

GENERAL TERMS OF SALE

- Sec. 1 This transaction shall be governed exclusively by the following General Terms of Sale. Any modification of, and/or amendment to the present General Terms of Sale or of the specific terms of the Contract shall be admissible and valid only if confirmed in writing by both parties to the Contract. Upon concluding the respective Contract, all preceding negotiations and/or correspondence shall become null and void, so far relating to the said Contract. The silence of the purchaser in respect of the present Confirmation of Order during a period of time, in the course of which the Seller can reasonably expect to receive an answer, shall be construed as the consent to, and the acceptance of the former of the present General Terms of Sale.
- Sec. 2 The offer of the Seller to conclude a contract shall be considered as not binding upon the latter, unless a contrary intention of same appears on face of this offer. Acceptance of the order by a Seller's agent or by a broker, in his name shall not be binding on the Seller. Purchaser's order shall bind the Seller only if accepted by the latter and confirmed in writing in a confirmation of order. A written confirmation of a cable or telex by letter sent immediately upon dispatch of the said cable or telex shall be relevant for the construction of the terms thereof.
- Sec. 3 The present Contract is being concluded provided that no governmental measures, preventing the exportation of the contractual goods is taken.
- Sec. 4 An agreement as to the price shall be considered as an essential part of the present Contract and condition precedent to its conclusion. Unless otherwise stated in the Contract, the prices of the Seller shall be understood free Ex Works, or free Ex Stock in the Slovak Republic, without packing, transport charges, Insurance, customs duties and other dues and duties collected either on the Seller or elsewhere. PROVIDED THAT, if the price of the goods is agreed upon between the parties in view of certain railway, ship, Insurance, and/or other rates and customs duties prevailing at the time of the conclusion of the present Contract, the Seller shall be at liberty to adjust his prices accordingly in the event or any modification of same.
- Sec. 5 If a payment by means of a letter of credit is provided for in the Contract, the terms of the respective letter of credit must not differ from those fixed in the Contract. The Seller shall not be bound to dispatch the goods if the Purchaser fails to open the letter of credit within the period of time, provided for in the Contract, or if the terms of the letter of credit differ from those fixed in the Contract.
- Sec. 6 The Purchaser shall procure in time the official licenses and/or permits necessary for carrying out the importation of the goods as for payment of the purchase price plus interest, irrespective of whether the duty of procuring same has been enacted prior to the conclusion of the Contract or thereafter. Upon failure of the Purchaser to perform this duty, the Seller shall have the right, after expiration of an additional period of grace, in his discretion either to insist upon the performance or the Contract, or to repudiate same, and to claim damages.
- Sec. 7 Instructions relating to the specification of consignment, forwarding agents, mode of dispatch, type of packing, marking, certificates of origin, shipping documents, attestation, etc shall be contained in the Contract. Otherwise, they shall become binding on the Seller only if confirmed in writing by the latter. If no agreement in respect of the respective instructions is reached in time, the Seller shall be free to dispatch the consignment in such way which is customary in his own country. In this instance, the Seller shall not be responsible to the Purchaser for losses caused in this manner.
- Sec. 8 The Seller shall have the right to deliver goods under the present Contract to the Purchaser by instalments.
- Sec. 9 Unless otherwise agreed herein, the Seller shall deliver goods of such quality which is customary in his own country. All parameters of the goods delivered shall be understood with tolerances customary in the country of the Seller.
- Sec. 10 The Seller shall be at liberty to deliver smaller or larger quantities of goods than agreed upon, provided the delivered quantity is within the tolerances, customary in the Seller's country.
- Sec. 11 Unless otherwise agreed upon in the Contract, the term of delivery shall be of informative nature only and, consequently, its strict observance by the Seller is not necessary. Failure to perform within such term of delivery shall not give rise to any claim in damages. If the Seller does not deliver goods in time, the Purchaser shall grant him an additional period of grace of at least thirty (30) days, running as from the day of receipt of the respective notice by the Seller.
- Sec. 12 Upon occurrence of circumstances having the character of force majeure and preventing the Seller from performing his duties under the Contract, the Seller shall have the right to extend reasonably the term delivery, or to repudiate the Contract, in neither of those instances shall he be liable in damages.
- Sec. 13 The term „force majeure“ used throughout this Contract shall denote circumstances of extraordinary nature, which prevent the Seller, either temporarily or permanently, from performing his duties under the present Contract, provided such circumstances arise after the conclusion hereof and cannot be averted by the Seller.
- Sec. 14 Irrespective of invitations by the Seller, the Purchaser fails to take delivery of the goods, the former may either insist upon the performance of the contract, claiming damages resulting from the delayed acceptance of the goods, or to repudiate same, to sell the goods elsewhere and to claim damages from the Purchaser for losses thus incurred. If the Purchaser receives a notice of readiness of delivery or of the dispatch of the goods, and thereafter the goods are not dispatched or delivered, the Seller shall have the right to put same, at the risk of the Purchaser, either in his own warehouse, or in a public warehouse, or to store same with a third party and, upon failure of the Purchaser to accept the goods irrespective of the notice inviting the latter to do so, to sell the goods on account of the Purchaser. The rights of the Seller to claim damages, if any, shall not be affected thereby.
- Sec. 15 The purchase price shall be considered as fully paid only if the respective remittance reaches the place of the registered office of the Seller, or other place designated in the Contract. The Purchaser shall not have the right to withhold the purchase price or any portion thereof for any counterclaims, nor shall he be entitled to set off such counterclaims, including his lodged claims relating to the quality and/or the quantity of the goods.
- Sec. 16 If the Purchaser fails to pay the purchase price or any portion thereof in accordance with the terms fixed, the Seller may, in his discretion, either insist upon the performance of the Contract or repudiate same and other contracts, pending between himself and the Purchaser without being bound to grant the Purchaser and additional period of grace. In either case, the Seller shall have the right to claim damages. But If the Seller prefers not to repudiate the Contract, he shall not be bound to start the performance of his own duties there under, until the Purchaser performs his respective duties and obligations PROVIDED THAT, the right at the Seller to claim damages shall not be affected thereby. The same shall apply in the event of the purchaser's insolvency or in the case of a substantial deterioration of prescriptions, regulating the regime of transfer of payments.
- Sec. 17 If the economic standing and situation of the Purchaser deteriorates after the conclusion of the Contract, the Seller shall be free to ask for a modification of the payment terms and, if no agreement in this respect is reached within ten (10) days, to repudiate the Contract without the Purchaser having any right and/or claim whatsoever on that account. The consideration of the economic situation of the Purchaser rests on the Seller.
- Sec. 18 If the Contract provides for a payment of the purchase price by instalments, the failure to pay one single installment in time shall cause the entire unpaid balance to become overdue at once.
- Sec. 19 The rate of interests, charged upon failure of the Purchaser to pay in time the purchase price, shall be one (1) per cent per month or a portion of a month commenced of the delay. It, however, a higher rate of moratory interests prevails in the country of the Purchaser, that higher rate shall be binding upon the parties. The duty of the Purchaser to pay moratory interests shall not affect the right of the Seller to claim damages resulting from the delayed performance, but only to the extent to which the loss actually incurred exceeds the amount of the moratory interest.
- Sec. 20 Title in the goods sold and right to dispose of same until full settlement of the purchase price and all collateral obligations shall remain in the Seller. Upon request, the Purchaser shall disclose to the Seller who is in possession of the goods already delivered but not yet fully paid up. If the Purchaser does not fulfill his financial obligations towards the Seller, the Seller has the right of counter-value of the finished products made of Seller's goods.
- Sec. 21 Place of performance (fulfillment) shall be the place of dispatch of the goods. Irrespective of the clauses of the Contract fixing who of the parties is to bear the freight and insurance and Irrespective of where the agreed place of destination lies and where the risks in (the goods will pass.
- Sec. 22 It is understood that all data concerning the weight and sizes of packages of the goods delivered are approximate and not binding on the Seller.
- Sec. 23 All risks in the goods shall pass on to the Purchaser upon handing over of the goods to the carrier. Irrespective of the clauses of the Contract fixing who of the parties is to bear the freight and the insurance. In the event of a sale Ex Works or Ex Stock the risks shall pass on to the Purchaser upon the Seller dispatching a notice to the Purchaser to the effect that the goods are ready in the manufacturing work, or in the warehouse, for dispatch. Apart from deliveries CIF, the Seller shall secure an insurance of the goods only if expressly agreed upon in the Contract. Unless expressly agreed that the Seller will take out a policy insuring the goods against breakage, he shall in all cases, including CIF deliveries, insure the goods only against normal risks.
- Sec. 24 The Purchaser shall take all steps necessary to secure the claims of the Seller, if any, against the carrier under the contract of carriage of the goods.
- Sec. 25 Notice of defects in the goods shall be sent to the Seller immediately upon their discovery, but not later than within fifteen (15) days after arrival of the goods at destination, falling which the rights of the Purchaser shall be extinguished. The notice of defects shall be sent in a registered letter and the assertion contained therein shall be supported by evidence, such as corroborating sample or an official certificate of quality. The Seller shall have the right to inspect or have inspected the goods by person authorized to that effect, if the complaint proves to be justified, the Seller shall be free in his discretion either to remove the defects ascertained within a reasonable period or to replace the defective delivery by a new one, under the same conditions as the original delivery, or to grant a reasonable allowance to the Purchaser. But If the Seller fails to remove the defects within a reasonable period, or to replace the defective delivery by a new one within the same period, the Purchaser shall have the right to repudiate the Contract, but only to the extent of the defective delivery, and provided the delivery constitutes an essential breach of the Seller's obligations. If the Purchaser asks for an allowance, he shall have no more the right to repudiate thereafter the Contract. At other claims of the Purchaser, more particularly the right to claim damages, or profits lost, etc. on account of the defective delivery shall not be admissible. It is understood that the Purchaser will be able to successfully assert his claims based on defective delivery of goods only if he himself has already performed all his obligations towards the Seller.
- Sec. 26 Forms, moulds and other similar devices, serving for the manufacture of the goods purchased, shall remain in the ownership of the Seller, even if made upon request and on the account of the Purchaser. Catalogues, designs, drawings, samples, etc. shall remain exclusively in the ownership of the Seller and without his consent must not be put at the disposal of third parties.
- Sec. 27 If claims are asserted under license agreements of patents granted or registered designs in respect of goods manufactured in accordance with special wishes of the Purchaser, the latter settle same in his own name and on his own account.
- Sec. 28 The Purchaser shall not have the right to re-export the goods either back or to third countries without a previous consent on the part of the Seller. But if the goods are so re-exported in spite of the present clause, the Purchaser shall be liable to the Seller for losses, if any, resulting there from.
- Sec. 29 The International Rules for interpretation of Commercial Terms, enacted by the International Chamber of Commerce in Paris in 2000 (INCOTERMS 2000) shall govern the construction of commercial terms used throughout this Contract unless such construction is contrary to specific clauses of this Contract and/or at these General Terms of Sale.
- Sec. 30 All disputes which might arise under the present Contract or in connection with legal relations resulting there from shall be settled in mutual agreement if no such settlement is reached between the parties, the said disputes shall be referred to arbitration, more particularly to the Arbitration Court of the Chamber of Commerce of Slovakia and there finally decided by one or three arbitrators, acting under, and appointed in accordance with, the Rules of the said Arbitration Court of the Chamber of Commerce of Slovakia in Bratislava. Both parties undertake to abide by, and to execute without delay the terms of, the award rendered. A judicial confirmation of the award or an order of its enforcement may be sought in any Court of competent jurisdiction. The plaintiff shall have also the right according his choice to lodge the suit against the Defendant in the Court of Law having the General Jurisdiction according to the domicile of the Defendant.
- Sec. 31 The present Contract and the legal relations connected therewith including Issues relating to its validity or nullity shall be governed exclusively by Slovak Law.