

# GENERAL CONDITIONS OF SALE

## Application of General Conditions of Sale

1. The present General Conditions of Sale – hereinafter referred to as [GCS] apply to transactions made by the parties (concluded agreements) whose subject shall be the sale of merchandise – hereinafter referred to as [merchandise] or [products] conducted by the Company named „BE Group“ a limited liability company with its seat in Gdynia registered in the Register of Entrepreneurs of the National Court Register under the KRS Number 000006520, hereinafter referred to as [the seller] for the benefit of any entity which makes the purchase in relation to its business activity (i.e. not as a consumer in the understanding of the Art. 384 §3 of the Polish Civil Code) – hereinafter referred to as the buyer, constituting the subject of the seller's commercial activity, on the condition that the parties have not changed the GCS or have not drawn up an annex which would settle a given matter differently than the one presented in GCS.

## Sales Offer

2. The offer of purchase of given products made by the seller is valid for 8 days, if a different deadline is not specified. No such offer, irrespective of its name, (including calling it an „offer“) constitutes a binding sales offer in the understanding of the Polish Civil Code, but only a proposal for making an order by a potential buyer. The seller's proposed price does not include the costs of attestations, certificates and tests requested by a buyer which shall be added to the price unless the parties specify otherwise.

## Orders

3. An order sent to the seller is binding the buyer if, when making an order, he knew or he could easily find out the prices of ordered products. In case when the buyer did not know such prices, or he could not easily find them out, or if the prices he previously knew, changed, the buyer shall be bound by the order if he does not cancel it immediately after having received from the seller the information on such prices. The seller is not obliged to accept the order and realize it. In case of accepting the order with some reservations, the buyer is bound by the contents of those reservations, unless he immediately presents his remarks. In case of presentation of such remarks, for the order to be binding the seller, it is necessary to establish final terms and conditions of the agreement. In case of placing an oral (including a telephone) order by the buyer, who has permanent business relationship with the seller (which is the case when the transaction in question is at least the second transaction between the parties), the seller may confirm the receipt of such an order by fax or e-mail. Such a confirmation is binding for the buyer if he does not issue reservations within six hours at the latest of sending such message by the seller and not later than before the moment of producing an invoice and/or releasing the ordered merchandise. No order is binding the seller if he does not confirm its acceptance.

4. The accepted order does not bind the seller especially in a situation that, due to the reason out of his reasonable control, and especially due to *force majeure* or behavior of the buyer or a third party (including the seller's suppliers) – the delivery and sale of products is impossible, excessively hampered or involves the seller's losses of more than 10% (ten per cent) of the net value of products which are to be sold.

5. The acceptance of an order does not bind the seller, either, in case when the aggregate debts of the buyer exceeded the amount of the trade credit (if such an amount has been established by the parties) or if the buyer was in the arrears with any payments due to the seller.

## Tolerance

6. General norms applied to products in a particular industry, if not specified otherwise, apply to tolerance in respect to dimensions, length, weight and other, as well as to the seller's right to change the mass of delivery in relation to the one specified in the order. The item mass provided by the seller is an approximation. Samples should be treated as typical samples, if not specified otherwise. Tolerance of at least +/- 5% shall be admissible.

## Price

7. In case when the prices are specified in a currency different from the Polish Zloty (PLN), the buyer shall pay the price for the contractually specified merchandise (plus VAT at the applicable rate) specified by the seller in the confirmation of the order. If after the signing the agreement there shall be introduced an export or import fee on a product, a tax or a similar extra fee, or their amounts shall change, or the price of the raw material shall change, or the currency rate shall change, the seller can change the price accordingly, even if the introduced extra fee or its change or the change of the raw material's price or the change of the currency exchange rate have not been included in the agreement.

8. In case when the prices are specified in a currency different from the Polish Zloty (PLN), it shall be understood that such rates in a foreign currency shall be the only basis for establishing the price. In such case the price on the invoice shall be established based on its equivalent in Polish Zloty of a given foreign currency amount according to the currency exchange rate for selling such currency by the bank who keeps the seller's bank account on the date of issuing the invoice.

9. By placing a given order, the buyer declares that he is a VAT taxpayer, that he has a NIP number, which should be provided to the seller and that he authorizes the seller to issue VAT invoices for the buyer (concerning the given order) without the signature of a person authorized to sign VAT invoices on behalf of the buyer.

## Delivery

10. If not established otherwise, the delivery is executed with a vehicle to the indicated address with additional transport fee according to the rates of the shipping company engaged by the seller. If the address of the delivery is not indicated in the order, it shall be considered that the merchandise is to be delivered to the address at the seller's discretion - to any place where the buyer conducts his business activities or an address provided in the Register of Entrepreneurs (or in the Business Activity Register) or to an address where the seller had previously delivered merchandise to the buyer wholly or in part.

## Packaging

11. In case when the parties have not specified in detail the information concerning the quality and packaging of products, it shall be understood that the delivered products should be of medium quality for a given kind and type of product and they should be packed or left without packaging according to the current regulations or standards effective in the seller's company or his suppliers' companies.

12. The cost of required or necessary packaging is charged to the buyer at the prime cost of the seller and the packaging is not returnable unless specified otherwise. The Buyer may also be charged with the security or insurance costs during transport.

## Payment and default interest

13. The payment has to be effected on the date indicated on the invoice at the latest, but no longer than 14 days from issuing the invoice, unless the seller specified (e.g., in the confirmation of acceptance of the order) other terms of payment. The day of effecting the payment shall be the day of booking a given amount in the seller's bank account. If the payment is not effected in an appropriate time, the default interest shall accrue according to the statutory rate, unless the parties specified otherwise. An acceptance or any other obligation are not considered payment until the payment is fully booked in the Seller's bank account, or in case allowed by law, paid to the seller's cash register.

14. If the buyer does not receive the merchandise, without any fault on the part of the seller, in the specified time, the price and other fees must be paid as if the

delivery was executed according to the agreement. If the buyer does not pay within 3 months of the established deadline, the seller has the right to terminate the agreement without sending the buyer any further written notices. In case of such termination the buyer is charged with the contractual penalty of 30% (thirty per cent) of the price of the merchandise not received. After the expiration of that time the seller may also, retaining the right to terminate the agreement at any time, store the merchandise in any place at the buyer's expense and risk, and demand that the buyer realizes the agreement and pay the storage costs as well as the contractual penalty (30% of merchandise's price). The seller may also claim compensation in the scope the loss incurred exceeds the amount of established contractual penalty.

## Insolvency

15. If there is a justifiable basis for suspecting that the buyer shall not effect his payments, the seller has the right to demand – before releasing the merchandise and irrespective of previously established payment deadline – the payment in cash or providing specific guarantees of payment. If it is not done immediately, the seller has the right to terminate the agreement without any compensatory claims, as far as the merchandise has not been delivered yet.

## Provisions concerning ownership rights

16. The delivered merchandise remains the property of the seller as long as the full payment for it is effected. In case of processing the merchandise or its joining or mixing with other things (or with the volume of an estate) it shall be considered that the seller became the owner of the whole thing (or the volume of an estate) created from the processing, joining or mixing (i.e., the buyer transferred onto the seller the ownership rights to the whole such thing or the volume of an estate) irrespective of the ratio of value of this product or thing (or the volume of an estate) with the thing it has been joined to or mixed with.

17. In case if, against these restrictions, there occurred a transfer of the ownership to a third party of the product itself or to a thing (volume of an estate) created out of its processing, joining or mixing or just the sole possession of the product, thing (or volume of an estate), it shall be deemed that there occurred a transfer by the buyer onto the seller of all claims (receivables) that could apply to the buyer in relation to the transfer of the right or possession onto such third party. The above does not release the buyer from personal liability towards the seller.

18. In case of the failure to receive the payment in time the seller may, at his discretion, demand this payment from the buyer or collect the merchandise from the buyer or from the third party or a thing that was created due to its processing, joining or mixing, (such collecting can be effected by the seller's own action, even without making arrangements with the buyer) or demand the payment from this third party (as specified in p.17). The seller is authorized to enter the premises where the merchandise subject to collecting is stored, and to do so he can open all locks and break the security devices. Such behavior on the part of the seller shall not constitute the breach of the buyer's possessory rights, shall not create the seller's liability nor shall create the buyer's claim for restitution of possession. Transfer of ownership onto the Buyer or obtaining by him the possession of the product or the thing created due to its processing, joining or mixing serves only to cover the seller's receivables and does not constitute a gratuitous pecuniary performance for his benefit. In the case of selling his merchandise that has been collected by the seller, he shall return to the buyer the surplus of the means obtained due to the sale over the value of the seller's receivables and expenses connected with its realization.

## Notice of delay

19. Timely delivery occurs especially when the seller in the specified time leave the merchandise at the buyer's disposal at a specified place. In case when a party realizes that he will not be able to meet the delivery or the reception deadline or if such a delay seems possible, he should immediately inform the other party of such a situation and provide a new delivery time. It also concerns the partial deliveries of one larger delivery. The supplier is not liable for not keeping the delivery deadline which was not his fault.

## Agreement termination in case of delay

20. If the announced or accidental delays in the delivery or the reception shall cause a serious loss, the party which is not responsible for the delay has the right to terminate the agreement in writing. If the delay pertains to a single item in the delivery, one can terminate the agreement only in relation to this particular item. If the delivery time is postponed due to circumstances beyond the party's control, especially in the circumstances specified in these General Conditions of Sale, the seller may postpone the further deliveries in the proportional manner. If the announced or accidental delays concern the product that has been produced on a special instruction of the acquirer and/or it is a type of product that the seller usually does not keep in stock, and the acquirer knew this or could find this out, the acquirer can terminate the agreement only when the delay was serious (i.e. not shorter than 30 days) and the delayed merchandise can be delivered by somebody else than the seller within the time earlier than the possible (new) time indicated by the seller. If the party does not take advantage of his right to terminate the agreement immediately, the presented delivery time in the delay notice should be considered binding both parties as the new delivery time. If there is a termination of agreement due to the announced or accidental delay, the party does not have the right to any other compensation for the damage other than the one specified in p.21 of the present GCS.

## Compensation in case of termination due to delay

21. The compensation due to the delay in executing the agreement and/or termination of it may be paid out only when there has been made a special agreement concerning the compensation in writing, or if such a compensation has been expressly specified in the contents of this GCS. Potential compensatory claim should be presented by the buyer in writing within two months from the moment the delivery was due to take place according to the agreement. Failure to present such a claim within this indicated period of time is tantamount to the unconditional waiver of such claim.

## Control at the Buyer's, merchandise complaints and quality liability

22. The buyer is obliged to control especially the package's (shipment's) condition, and the quality, quantity and type of delivered merchandise immediately after its delivery and make an appropriate indication on the waybill and immediately report to the carrier (according to the applicable transport and shipping regulations) and to the seller in writing potential reservations in this scope and allow the seller's representative an immediate inspection of unopened merchandise. The reception of the merchandise by the buyer without checking the products or voicing his reservations immediately after checking shall be deemed as confirmation that the merchandise has been delivered correctly in correct quantity and it has correct features and characteristics.

23. If due to the kind of packaging or for any other reason it is not possible to conduct an immediate control of the delivered merchandise, control at delivery should include at least the waybill, quantity and condition of packaging, data concerning the product's designation on the packaging, and damage visible from outside. Immediately, when it is objectively possible, but at unpacking the merchandise at the latest, before it is used, the full and detailed control of the merchandise should be conducted.

24. In case when declaring the damage at the delivery or during its control as specified in above point, while keeping the highest possible professional standards, was not possible, then the time for making a complaint is two days from the day when with due diligence the noticing of such fault was possible.

25. On pain of loss of his right to pursue any claims against the seller due to the product's defects or the discrepancy of the delivery with the order or with its

confirmation - the buyer is obliged to complete all formalities specified in pp.21-24 above, especially voice any incorrectness immediately after their noticing, but not later than it was possible to notice the faults, as specified in the points above.

## Complaints in case of shortage or damage

26. Provisions of pp.22-25 apply accordingly to the cases of shortages or damage of the merchandise.

27. The complaint about the shortage or damage of the merchandise should contain especially the information on the scope and type of shortage or damage.

## Seller's Liability for merchandise's defects

28. On condition of completing all formalities specified above in points 22-27 the seller provides the buyer with a guarantee of quality of the merchandise sold. Provision of such guarantee means that in case of emergence of the products' defects, the seller should, in reasonable time, no shorter than 7 days from receiving the complaint, make a decision of repairing the defect or providing the buyer with a new defect-free product. In case of the seller's failure to inform the buyer of the method of repairing the defect, it shall be considered that the decision has been made to replace the faulty product with the new one, unless the seller proves that making the decision in the prescribed amount of time was impossible or seriously hampered. The seller's liability included the necessary transport of the faulty product and the new one. If the seller fails to repair the defect or replace the faulty product with a new one, then, the buyer has the right to demand the decrease of the purchase price of the product or if the existing defect is serious, has the right to terminate the purchase agreement of this product and the product that is directly related to it (with the seller's right to replace the faulty product with a new defect-free one at any time or to repair defects).

29. The condition for charging the seller with the product's defects is the professional handling (i.e. with professional diligence and knowledge) the product by the buyer and using this product according to its designation. The seller may dismiss liability for the product's defects which despite the fact of establishing or the possibility of establishing the defect by the buyer was used by the buyer or was processed so that it lost its natural state. The warranty for a given product is given for the period of three months from the date of delivery (or reception by the buyer) of the product.

30. The seller's liability for the product's defects or shortages is limited exclusively to the obligations stipulated in point 27 above and the buyer has no other right to pursue any other claims which is not described above due to the emergence of the product's defects, shortages or damage or with the effects of such circumstances. Especially, due to the fact of granting the buyer the warranty, there shall not apply the provisions on statutory warranty on defects of a sold product. The seller's liability does not include any compensation, including damages for lost profit, production losses, loss of reputable market name, etc.

## Liability for damage caused by merchandise

31. Except for the liability for the product's defects described above, the buyer has no right to compensation for any damage caused by the product (including dangerous product) or in relation to its possession or use with the exception of obligatory liability stemming directly from the absolutely binding provisions of law in relation to products produced by the acquirer or in relation to products of which the composite part is produced by the acquirer or in relation to damage to the real estate or things caused by these products in connection with the merchandise.

32. If the third party pursues any claim against the buyer in connection with the product or products which were produced with the things sold by the seller to the buyer, the buyer should inform the seller immediately on pain of excluding the seller's liability connected with those claims.

## Information and service

33. All information in form of catalog data or information obtained from the seller's staff before and after concluding the agreement does not constitute an part in the understanding of the Art. 66 and the following articles of the Polish Civil Code.

34. The seller bears no responsibility for the product having particular features or for the delivered product's usability for the buyer's purposes (which as a rule are not known to the seller) as far as the seller does not confirm to the buyer in writing that the merchandise has specific features or that it is usable for the buyer's desired and specific aims. The delivered certificates and other quality or origin certificates issued by their producer or any other party other than the seller shall not be deemed as such confirmation.

35. If not specified otherwise, it shall be considered that the seller's obligations do not exceed the release of the product and transfer of the ownership of the product from the seller to the buyer (especially such an obligation shall not cover the technical servicing of the product in question).

## Grounds for agreement termination

36. The following circumstances may constitute, without the consequences to the parties, the grounds for termination of the agreement. If they occurred after concluding the agreement and seriously hamper its realization: employee's conflict and any other circumstances that the party has no control over (such as *force majeure*) and especially: fire, war, mobilization, unexpected draft to the military forces, other events of similar range and seriousness, requisition, seizure, currency restrictions, uprisings and riots, shortage of the means of transport, general shortage of products, cancellation of part of production or fixed assets and circulating means, restrictions concerning gasoline, transgression on the part of carriers, producers and sub-suppliers of the products in question, or of third parties. The party is not responsible for any effects being the result of the behavior of the other party or the third party, for which, according to the current regulation, he is not liable for. If the agreement cannot be realized in the appropriate time frame, each party has the right to terminate this agreement in the part of which realization is hampered by the reasons presented above.

## Dispute resolution and applicable law

37. For the resolution of disputes that may emerge between the parties from the sale agreements or any other agreements to which GCS apply, the common court in Gdynia shall be applicable both as to the place and merit.

## Used law

38. General Conditions of Sale (if the buyer has been informed of them in any form or could find out about their contents and if the parties have not excluded the application of some or all the conditions herein) as well as relevant provisions of the Polish Civil Code and other absolutely binding legal acts shall apply to each sales agreement on the basis of which the seller shall sell to the buyer any products. Except for the liability expressly stated in the provisions of these GCS, the seller is not liable for any effects or damage incurred by the buyer or third parties with the exception of damage done by the seller intentionally.

39. Irrespective of the contents of these GCS, the agreement between the parties can change in case of introduction absolutely binding legal acts from which contents new obligations for the parties shall appear. Especially the seller may quote all the amendments of regulations and circumstances which may cause the change of costs of the business activity and public duties, and, by the same token, the change of the conditions of the offer presented by the seller or the agreement already concluded but not yet realized.