



TERMS AND CONDITIONS FOR THE SUPPLY

Interpretation

Definitions

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| “Business Day” | a day (other than a Saturday, Sunday or public holiday) when banks in Italy are open for business; |
| “Conditions” | the terms and conditions set out in this document; |
| “Contract” | the contract between Cosmap and the Customer for the sale and purchase of the System, and, where agreed, the provision of installation and commissioning services; |
| “Cosmap” | C.O.S.M.A.P. S.r.l., whose registered office is at Via L. Einaudi 3/5, 35030 Saccolongo, Italy; |
| “Customer” | the person or firm who purchases the System from Cosmap; |
| “Force Majeure event” | an event or circumstance beyond a party's reasonable control; |
| “Order” | the Customer's order for the System, as set out in the Customer's purchase order form or the Customer's written acceptance of Cosmap's quotation, as the case may be; |
| “Order Confirmation” | has the meaning given in Clause 0; |
| “Services” | as the case may be, the services to be provided by Cosmap consist in: <ul style="list-style-type: none">- supervising assembly and installation of the System;- assisting the Customer when commissioning the System;- and/or training the Customer's staff; |
| “Specification” | any specification for the System, including any related plans and drawings, that is agreed in writing between the Customer and Cosmap; |
| “System” | the mechanical machinery for metal surfaces' grinding and/or polishing manufactured by Cosmap. |



Basis of contract

These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. However, if there is any inconsistency between these Conditions and the special terms and conditions that the parties may agree in writing from time to time, the latter shall prevail.

The Customer represents and warrants that, during the negotiation of the Contract, it has provided Cosmap with: (i) all information regarding the intended use of the System; (ii) any information regarding the environmental conditions in which the System shall have to function; (iii) layout, data, measurements and general information of the Customer's plant, where the System will be installed; (iv) any other information that may have an impact on the design, manufacturing and installation of the System; (v) details on non-standard performances expected from the System, if any. Cosmap shall not be liable for any consequence caused by lack of information or by wrong or inaccurate information provided by the Customer.

The Order constitutes an offer by the Customer to purchase the System in accordance with these Conditions.

The Order shall only be deemed to be accepted when Cosmap issues a written acceptance of the Order (the "**Order Confirmation**"), at which point the Contract shall come into existence.

The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

Any samples, drawings, descriptive matter or advertising produced by Cosmap and any descriptions or illustrations contained in Cosmap's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the System referred to in them. They shall not form part of the Contract nor have any contractual force.

A quotation for the System given by Cosmap shall not constitute an offer. A quotation shall only be valid for a period of 30 (thirty) Business Days from its date of issue.

The Customer shall provide Cosmap with a reasonable quantity of samples in order to allow Cosmap to carry out on site tests before delivering the System.

System

The System is described in the quotation and Order Confirmation.

To the extent that the System is to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify Cosmap against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Cosmap in connection with any claim made against Cosmap for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Cosmap's use of the Specification. This Clause 0 shall survive termination of the Contract.

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AUTOMATIQUES DE
POLISSAGE ET EME-
ISAGE Via L.Einaudi 5
35030 Saccolongo(PD)
Tel. +390498015200
Fax +390498015828

www.cosmapsrl.it
cosmap@cosmapsrl.it

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Cosmap reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

Along with the System, Cosmap shall deliver to the Customer:

the assembly drawings (PDF 2D version);

a description of the materials used to manufacture the System (without measures); and

the project schedule with a list of shared activities and tools required for the installation at the Customer facility.

For the avoidance of doubt, Cosmap shall not deliver the source code nor the code ladder to the Customer; however, a backup archive of the aforementioned files (with no commentary) can be delivered, upon the Customer's request.

The Customer acknowledges that all intellectual property rights used for the manufacture of the System shall remain the exclusive property of Cosmap (or, where applicable, the third party licensor from whom Cosmap derives the right to use them).

Delivery

Cosmap shall deliver the System in accordance with the "Ex Works" rule of Incoterms® 2010 at Cosmap's premises at Via L. Einaudi 3/5, Saccolongo, Italy, or such other location as may be advised by Cosmap prior to delivery (the "**Delivery Location**").

The Customer shall collect the System from the Delivery Location within 5 (five) Business Days of Cosmap notifying the Customer that the System is ready.

Delivery is completed on the completion of loading of the System at the Delivery Location.

Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence.

If Cosmap fails to deliver the System, its liability shall be limited to the price paid by the Customer in advance for the System.

If the Customer fails to take delivery of the System within 5 (five) Business Days of Cosmap notifying the Customer that the System is ready, then:

delivery of the System shall be deemed to have been completed at 19:00 pm on the 5th (fifth) Business Day after the day on which Cosmap notified the Customer that the System is ready; and

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Cosmap shall store the System and charge the Customer € 800 (eight hundred) per day for all related costs and expenses (including insurance) until delivery takes place.

If 30 (thirty) Business Days after the day on which Cosmap notified the Customer that the System is ready for delivery the Customer has not taken delivery of it, Cosmap may resell or otherwise dispose of part or all of the System.

Warranty

Cosmap warrants that on delivery, and for a period of 12 (twelve) months from the date of the commissioning certificate ("**Warranty Period**"), the System shall:



conform in all material respects with the Specification; and

be free from material defects in design, material and workmanship.

Subject to Clause 0, and provided that:

the Customer gives notice in writing to Cosmap during the warranty period within 8 (eight) days of discovery that the System does not comply with the warranty set out in Clause 0;

Cosmap is given a reasonable opportunity of examining such System; and

the Customer has regularly fulfilled all of its payment obligations in accordance with the agreed terms,

Cosmap shall, at its option, repair or replace the defective parts of the System, or refund the price of the defective System already paid in full. The Customer shall bear all travel, accommodation and subsistence costs incurred by Cosmap for the fulfilment of its warranty obligations. Furthermore, the Customer shall bear all shipping costs (including custom duties, if any) to return the defective spare parts to Cosmap for replacement or reparation under this warranty as well as all shipping costs (including custom duties, if any) incurred by Cosmap to deliver the replaced or repaired spare parts to the Customer.

Cosmap shall not be liable for the Machine's failure to comply with the warranty set out in Clause 0 in any of the following events:

the Customer makes any further use of such System after giving notice in accordance with Clause 0;

the defect arises because the Customer failed to follow Cosmap's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the System or (if there are none) good trade practice regarding the same;

the defect arises as a result of Cosmap following any drawing, design or Specification supplied by the Customer;

the Customer alters or repairs such System without the written consent of Cosmap;

the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions (such as, without limitation, overloads); or

the System differs from the Specification as a result of changes made to ensure it complies with applicable statutory or regulatory requirements.

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Except as provided in this Clause 0, Cosmap shall have no liability to the Customer in respect of the Machine's failure to comply with the warranty set out in Clause 0.

These Conditions shall apply to any repaired or replacement System supplied by Cosmap.

Services and Commissioning

Unless otherwise agreed between the Customer and Cosmap, Cosmap shall:

supervise the assembly, installation and commissioning of the System by providing no 2 (two) suitably skilled technicians for 2 (two) consecutive Business Days at the Customer's premises; and



train the Customer's staff on the use and maintenance of the System by providing no 2 (two) suitably skilled technicians for 2 (two) consecutive Business Days at the Customer's premises; the training activities shall follow the training plan which will be provided by Cosmap in due course.

In order to allow the provision of the Services mentioned in Clause 0, the Customer shall inform Cosmap immediately upon receipt of the System, and the assembly and installation shall commence within 7 (seven) days thereafter.

The commissioning of the System shall be carried out jointly by the Customer's and Cosmap's representatives upon the completion of the installation and in accordance with the commissioning plan which will be provided by in due course.

The commissioning of the System shall be considered successfully completed if the System complies with the Specification. Upon completion of the commissioning activities, the Customer's and Cosmap's representatives shall sign a commissioning certificate.

If within 7 (seven) days of delivery of the System in accordance with Clause 0 the parties do not sign a commission certificate for any reason other than the Machine's failure to comply with the Specification:

Cosmap's obligation to provide the Services shall be deemed fulfilled;

the Warranty Period shall start to run; and

the last payment instalment shall fall due.

Unless otherwise agreed between the parties, the Customer shall bear all traveling and accommodation costs of Cosmap's staff engaged in providing the Services.

Title and risk

The risk in the System shall pass to the Customer on completion of delivery.

Title to the System shall not pass to the Customer until Cosmap receives payment in full (in cash or cleared funds) for the System.

Until title to the System has passed to the Customer, the Customer shall keep it readily identifiable as Cosmap's property and maintain the System in satisfactory condition.

Price and payment

The price of the System shall be the price set out in the Order Confirmation. Unless otherwise agreed in writing between the Customer and Cosmap, the price set out in the Order Confirmation shall include the fees for the Services to be provided by Cosmap.

Cosmap may, by giving notice to the Customer at any time before delivery, increase the price of the System to reflect any increase in the cost of the System that is due to:

any factor beyond Cosmap's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);



any request by the Customer to change the delivery date(s), quantities or types of System ordered, or the Specification; or

any delay caused by any instructions of the Customer or failure of the Customer to give Cosmap adequate or accurate information or instructions.

The Customer shall pay the price of the System on the terms set out in the Order Confirmation.

Unless otherwise agreed in writing between the parties, the price of the System shall be secured by an irrevocable letter of credit satisfactory to Cosmap, established by the Customer in favour of Cosmap within 7 (seven) days of receipt of the Order Confirmation, and confirmed by an Italian bank acceptable to Cosmap. The letter of credit shall be for the price payable for the System to Cosmap, less any advance payment, and shall be valid until the 30th day after the due date for the last payment.

The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Cosmap may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Cosmap to the Customer.

Termination

Without limiting its other rights or remedies, Cosmap may terminate this Contract with immediate effect by giving written notice to the Customer if:

the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 15 (fifteen) days of that party being notified in writing to do so;

the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or

the Customer's financial position deteriorates to such an extent that in Cosmap's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

Limitation of liability

Subject to Clause 0:

Cosmap shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

Cosmap's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the System.

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Nothing in these Conditions shall limit or exclude Cosmap's liability for fraud or fraudulent misrepresentation.

Force majeure

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 3 (three) weeks, the party not affected may terminate this Contract by giving 7 (seven) days' written notice to the affected party.

General

Assignment and other dealings.

Cosmap may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Cosmap.

Confidentiality.

Each party undertakes that it shall not, at any time during this Agreement and for a period of 2 (two) years thereafter, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 12.20.

Each party may disclose the other party's confidential information:

to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 0; and

as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

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Entire agreement. This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).



Waiver. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

waive that or any other right or remedy; nor

prevent or restrict the further exercise of that or any other right or remedy.

Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of Italy.

Jurisdiction. Each party irrevocably agrees that the courts of Milan, Italy, shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation. However, Cosmap shall retain the right to bring any proceedings arising out of or in connection with this Contract in the courts where the Customer has its registered office, central administration or principal place of business.