

Concens Terms & Conditions

Definitions

- 'Concens' (or 'Party') means Concens A/S (VAT: DK10132266), a Danish company located at Øresundsvej 7 in 6715 Esbjerg N, Denmark.
- 'Product' means one or any of Concens' Products offered for sale.
- 'Buyer' (or 'Party') means an entity purchasing Products from Concens.
- 'Consignment' means the sum of Products in an order from a Buyer to Concens.
- Concens and Buyer are hereinafter collectively referred to as 'Parties'.
- 'Contract' means a contract between the Parties for the sale and supply of the Consignment. The Contract consists of Concens' order confirmation for a given order supplemented with any additional terms and conditions agreed upon in writing.

Preamble

1. These Concens Terms & Conditions shall apply when the Parties agree in writing or otherwise thereto. Deviations from the Concens Terms & Conditions shall not apply unless agreed in writing. When used in these Concens Terms & Conditions the term 'written' or 'in writing' refers to a document signed by either Parties, or a letter, fax, electronic mail or other means agreed by the Parties.

Product Information

2. Data in Product information and price lists are binding only to the extent that they are expressly referred to in the Contract.
3. Products are not developed for safety-critical applications and shall not be used for such purposes.

Technical Documents and Technical Information

4. All drawings and other technical documents regarding the Products or their production submitted by one Party to the other, prior or subsequent to the formation of the Contract, shall remain the property of the submitting Party. Drawings, technical documents or other technical information received by one Party shall not, without the written consent of the other Party, be used for any other purpose than that for which they were submitted. They may not without the written consent of the other Party be copied, reproduced, transmitted or otherwise communicated to a third Party.

Delivery

5. Where a trade term has been agreed, it shall be interpreted in accordance with the INCOTERMS in force at the formation of the Contract.
6. If not agreed on differently in writing, trade terms shall be Ex Works.
7. If Concens is unable to deliver the Consignment at the agreed time or if delay on Concens' part seems likely, Concens shall without undue delay notify the Buyer thereof in writing, stating the reason for the delay and if possible the time when delivery can be expected. If Concens fails to give such notice, Concens shall reimburse the Buyer for any additional expenses, which the latter incurs and which he would have avoided, had he received notice in time.
8. If the Buyer finds that he will be unable to accept delivery of the Consignment on the agreed date, or if delay on his part seems likely, he shall without undue delay notify Concens thereof in writing stating the reason for the delay and, if possible, the time when he will be able to accept delivery. If the Buyer fails to accept delivery on the agreed date, he shall nevertheless make any payment which is dependent on delivery as if the Consignment in question had been delivered. Concens shall arrange storage of the Consignment at the Buyer's risk and expense. If Buyer so requires, Concens shall insure the Consignment at Buyer's expense.
9. Unless the Buyer's failure to accept delivery as referred to in Clause 8 is due to any such circumstance as described in Clause 25 (Force Majeure), Concens may by written notice require the Buyer to accept delivery within a reasonable period.

If, for any reason for which Concens is not responsible, the Buyer fails to accept delivery within such period, Concens may, by written notice to the Buyer, terminate the Contract in respect of that part of the Consignment which is ready for delivery but has not been delivered due to the Buyer's default. Concens shall then be entitled to compensation for the suffered loss by reason of the Buyer's default. The compensation shall not exceed that part of the price which is properly attributable to the part of the Consignment in respect of which the Contract is terminated.

Payment

10. Unless otherwise agreed, the agreed purchase price, together with value added taxes, if any, shall be invoiced and paid in full at delivery of the Consignment. Pending credit approval Buyers may achieve credit of up to 30 days from the date of the invoice.
11. If the Buyer fails to pay, Concens shall be entitled to interest from the due date at the rate of interest determined by the law on late payments in Denmark.
If the Buyer fails to pay by the due date, Concens may also, after having notified the Buyer in writing thereof, suspend performance of their contractual obligations until payment is made.
12. If the Buyer has failed to pay the amount due within three months after the due date, Concens may terminate the Contract after a written notice of 14 days and, in addition to interest on late payment, claim compensation for the loss they have suffered. The compensation shall not exceed the agreed purchase price.

Retention of Title

13. The Consignment shall remain the property of Concens until paid for in full, to the extent that such retention of title is valid.

Liability for Defects

14. Concens shall, in accordance with the provisions of Clauses 16-21 below, remedy any defect the in the Product resulting from faulty design, materials or workmanship.
Concens is not liable for defects arising out of material provided by the Buyer or a design stipulated or specified by him.
15. Concens' liability does not cover defects caused by circumstances, which arise after the risk has passed to the Buyer. The liability does not cover defects due to conditions of operation deviating from those anticipated in the Contract or the improper use of the Product. Nor does it cover defects due to faulty maintenance or incorrect installation from the Buyer's side or alterations or repairs undertaken without Concens' written consent. Finally the liability does not cover normal wear and tear or deterioration.
16. Concens' liability is limited to defects which appear within a period of 24 months from the production date of the Product.
17. For parts, which have been repaired or replaced under Clause 14, Concens shall have the same liability for defects as for the original Product for a period of one year. For other parts of the Product the liability period referred to in Clause 16 shall be extended only by the period during which the Product could not be used due to a defect for which Concens is liable.
18. Buyer shall notify Concens of a defect according to 'Concens Return Merchandise Authorization (RMA) Procedure' (available upon request at rma@concens.com) without undue delay after the defect has appeared and in no case later than two weeks after the expiry of the liability period defined in Clause 16 as supplemented by Clause 17. If Buyer fails to notify Concens in writing within the above time limits, he loses his right to make any claim in respect of the defect. Upon receipt of defect Product, Concens shall handle the claim according to 'Concens Return Merchandise Authorization (RMA) Procedure'.
19. If the Buyer gives such notice as referred to in Clause 18, and no defect is found for which Concens is liable, Concens may, if deemed reasonable based on the circumstances and subject to prior notice to the Buyer, be entitled to compensation for the work and costs they have incurred as a result of the notice including transportation costs.
20. All remedial work shall be carried out at Concens' premises. Freight charges for *transportation to Concens* are at Buyer's expense whereas transportation *back to Buyer* is paid by Concens. Buyer shall bear the cost that may incur for work to be carried out outside of Concens' premises unless agreed otherwise in writing in advance.
21. Unless specifically permitted in writing by Concens, any unauthorized repair or other unauthorized, attempted or performed alteration of Product – including but not limited to removal of stickers or tags – will automatically revoke any warranty.

22. Concens shall have no liability for defects save as stipulated in Clauses 14-21. This applies to any indirect, special or consequential economic loss the defect may cause, including – but not limited to – loss of data, loss of profits or revenue, loss of benefits, loss of goodwill, cost of replacement products, claims for service interruptions or impairment of other assets.
23. Concens' liability shall not exceed the cost of the Product at issue.

Liability for Damage to Property Caused by the Consignment

24. The Buyer shall indemnify and hold Concens harmless to the extent that Concens incurs liability towards any third Party in respect of loss or damage for which Concens is not liable towards the Buyer according to paragraphs a. and b. of this Clause.
Concens shall have no liability for damage caused by the Consignment:
 - a. To any (movable or immovable) property, or consequential loss due to such damage, occurring while the Consignment is in the Buyer's possession, or
 - b. To products manufactured by the Buyer or to products of which the Buyer's products form a part.If a third Party lodges a claim for compensation against Concens or Buyer for loss or damage referred to in this Clause, the other Party to the Contract shall forthwith be notified thereof in writing.
Concens and the Buyer shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal which examines claims against either of them based on damage or loss alleged to have been caused by the Consignment. The liability as between Concens and the Buyer shall, however, always be settled by arbitration in accordance with Clause 28.

Grounds for Relief (Force Majeure)

25. The following circumstances shall constitute grounds for relief if they impede the performance of the Contract or makes performance unreasonably onerous: industrial disputes and any other circumstance beyond the control of the Parties, such as fire, war, mobilization or military call up of a comparable scope, requisition, seizure, trade and currency restrictions, insurrection and civil commotion, shortage of transport, general shortage of materials, restrictions in the supply of power and defects or delays in deliveries by sub-contractors caused by any such circumstance as referred to in this Clause.
The above described circumstances shall constitute grounds for relief only if their effect on the performance of the Contract could not be foreseen at the time of formation of the Contract.
26. The Party wishing to claim relief under Clause 25 shall without delay notify the other Party in writing on the intervention and on the cessation of such circumstance.
If grounds for relief prevent the Buyer from fulfilling his obligations, he shall reimburse the expenses incurred by Concens in securing and protecting the Consignment.
27. Notwithstanding other provisions of these Concens Terms and Conditions, either Party shall be entitled to terminate the Contract by notice in writing to the other Party, if performance of the Contract is delayed more than six months by reason of any grounds for relief as described in Clause 25.

Disputes, Applicable Law

28. Disputes arising out of or in connection with the Contract shall not be brought before the court, but shall be finally settled by arbitration in accordance with the law on arbitration applicable in Denmark.
29. All disputes arising out of the Contract shall be judged according to the laws of Denmark.