11.6 Under no circumstances the sales of Products will have as result the transfer of Comer's intellectual property rights.

12. Additional clauses

12.1 Eventual additional covenants or agreements will not replace or amend these GSTC, unless they are expressly accepted in writing by Comer and are specified the clauses of these GCS subject to amendment or replacement.

13. Final provisions

13.1 The acceptance of these GSTC will exclude the application of any general or specific Customer's purchase conditions, even if they are attached to the Purchase Order sent to Comer or to Comer's Offer acceptance documents.

13.2 This agreement cancels and replaces any previous agreement or contractual practice.

13.3 Under no circumstances eventual tolerance, delay, acquiescence or indulgence by Comer to enforce any provision contained in these GSTC, as well postponements granted by Comer, shall affect, invalidate or limit the rights and powers recognized by the provisions of the GSTC to Comer. Any possible Comer's waiver of the obligations mentioned in the aforementioned GSTC, will not entail a waiver also of subsequent and continuous failures.

13.4 If one provision of these GSTC or part of it appears to be or is declared invalid, ineffective, not applicable or void, this will not affect the validity and effectiveness of the other conditions indicated in these GSTC which will remain fully valid and effective.

13.5 Any communication provided for in these GSTC shall be made in writing and shall be considered duly carried out when delivered *brevis manu* or by courier, or sent by registered letter, or fax, or ordinary or certified email to the address reciprocally communicated by Comer and by the Customer.

14. VAT and duties

14.1 All prices that Comer has indicated in its price-list or in the contractual documents are intended as VAT excluded which, when due, must be paid by the Customer on top of the due purchase price.



15. Disputes and applicable law

- 15.1 The present GSTC and the contracts for the Products sales are construed and shall be governed by Italian Law. Any dispute/litigation depending on or even only originated by the GSTC or relating to the execution, interpretation, implementation and termination of each sales contract will be resolved exclusively by Italian courts.
- 15.2 Unless if the Customer is to be qualified as a "consumer" pursuant to the provisions of D.Lgs 206/2005, the Court of Pavia will be the exclusively competent in the territory for any dispute concerning the interpretation, execution implementation and termination of individual sales contracts governed by the GSTC.
- 15.3 In case the sales has international nature, the International Convention of Wien of 1980, which regulates the international sale of mobile goods, shall not apply.

16. Attachments

- 16.1 The attached general repair terms and conditions which are integral part of the present GSTC.

Vigevano, date, _____

The Customer



Pursuant to and according to Articles 1341 and 1342 of Civil Code, the following provisions of the contract are specifically approved: 1 (General provisions, also with specific reference to points 1.3 and 1.4); 2 (Object and procedure for contract execution); 3 (Sales Conditions); 4 (Payment terms and conditions); 5 (Products delivery); 6 (Suspension of implementation); 8 (Defects and non-conformity); 9 (Warranty and warranty limits); 10 (Retention of Title); 11 (Confidentiality and intellectual property on projects and technical drawings); 13 (Final provisions); 15 (Disputes and applicable law).

Vigevano, date, _____

The Customer

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