

# STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS ("TERMS")

## 1. Interpretation

### 1.1 Definitions:

**Business Day:** a day when banks in Budapest, Hungary are open for business, but excluding Saturday, Sunday and official public holidays.

**Business Hours:** 09.00 to 17.00 on any Business Day.

**Contract:** a legally binding contract between Supplier and Customer for the sale and purchase of Goods. Each Contract shall comprise: Terms; an ORDER ACKNOWLEDGEMENT; and a Specification.

**Customer:** the person or firm identified as such in ORDER ACKNOWLEDGEMENT.

**Delivery Location:** the address identified as such in ORDER ACKNOWLEDGEMENT.

**Force Majeure Event:** an event, circumstance or cause beyond a Party's reasonable control. However, the inability to pay money shall not be a Force Majeure Event unless it is caused, in wholly or primarily by a failure of the banking system so that money transfers cannot be effected.

**Goods:** Supplier's products as identified and comprised in an Order.

**INCOTERM:** the INCOTERM in general effect as at the date the Contract forms.

**Order:** An order for Goods. Customer shall ensure that each Order is acknowledged and understood by Supplier. **ORDER**

**ACKNOWLEDGEMENT:** the document issued by Supplier in such form as Supplier chooses from time-to-time and that contains details of the specific Contract, including Specification, Price and other Order details. Each ORDER ACKNOWLEDGEMENT can be up-dated/amended as allowed by Terms and/or by agreement between Parties, in each case from time-to-time and at any time; and, each updated/amended ORDER ACKNOWLEDGEMENT shall then apply accordingly.

**Party/Parties:** each of Supplier and Customer/those two collectively.

**Price:** the total amount to be paid by Customer to Supplier for Goods under a Contract.

**Ready Date:** the date on which Supplier notifies Customer that Goods are ready for delivery under a Contract.

**Specification:** the specification for Goods. Unless otherwise expressly agreed in writing by Supplier, Specification will be as set out in Supplier's technical data sheet for the Goods.

**Supplier:** the company identified as such in ORDER ACKNOWLEDGEMENT.

### 1.2 Interpretation:

- (a) **Person** includes a natural person, corporate or unincorporated body, whether having separate legal personality, or not.
- (b) Reference to a Party includes its agents, personal representatives, successors and permitted assigns.
- (c) Reference to legislation or a legislative provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that legislation or legislative provision.
- (d) Words following: **including, include, in particular, for example,** or any similar expression are illustrative and shall not limit the sense of the words preceding those terms.
- (e) Reference to **writing** or **written** excludes fax but includes email.
- (f) Singular terms shall admit their plural equivalents, and vice-versa.

## 2. Basis of Contract

- 2.1 Terms apply to each Contract to the exclusion (unless such exclusion is not permitted by law) of all other terms and conditions, including those implied by law, custom, practice, and/or course of dealing. Customer waives its right to rely on any terms endorsed on, delivered with, or contained in any documents, of any origin that are inconsistent with Terms or that add to Terms in a manner that increases Supplier's actual or potential liabilities and/or obligations under any Contract, and otherwise.
- 2.2 Each Order constitutes an offer by Customer to purchase Goods in accordance with Terms. Supplier is not obligated to accept any such offer and may refuse to do so without giving any reason or explanation.
- 2.3 Customer is wholly responsible for ensuring that each Order is complete and accurate in all respects; selecting Goods that meet its requirements; and, deciding that Specification is correct for its requirements.
- 2.4 Supplier shall not be required to enquire as to how, where and when Goods will be used by Customer and any information in that regard supplied by Customer to Supplier shall be of no effect under, or in relation to any

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- Contract. In particular, Supplier shall not be required to comment on the suitability of Goods for any, or any particular, purpose, even if Supplier is advised in that regard by Customer.
- 2.5** Each Order shall be accepted when, and only when, Supplier issues a written acceptance or confirmation thereof via and ORDER ACKNOWLEDGEMENT. At that moment, a Contract forms. Notwithstanding the foregoing, if Supplier delivers Goods based on an Order, but without issuing an ORDER ACKNOWLEDGEMENT, or some other written acceptance, such delivery shall be taken as equivalent to a written acceptance and the relevant ORDER ACKNOWLEDGEMENT shall be constituted accordingly.
- 2.6** Any: samples, descriptions and/or advertising of products used by Supplier; and/or, descriptions and/or illustrations contained in Supplier's catalogue, brochure, Website or elsewhere are for the sole purpose of giving an approximate idea of Goods and other products but the same shall not form part of any Contract or have any contractual force or effect.
- 2.7** A quotation for Goods given by Supplier shall not constitute an offer to supply Goods. Unless otherwise expressly stated, quotations shall only be valid for 30 Business Days after their date of issue.
- 3. Goods**
- 3.1** On delivery, Goods will conform to Specification. This is the only warranty that Supplier gives in respect of Goods (**Warranty**) and all other warranties shall be excluded to the fullest extent allowed by law.
- 3.2** If Customer sets Specification, in whole or part, it shall indemnify Supplier against all liabilities, costs, expenses, damages and losses of every kind and nature, including: direct, indirect and/or consequential losses; loss of profit and/or reputation; and, all interest, penalties and legal and other professional costs and expenses suffered and/or incurred by Supplier in connection with any claim made against Supplier for actual or alleged infringement of intellectual property rights arising out of, or in connection with Supplier's use of such Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3** Before delivery, Supplier can amend Specification if required by any statute, regulation or technical cause. Supplier shall notify Customer accordingly.
- 4. Delivery**
- 4.1** Each delivery of Goods shall be accompanied by a delivery note in Supplier's chosen form.
- 4.2** If Supplier requires Customer to return any packaging to Supplier, Customer shall make any such materials available for collection at such times as Supplier reasonably requests. Returns of packaging shall be at Supplier's expense, unless otherwise stated in ORDER ACKNOWLEDGEMENT.
- 4.3** Supplier shall deliver Goods to Delivery Location according to the delivery schedule stated in ORDER ACKNOWLEDGEMENT; or, in there is no such schedule, at any time after Ready Date. Alternatively, Customer shall collect Goods from such location, advised by Supplier prior to delivery, within the three (3) Business Days after Ready Date.
- 4.4** Delivery is completed on the completion of unloading or loading of Goods at Delivery Location. If Parties agree an INCOTERM to apply to a Contract, then such INCOTERM shall operate accordingly as part of the relevant Contract.
- 4.5** Any dates quoted for delivery are approximate only, and the time of delivery of Goods is not of the essence.
- 4.6** Without prejudice to the foregoing, Supplier shall not be liable for any delay in delivery of Goods that is caused, in whole or part by: a Force Majeure Event; and/or, Customer's failure to provide clear and/or adequate instructions relevant to Goods.
- 4.7** If Supplier fails to deliver Goods, its total liability in connection with such failure shall be limited to the costs and expenses incurred by Customer in obtaining replacement goods, of the same or similar description and quality, in the cheapest market then available, less Price.
- 4.8** If Customer fails to take or accept delivery of Goods within the three (3) Business Days after Ready Date then, except where such failure or delay is caused by a Force Majeure Event or Supplier's failure to comply with its obligations under Contract:

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- (a) delivery of Goods shall be deemed to have been completed at 9.00 am on the third Business Day after Ready Date; and,
- (b) Supplier shall, subject to clause 4.9, store Goods until actual delivery takes place, and charge Customer for all related costs and expenses, including: a handling fee equal to 30% of Price; and insurance costs.
- 4.9 If, ten (10) Business Days after Ready Date, Customer has not taken or accepted actual delivery of Goods, Supplier may resell or otherwise dispose of such Goods, in whole or part. After deducting amounts due under clause 4.8(b), and selling costs, Supplier shall account to Customer for any excess over Price, or charge Customer for any shortfall below Price.
- 4.10 If Supplier delivers up to and including 5% less than the quantity of Goods ordered, Customer may not reject them, but on receipt of notice from Customer that the wrong quantity of Goods was delivered, Supplier shall make a pro rata adjustment to Price. If Supplier over-delivers Goods, Customer shall either: accept the over-supply and pay for such Goods accordingly or, at Customer's option, require Supplier to recover the over-supplied quantity at Supplier's cost. In the latter case, Customer shall facilitate such recovery by Supplier or its agents.
- 4.11 Supplier may deliver Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery, or defect, in an instalment shall not entitle Customer to cancel any other instalment due under the Contract of which such instalment form part.
- 4.12 Supplier shall not be obligated to accept any returns of Goods, except in the case of proven failure of Goods to comply with Warranty.
5. **Quality**
- 5.1 Subject to clause 5.2, if: Customer gives notice in writing to Supplier within the three (3) days after discovery and, in any event, within the 30 days after delivery, that Goods do not comply with Warranty (**Warranty Notice**); and, **provided always** that Supplier is then given a reasonable opportunity to examine such Goods, Supplier shall, at its sole option: replace defective Goods; or, refund the price of such defective Goods.
- 5.2 Supplier shall not be liable for failure to comply with Warranty if:
- (a) Customer makes or allows any use of such Goods, whether before or after giving Warranty Notice;
- (b) the breach of Warranty arises because Customer failed to follow: instructions as to storage, use and maintenance of Goods; and/or, best trade practice regarding the same;
- (c) the breach of Warranty arises because of any Specification supplied by or for Customer;
- (d) Customer alters Goods without the prior, written and unqualified consent of Supplier;
- (e) the breach of Warranty arises because of wilful damage; negligence; or, use of storage conditions out-with Specification and/or normal practice – in all such case, except where and to the extent that Supplier is to blame; or
- (f) Goods differ from Specification because of changes made by Supplier to ensure they comply with statutory or regulatory requirements.
- 5.3 Except as provided in this clause 5, Supplier shall have no liability to Customer in respect of quality of Goods and Customer shall not attempt to enforce any other liabilities.
- 5.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from each Contract.
- 5.5 Terms shall apply to replacement Goods supplied by Supplier to the same extent as they applied to the original Goods.
6. **Title and Risk**
- 6.1 Risk in Goods passes to Customer on completion of delivery and in accordance with any INCOTERM identified in ORDER ACKNOWLEDGEMENT.
- 6.2 Title to Goods shall not pass to Customer until the earlier of:
- (a) Supplier receiving payment of Price in full and in cleared funds both for Goods and for any/all other goods, materials and/or services that Supplier has

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- supplied to Customer and in respect of which payment has become due; or
- (b)** Customer reselling Goods, in which case title to Goods shall pass to Customer at the time specified in clause 6.4.
- 6.3** Until title to Goods has passed to Customer, Customer shall:
- (a)** store Goods separately from all other goods held by Customer so that Goods remain readily identifiable as Supplier's property;
- (b)** not remove, deface or obscure any identifying mark or packaging on, or relating to, Goods;
- (c)** maintain Goods in the condition they had on delivery and keep them insured against all risks for their full Price from the delivery date;
- (d)** notify Supplier immediately if it becomes subject to any of the events listed in clause 9.1(b) to clause 9.1(d); and
- (e)** give Supplier such information as Supplier may reasonably require from time-to-time relating to:
- (i)** Goods; and
- (ii)** the ongoing financial position of Customer.
- 6.4** Subject to clause 6.5, Customer may resell or use Goods in the ordinary course of its business, but not otherwise, before Supplier receives payment for Goods. However, if Customer resells or uses Goods before that time:
- (a)** it does so as principal and not as Supplier's agent; and,
- (b)** title to Goods shall pass from Supplier to Customer immediately before the time at which title is to pass from Customer to the buyer of such Goods.
- 6.5** At any time before title to Goods passes to Customer, Supplier may:
- (a)** by notice in writing, terminate Customer's right to resell or use Goods; and
- (b)** require Customer to deliver up all Goods in its possession that have not then been resold, or irrevocably incorporated into another product. If Customer fails to do deliver up promptly, Supplier may enter Customer's or third party premises where Goods are stored and recover them. (Customer shall ensure that third parties are aware of this Supplier right of entry and will allow Supplier's exercise of it.)
- 7. Price and Payment**
- 7.1** Price shall be set out in each Order Acknowledgement, or, if not so set out, then as set out in Supplier's published price list in force as at the date of delivery.
- 7.2** Supplier may, by giving notice to Customer at any time up to 15 Business Days before delivery, increase Price to take account of increase in the cost of Goods due to any:
- (a)** factor beyond Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b)** request by Customer to change the delivery date, Delivery Location, quantities or types of Goods ordered, and/or Specification; or,
- (c)** delay caused by any instructions of Customer or failure of Customer to give Supplier adequate or accurate information and/or instructions.
- 7.3** Unless otherwise expressed in ORDER ACKNOWLEDGEMENT, Price excludes:
- (a)** value added tax (**VAT**), which Customer shall additionally be liable to pay to Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice;
- (b)** cost of packaging, insurance and transport of Goods, which shall be invoiced to Customer; and,
- (c)** all bank charges, including charges raised by intermediary banks, incurred in connection with payment of Price.
- All such additional sums may be invoiced by Supplier and shall be paid by Customer.
- 7.4** Supplier may invoice Customer for Goods on or after completion of delivery; or, before delivery if Goods are to be supplied on a pro-forma invoice basis, as the case may be.
- 7.5** Customer shall pay each invoice submitted by Supplier:
- (a)** within the 30 days after the date of the invoice, or in accordance with any credit terms agreed by Supplier and stated in ORDER ACKNOWLEDGEMENT; and,
- (b)** in full and in cleared funds or non-criminal origin to a bank account nominated in writing by Supplier.

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- 7.6** Time for payment under each Contract shall be of the essence.
- 7.7** If Customer fails to make a payment under a Contract by the due date, then, without limiting Supplier's other remedies, Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum plus interest, whether before or after judgment. Interest will accrue each day at 4% a year above the Bank of England's base rate from time-to-time, but at 8% a year for any period when that base rate is 0% or less.
- 7.8** All amounts due under Contract shall be paid in full without any set-off, counterclaim, deduction or withholding of any type or nature whatsoever and howsoever arising, other than any deduction or withholding of tax required by law. If any such deduction or withholding is made, Customer shall "gross-up" Price accordingly so that Supplier receives full Price.
- 8. Limitation of Liability**
- 8.1** References to liability in this clause 8 include every kind of liability arising, or capable of arising, under and/or in connection with Contract including: liability in contract; tort, including contractual and tortious negligence; misrepresentation; and, restitution.
- 8.2** Nothing in a Contract limits any liability which cannot legally be limited, including liability for:
- (a)** death and/or personal injury caused by Supplier's negligence;
  - (b)** fraud and/or fraudulent misrepresentation;
  - (c)** breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - (d)** defective products under the Consumer Protection Act 1987.
- 8.3** Subject to clause 8.2: Supplier's total liability to Customer shall not exceed an amount equal to
- 8.4** Price. Subject to clause 8.2, the following types of Supplier liability are wholly excluded:
- (a)** economic loss, including loss of, damage to and/or reduction in: profits, sales, business, agreements, contracts, bargains, interest, savings, use, and/or goodwill; and,
  - (b)** all other loss and damage that is not attributed to direct, physical loss or damage.
- and Customer shall not attempt to recover the damage from Supplier in connection with any Contract or Goods.
- 8.5** If Supplier provides any comments, advice or guidance to Customer in connection with Goods, the same shall be given by Supplier gratuitously and without the acquisition, by Supplier of any liability of any kind or nature whatsoever and howsoever arising; and, Customer shall not rely on such comments, advice or guidance.
- 8.6** This clause 8 shall survive termination of Contract and all exclusions and limits shall apply even if and to the extent Supplier has been made aware, before or after formation of such Contract, that one or more particular losses will, or reasonably might, arise under or in connection with such Contract. Customer confirms that Price has been set relative to Supplier's scope of potential liability and that Customer is adequately insured, at its own cost, to cover liabilities that are outside the scope of Supplier's liabilities assumed under each and any Contract.
- 9. Termination**
- 9.1** Without limiting its other rights or remedies, however they arise, Supplier may terminate a Contract with immediate effect by giving written notice to Customer if Customer:
- (a)** breaches any term of any Contract and, if such a breach is remediable, fails to remedy it within the 5 Business Days after being asked, in writing to do so;
  - (b)** takes any step or action in connection with it, or any material group company: entering administration, provisional liquidation or any composition or arrangement with creditors, other than in relation to a solvent restructuring; obtaining a moratorium, being wound up, whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring; having a receiver appointed; ceasing to carry on business; and , if the step or action is taken in another jurisdiction, in connection with any analogous procedure in such jurisdiction;

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- (c) suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) gets into a financial position sufficient to justify Supplier's opinion that Customer's ability to perform Contract is in jeopardy.
- 9.2** Without limiting its other rights and remedies, however they arise, Supplier may:
- (i) suspend delivery of Goods under a Contract, and/or any other contract between Customer and Supplier, if Customer becomes subject to any of the events listed in clause 9.1; if Supplier reasonably believes that Customer is about to become subject to any of them; or, if Customer fails to pay any amount due under a Contract on the due date for payment; and,
- (ii) terminate a Contract with immediate effect by giving written notice to Customer if Customer fails to pay any amount due under that Contract on the due date for payment.
- 9.3** On termination of a Contract for any reason Customer shall immediately pay to Supplier all outstanding, unpaid invoices plus interest and, in respect of Goods supplied but for which no invoice has been submitted, Supplier shall submit an invoice, which shall be payable by Customer immediately on receipt.
- 9.4** Termination or expiry of a Contract, however arising, shall not affect any of Parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of Contract which existed at or before the date of termination or expiry.
- 9.5** Any provision of a Contract that expressly or by implication is intended to come into, or continue in, force on or after termination or expiry of such Contract shall remain in full force and effect.
- 10. Force Majeure**
- 10.1** Neither Party shall be in breach of a Contract or otherwise liable to the other Party for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly.
- 10.2** If the period of delay or non-performance continues for at least 30 consecutive days or for a cumulative 45 days in any period of 60 consecutive days, the Party not claiming relief may terminate the relevant Contract by giving at least 5 Business Days' written notice to the affected Party. If performance of the relevant Contract has not recommenced, in whole or substantial part, before the end of such 5 Business Day period, the relevant Contract shall terminate.
- 11. General**
- 11.1 Assignment and Other Dealings.**
- (a) Supplier may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under each Contract.
- (b) Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with its rights or obligations under any Contract without the prior written consent of Supplier.
- 11.2 Confidentiality.**
- (a) A Party shall not at any time during a Contract and for a period of two (2) years after termination or expiry of such Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other Party, except as permitted by clause 11.2(b).
- (b) Each Party may disclose the other Party's confidential information:
- (i) to its employees, officers, representatives, contractors, subcontractors and advisers who need to know such information for the purposes of exercising the Party's rights or carrying out its obligations under a Contract. Each Party shall ensure that permitted discloses to whom it discloses the other Party's confidential information comply with this clause 11.2; and
- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither Party shall use the other Party's confidential information for any purpose other than to exercise its

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- rights and perform its obligations under or in connection with a Contract.
- 11.3 Entire Agreement.**
- (a) Each Contract constitutes the entire agreement between Parties in respect of the subject of such Contract.
- (b) In entering a Contract, each Party does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in such Contract. Neither Party shall have a claim against the other for innocent or negligent misrepresentation or negligent misstatement based on any statement in a Contract.
- 11.4 Variation.** Except as expressly provided for in Terms, no variation of a Contract shall be effective unless it is in writing and signed by Parties or their authorised representatives.
- 11.5 Waiver.**
- (a) A waiver of any right or remedy is only effective if given in writing and shall not operate as a waiver of any other or subsequent right or remedy.
- (b) 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 shall it prevent or restrict the further exercise of that or any other right or remedy.
- 11.6 Severance.** If any provision or part-provision of a Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of a Contract is deemed deleted, Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 11.7 Notices.**
- (a) Any notice given to a Party under or in connection with the Contract shall be in writing and shall be:
- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
  - (ii) sent by email to the last known trading address of Supplier or Customer, as the case may be.
- (b) Any notice shall be deemed to have been received if:
- (i) delivered by hand, at the time the notice is left at the proper address;
  - (ii) sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
  - (iii) sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 11.8 Third Party Rights.**
- (a) No Contract gives rise to any third party rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- (b) The rights of Parties to rescind or vary a Contract are not subject to the consent of any other person.
- 11.9 Governing law.** Each 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 Hungary.
- 11.10 Jurisdiction.** The courts of Hungary shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with each Contract or its subject matter or formation.