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General Terms and Conditions of Sale Agreements

Version: 05

Effective from: October 16, 2023.

1. Scope of application

1.1. These General Terms and Conditions of Sale Agreements constitute an integral part of any sale of goods agreement ("Agreement") concluded within the framework of HSH Chemie sp. z o.o. business activity ("HSH") with buyers of goods ("Customer").

1.2. The Customer's other internal regulations (general terms and conditions, terms and conditions of purchase, etc.) applied by the Customer shall not be recognized, except to the extent that they have been expressly accepted in writing by HSH. The Customer's other internal regulations shall not be recognized even in the cases when HSH, being aware of them, has unconditionally delivered the goods without expressly excluding the application of the Customer's terms and conditions of purchase.

1.3. The General Terms and Conditions of Sale Agreements may be delivered to the Customer to the electronic mail address indicated by the Customer in the form of an attachment constituting a separate PDF file or may be delivered by making available an appropriate electronic link enabling independent downloading and saving of the General Terms and Conditions of Sale Agreements in the form of a PDF file. The General Terms and Conditions of Sale Agreements are binding also in the event when the Customer could easily get acquainted with their content.

1.4. The Customer undertakes to purchase goods exclusively for professional purposes.

1.5. The basis for the conclusion of an Agreement is an order for the purchase of goods placed by the Customer in writing or electronically. The Agreement shall be concluded upon HSH's confirmation in writing or electronically of acceptance of the order placed for execution (order confirmation).

1.6. Any agreements, assurances, warranties and amendments to the Agreement made orally by employees or authorised representatives of HSH, must be confirmed in writing or electronically by the Head of HSH's Commercial Department [*Kierownik Działu Handlowego HSH*] in order for them to be legally binding.

2 Price and payment terms

2.1. The prices shown do not include VAT. VAT shall be added in accordance with applicable law.

2.2. The price includes the costs of purchase, distribution, carriage and insurance, as well as customs duties and any other costs. HSH reserves the right to change the price of the goods accordingly, even after the conclusion of the Agreement with the Customer, if for reasons beyond HSH's control there is an increase or decrease in the purchase cost of the goods or a change in tax or customs rates or other similar charges, as well as a change in transport or insurance costs.

2.3. The Customer shall pay for the goods within seven (7) days of receipt of the invoice, unless the Customer has an alternative payment date agreed with HSH. Payments should be made directly to HSH without any deductions.

2.4. If the Customer is in arrears, HSH shall be entitled to charge statutory interest for late payment in commercial transactions.

2.5. In the event of a delay of even one payment, when the delay lasts longer than one month, all other undue or deferred payments shall become due on the date of receipt by the Customer of a call for payment.

2.6. The Customer's right of set-off or retention is excluded until a final and binding judgment has been obtained resolving the dispute between HSH and the Customer. The right of set-off or retention is also excluded with respect to claims other than those arising from the Agreement.

2.7. If, during the term of the Agreement, the Customer's financial position weakens and becomes unsatisfactory to HSH, in particular, if the Customer is in arrears with payments for goods already delivered, HSH may, without prejudice to its other rights, at its own discretion cancel the previously agreed payment terms and demand prepayment or collateral.

3 Delivery

3.1. The place of delivery of the goods shall be specified by the Parties in the Agreement. In the scope not regulated in these General Terms and Conditions of Sale Agreements or in the Agreement itself, INCOTERMS terms and conditions, valid at the moment of the Agreement conclusion, shall apply.

3.2. HSH shall be entitled to make partial deliveries, provided that such deliveries do not harm a material interest of the Customer which was known to HSH and do not result in significant additional costs for the Customer. HSH shall inform the Customer in good time of such partial deliveries.

3.3. Except where a non-extendible deadline is expressly stated in the Agreement, all delivery and shipment dates are approximate dates.

3.4. HSH shall not be liable for delayed delivery to the Customer if it has properly and timely ordered the carriage of the goods to a carrier. HSH assigns to Customer the right to seek compensation for delay in delivery from the carrier, and the Customer agrees to acquire the foregoing rights.

3.5. In the event of force majeure, HSH shall not be liable for non-performance or improper performance of the Agreement. Force majeure shall mean an external event, the effects of which HSH could not prevent, such as strikes, riots, natural disasters, fire, production failures, non-delivery or delay in delivery of goods by HSH's supplier, acts of public authority and other events beyond HSH's control.

3.6. Delivery periods shall be extended by the duration of the obstacle caused by force majeure. HSH undertakes to inform the Customer in writing without delay of the occurrence of such an event, at the same time HSH undertakes to inform the Customer of the probable duration of such a situation. If the situation persists for more than three months, either party shall be entitled to withdraw from the Agreement without any obligation to compensate for damages. Payments, if any, will be refunded immediately.

3.7. HSH shall not be liable for non-delivery or delayed delivery of the goods if such non-delivery or delayed delivery of the goods is caused by compliance with the requirements under the REACH Regulation (EC).

3.8. If the goods are sent to the place of destination via a carrier, the Customer shall inspect the consignment at the time and in the manner usual for consignments of this type; if he finds that during transport there was a loss or damage to the goods, he shall take all necessary steps to determine the liability of the carrier. The Customer shall immediately notify HSH of the situation.

4 Termination of the Agreement

4.1. Either party shall have the right to terminate the Agreement with immediate effect by giving a notice in writing, without affecting any acquired rights, in the event that the other party commits a gross breach of a material provision of the Agreement. In circumstances where such breach can be remedied and the breaching party fails to remedy the breach within fourteen (14) business days of receipt of a written notice setting out the details of the breach and ordering it to be remedied, the non-defaulting party shall be entitled to terminate the Agreement by notice in writing with immediate effect. For the purposes of this Clause 4.1, failure to pay by the date specified will constitute a gross breach of a material term of the Agreement.

4.2. HSH shall have the right to terminate the Agreement with immediate effect by giving a written notice, without affecting any acquired rights, in the event of a threatened or actual insolvency of the Customer.

5 Liability for defects

5.1. The Customer shall inspect the goods immediately upon delivery. If any visible physical defects in the goods are noticed, the Customer shall immediately report the defect to HSH in writing.

5.2. Immediately before the use of goods for further processing or production the Customer is obliged to carry out a quality inspection of the goods. The Customer shall report quality defects of the goods to HSH in writing within two days after their discovery. The Customer may not make claims for defects of delivered goods, if the delivery of goods of lower quality was agreed in the Agreement and the defects are within the agreed scope.

5.3. Even the correct identified use of the delivered goods in accordance with the REACH Regulation (EC) does not constitute a guarantee for the properties of the goods or their use by the Customer. The Customer is solely responsible for ascertaining before purchase that the goods are suitable and fit for their intended purpose. HSH shall also not be liable, if the Customer uses the goods contrary to the above-described identified use in accordance with the REACH Regulation (EC).

5.4. If the Customer does not submit a notification of defects (a complaint) in accordance with Clauses 5.1. and 5.2., the goods shall be deemed to have been accepted and to be in accordance with the Agreement.

5.5. In the event that HSH receives notice of a defect in the manner provided for in Clauses 5.1. and 5.2. of these General Terms and Conditions of Sale Agreements (a complaint), if HSH considers the complaint to be justified, HSH has the right to immediately replace the Customer with a defect-free item or has the right to immediately remedy the defects at its own expense.

5.6. If HSH does not exercise its right to remedy a defect or replace the goods, the Customer may demand a price reduction on account of the defect of the goods received. The price reduction shall be in the proportion in which the value of the defect-free item remains to its value calculated taking into account the existing defects. The Customer's right to withdraw from the Agreement is excluded.

5.7. The warranty for defects of the goods covers the period of usefulness of the goods, however, no longer than 1 year from the date of delivery of goods to the Customer.

6 Limitation of liability

6.1. HSH shall be liable for damages caused by the non-performance or improper performance of the Agreement only if the damage is the result of intentional conduct of HSH or gross negligence in the performance of HSH's contractual obligations. The amount of damages shall be limited to the amount of the price of goods paid by the Customer.

6.2. HSH shall not be liable for advices relating to the goods being sold, unless the advisory service is covered by the Agreement. Paragraph 1 above shall apply.

7 Retention of title; passing of risk

7.1. HSH, acting pursuant to Article 589 of the Civil Code, reserves that the title to the sold goods shall only pass to the Customer on the payment of the full price to HSH.

7.2. The risk of loss of or damage to the goods shall pass from HSH to the Customer as soon as the product is placed at the Customer's disposal at the place of delivery agreed in advance with the Customer. If the goods are to be delivered by HSH to a place that is not the place of performance, the risk of loss of or damage to the goods shall pass to the Customer as soon as the goods are entrusted to the carrier for carriage.

7.3. In the event of a breach of Agreement by the Customer, in particular in the event of a delay in payment, HSH shall be entitled to take the delivered goods back. The demand for the return of the delivered goods in all cases shall constitute a termination of the Agreement by fault of the Customer. After the taking back of the delivered goods, HSH shall be free to dispose of them. The Customer shall indemnify HSH for any damage that HSH has suffered as a result of the sale of the goods to the third party.

7.4. The Customer shall be entitled to resell the goods in the ordinary course of business; however, the Customer hereby assigns to HSH all amounts due from the resale of the goods to its customers or other persons in the amount of HSH's invoice (including VAT), regardless of whether the goods were resold without or after processing. Even after the assignment, the Customer is entitled to collect the amount due for the resold goods. This does not limit HSH's right to collect from debtors. However, HSH undertakes not to collect any receivables as long as the Customer fulfils his payment obligations towards HSH and is not in arrears. In the event that the Customer is in arrears, the Customer is obliged to provide HSH at its request with all information about the assigned receivables and their debtors, to provide all details required in connection with the debt collection, to hand over the related documents and to inform the debtors of the assignment.

7.5. The processing of goods by the Customer shall always be carried out on behalf of HSH. If the purchased goods are processed or combined with other materials or objects that do not belong to HSH, HSH shall acquire joint ownership of the new item in the proportion of the value of the goods belonging to HSH to the other materials or objects. Items resulting from the processing of goods belonging to HSH shall be subject to the same terms and conditions as conditionally delivered goods.

7.6. If materials or items that do not belong to HSH are combined with goods in such a way that the Customer's materials or items represent a value significantly greater than HSH's goods, the Customer shall acquire ownership of the entire item. The Customer is obliged to supervise the newly created item.

7.7. The Customer is obliged to insure the goods issued to him under retention of title against normal risks. At HSH's request, the Customer must produce a signed insurance policy. The Customer cedes to HSH all claims under the insurance.

8 Sanctions

8.1. The Customer represents and warrants that he respects and complies with the applicable laws introduced in response to Russia's invasion of Ukraine by the Republic of Poland, the United Nations, the European Union, states of the European Economic Area, the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway and Australia, New Zealand, Canada, Japan and Switzerland or other countries and international organizations.

8.2. The Customer represents and warrants that he is not under the actual, organizational or legal control and under any other influence by any natural person, legal entity or trust that may directly or indirectly has impact on the Customer or its personnel and that has been subjected to any sanctions imposed by the Republic of Poland or the countries and organizations listed in Clause 8.1.

8.3. The Customer undertakes to repair any damage incurred by HSH in connection with the violation by the Customer or its personnel of sanction regulations or restrictions imposed by the Republic of Poland or by the countries and organizations listed in Clause 8.1. in response to Russia's invasion of Ukraine, and in this connection the Customer will be obliged in particular to pay HSH the equivalent of the amount of the administrative financial penalties imposed on HSH, the indemnities and compensations incurred and the costs of legal assistance incurred in connection therewith, regardless of the place and currency in which they were incurred.

9 Final provisions

9.1. The Agreement and these General Terms and Conditions of Sale Agreements shall be governed by Polish law. Any disputes that may arise in connection with the Agreement and these General Terms and Conditions of Sale Agreements shall be subject to the exclusive jurisdiction of the Polish courts and the court of competent jurisdiction shall be the court having jurisdiction over the registered office of HSH.

9.2. The provisions of the Vienna Convention on Contracts for the International Sale of Goods of 1980 are excluded.

9.3. Should individual provisions of these General Terms and Conditions of Sale Agreements prove contrary to applicable law or be declared invalid or ineffective by a decision of a competent court of law, this shall not affect the validity and effectiveness of the remaining provisions. In such a case the parties undertake to replace the invalid provision with the most similar valid provision whose economic purpose and meaning are as close as possible to the invalid provision.

9.4. HSH declares that it has the status of a large enterprise within the meaning of the Act of 8 March 2013 on the prevention of excessive delays in commercial transactions (Journal of Laws 2022.893 of 2022.04.25 as amended), in accordance with Annex I to the Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Article 107 and 108 of the Treaty (OJ L 187, of 26.6.2014, p.I, as amended).

