

GENERAL SALES CONDITIONS - INVESTA SP. Z O.O. IN PRUSZCZ GDANSKI

1st July 2014

I. General provisions and scope of application.

1. These General Terms and Conditions of Sale determine the principles of conclusion of goods sale contracts by Investa Sp. z o.o. (*Limited Liability Company*) seated in Pruszcz Gdanski (as a seller/vendor) and are an integral part of these contracts (hereinafter referred to as a **contract** or a **contract of sale**). They shall be applicable in delivery agreements, service rendering agreements, commission contracts or contracts of performing a specific task, to be concluded by Investa Sp. z o.o., a subject matter of which are goods or services offered by Investa Sp. z o.o.
2. For the purpose of these General Terms and Conditions of Sale are introduced the definitions of the following terms:
 - 2.1. **GTCS** – these General Terms and Conditions of Sale of Investa Sp. z o.o., according to their latest contents being updated by means of a website and places where these GTCS are made available;
 - 2.2. **Seller** - Investa Sp. z o.o. ul. Zastawna 27, 83-000 Pruszcz Gdański, entered into the register of entrepreneurs of the National Court Register under the number 0000226221, the documentation of the company is stored in the District Court of Gdansk-Polnoc in Gdansk, 7th Economic Division, NIP (*Tax ID*): 5840253645, REGON (*statistical ID*): 008008662;
 - 2.3. **Buyer** – a physical or legal person or other organisational unit which does not possess a legal personality, purchasing in their own name the Goods offered by Investa Sp. z o.o and conducting a business activity;
 - 2.4. **Goods** – objects such as parts, materials or equipment offered for sale together with services or services themselves included in the commercial offer of the Seller;
 - 2.5. **Force Majeure** – an extraordinary occurrence, of external nature and impossible to be prevented, which could not be avoided even at the highest care taken by the Parties, recognised by a Force Majeure event according to section V.5 of this GTCS;
 - 2.6. **Seller's Location** – a factory, warehouse or other place of performing the activity by the Seller or a place of sale of their Goods.
3. The GTCS shall be made available to the Buyers at the Seller's website (www.investa.pl) in a manner which makes possible keeping and restoring the reference in the ordinary course of activities, as well as in a written form in Seller's Locations. The acceptance of these GTCS shall take place in any way, including through entering into a contract, but as a whole.
4. The acceptance of GTCS by a Buyer at any one order shall be considered as their acceptance for all other orders and contracts/agreements.
5. The Parties shall exclude the use of Buyer's contract templates (in particular, general terms and conditions, model agreements, order templates, regulations). Other commercial conditions proposed by the other Party can apply only when they are accepted in writing by the Seller and exclusively to the extent in which they are compliant with these GTCS (in no event shall be applicable any terms and conditions contradictory to or not compliant with the GTCS).

6. The Buyer shall be obliged to inform the Seller of any changes of their data disclosed in agreements/contracts (in particular, related to their address), otherwise the letters and VAT invoices sent to the previously indicated address shall be considered effectively delivered (applying presumptions resulting from the regulations of the Civil Proceedings Code).

II. Orders.

1. A contract shall be considered effectively concluded at the moment of placement an order following the Seller's offer (submitted in writing, as well as by fax or electronic mail), and when discrepancies exist between the offer and the order, at the moment of confirmation of the Buyer's order in writing by the Seller. As a written form is also considered an order submitted and confirmed as accepted for completion by means of fax or electronic mail. The order placed by the Buyer is equivalent to the acceptance of GTCS. Orders which are submitted orally, including a telephone call, must be confirmed in writing, as well as by fax or electronic mail unless they are accepted by the Seller.
2. By accepting the order the Buyer shall confirm their knowledge of the markings of Goods used in the offer and technical specifications of the Goods being ordered. Declarations, certificates and other similar documents shall be issued only if so agreed in the contract, and fees can be collected for issuing such documents. The Seller can apply a so-called theoretical weight conversion rate according to which the weight of goods is established on the basis of weights determined by the Seller in relevant standards.
3. Any documentation developed by the Seller, including drawings, estimate of costs, offers etc. cannot be made available to third parties without prior Seller's consent and are intended only for the purpose of conclusion of the specific contract.
4. In the case when, after the order is placed by the Buyer and is confirmed in writing for completion by the Seller, the financial condition of the Buyer appears to be significantly worse or important circumstances are revealed, not known earlier to the Seller and causing the performance of the contract endangered, the Seller shall be entitled to withdraw from the contract fully or in part, and to claim for the reimbursement of incurred costs in this regard. In such a case the Buyer shall have a right to claim for the compensation, exclusively to the extent in which the damage was caused by a deliberate action of the Seller.

III. Prices and terms of payment.

1. The prices of Goods being sold, specified in Seller's price lists can be changed by the Seller at any moment, without prejudice to section 2.
2. The price determined by the Parties in the placed order must be confirmed by the Seller in the order confirmation. The price shall be expressed in Polish zloty (PLN), if not stipulated otherwise by the Seller. The VAT tax shall be added to the prices, according to the VAT rates applicable on the date of delivery of Goods.

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3. The Seller's right to demand for the payment of price specified on the VAT invoice shall arise at the moment of handing over the Goods to the Buyer or their delivery on a means of transport to a carrier, provided that the transport is done to the location indicated by the Buyer. The term (time limit) of payment is every time determined in days and counted in relation to the date specified on the VAT invoice. As a date of payment shall be considered the date of transfer of the amount due to the Seller's bank account or the day of cash payment made to the persons authorised by the Seller.
4. If the Buyer's payments for the delivered or issued Goods, or resulting from other existing amounts due, are not made by the due date, the Seller shall be entitled to withhold consecutive deliveries or make the payments resulting from all VAT invoices drawn up for the Buyer immediately payable.
5. The Buyer shall not have a right to submit a declaration towards the Seller on deduction of any amounts due (apart from those which are not subject to exclusion of deduction according to absolutely and commonly applicable law), at that in every case shall be excluded the right to deduct the amounts due related to the conclusion and performance of the contract.
6. The Seller shall have a right to make deductions resulting from other liabilities and financial obligations, in accordance with the regulations of the Civil Code.
7. In no case a complaint submitted by the Buyer shall entitle them to refuse to make timely payment to the Seller.
8. Should the Buyer's payments be delayed, the Seller shall be entitled to charge interest at a rate of currently applicable maximum interest, specified in art. 359 § 2¹ of the Civil Code, i.e. four times the lombard credit rate of NBP (*National Bank of Poland*) annually, with no additional summons.

IV. Reservation of title.

1. The Seller shall reserve themselves a right of ownership to the Goods until the moment of full payment of the price.
2. If the delay in payment exceeds 90 days, the Seller shall be entitled to demand a contractual penalty to be paid (this shall not exclude the right to claim for the additional compensation, according to the general rules of civil law). Should the value of the Goods decrease in relation to the selling price, including the case when the Goods are used or damaged, the Seller can also demand the compensation, including reimbursement of costs incurred in the course of activities carried out in relation with return of the sold Goods.
3. Should insolvency or arrangement proceedings be initiated towards the Buyer, the latter shall be obliged to mark the Goods to indicate that a reservation of title exists in favour of the Seller. In the case of seizure of Goods being a property of the Seller in the course of enforcement proceedings towards the property of the Buyer, the latter shall be obliged to immediately notify the Seller of this fact and collaborate with the Seller at exercising their rights towards the entity carrying out the seizure of the Goods, using all available measures. The Buyer, on request from the Seller, shall be obliged to immediately pass all information concerning the Goods to the Seller, and in particular indicate the place where they can be found. The Seller shall be entitled to control the way of

storage of the Goods in the location they are kept, as well as to reclaim them, should the Seller's title (of ownership) be endangered by activity or omission of others.

V. Terms of takeover, delivery and issue/release of Goods.

1. The Goods shall be delivered by the Seller to the place of destination, and their takeover shall take place at the moment of putting at the disposal of the Buyer in this place (should delivery be to the location other than the Seller's Location – putting on a transport means at carrier's disposal).
2. The Buyer shall be obliged to take over the ordered Goods on the date confirmed by the Seller or immediately after the notification about their readiness to release the Goods. If the takeover is delayed, the Buyer can be charged with the costs of storage, without prejudice to other rights the Seller shall be entitled to. The Goods can be stored by means of a third party, at the expense and risk of the Buyer, and the place of takeover can be, under such situation, changed.
3. The Seller shall make every efforts for the Goods to be properly packed and delivered according to the time indicated in the order. The order completion time specified by the Seller in their offers is an estimate only and can be postponed. The Seller shall be bound by the completion time only if they unambiguously confirm it in a separate final declaration, after an advance payment is made, not lower than 30% of the order value.
4. The Buyer shall be obliged to take over the ordered Goods in the time specified in the order confirmation made by the Seller. If no arrangements are made in this regard, the delivery or takeover of the Goods shall be accomplished in the time convenient for the Seller.
5. Should the inability to fulfil the obligations by the Seller take place as a result of a Force Majeure event, the Buyer shall not be entitled to any claims for the compensation of damage arisen as a result of failure to perform or delayed performance of the contract/order, about which the Seller must inform the Buyer. To the circumstances referred to as Force Majeure events are included, among others: disturbances in the functioning of the plant not being the Seller's fault, failure to comply with time limits by subcontractors, shortage of raw materials, limitations caused by activity of state authorities, natural disasters, strikes etc. The Seller shall be obliged to immediately notify the Buyer of the circumstances which caused the inability to complete the order and propose a new order completion time.
6. By taking over the Goods being the subject matter of the contract, the Buyer confirms their compliance with the contract, apart from reasonable defects found in the acceptance protocol drawn up at Goods takeover (it shall not be applicable to the situation when the Goods were used after the defects had been found). Such protocol shall be immediately handed over to the Seller who shall undertake to identify the complaint and, if it is found justified, to repair or deliver the Goods free of defects, at their own discretion, within the time limit of 14 days. The defects which could not be detected at takeover of the Goods must be reported not later than within 3 days from the order completion date.

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7. The Seller shall bear responsibility for accidental damage or loss of the Goods from the moment of release of the Goods at the warehouse. If the Parties agreed different terms of delivery, then the risks indicated in the previous sentence shall be transferred to the Buyer, always from the moment of release of the Goods to the Buyer or a person authorised by them. As a person authorised to take over the Goods shall be particularly assumed the person present at the delivery location, who is equipped with the contract conclusion confirmation, a VAT invoice drawn up by the Seller or Buyer's seals.
8. The Buyer shall in every case bear the risk of accidental loss or damage of the Goods within the period between their release and transfer of the title of their ownership to the Buyer.
9. If the Goods are delivered by means of a forwarding (transport) company, the Buyer shall be obliged to check the condition of the shipment packaging in order to ensure that the subject matter of the contract and its packaging are not damaged. If any defects are found, the Buyer shall be obliged to draw up a relevant shipment receipt/acceptance protocol at the presence of a forwarding (transport) company employee, or else it shall be recognised that the packaging and the Goods are not damaged until the moment of their issue to the Buyer.
10. If the Goods are damaged during transport, it shall be necessary to immediately notify the Seller about this fact and send the signed acceptance protocol to them, together with the description and justification of the reported objections.
11. The Seller in no case shall bear the responsibility for the delay in delivery not being their fault (in particular the Seller shall bear no responsibility for the delay arising from reasons attributable to the Buyer or the forwarding (transport) company).
12. The place of the performance of the contract (delivery) shall be the Seller's Location, and if the location of delivery of Goods by the Seller is established otherwise, it shall be recognised that the release of Goods occurred at this place on the transport means, at the moment indicated in section 1, unless the contract provides otherwise (for the avoidance of doubt it is confirmed that the performance of the contract from this moment is equivalent to the completion of delivery). The Seller may, on the grounds of an agreement, leave the Goods after takeover at the Buyer's disposal in the agreed location (including the Seller's warehouse), which shall be equivalent to the delivery of Goods and the completion of the contract (a sample agreement on handing over the Goods to the Buyer can be found in the appendix to a contract).
13. If, according to the contract, the Goods are to be delivered to the place other than the Seller's Location, the Buyer shall bear the costs of their unloading, as well as shall provide, at their own expense, the assistance of equipment and workforce necessary to unload the Goods.
14. Inability to deliver the Goods within originally agreed time limit shall not release the Buyer from the obligation of takeover of the Goods at other time, while inability to take over the Goods for reasons that are attributable to the Buyer shall result in all amounts due being obligatory payable as if the Goods have been collected.

VI. Warranty. Goods non-compliant with contract, complaints.

1. The Seller shall ensure that the Goods are in compliance with the regulations of law in force within the territory of Poland, and can be used problem-free if used in accordance with their intended purpose under normal weather conditions, typical for middle Poland, not affected by any harmful external factors.
2. The Buyer or a person who takes over the Goods in their name shall be obliged to check the Goods both in quantitative and qualitative terms, at the moment of their issue by the Seller or a carrier, or their issue to the carrier provided by the Buyer.
3. Should the Goods be found during takeover non-compliant with the contract in terms of quality or quantity, the Buyer shall make a note of this fact on the copy of delivery document intended for the Seller, and immediately, but not later than within 3 days, shall inform the Seller of found non-compliance cases, failing which the Buyer shall lose their warranty rights. When reporting the defect, the Buyer shall be obliged to protect the Goods kept in untouched condition, in particular to refrain from mounting or processing the defective Goods until the complaint is handled by the Seller, failing which the Buyer shall lose the right to submit any claims towards the Seller, including particularly the warranty claims.
4. Unless the Parties have decided otherwise, according to art. 558 of the Civil Code the warranty shall be excluded, and the Seller's liability for damage shall be limited to intentional fault or gross negligence of the Seller. Warranty rights shall cease after 6 months from the date of release of the Goods from the warehouse.
5. According to the Buyer's warranty rights, the Seller shall be obliged to eliminate the defect, at their own discretion, through free-of-charge repair, replacement for a new product or cash compensation equal to the value of the purchased Goods. In any case the costs borne by the Seller cannot exceed the value of sold Goods.
6. The Seller shall undertake to check the Goods being complained as soon as possible and notify the Buyer of accepting or refusal to accept the complaint, as well as about the method and time of handling the complaint. The Seller shall not be obliged to repair the defects arising after release from the warehouse, particularly during transport (unless stipulated otherwise) and those arisen after the Goods have been handed over to the Buyer, according to the provisions of the contract.
7. Should the Buyer disturb the handling of complaints in a manner chosen by the Seller, then the Buyer shall lose their rights towards the Seller, and the Seller shall be released from any liability for the damage arisen in connection with the complained defects.
8. In the case of hidden defects (inherent to faulty material structure i.e. other than mentioned in section V.6 of the GTCS), the Buyer shall be obliged to report the defect in writing, immediately after it is detected, not later, however, than within 3 days, failing which the Buyer shall lose the warranty rights.

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9. For the avoidance of doubt, the Parties confirm that the Seller shall bear no liability for any indirect or consequential damages, economic losses and lost profits of the Buyer, their affiliated entities or entities which suffered damages in connection with the performance of the contract, in particular the damages caused by the loss of an object being designed, carried out project or adjacent equipment, the loss of a product, the loss of interest, remuneration or profit. In every case the liability of the Seller shall be limited to the amount of the net price actually paid by the Buyer for the purchase of the sold Goods and intentional fault or gross negligence. The Seller's liability for failure to perform or to fully perform the contract within the scope provided for in the Civil Code shall be limited to the amount of 200% of the net price of purchased goods and services.
10. The Seller shall have a right to withhold the processing of claims resulting from the complaint submitted by the Buyer until all their outstanding amounts due are satisfied and other obligations towards the Seller are fulfilled.
11. Failure to submit any complaints or claims by the Buyer within time limits provided for under these GTCS shall result in the loss of Buyer's warranty and complaint rights.

VII. Final provisions

1. To the contracts entered into by the Seller shall be applicable regulations of Polish law and the jurisdiction over them shall have common courts of the Republic of Poland.
2. The Seller and the Buyer shall do their best to amicably solve all disputes arising in connection with the performance of contracts covered by these GTCS. Where a dispute cannot be solved amicably, proper to settle it shall be a common court competent for the location of Seller's seat.
3. In cases not regulated by these GTCS shall be applicable regulations of Polish law, in particular regulations of the Civil Code.
4. Should some provisions of these GTCS be invalid as a result of introduction of different statutory regulations, the remaining provisions shall not lose their validity, and, if necessary, the Parties shall agreeably introduce additional provisions.

Appendix – a sample Agreement on handing over Goods in warehouse

This version of GTCS has been drawn up and issued in Pruszcz Gdanski, and is effective as of 1st July 2014.

BOARD OF INVESTA Sp. z o.o.