

# GENERAL CONDITIONS OF SALE

## 1. DEFINITIONS

- 1.1 For the purpose of this General Conditions of Sale, the words and expressions written in capital letters if not defined elsewhere have the following meanings.
- 1.2 "GCS" in all cases shall be considered as these General Conditions of Sale containing information on the obligations of the Parties, general provisions of purchase of and payment for the Goods, responsibility of the Parties, as well as other terms, conditions, and provisions, together with annexes to the General Conditions of Sale, and agreements regarding amendment and supplementation of the General Conditions of Sale.
- 1.3 "BUYER" means the Party to the GCS provided in the Order Confirmation, buying the Goods from the Seller on conditions provided in Order Confirmation and GCS.
- 1.4 "GOODS" mean goods listed in the Order Confirmation which the Seller sells to the Buyer under the terms and conditions provided for in this GCS.
- 1.5 "SELLER" means "KASKAT Sp z o. o., a limited liability company organised and existing under the laws of the Republic of Poland, VAT No 5992415208, office at Husarska 10, 66-400 Gorzów Wielkopolski, Poland, selling the Goods on conditions provided for in this GCS.
- 1.6 "ORDER CONFIRMATION" means written confirmation of particular sale provided by the Seller to the Buyer, containing information about the special terms of the sale (the quantity, price, description of the Goods, delivery terms, payment terms, etc.) as well as other terms, conditions, and provisions, if agreed by the Parties;
- 1.7 "PARTIES"/ "PARTY" mean the Buyer and the Seller/ the Buyer or the Seller.

## 2. GENERAL PROVISIONS

- 2.1 The subject matter of the GCS is the supply of Goods by the Seller to the Buyer in accordance with these GCS.
- 2.2 The Parties shall be bound solely by the GCS. The applicability of the conditions of the Buyer is hereby expressly rejected.
- 2.3 No variation to the GCS shall be binding unless agreed in writing and signed by an authorised representatives of the Parties.
- 2.4 The special terms of the sale (the quantity, price(s), description of the Goods, delivery terms, payment terms, etc.) shall be as set out in the Order Confirmation.

## 3. OFFERS AND ORDERS

- 3.1 All offers are subject to final confirmation / or subject to unsold.
- 3.2 Orders placed by the Seller are deemed to be irrevocable.

## 4. THE PRICE OF GOODS AND THE TERMS OF PAYMENT

- 4.1 The price of the Goods shall be the price set out in the Order Confirmation.
- 4.2 The price is net, exclusive of any value added tax or any other applicable tax which the Buyer shall pay in addition when it is due to pay for the Goods. Prices do not include any import duties, levies or other government fees that may apply.
- 4.3 If the Buyer fails to make any payments as and when they fall due under the Order Confirmation, the Seller may, without prejudice to any other remedies under applicable law (i) suspend performance of its obligations under Order Confirmation or any other agreements concluded between the Parties until such payments have been made; and (ii) charge interest on such overdue amounts at a rate of 10% per annum from the due date to the date of payment in full.
- 4.4 The Seller shall be entitled in its sole discretion to set off any payments due to the Buyer. The Buyer shall not be entitled to set off any payments due to the Seller without the prior written agreement of the Seller.
- 4.5 The complaints shall not relieve purchaser from its payment obligations.

## 5. ORDERS AND DELIVERY OF THE GOODS

- 5.1 No Order Confirmation between the Buyer and the Seller shall be considered to be concluded until signed and stamped by the Seller's authorised representative ( Mr. Stanisław Franczak, or alternatively Mr. Bartosz Franczak) and provided to The Buyer. The Seller has the right to cancel any Order Confirmation by providing written notice to the Buyer until the Order Confirmation has been signed by authorised representative of the Buyer and well received by e-mail by the Seller. If Order Confirmation signed by authorised representative of the Buyer was not received by the Seller is treated as not signed and not binding for the Seller. The Seller reserves the right to charge a fee against the Buyer of twenty percent (20%) per order if the order is cancelled after signed and provided by fax or e-mail by the Seller. The Seller also reserves the right to charge against the Buyer of all other costs arising from the cancellation of the order.
- 5.2 The Seller will use reasonable efforts to provide notice to the Buyer at least 10 (ten) days in advance of its intent to discontinue supply of any of the Goods or if the Goods will otherwise become unavailable to the Buyer.
- 5.3 The Goods must be collected by the Buyer within the date as notified to the Buyer by the Seller. The Goods as to which delivery is delayed due to any cause

which is not on the Seller's side may be placed in storage by the Seller at the Buyer's risk and expense, at the Seller's option. If the Buyer fails to accept delivery after receipt of notice in writing that Goods are ready for delivery or if a shipment is delayed at Buyer's request, the Buyer will reimburse the Seller for all costs associated with such delay.

- 5.4 Buyer shall verify that the goods he has ordered and the accompanying documentation, packing, labelling, and/or other information meet the governmental requirements in the country of destination. The Seller will not be responsible in any case for the costs, delays or penalties occurred at the country of destination which are the result of wrong documentation, packaging or labelling.
- 5.5 In the event of a delay due to any cause beyond the Seller's reasonable control, the Seller reserves the right to terminate the order or to reschedule the delivery within a reasonable period of time, and the Buyer will not be entitled to refuse delivery or otherwise be relieved of any obligations as the result of such delay.
- 5.6 As notified to the Buyer any dates for delivery of the Goods are approximate only. The Seller shall have no liability for the late delivery and shall not be liable for any delay in delivery of the Goods howsoever caused. Failure to deliver by any specified date will not be cause for cancellation by the Buyer of its order, nor will the Seller be liable for any damages or losses arising out of delays in delivery.
- 5.7 If the Buyer fails to accept the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller under applicable law, the Seller may:
  - require payment on any reasonable basis, including but not limited to the selling price, and any additional expenses, or costs resulting from such a delay;
  - store the Goods until actual delivery at the sole cost and risk of the Buyer and charge the Buyer for the reasonable costs (including handling and insurance) of storage; or
  - sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Agreement or charge the Buyer for any shortfall below the price under the Agreement; and
  - pay any amounts contemplated in Clauses 4.9.1, 4.9.2 or 4.9.3, which shall be due by the Buyer within ten (10) calendar days from the date of the Seller's invoice.
- 5.8 If the Seller holds any of the Goods contemplated in clause 4.9 on the Buyer's behalf in excess of 45 (forty five) calendar days from the time stated for delivery, the Seller shall be entitled to terminate the Agreement in respect of such Goods. In the event that any part of the price for such Goods was paid by the Buyer prior to such termination, the Seller shall repay such amounts after deducting all costs incurred by the Seller in respect of such Goods prior to termination.

## 6. TITLE AND RISK OF LOSS AND DAMAGE

- 6.1 Title to all Goods shall be retained by the Seller until all amounts due to the Seller in respect of such Goods, including any charges or interest, are paid in full.
- 6.2 If the Buyer pledges or in any way charges by way of security for any indebtedness any of the Goods which remain Seller's property, all payments owing by the Buyer to Seller shall, without prejudice to any of Seller's other rights or remedies, become due and payable immediately.
- 6.3 Risk of any loss or damage to the Goods shall pass from the Seller to the Buyer upon the delivery of the Goods as specified in the Order Confirmation.

## 7. ACCEPTANCE AND RETURN OF GOODS

- 7.1 The Buyer will inspect each shipment of the Goods upon its arrival at the specified destination for shortage, loss, damage or obvious nonconformity. If any such inspection reveals that any shipment of the Goods does not conform, the Buyer may file a complaint concerning part of nonconforming Goods upon notice to the Seller within:
  - 30 (thirty) days upon vessel arriving in port of destination,
  - 5 (five) days upon wagon arriving to the station of destination,
  - 3 (three) days upon truck arriving to the place of destination.
- 7.2 The Goods will be deemed as accepted unless the Buyer notifies the Seller of the complaint of such Goods and the reasons for such complaint within:
  - 30 (thirty) days upon vessel arriving in port of destination,
  - 5 (five) days upon wagon arriving to the station of destination,
  - 3 (three) days upon truck arriving to the place of destination.
- 7.3 The Seller's liability for any shortage of the Goods shall be limited to making up the shortage by dispatching to the Buyer such Goods which were not delivered or, at Seller's option, allowing the Buyer a credit in respect thereof at Seller's option.

## 8 COMPLAINTS

- 8.1 Any complaints of whatever nature shall contain comprehensive, written description of the claim and its nature, otherwise will be considered as non-existing.

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**8.2** Any decision concerning the claim especially but not limited to price deduction, goods replacement, contract cancelation, must be agreed on writing with sign and stamp of the Seller's authorised representative: Mr. Stanislaw Franczak, or alternatively Mr. Bartek Franczak.

**8.3** The decision mentioned in point 8.2 must be sent electronically from authorised Claim Department Manager Ms. Joanna Mazurek's email: [joanna@kaskat.com](mailto:joanna@kaskat.com), alternatively from Mr Bartek Franczak's email: [bartek@kaskat.com](mailto:bartek@kaskat.com). In any case such decision must be sent in copy to following email addresses: [stanislaw@kaskat.com](mailto:stanislaw@kaskat.com) and [bartek@kaskat.com](mailto:bartek@kaskat.com).

**8.4** Any claim solutions or decision provided by any other employee of the Seller than the above mentioned and/or sent from other email address than specified in point 8.3 are not binding to neither Buyer nor the Seller and are considered as non-existing.

## 9 INTELLECTUAL PROPERTY RIGHTS

Each Party shall remain the owner of its intellectual property rights and nothing contained in the Agreement shall imply any transfer of title of such rights. Signing of this Agreement does not in any way entitle the Buyer to use or authorise any third person to use any trademarks or trade names or other type of intellectual property rights owned by the Seller, its associates and affiliates and used in relation to the Goods on any stationery, advertising, promotion or selling material other than the Goods or other such materials supplied by the Seller to the Buyer. Any infringement of the Seller's intellectual property rights or any other improper use whatsoever will result in the Seller taking appropriate action to safeguard its interests. The use in any form of the Seller's company name or Seller's trademarks in the official name, company name, trading or business name, domain name or other similar name of the Buyer requires the prior written approval of the Seller.

## 8 TERMINATION AND CANCELLATION

The Seller reserves the right to suspend the execution of the contract, at its own discretion, to terminate the contract whilst retaining all its rights to compensation for costs and damages by means of a written notification to that effect and without prior notice or default, announcement or legal intervention being required, in full or in part and with immediate effect, to be decided at its own discretion, if either Party fails to meet one or more of its material obligations under the contract or to meet them on time or in full, or in case it is established that full compliance will be responsible.

## 9 LIMITED WARRANTY

**9.1** The Goods are warranted to operate or perform substantially in conformance with manufacturer's published specifications in effect at the time of sale, specifications and/or accompanying package inserts provided by the manufacturer and to be free from defects in material and workmanship. The warranty period is as provided by the manufacturer of the Goods, but not later than specified expiry or "use by" date. The provided limited warranty is subjected to warranty terms of the manufacturer of the Goods and to normal, proper and intended usage. This warranty does not extend to anyone other than the Buyer.

**9.2** This limited warranty as provided by the manufacturer of Goods shall not apply and there is no obligation to replace any Goods as a result of (the list might be subject to other terms provided by manufacturer's warranty):

- accident, disaster or event of force majeure,
- misuse, fault or negligence of or by the Buyer,
- use of the Goods in a manner for which they were not designed, or
- improper storage and handling of the Goods.

## 10 LIABILITY

Notwithstanding anything to the contrary contained in this GCS, the aggregate liability of the Seller under the Agreement (otherwise than by reason of the Seller's fault or gross negligence) will not exceed the price paid in respect to the Goods to which such liability relates. In no event shall the Seller or its affiliated entities, officers, directors, employees, agents, be liable for indirect or consequential damages, including, but not limited to, lost profits.

## 11. TRANSFER OF RIGHTS AND OBLIGATIONS; INDEMNIFICATION

**11.1** The Buyer may not delegate any duties nor assign any rights or claims under this Agreement without the Seller's prior written consent, and any such attempted delegation or assignment will be void.

**11.2** The Seller may assign or transfer all or any part of its rights or obligations under the Agreement after the Buyer's consent. If Buyer will not provide response within 3 days on Seller's written notice in this matter, the lack of answer is treated as it's implied consent.

**11.3** The Buyer shall indemnify and hold the Seller harmless from and against all losses, claim damages or other costs of any nature or kind whatsoever (including attorneys' fees) arising from a breach of any provision of the Agreement by the Buyer or the negligence, misconduct or actions of the Buyer, its officers, employees, agents or contractors. The same applies to any loss, cost or expenses incurred by the Seller for claims made by any customer of the Buyer to the extent that such loss, cost or expense is in excess of the liability limits set forth in the Agreement including, without limitation, the provisions of the limited warranty under Clause 9.

## 12 FORCE MAJEURE

The Seller reserves the right to suspend or cancel this Agreement in whole or in part, including but not limited to deferring the date of delivery or reducing the volume of the Goods (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the Seller's reasonable control and could not have been reasonably expected by the Seller at the time of the conclusion of the Agreement, including, but not limited to, acts of God, fire, wind, accident, pandemic, epidemic, widespread disease, industrial action, riot, war, flood, breakdowns of plant or equipment, the acts of a third party or the intervention of a competent authority, including, but not limited to, any decisions, actions or alteration of legal regulation in regard to veterinary requirements, customs regulations or consumer protection.

## 13 CONFIDENTIALITY AND ANNOUNCEMENTS

Buyer agrees that all pricing, discounts and technical information that the Seller provides to the Buyer are confidential and proprietary information of the Seller. The Buyer agrees to keep such information confidential and not to disclose such information to any third party, and to use such information solely for the Buyer's internal purposes and in connection with the Goods supplied under this Agreement. Nothing provided for in this Agreement shall restrict the use of information available to the general public.

## 14 GOVERNING LAW AND JURISDICTION

**14.1** The GCS, its interpretation and any contractual or non-contractual obligations arising out of or in connection with this Agreement are governed by and shall be construed in accordance with the laws of the Republic of Poland without regard to any conflict of law rules. The application to the Agreement of the U.N. Convention on Contracts for the International Sale of Goods is hereby expressly excluded.

**14.2** If a dispute arises, a Party shall initiate the resolution process by giving notice setting out, in writing and in detail, the issues in dispute and the value of the claim to the other Party. A meeting or conference call between the Parties, attended by individuals with decision-making authority, can take place if needed in an attempt to resolve the dispute through direct negotiations.

**14.3** Any disputes between the parties that result from or are otherwise connected with any contract and/or these GCS shall exclusively subject to the laws of Republic of Poland. The applicability of the United Nations Convention of Contracts for the international Sale of Goods of 1980 (CISG) is expressly excluded. The Polish Court shall have jurisdiction.

## 15 MISCELLANEOUS

**15.1** Buyer's provision of its purchase order send to the Seller will constitute Buyer's acceptance of this GCS.

**15.2** If any provision of the GCS is held to be invalid or unenforceable, then such provision shall (so far as it is invalid or unenforceable) be given no effect and shall be deemed not to be included in the GCS but without invalidating any of the remaining provisions of the GCS. The Parties shall then use all reasonable endeavours to replace the invalid or unenforceable provisions by a valid and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

**15.3** This GCS is read by the Parties and understood as regards the content and the consequences and confirm to the real will of the Parties. The Agreement and associated documents identified herein constitutes the entire agreement between the Parties with respect to sale of Goods hereunder, except as may be amended from time to time by the Seller with or without notice, or may be supplemented by express additional terms in a separate written contract signed by authorized representatives of the Parties.

**15.4** This GCS are sent only once to Buyer and are binding for all Order Confirmations between Buyer and Seller, also in future.