

US English:

The following General Terms and Conditions (GTC) apply to contractual relationships with the companies listed below.

FR French:

Les conditions générales suivantes (CG) s'appliquent aux relations contractuelles avec les entreprises mentionnées ci-dessous.

COMETTO S.P.A. - A SOCIO UNICO

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General Terms and Conditions of Sale

1. General.

These Terms and Conditions shall apply to the exclusion of all others, and supersede all other terms and conditions, oral or written, and all other communications between the parties suggesting additional or different terms. These Terms and Conditions represent the final and complete understanding of the parties and may be amended or cancelled only by written agreement signed by both parties. These Terms and Conditions expressly limit acceptance to these provisions. No order shall have any force or effect until acknowledged in writing by Seller. Any proposal for additional or different terms or any attempt by Buyer to vary in any degree any of the provisions of these Terms and Conditions is hereby deemed material and is objected to and rejected by Seller. No terms of any document or form submitted by Buyer shall be effective to alter or add to the provisions contained in these Terms and Conditions. Unless otherwise stated herein, Buyer's receipt of any portion of the goods ("Goods") shall constitute acceptance of these Terms and Conditions, unless Buyer returns all such Goods within twenty-four (24) hours of receipt of Goods.

2. Offers.

2.1. Seller's offers and other statements are made without obligation, unless confirmed in writing.
2.2. Seller reserves the right to change the design or shape of the Goods before delivery to the extent that the Goods and their appearance are not fundamentally changed.
2.3. Any information, electronically stored or otherwise, in manuals, handbooks, brochures, instructions or other materials, as to performance, weights, running costs, speeds, technical specifications, etc. are deemed to be estimates.

3. Delivery/Force Majeure.

3.1. All shipping and delivery dates are estimates and are based upon prompt receipt of all necessary information from Buyer. Delays in securing Buyer's approval of necessary specifications or samples of products and materials shall, if Seller so chooses, extend the date of delivery. Seller shall not be liable for any claim, loss, expense, or damage of any kind whatsoever for delays in delivery.
3.2. Should Buyer cancel the order, whether in part or in full, or refuse to accept the Goods, Seller is entitled to payment of at least 30% of the order value unless Seller proves damages in excess of 30% of the order value.
3.3. The Seller shall be released from the obligation to deliver in case of force majeure, i.e., in case of any cause independent of the Seller or if the event is partly beyond the Seller's control (among others: strikes, delay in delivery by the Seller's suppliers, export ban, international sanctions, fires, epidemics or pandemics, internal organizational difficulties of the company, ...). The Seller does not have to prove the unforeseeability and irresistibility of the disruption.

4. Acceptance/Inspection.

4.1. Buyer shall inspect the Goods as soon as possible, but at least within seven (7) calendar days, after receipt of the Goods pursuant to the Incoterms rules stipulated in the purchase contract.
4.2. Buyer shall notify Seller by registered letter of any claims that the Goods do not conform to Seller's warranty for such Goods immediately, i.e., within three days after detection of such claims during the inspection.
4.3. Unless the inspection is performed as stipulated in 4.1., the Goods are deemed to be accepted by Buyer. Any further claim for damages is excluded.

5. Risk of Loss.

As soon as the goods have left the factory or have been handed over to the carrier, they are transported at the risk of the Buyer. The transfer of risk from the Seller to the Buyer is governed by the INCOTERM agreed upon in the order confirmation. If the goods transported are insured by the Seller at the Buyer's risk, the Buyer accepts without reservation the conditions of the insurance policy taken out by the Seller.

6. Prices/Taxes.

6.1. Seller's prices are subject to change without notice. Unless otherwise specified, all quotations are binding for acceptance for only at most a month from receipt of quotation.
6.2. Unless specified on the front page of these Terms and Conditions, Seller's prices are exclusive of any value-added, sales, use, excise, privilege, or other taxes or assessments now or hereafter imposed or levied by or under the authority of any law, rule, or regulation, Federal, State or local, concerning the Goods sold hereunder or the manufacture or sale thereof. If Seller pays any such taxes or assessments, Buyer shall, upon demand, reimburse Seller for such amounts within two (2) calendar days. Seller's prices are also exclusive of any discount or other reductions.
6.3. Unless specified otherwise in the order confirmation, Seller's prices apply "ex works".
6.4. If Seller provides Buyer any labour in conjunction with the delivery of the Goods, Buyer will be charged based upon the numbers of hours worked. The hourly rate will be specified in the order confirmation or a separate written instrument.

7. Terms of Payment.

7.1. Payments for any Goods have to be made in advance of delivery.
7.2. All other payments terms are subject to acceptance by Seller.
7.3. Unless specifically allowed in writing by Seller, no discounts shall be granted. The price for the Goods and all other amounts due to Seller from Buyer shall be paid without abatement, deduction, or setoff. The date of payment of an invoice shall be the date the payment is received by Seller at the location designated on the invoice.
7.4. Agents or other representatives of Seller are not authorized to accept any payments on behalf of Seller.
7.5. Failure to pay or any late payment of an invoice will automatically and without prior notice increase the invoice amount due by 10%, with a minimum amount of \$50.00. In addition, default interest shall be payable at 12% per annum.

8. Retention of Title.

Unless specified to the contrary in writing, Seller retains title to the Goods until full payment of the sales price, incidental expenses, taxes or any other payment agreed to between Seller and Buyer, has been received by Seller. In the event of Buyer's failure to pay, Seller may give Notice of Default to Buyer, and, if Buyer does not comply within eight (8) calendar days of such notice, Seller may rescind the purchase contract

by written notice and, under express reservation of claims for damages, take the Goods back.

As long as ownership has not been transferred to the Seller, the Buyer undertakes to treat the goods subject to retention of title with care and to insure them sufficiently at his own expense against fire, water damage, and theft at replacement value.

The Buyer is not entitled to pledge the object of sale in favor of third parties or to transfer ownership of the object of purchase as security. The Buyer is, however, entitled to use the object of sale subject to retention of title and resell it during regular business activity, as long as he is not in default with his payment obligations. The Buyer hereby assigns the Seller the claims arising from the sale against his business partners as security. The Seller accepts this assignment. The Seller revocably authorizes the Buyer to collect the claims assigned to the Seller in its name on behalf of the Seller. This does not affect the right of the Seller to collect the claims himself. However, the Seller shall not collect the receivables and shall not revoke the authorization as long as the Buyer properly fulfills his payment obligations. If the Buyer does not comply with the contract with the Seller, in particular, if he is in default of payment, the Seller can demand that the Buyer disclose the assigned claims and the respective debtors, inform the respective debtors of the assignment and provide the Seller with all documents and information which the Seller requires to enforce the claims.

The processing, transformation, or alteration of the object of sale sold under retention of title by the Buyer shall always be carried out on behalf of and by the Seller's order. If the object of sale is processed with other things that are not the property of the Seller, the Seller acquires co-ownership of the new object in proportion to the value of the goods subject to retention of title to the other processed things at the time of processing. If the object of sale is inseparably linked or combined with other goods not belonging to the Seller, the Seller acquires co-ownership of the new object in proportion to the value of the goods under retention of title to the other linked or combined goods. If the combination is affected in such a way that the Buyer's item is to be regarded as the principal item, it is agreed that the Buyer shall transfer co-ownership to the Seller on a pro rata basis. The Seller accepts this transfer. If the object of sale is subject to seizure or other actions by third parties, the Buyer is obliged, as long as ownership has not yet been transferred to him, to inform the third party of the Seller's ownership rights and to inform the Seller immediately in writing so that the Seller can enforce his ownership rights. The Buyer shall be liable to the Seller for any judicial or extrajudicial costs incurred in this regard.

9. Warranties and Limitations on Warranties.

9.1. The only express warranties made by Seller are those contained in the written warranty(ies) in effect for the Goods at the time of sale and provided to Buyer upon delivery of the Goods. The warranty(ies) is/are as follows:

THIS IS SELLER'S ONLY WARRANTY. SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY SELLER AND EXCLUDED.

9.2. Seller warrants to the first user only ("First User") that the Goods manufactured by Seller will be free from defects in materials and workmanship for twelve (12) months from the delivery of the Goods to the First User.

9.3. This Limited Warranty does not apply to and does not cover defects in materials and workmanship due to or in any way arising out of:

- Failure to properly maintain the Goods or any other improper maintenance of the Goods;
- Abnormal use and service, including (without limitation) loading, unloading and/or transportation of non-uniformly distributed loads, use with corrosive cargo, and/or failure to adequately restrain or secure loads such that the Goods are subjected to strains or impacts greater than are imposed by normal use;
- Total weight of Goods and cargo exceeding the gross vehicle weight rating (GVWR) stated on the vehicle identification plate affixed to the Goods by Seller or the loading of each axle exceeding the gross axle weight rating (GAWR) listed on the vehicle identification plate;
- Accidents;
- Any other misuse or negligence;
- Tires;
- Except with respect to title, used Goods sold by Seller, all of which are sold "as is";
- Except with respect to title, items or parts not manufactured by Seller; provided, that Seller will, as an accommodation to First User, pass on to First User any warranty it receives from the manufacturer of such items or parts, but only to the extent allowed by such manufacturer;

(i) Goods which have been repaired or altered by anyone other than an authorized repair facility approved by Seller, unless in Seller's sole and exclusive judgment, such repairs are in no way responsible for the condition complained of; or
(j) Parts which are not defective but which wear out under normal use, such as (but not limited to) light bulbs, electrical receptacles, paint and coatings, brakes, linings, drums and return springs, equalizers, torque rod and camshaft bushings, camshafts, slack adjusters, brake cylinder diaphragms, springs, slider pads, wheel bearings, oil and oil seals, rim clamps and studs, gaskets and sealers, and all types of floors and floor boards.

9.4. If Buyer notifies Seller in writing within the warranty period of a defect in any Goods or part thereof sold by Seller to Buyer, and if Seller determines, after appropriate tests and inspection by Seller, that such Goods or part thereof are not in conformity with the Limited Warranty given hereunder, Seller will repair or replace, at its sole option, FOB point of manufacture or repair facility designated by Seller, the defective Goods or part thereof, provided Buyer returns such Goods or part thereof to Seller's designated repair/replacement center, freight prepaid. No Goods or part thereof shall be returned without Seller's prior approval. This shall be Buyer's exclusive remedy for Seller's liability hereunder. Any claims not made within the warranty period are deemed waived by Buyer. In lieu of repairing or replacing the defective Goods or part thereof, Seller may, at its sole option, refund the purchase price therefore.

9.5. Seller's liability to First User, or anyone claiming through or on behalf of First User, with respect to any claim or loss arising out of the Goods or alleged to have resulted from an act or omission of Seller, whether negligent or otherwise, and whether in tort, contract, or

otherwise, including failure to deliver, delay in delivery, or breach of warranty, shall be limited to an amount equal to the purchase price of the Goods or part with respect to which such liability is claimed or, where appropriate and at the option of Seller, to repair or replacement of the Goods or part. In no event shall Seller be liable for any bodily injury, death, or property damage resulting from or in any way arising out of the Goods or their sale, use, or manufacture or for any cargo loss or loss of use. Seller is not responsible for any financial loss due to lack of use of the Goods or any expenses arising therefrom, including but not limited to lodging, fuel, towing, loss of revenue and other expenses or damages. **IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES, OR EXPENSES.**

9.6. If Buyer or any third party repairs or modifies all or part of the Goods without the prior written consent of Seller, or if the Goods are not installed or used in compliance with Seller's directions, this Limited Warranty shall be null and void.

9.7. This Limited Warranty may not be changed except in writing by an authorized officer of Seller.

9.8. The provisions of this Limited Warranty shall be interpreted and governed under the law of Italy.

9.9. In the event of the resale of a vehicle by the Buyer to a third party, the Buyer undertakes to comply strictly with the international sanctions to which the seller would have been subject if he had been contacted directly by this third party with a view to concluding this sale.

In other words, the Buyer formally undertakes not to order vehicles from the seller with a view to reselling them to third parties whose registered office or place of business is located in countries subject to international sanctions which prohibit the seller from concluding a sale with such third parties.

10. Indemnification.

10.1. If the Goods are manufactured in accordance with specifications or other

directions provided by Buyer, Buyer shall indemnify, defend, and hold harmless Seller against all claims, losses, liabilities, and expenses (including attorneys' fees), which Seller may incur or become liable to pay with respect to such Goods, including (without limitation) product liability claims, claims relating to patent, trademark, copyright infringement, or unfair competition, claims of non-compliance with any Federal, State, or local law or regulation, and any other claim of any third party which relates to or in any way arises out of such specifications or other directions provided by Buyer.

10.2. Buyer shall indemnify, defend, and hold harmless Seller against all claims, losses, liabilities, and expenses (including attorneys' fees), which Seller may incur or become liable to pay which relate to or in any way arise out of Goods being subjected to, in whole or part: (i) improper installation or storage; (ii) accident, damage, abuse or misuse; (iii) abnormal operating conditions or applications; (iv) operating conditions or applications above the rated capacity of the Goods; or (v) any use or application other than or varying in any degree from that for which the Goods were designed.

11. Termination.

11.1. Seller shall have the right to terminate a given order confirmation or to cease work hereunder, in whole or in part, at any time, if (i) Buyer is in default of or commits a breach of any of the provisions of these Terms and Conditions or any other agreement it has with Seller, (ii) a petition initiating a proceeding under any applicable law relating to bankruptcy, insolvency, or reorganization is filed by or against Buyer, (iii) Buyer executes an assignment for the benefit of creditors, (iv) a receiver is appointed for Buyer or any substantial part of its assets, or (v) Seller has any reasonable ground for insecurity with respect to Buyer's ability to perform and Buyer is unable to provide Seller with adequate assurance of its ability to perform within ten (10) calendar days after written request therefore by Seller.

11.2. Seller's right to terminate under this section is not an exclusive remedy. Seller shall be entitled to all other rights and remedies it may have either at law or in equity. No termination hereunder shall affect any accrued rights or obligations of either party as of the effective date of such termination.

12. Storage.

In absence of any agreed shipping dates, Seller shall have the right to invoice Buyer and ship the Goods once they are ready for shipment and notice Buyer accordingly. If Buyer is unwilling to accept shipment of the Goods on the agreed shipping date or in the absence thereof as provided in the prior sentence, Seller may, at its option, place the Goods in storage and bill Buyer for the storage charges. In such case, risk of loss shall pass to Buyer at the time the Goods are placed in storage, and the date the Goods are placed in storage shall constitute the date of shipment for purposes of beginning the warranty period.

13. Waiver.

Failure of Seller at any time to require Buyer's performance of any obligation hereunder shall not affect Seller's right to require performance of that obligation or of any other obligation of Buyer hereunder. No delay or omission in the exercise of any right, power, or remedy hereunder shall impair such right, power, or remedy nor shall it be considered to be a waiver of any default or acquiescence therein.

14. Miscellaneous.

Buyer shall not assign any of its rights or obligations hereunder without Seller's prior written consent. These Terms and Conditions shall be construed in accordance with the laws of the State of Delaware without regard to any rules concerning conflicts of laws. The section headings contained herein are not part of these Terms and Conditions and are included solely for the convenience of the parties.

15. Choice of Law and Jurisdiction.

The law of Italy shall apply with respect to these Terms and Conditions and the entire legal relationship between Seller and Buyer. For all disputes arising out of the present agreement, only the courts in the court district of Milan (Italy) shall have jurisdiction. However, Seller shall be free to raise legal proceedings before any other court.

