



COMCORES

General Terms and Conditions

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Written by:
Thomas Gerner Nørgaard

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1.0 Delivery

1.1 The Buyer shall take delivery of products as set forth herein. Any order stating different delivery terms and conditions shall not become part of the agreement unless specifically agreed to by Comcores in writing.

1.2 The Buyer is responsible for all freight and duty charges from Comcores's shipping location. Risk of loss and damage to products pass to the Buyer upon hand over to the carrier for shipment. The Buyer will be deemed to have accepted the products within ten (10) days after hand over to the carrier.

2.0 Prices

2.1 Up to and including the date of delivery Comcores shall be entitled to alter prices in accordance with changes in rates of customs duties, taxes etc. beyond Comcores's control. Comcores may claim compensation for any increase in Comcores's expenditure which may be ascribed to the Buyer.

3.0 The Buyers Responsibilities

The Buyer represents and warrants that:

3.1 Products will be used in accordance with instructions given by Comcores regarding the specific product.

3.2 If the products are resold the Buyer will not: (1) make any representations or warranties about Comcores or the products other than those Comcores specifically authorizes in writing; or (2) take any action or make any commitments in Comcores's name.

4.0 Payment

4.1 Comcores shall invoice the Buyer after the products have been shipped. The Buyer shall pay the full amount of the invoice within thirty (30) days of the invoice date, provided however, that Comcores shall have the right, in its sole discretion, to require payment before shipment or payment via letter of credit. Comcores may stop shipments to The Buyer if the Buyer does not comply with applicable credit terms or limits according to the

agreement between the Buyer and Comcores. Late payment of invoices may be assessed a charge equal to 1.5% of the balance due per month or the statutorily allowed maximum rate of interest in accordance with the laws of the Kingdom of Denmark.

5.0 Retention of title and security of interest

5.1 The products shall **remain the property of Comcores** until the purchase price has been paid in full, to the extent that such retention of title is valid under applicable law.

5.2 To the extent applicable under local law in the country where the product are destined the Buyer furthermore grants to Comcores a priority lien, purchase money **security interest** in the products and any accounts receivable or cash from the resale of the products until full payment is received, with respect to any sales on open account. The Buyer shall complete and cooperate with the submission of any documents necessary to validate or enforce Seller's rights hereunder.

6.0 Cancellation or Rescheduling

6.1 The Buyer is not allowed to reschedule or cancel an order or any portion of an order for products unless specifically agreed to by Comcores in writing. Rescheduling or cancellation of any portion of an order for products will result in a cancellation fee equal to the full price of the portion of the order affected.

7.0 Changes

7.1 In the event, that Comcores's ability to supply Product becomes constrained, Comcores may, as Comcores deems reasonable, reduce quantities or delay shipments to the Buyer.

7.2 Comcores retains the right to discontinue, or change the specifications of, any Product.

8.0 Taxes

8.1 The Buyer is responsible for all taxes related to products and services except for taxes based on Comcores's income.

9.0 Limited Warranty

9.1 Comcores warrants products to be free from defects in material and workmanship for two (2) year from date of shipment.

9.2 Comcores's sole liability and the Buyers sole remedy for breach of warranty shall be limited as stated in this Section 9 and Section 11.

9.3 If the Buyer claims, that any products are nonconforming, the Buyer shall (1) promptly notify Comcores in writing of the basis of such nonconformity; (2) follow Comcores's instructions for the return of the products; and (3) at Comcores's request, return the products freight collect to the Comcores designated location. Comcores has the sole discretion to apply minimum return quantities.

9.4 If Comcores determines such products do not meet warranty, Comcores will, at Comcores's option repair or replace the products, or issue a credit at the most recent price. If Comcores replaces the products, the returned products become Comcores's property. This warranty does not cover products, that are defective because of accident, abuse, misuse, negligence, modification, improper maintenance, removal or alteration of labels by the Buyer or a third party, failure caused by a product which Comcores did not provide or for which Comcores is not responsible, or use or storage in other than Comcores's operating environment.

9.5 This warranty is not transferable. Comcores does not warrant: (1) uninterrupted or error free operation or functionality of the products, (2) that Comcores will correct all defects, (3) or services. No course of dealing, course of performance, usage of trade, or description of products or services shall be deemed to establish a warranty, express or implied.

9.6 All prototypes are provided "As Is" without warranty or indemnification of any kind by Comcores.

9.7 The foregoing warranties are the Buyers exclusive warranties and replace all other warranties or terms, express or implied, including the warranty of non-infringement and the implied warranties or terms of merchantability, fitness or use for a particular purpose, and satisfactory quality.

10.0 Patents and Copyrights

10.1 If a third party claims that a product or service Comcores provides to The Buyer infringes that party's patent or copyright, Comcores will defend The Buyer against that claim at Comcores's expense and pay all costs, damages and attorney's fees that a court finally awards provided that The Buyer (1) promptly notifies Comcores in writing of the claim; and (2) allows Comcores to control, and cooperates with Comcores, in the defence and any related settlement negotiations. If such a claim is made or appears likely to be made, the Buyer agrees to permit Comcores to enable the Buyer to continue to use the product or service, or to modify it, or replace it with one that is at least functionally equivalent. If Comcores determines, that none of these alternatives is reasonably available, the Buyer agrees to return the product or service upon written request. Comcores will then give the Buyer credit equal to the amount the The Buyer paid for the given product or service. This is Comcores's entire obligation to the Buyer regarding any claim of infringement.

10.2 Comcores shall have no obligation regarding any claim based on any of the following: (1) anything the Buyer provides which is incorporated into a product or service (including, but not limited to, specifications, designs, documents, reports, or data); (2) the Buyer's modification of a product or service; (3) infringement by a non-Comcores product alone as opposed to its combination with products Comcores provides to the Buyer as a system.

10.3 If a third party claims that a product or service Comcores provides to the Buyer infringes that party's patent or copyright, and such claim is based upon any of the factors which constitute ground for Comcores to have no obligation to indemnify the

- Buyer pursuant to the provisions of Section 10.2, the Buyer will defend Comcores against that claim at the Buyer's expense and pay all costs, damages and attorney's fees that a court finally awards.
- 10.4 No license, immunity or other right is granted herein by either party to the other party, whether directly or by implication, or otherwise, with respect to any patent, trademark, copyright, mask work, trade secret, or other intellectual property rights.
- 10.5 Nothing in this Agreement grants either party any rights to use the other party's trademarks or trade names, directly or indirectly, in connection with any product, service, promotion, publication or publicity without prior written approval of the trademark owner.
- 11.0 LIMITATION OF LIABILITY**
- 11.1 Circumstances may arise where, because of a default on Comcores's part or other liability, the Buyer is entitled to recover damages from Comcores. In each such instance, regardless of the basis on which the Buyer is entitled to claim damages from Comcores (including fundamental breach, negligence, misinterpretation, or other contract or tort claim), Comcores is liable for no more than: (1) payments referred to in the patents and copyright terms above; (2) damages for bodily injury (including death) and damage to real property and tangible personal property; and (3) the amount of any other actual direct damages up to the greater of USD 100.000 (or equivalent in local currency) or the charges for the product or service that is the subject of the claim. This limit also applies to any of Comcores's subcontractors. It is the maximum for which Comcores and its subcontractors are collectively responsible.
- 11.2 Under no circumstances is Comcores, or its subcontractors, liable for any of the following: (1) third-party claims against The Buyer for damages (other than those under the first two items listed above); (2) loss of, or damage to, the Buyer's records or data; or (3) special incidental, or indirect damages or for any economic consequential damages (including lost opportunities, profits and savings), even if Comcores is informed of their possibility.
- 12.0 Export Regulations**
- 12.1 Comcores's products may be subject to shipment under the Community General export authorisation No EU001, issued by the European Community and may be subject to restriction if re-exported. Failure to comply with above shall void all obligations by Comcores A/S.
- 13.0 General**
- 13.1 Any exchange of confidential information must be made under a separate confidentiality agreement signed by the parties. The Buyer shall not disclose the terms or conditions of the agreement between the parties without Comcores's prior written approval.
- 13.2 The terms and conditions herein may not be amended or modified except by a written amendment signed by both parties.
- 13.3 Each party shall comply, at its own expense, with all applicable Danish, European Economic Union, and any other country or country group laws and regulations, and shall procure all licenses and pay all fees and other charges required thereby.
- 13.4 Except for the Buyer's obligation to pay neither party will be responsible for failing to perform under this Agreement for Acts of God, natural disasters, or other similar causes beyond reasonable control.
- 13.5 This Agreement shall be governed by and construed in accordance with the laws of the Kingdom of Denmark. The parties agree to submit to the jurisdiction of the Maritime and Commercial Court in Copenhagen.
- 13.6 The Buyer may not assign its rights or delegate its obligations under these terms and conditions without the prior written consent of Comcores.
- 13.7 No delay or failure by either party to act in the event of a breach or default hereunder shall be construed as a waiver of that or any subsequent breach or default of any provision of these terms and conditions.

- 13.8 If a court of competent jurisdiction declares any part, term or provision of the agreement between the parties including these terms and conditions unlawful or unenforceable, the remainder of these terms and conditions shall remain in full force and effect.
- 13.9 The headings contained in these terms and conditions are for reference purposes only and shall not affect in any way the meaning or interpretation of these terms and conditions.