

## GENERAL TERMS AND CONDITIONS OF DELIVERY AS WELL AS CONTAINER AND OTHER DEVICE ASSEMBLY

### 1. GENERAL PROVISIONS

General terms and conditions determined in the present document find application in contracts of delivery and/or Container and other Device assembly, reached by **CGH Polska Sp. z o.o.** (hereinafter referred to as Supplier) with their contracting party (hereinafter referred to as Customer).

The present General Terms and Conditions bind Supplier and Customer if they were delivered to Customer at reaching the Contract or earlier.

The Present General Terms and Conditions are not applied if their applying was clearly excluded in the contract.

In case of discrepancies between the content of general conditions and the contract, contract records are binding for the parties.

### 2. DEFINITIONS

In the present General Conditions, if it does not result differently from the context, concepts presented below have the following meanings:

**Party** means Supplier or Customer (together these entities are called Parties);

**Container** means a container produced by Supplier, keeping adequate national and European norms as regards type and class of a container, which are called in the offer or informative materials of the Supplier.

**Device** means a product or commodity offered by Supplier, which are sold by him and delivered to Customer and also services connected with this product/commodity such as their assembly and installation;

**Contract** means a written sale contract of a Container or Device, reached between Supplier and Customer.

### 3. REACHING THE CONTRACT

- 3.1. The contract is reached if after receiving Customer's order Supplier sends a written notification of its acceptance or whether Supplier and Receiver have signed a separate document of the contract.
- 3.2. Proposals, notices, price lists, brochures, catalogues etc. that are from Supplier have only an informative character and they do not make up the offer, which binds Supplier.

### 4. PRICES

- 4.1. If Parties have not negotiated differently, each price that is included in the proposal, notice, price list, catalogue that is from Supplier, is a net price on the base of ex Works (loco Suppliers storehouse).
- 4.2. Agreed price includes max. two modifications to the project of a Container and/or a Device. Price for each subsequent change on request of Customer amounts to 800 (say: eight hundred) PLN net.
- 4.3. Price does not include costs of loading, insurance, charges and duties, taxes (such as VAT-value added tax), transport, appropriate packaging, unloading, and carrying out a control and tests as well as other similar costs.

### 5. PAYMENTS

- 5.1. Payment should be realized by Customer in two instalments: advance of 30% price within 7 days since acceptance of the offer as well as 70% of the price 5 days before delivery deadline, on the basis of Supplier's pro-forma invoices.
- 5.2. Payment deadline should be kept, even if delivery of a Container or Device is delayed or withheld for reasons attributable to a Customer.
- 5.3. As a day of payment there is assumed the day of financial resource receipt on Supplier's account.
- 5.4. In case of payment delay Customer will be obliged, without Supplier's call, to pay interests on the amount of outstanding payment. The rate of interests is as equal as the rate of statutory interests, binding in a given period. If Customer defers the payment for more than 30 days, Supplier is entitled to withdraw from the Contract by submitting a written statement as well as to seek damages from Customer for incurred losses in connection with a withdrawal.
- 5.5. If after reaching a Contract a Supplier takes an item of information about unfavourable financial situation of Customer, Supplier might demand an immediate whole payment of the price from a Customer or collateral for a payment with a bank guarantee furnished by the Bank famous in Supplier's opinion.
- 5.6. In case of Customer's delay with payment of any part of the price, Supplier might withhold fulfilling own obligations until the moment when an appropriate payment is realized.
- 5.7. In case when Supplier renounces a contract for reasons attributable to a Customer, a paid advance devolves entirely for the benefit of Supplier.

## **6. DELIVERY CONDITIONS**

- 6.1. If parties did not agree differently, a delivery will be realized on the base of ex Works (Incoterms 2000).
- 6.2. In case of realizing delivery on the base of ex Works, Supplier will notify Customer in writing of the date, on which Customer has to receive a Container or Device. Partial deliveries are permitted.
- 6.3. Supplier guarantees keeping delivery deadline according to his possibilities. He is not bound with this deadline in case of occurring unforeseen circumstances, beyond his control, regardless of the fact whether they are connected with his or his subcontractors' activity, including, but not limiting, to events resulted from actions of force majeure.
- 6.4. If Customer incurs proved financial losses for a delivery delay contribution for reasons caused by the Supplier's fault, Customer is exclusively entitled to demand the payment of contractual indemnity by Supplier at the amount of 0.5% of Device value for every complete week of delay, no more than 5% of this value. Before demanding the payment of this contractual indemnity a customer is obliged to deliver a call for fulfilling an obligation to a Supplier. If a delivery of only part of the order remains delayed, a contractual indemnity will be calculated on the basis of this part's value.
- 6.5. In case of delivery delay on customer's demand or as regards not keeping the receipt deadline by Customer, Supplier will organize storing a Container or Device on Customer's cost and risk. A net pay for every day of storage is determined in the price list of CGH. If the storage period is longer than 30 days, Customer will be charged with costs for a re-mail-order quality control contribution. A net payment for a re-mail-order quality control contribution is determined in the price list of CGH.
- 6.6. Keeping the delivery deadline depends on fulfilling own contractual obligations by Customer, such as for example delivering appropriate documentation to Supplier with a deadline if Customer is obliged to this.
- 6.7. If for any reasons, which a Supplier is not responsible for, Customer does not receive a delivery, and Supplier will call Customer in writing for the receipt, determining the final deadline.

## **7. ASSEMBLY IN CUSTOMER'S AREA**

In case when parties established that the assembly of Container or Device is done by Supplier, and at the same time the assembly has been extended over the assumed time for reasons attributable to a Customer or his contracting parties, other than Supplier, and if as a result the work of people employed by Supplier undergoes stoppage or increase, a Customer will be charged with costs, resulting from the time of stoppage, additional work time, providing for Supplier's employees, etc.

## **8. RETAINING THE RIGHT TO PROPERTY**

Supplier retains full rights (including the right to property) to a Container or Device, or all its delivered parts until receiving a complete payment in accordance with the Contract resolutions and the present General Conditions.

## **9. WARRANTY/LIABILITY FOR DEFECTS**

- 9.1. Supplier gives warranty for Containers and Devices produced by Supplier according to guarantee certificates enclosed to their documentation.
- 9.2. The producer gives warranty for Devices being trading goods according to the guarantee certificate of a given Device.
- 9.3. The guarantees and warranties exclude the elements of a short, natural process of wear such as seals. It is recommended that you replace the seals at each removal of the flange such as manhole or connection pipe.
- 9.4. During the delivery of Container or Device a Customer is obliged to check a completeness of delivery as well as required documents. If as a result of such a test a Customer recognizes that there is lack of any part or documents, he should notify Supplier of this fact in writing. If a Customer will not do it during the receipt of Container or Device, he will lose all claims with respect to Supplier, resulting from incompleteness of delivery.
- 9.5. Any claims concerning the quality of delivered Device should be notified in writing by Customer in the deadline of 7 days since a defect disclosure. If a Customer will not notify Supplier of a defect in this time, all claims concerning this defect are excluded. After receiving a notification of quality defect, if such a notification is reasonable, a Supplier shall immediately eliminate arisen defect. If a defect is of such a type that it might cause damage, a Customer should immediately notify a Supplier of this fact in writing on penalty of bearing costs of this damage.
- 9.6. If from a defect characteristic results that it should be eliminated in Supplier's area, a Customer should return Supplier the part, in which a defect was disclosed in order to repair it or replace it with the other part.

In such case delivering a repaired or new part to a Customer in return for a defective part shall be fulfilling guarantee obligations of Supplier.

- 9.7. Defective parts that were replaced are the property of the Supplier.
- 9.8. Supplier does not bear responsibility for costs or defects resulting from a material or project delivered by Customer.
- 9.9. If defects were not eliminated effectively:
- 9.10. Parties might reduce the price together in proportion to decreased Device value, with the reservation that the price reduction cannot exceed 10% of the original purchase price in any case; or
- 9.11. If a defect is so Essentials that a Customer is devoid of the possibility of any benefits from the Contract in a significant way, Customer might withdraw from a contract, submitting a Supplier the statement in writing.
- 9.12. Supplier is not responsible for any losses in production, profit losses, impossibility of using a Device, losses resulting from losing contracting parties as well as other indirect damages. Supplier's responsibility does not include damages resulting from a normal utilization of Device.
- 9.13. The total Supplier's responsibility for any contribution is limited to the price of Device or its part that claims are concerned. Supplier's responsibility for Device damages is exclusively subject to the above rules.

#### **10. DOCUMENTATION**

All figures and technical documents delivered by Supplier to Customer remain the exclusive property of Supplier. They cannot be used, duplicated, reproduced, sent and disclosed to the third party without earlier Supplier's consent. These documents make up Customer's property only if parties established it clearly in the Contract.

#### **11. CONFIDENTIALITY**

- 11.1. Information, technical data passed on in writing or verbally by Supplier in connection with an object of a contract and also features and data concerning delivered Container or Device, are confidential.
- 11.2. Each party is obliged to keep received information in complete confidentiality and cannot use them in other aim than for meeting their contracted commitments without earlier written consent of the other party. Each party shall notify their subordinates, agents as well as people, whom parties use at implementing a contract about an obligation of keeping this information totally confidential.

#### **12. FORCE MAJEURE**

- 12.1. Neither of Parties is responsible for not implementing a Contract entirely or partially in case of arising events caused by a force majeure, because of what is meant as events remaining beyond control of the parties, in particular such as acts of God, actions or neglects of any official authority, fires, storms, floods, earthquakes, effects threatening public safety, war, riots, uprisings, revolts, sabotage, invasion, quarantine, strike, lockout, imposing an embargo, serious breakdown of power supply or devices, or other events of this type.
- 12.2. In case of arising an event caused by a force majeure, the Party afflicted with that should immediately notify the other Party of this event details in writing. If this event lasts shorter than 6 months, a Contract shall be extended for the period of its duration. However, if this event lasts longer than 6 months, the Party, which received a notification of arising an event caused by a force majeure, is entitled to withdraw from a Contract or extend the Contract's duration, what shall be decided after mutual negotiations.
- 12.3. If a Contract is terminated because of an event arisen on Customer's side caused by a force majeure, Customer shall bear costs borne by Supplier in connection with implementing a Contract until the moment when Supplier has not been notified of the event caused by a force majeure.

#### **13. CHARACTER IN LAW AND JURISDICTION**

- 13.1. Interpretation, using and implementation of present General Conditions as well as a Contract are subject to Polish law.
- 13.2. All litigations resulted directly or indirectly from present General Conditions as well as a Contract are subject to deciding of a competent court for Supplier's seat.

#### **14. FINAL PROVISIONS**

- 14.1. Customer cannot transfer his rights resulting from a Contract on the other entity without a clear written Supplier's consent.
- 14.2. Withdrawal of placed orders is excluded.
- 14.3. In case when any provision or condition of a Contract or present General Conditions turn out to be invalid, a Contract is still binding with reference to the other provisions and conditions.