

# General terms and conditions of Licitatia Colosus SRL

## “For the bidder/buyer”

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## 1. Definitions

Colosus:	Licitatia Colosus S.R.L.
Term and conditions:	These terms and conditions
ONlive auction event:	A combination of an online auction on the platform and a live auction event organized by Licitatia Colosus S.R.L.
Bidder/Buyer:	The party who is offering to buy an equipment is the bidder and who becomes the buyer on the moment he won and bought the equipment on the ONlive auction event.
The Seller:	The party who initially offers his equipment on the auction
Platform:	<a href="http://www.colosusauctions.com">www.colosusauctions.com</a>
Website:	<a href="http://www.colosus.ro">www.colosus.ro</a> or <a href="http://www.colosusauctions.com">www.colosusauctions.com</a>
Equipment:	New and secondhand machines and accessories
Sales contract (1):	The sales agreement which is concluded by the Bidder / Buyer and Colosus
Sales contract (2):	The sales contract which is concluded by the Seller and Colosus
Lot:	A Equipment or group of equipment offered for sale at the ONlive auction event as a single unit.
Terms and conditions	General terms and conditions of Licitatia Colosus SRL “For the bidder/buyer”

## 2.General provisions

### 2.1. Sales ONlive auction events, Legal Force of the Terms and Conditions

Colosus is an auction house in which equipment is bought and sold at an ONlive auction event and other services are rendered in this connection.

These general terms and conditions of Licitatia Colosus SRL “For the bidder/buyer (hereinafter called terms and conditions) are applicable for all ONlive auction events. They apply in particular to the legal relationships between Colosus and the Bidder/Buyer, ONlive auction event, as well as to all other sales contracts (1) brokered by Colosus for equipment and the bidding rounds. Besides, they apply in particular to the legal relationship between the Colosus and Bidder/Buyer.

Acceptance of terms: Colosus requires you, the bidder/ buyer to read and accept the these general terms and conditions of Licitatia Colosus SRL “for the bidder/buyer” in order to attempt to buy any equipment during the ONlive auction events at the platform. By checking the box next to “\*I Agree to the terms and conditions above”, you hereby represent that you have read, understood, and accepted the terms and conditions of these general terms and conditions of Licitatia Colosus SRL for the bidder/buyer and you regonices the legal force of

these terms and conditions.

and that you will be financially responsible for your use of the platform and purchase of equipment. In case you do not want to accept the terms and conditions you are not able to use the platform.

The Bidder/Buyer recognises the legal force of these terms and conditions on his initial registration at Colosus Furthermore:

- by the possibility at any time to attain information about the terms and conditions displayed on the website
- or by sending back an acknowledgement of receipt of these terms and conditions
- or by logging into the Colosus platform [www.colosusauctions.com](http://www.colosusauctions.com)
- any changes will be brought to the attention of Bidders / Buyers in the same way

## **2.2. The legal status of Colosus**

Colosus sells equipment on its own account. Colosus collects the purchase price plus auction fees on its own behalf.

## **2.3. Registration, authorisation and activation**

### **2.3.1 Registration and authorisation as Bidder/Buyer**

In order to use Colosus services, the Bidder/Buyer must register and activate his account on the platform for each ONLive auction event the Bidder/Buyer wants to bid on. An entitlement to acceptance of the registration application does not exist. The registration application is free of charge and is made by giving complete details about the data requested by Colosus. Only official representatives from companies are authorized to participate in the ONLive auction events. The Bidder/Buyer has to sign up in writing and register before first attending an auction, hereby he must give evidence of his official representative status. The Bidder/Buyer is exclusively entitled to purchase by auction/purchase for his company but not for his private use.

If Bidders/Buyers are Companies, legally established in Romania or founded in Romania, the following document is needed: Act of finding - in Copy

The dates from this act of founding and other public dates of Bidder's/Buyer's company will be used to check the financial conditions and if the Bidder's/Buyer's company is involved in court cases. If the Bidder/Buyer based on this information will pass Colosus threshold, than Colosus will make the Bidder's/Buyer's account valid.

When Bidders/Buyers are based within a European Union state, the following documents are always required as proof:

- A copy of the act of finding
- Notification of a valid VAT identification number
- A possible representative requires a written power of attorney from the Bidder/Buyer

### **2.3.2 Authorisation of participation**

The Bidder/Buyer receives his authorisation to participate in ONLive auction events from Colosus with the acceptance of his registration application and then receives a bidder number.

### **2.3.3 Colosus has the right to refuse and/or withdraw authorisation without giving any reasons.**

The authorisation will, in particular, be refused and/or withdrawn if

- False details are given in the registration
- Colosus services are abused
- The rights of third parties are violated
- Damage to, impairment of the functional capability of Colosus services
- Default / non-fulfilment of a contractual duty to perform

- Legal disputes
- Breaches of the terms and conditions
- Objections to these and/or modified terms and conditions
- Insolvency or conciliation proceedings concerning the Bidder's/Buyer's assets or in the case of a rejection of insolvency proceedings due to lack of assets

**2.4. Colosus can make another request for evidence of trade activity or power of attorney at any time.**

The Bidder/Buyer shall inform Colosus without delay with a copy of the act of finding the data changes and a revocation of the granted power of attorney which arises after his registration.

**2.5. In order to participate at the ONlive auction events the Bidder/Buyer needs to register themselves on the platform and has to choose a username and password for his identification.**

This username and password should not consist of an email or internet address, should not breach the rights of third parties and should not transgress standards of public decency. The Bidder/Buyer is liable for any eventual misuse of the password. The burden of proof lies here with the Bidder/Buyer, mere assertions are insufficient in such cases.

**2.6. The authorized Bidder/Buyer needs to activate the account to be able to participate in a specific ONlive auction event.**

After the Bidder/Buyer registered himself at the platform he needs to activate his account in case he wants to participate in a specific ONlive auction event by paying a guarantee.

- Only authorized Bidders/Buyers are able to activate their account
- There is a need to pay a guarantee to activate the account, the sum of this amount is 1000 RON for authorized accounts from Romanian companies who didn't previously make a transaction on the Colosus platform. Authorized accounts from companies which are located outside Romania needs to pay a guarantee of 1000 euro.
- The guarantee needs to be paid 12 hours before the auction takes place
- With an active account, the Bidder/Buyer is able to bid on one or more equipment listed on the auction.
- The Bidder/Buyer is able to activate his account for each specific ONlive auction event, this means that this activation not is valid for other ONlive auction events organized by Colosus.
- The guarantee paid would be refunded on the moment the Bidder/Buyer failed to win. The amount would be refunded within 5 working days, the guarantee amount would be sent to the bank account of the Bidder/Buyer which is registered in the account of the Bidder/Buyer.
- In case the Bidder/Buyer wins a lot on the auction the guarantee which he paid to activate his account would be considered as a down-payment for the invoice for the equipment for the equipment. At the moment the Bidder/Buyer wins more lots during the event the advance will be considered for the first equipment in the order it was auctioned during the ONlive auction event. In case the amount of the guarantee is bigger than the total value of the invoice, the difference will be refunded to the Bidder/Buyer.
- In case that the buyer is in default and has to pay a default fee the guarantee will be considered as a down-payment for the default fee.

**2.7. De-registration**

The Bidder/Buyer has at all times the right to de-register his account by sending an email to [office@colosus.ro](mailto:office@colosus.ro), this will happen with immediate effect.

**2.8. Utilisation of Services**

The Bidder/Buyer may only use Colosus services in a manner which is in accordance with the intended use. Colosus can extend or limit its services at any time.

**2.9.Data**

**2.9.1 Data protection**

Colosus is entitled to collect, store, process and use personal data for its own internal purposes. In doing so, Colosus will, in particular, observe the provisions of the General Data Protection Regulation (EU law).

### **2.9.2 Use of stored data**

Colosus is in particular entitled to the use data and details for sales

- to use and publish within the scope of the use of Colosus services by the Bidder/Buyer insofar as this is required for the utilisation of these services
- to forward them to the parties from which is Colosus is selling their equipment
- to pass on to third parties insofar as this is proven necessary for safeguarding the legitimate interests of third parties or to be in the public interest, e.g. if it serves the clarification of a misuse of the auction house or the general assertion of legal rights
- sales data, i.e. equipment data, bidding increments and equipment prices

### **2.9.3. Withdraw of registration and data**

Should the Bidder/Buyer withdraw his registration, he has the right to the deletion of the personal, stored data, unless Colosus still requires these for processing contracts.

### **2.9.4. Data/pictures**

The data/pictures placed at Colosus's disposal may not be used by the Bidder/Buyer without Colosus's consent.

### **2.10. Prohibited from using the contact data and addresses**

Bidders/Buyers are prohibited from using the contact data and addresses as well as other contents which are on Colosus's website for commercial advertising.

## **3. Auction Conditions**

### **3.1. Conducting Auctions**

#### **3.1.1 ONlive auction event**

ONlive auction stands for an online auction which is hosted on a live location by a commentator of Colosus. The auction is real-live broadcasted on the website of Colosus and to follow directly on the location of Colosus or a location where the ONlive auction event is organized by Colosus. The location of the auction will be announced on the website, [prior the event](#) . During the auction, a Bidder/Buyer is only able to bid after correspondingly logging into the internet with username and password on their own account, which has to be activated for the specific ONlive auction event. Bidding by direct interaction with the auctioneers which are hosting during the auction is not possible and not allowed. For the participation the Bidder/Buyer should use his own (mobile) devices, Colosus would not provide (mobile) devices on the location. At the auction, location is in case needed wireless internet available for people with an activated account.

#### **3.1.2 Access to the ONlive auction event**

Every Bidder/Buyer with an authorized account which activated their account for a specific ONlive auction event is able to participate at the ONlive auction event. Colosus will send a notification to each account which successfully activated their account.

#### **3.1.3 The dates and times of the ONlive auction events**

The dates and times of the ONlive auction events will be announced on the website of Colosus, [at least 7 days before the event](#).

#### **3.1.4 Equipment lots and data**

The specific equipment data is published on the website for each lot separately. Should the auctioneer determine deviations to the equipment described on the website during the auction, he will make explicit reference to this.

#### **3.1.5 Technical inspection report**

Should a technical inspection report from Colosus or a specialist appraisal company be available, this can be accessed on Colosus's website. In the case of divergences from the general equipment description, exclusively the details and data of the condition report are relevant for the contents and scope of the purchase offer.

### **3.1.6 Update of data**

The last update of data on the platform will be uploaded on the afternoon of the previous day. The update will be readable on the website for each lot separately. The amendment list of the most up-to-date data on the platform will be read out by the auctioneers during the auction.

### **3.1.7 Viewing day**

Colosus gives in collaboration with the Seller a moment for interested Bidders/Buyers to see the equipment at the location of Colosus or on the location of the Seller prior the date of the ONlive auction event. The exact date, hour and location of this moment will be announced on the platform for each specific lot. Each equipment can have another date and hour and another location. In some cases, there is no possibility to see the equipment that will be also announced by the specific lot on the platform.

### **3.1.8 The order of equipment**

The equipment parts being auctioned will as a matter of principle be individually called up, presented and auctioned off according to the order of their listing on the platform. The auctioneer is free to change the order and to remove instantly equipment from the platform during the auction.

### **3.1.9 Duration bidding round**

Every ONLive auction event bidding round has a specified duration. Every ONLive auction event bidding round duration depends on the number of bids. However, Colosus reserves the right to shorten or extend this duration or stop the OnLive auction event bidding rounds without concluding a sales agreement.

### **3.1.10 Bidding and winning bid**

During each bidding round the Bidder/Buyer has the possibility to bid. The bids on the ONlive auction event are submitted by corresponding mouse click on a button. Bids which have already been submitted can not subsequently be withdrawn. By means of a bid, a binding offer for the purchase of the equipment is submitted. By each bid the bidding round will be extended with 30 seconds, at the moment within the 30 seconds is not made a new bid, the Bidder/Buyer with the highest bid will win the equipment.

### **3.1.11 Currency and bid increments**

The prevailing currency for the ONlive auction event is the Euro. The amount of bid for each step increments is generally € 50, € 100, € 250, € 500, € 1000, € 2500, € 5000, € 10000, € 25000 and are defined by [Colosus](#). Colosus issues the invoice for the equipment and fees in the Romanian valuta RON.

### **3.1.12 The Bidder/Buyer is not permitted to submit bids at the same OnLive auction event**

The Bidder/Buyer is not permitted to submit bids at the same Onlive auction event/bidding round using additional user access.

### **3.1.13 The Sales contract (1)**

A sales contract (1) between the Colosus and the Bidder/Buyer will come about with the winning bid. This sales contract (1) also affects the sales contract (2) between Colosus and the Seller under which conditions the equipment will be transferred to Colosus.

### **3.1.14 Cancellation**

In case of the Seller's default and breach of the sales contract(2) between Colosus and the Seller, Colosus reserves the right to cancel any transaction in it's own discretion. This from the moment the transaction, arising out of sales during the auction took place until the handover. With the Seller's default is mentioned non-delivery, non acceptance of exclusivity, incorrect representations and warranties, and no free title.

## **3.2 Purchase Price (Hammer Price), Fees and Taxation**

### **3.2.1 The winning bid binds the Bidder/Buyer to pay the purchase price**

The winning bid binds the Bidder/Buyer to pay the purchase price and to immediate acceptance of the

equipment. This purchase price is equal to the winning bid for the equipment.

Colosus will issue within 24 hours after the OnLive auction event a proforma invoice in the valuta RON with the amount which is equal to the winning bid in the valuta Euro. As the exchange rate will be used the Romanian bank Banca Transilvania S.A. EURO-RON exchange rate from the day of the ONlive auction event. The proforma invoice will contain the purchase price for the equipment plus a transaction fee with respect to the purchase price. The payment for the proforma invoice needs to be done within 3 days after the proforma invoice was sent by Colosus. After the payment is received, Colosus will send an invoice within 4 working days to the Bidder/Buyer.

### **3.2.2 Payment method**

Payment has to be made by bank transfer. Romanian companies shall make their payments in Lei, foreigner companies are able to choose or in Euro or in Lei.

### **3.2.3 Transfer of title**

The Colosus's title to the auctioned equipment is only transferred to the Bidder/Buyer after complete, irrevocable receipt of the purchase price on Colosus's account and after Colosus's issued the invoice for the equipment. Regarding the sales agreement between Colosus and the Seller, Colosus is obligated to buy the equipment after the ONlive auction event for an amount that is equal to the winning bid. The Seller is obligated to transfer his title to Colosus by issuing an invoice. Colosus pays the Seller only on the moment it has received the complete payment for the proforma invoice from the Bidder/Buyer. If Colosus did not receive the complete amount within 3 working days after the invoice was sent, then the Bidder/Buyer is considered as unable to pay.

### **3.2.4 VAT and other Taxes**

- A. All prices on the website and during the ONLive auction event are not including VAT.
- B. The transaction fee will be calculated based on the purchase price excluding VAT.
- C. All fees are exclusive of VAT.
- D. The Bidder/Buyer is liable for all other applicable taxes, duties added tax, and registration taxes unless Colosus indicates otherwise

### **3.3. Release**

Insofar as the Bidder/Buyer buys several equipment on one ONlive auction event, Colosus reserves the right to grant release of these for collection only after payment has been rendered in full for all the equipment bought by him at ONlive auction event on the auction day.

### **3.4. Acceptance of the Equipment**

#### **3.4.1 Pick up of equipment**

The Bidder/Buyer undertakes to collect the equipment which has been bought at an OnLive auction event from the Seller site within five (5) working days after receiving a notification with the exact location. This notification would be sent by Colosus at the moment that: Colosus received the payment for the proforma invoice with the purchase price of the equipment and the transaction fee and in addition received the invoice from the Seller. For a period of 5 working days after issue of notification Colosus does not charge any demurrage for any equipment on the site of the Seller. Should the Bidder/Buyer not collect the equipment within five (5) working days after he got the pick-up notification, Colosus will charge a demurrage fee. The amount of such demurrage fee is mentioned in chapter F. Fees.

#### **3.4.2. Reporting of Complaints by Bidder/Buyer**

Upon handover the Bidder/Buyer is obliged to examine the equipment carefully for recognisable and value decreasing defects as well as missing accessories which do not correspond with the equipment described in the auction, and record of these in the CMR. If the Bidder/Buyer has commissioned a haulage company to collect the equipment, this also applies to the haulage company.

Complaints about non-visible defects on the equipment as well as false statements in the equipment documents are to be made within 24 hours of receipt on the Bidders/Buyers location, in each case by email to

the email address office@colosus.ro. Complaints about defects which are made later as well as those made verbally or per telephone cannot be taken into account.

In case of complaint the Bidder/Buyer is still obliged to remove the equipment at the Seller's location.

### **3.4.3 Complains about equipment papers and parts**

Should the equipment papers or parts thereof not be handed over when the equipment is handed over, if their existence was mentioned in the lot description or in the technical report, Colosus will send these to the Bidder/Buyer by mail. Colosus bears the cost of forwarding, the Bidder/Buyer bears the risk. On written request, and at the expense of the Bidder/Buyer, forwarding by courier service can be carried out. Should equipment documents or parts thereof be lost and a claims notification procedure or the like become necessary, the Bidder/Buyer must reimburse Colosus for the costs incurred.

### **3.4.4 The risk of accidental loss or accidental deterioration**

The risk of accidental loss or accidental deterioration is borne by the Seller until hand over of the equipment to the Bidder/Buyer, thereafter the risk of accidental loss or accidental deterioration is transferred to the Bidder/Buyer.

## **3.5. Legal Consequences on Default of Payment of the Purchase Price and/or Non-Acceptance of the equipment.**

### **3.5.1. Default of payment**

In the event that the Bidder/Buyer does not pay the purchase price by the proforma invoice, the Bidder/Buyer will be considered as unable to pay, in accordance with article C.2.3 he is in default. In the case of non-payment Colosus is entitled to withdraw from the sales agreement and demand compensation for non-fulfilment. In this case the proforma invoice from Colosus to the Bidder/Buyer amounting to the purchase price will be cancelled. Transaction fee will not however be cancelled as Colosus has rendered its services to the Bidder/Buyer. Besides the transaction fee, the Bidder/Buyer has to pay a default.

### **3.5.2 Non-Acceptance of the equipment**

In the event that the Bidder/Buyer refuses to accept the equipment, the Bidder/Buyer will receive a formal request setting a deadline for the collection of the equipment. Should the Bidder/Buyer still not have collected the equipment after the deadline has expired, Colosus is entitled in this case also to withdraw from the sales contract (1) and demand compensation for non-fulfilment he should pay a default fee.

### **3.5.3 Colosus has the right to block the Bidder/Buyer from the ONlive auction events**

Colosus has the right to block the Bidder/Buyer in cases articles C.5.1 and C.5.2 from further Colosus ONlive auction events. If a Bidder/Buyer still wants to participate in Colosus ONlive auctions events after he has not paid for a equipment, Colosus can grant eligibility again if the Bidder/Buyer pays Colosus the accrued default fee. The decision about this shall be at the discretion of Colosus.

## **3.6. Transport**

### **3.6.1 Delivery/Collection**

Delivery will be effected ex works in accordance with the Incoterms 2000 (last version). This indicates that Colosus has the responsibility to make sure the Bidder/Buyer can access and pick up the equipment where it is located, this could be the site of Colosus or the site of the Seller. All transportation costs and associated risks are the responsibility of the Bidder/Buyer.

### **3.6.2 Place and collection times**

Colosus will inform the Bidder/Buyer after the ONLive auction event about the exact address and possible collection times.

### **3.6.3. Necessary documents for collecting**

To collect the equipment the Bidder/Buyer should show a proforma invoice and an identification card or passport. When a third party collects the equipment for the Bidder/Buyer they have to show a proforma invoice, identification card or passport and a power of attorney from the Bidder/Buyer.

## **4. Liability for Material Defects**

#### **4.1. Liability for material defects.**

Equipment will come under the hammer in the state in which they were represented by Colosus on the platform and in the technical inspection report. Colosus is not liable for any material defect which is mentioned in the technical inspection report or mentioned on the platform. The technical inspection report of the equipment gives information about the technical data of the equipment and gives an indication about the operational status of the equipment at the moment of the auction. The inspections are not intended to detect latent or hidden defects or conditions that could only be found in connection with physical dismantling of the Equipment or the use of diagnostic equipment or techniques.

In case the Bidder/Buyer detects latent or hidden defects or conditions, the Bidder/Buyer is able to make a complaint until 1 working day after the equipment has arrived at the Bidder's/Buyer's location.

The Bidder/Buyer should do this by email to the address [office@colosus.ro](mailto:office@colosus.ro). If the complaint will be send within in time then Colosus will check if the complaint was deservedly. In case the complaint was sent later than 1 working day, the complaint will no longer be processed and the Bidder/Buyer loses the right to complain.

#### **4.2. Minimus amount complaint**

Complaints up to a de minimus limit amounting to 300.-- € are excluded.

#### **4.3. Contact Seller**

The Bidder/Buyer is forbidden/not allowed to contact the Seller of the equipment in case of a complaint.

#### **4.4. Manufacturer's Warranty**

Existing manufacturer's warranties will not be affected by the sales.

#### **4.5. Warranty**

The equipment on the platform has no standard warranty, in case there is warranty on the equipment it will be mentioned by the lot description on the platform. The warranty will be only applicable for the term and part mentioned in the description.

### **5. Liability when Utilizing Colosus services**

#### **5.1. Liability when Utilizing Colosus Services**

Colosus does not accept liability for damage which Bidders/Buyers or third parties sustain in connection with utilization of Colosus services, in particular not for damage resulting from issued bids not being taken into account or not arriving on time at Colosus due to technical defects.

The same applies to damage which is sustained due to equipment not being described or not being described accurately (e.g. temporary failure of monitors which are part of the live stage). Insofar as maintenance work and updates or similar are required, Colosus reserves the right to put a temporary out-of-order setting on its website and its system.

#### **5.2. Colosus is liable to Bidders/Buyers only for intent and gross negligence.**

Further liability is excluded. This exclusion does not apply to damage which is based on the injury of life, body or health which are based on a negligent breach of duty by Colosus or an intentional or negligent breach of duty of a legal representative or vicarious agent of Colosus.

#### **5.3. Liability of User**

Participants and visitors at a Colosus ONlive auction event are liable for damage which they culpably cause on the site of Colosus.

### **6. Final Provisions**

#### **6.1. Place of Fulfilment / Court of Jurisdiction**

The present terms and conditions are subject to Romanian law. Place of fulfilment and exclusive court of jurisdiction is Cluj-Napoca. The contractual and auction language of this agreement is Romanian. If documents in other languages are used (e.g. contracts, agreements, terms and conditions, business correspondence), these only serve as information. The Romanian version will be applicable.



## **6.2. Severability Clause**

Should one of the aforementioned clauses be invalid, this shall not affect the validity of these conditions in their entirety. The invalid clause shall be replaced with a provision that comes closest to the original meaning and economic purpose of the invalid clause.

## **6.3 Rules of the House**

- Colosus is entitled to refuse a person's access to the auction location or from participating in auctions without giving any reasons.
- Trading with third parties on Colosus premises is not permitted. In the event of a violation, Colosus is entitled to withdraw the authorisation of the person and/or companies concerned.
- The consumption of alcoholic beverages on the premises of the Colosus site is not permitted.
- Minors are only permitted to access the Colosus site when accompanied by a parent or legal guardian.

## **7. Fees**

### **7.1 Transaction fee**

The Bidder/Buyer needs to pay a transaction fee for every equipment he transacts during the ONlive auction event. The transaction fee is 9% of the purchase price ex vat.

### **7.2 Demurrage fee**

The Bidder/Buyer needs to pay a demurrage fee for every day of delay a penalty of 0,5% from purchase price ex.VAT of the equipment. The purchase price for the equipment is equal to the amount of the highest bid during the ONlive auction.

### **7.3 Default fee**

The Bidder/Buyer needs to pay a default fee for each equipment for which he is in default in accordance with the provisions of article 3.5.1 and 3.5.2. The default fee is a fixed amount of 3000 euro excl. VAT.