

## **GENERAL TERMS AND CONDITIONS OF SALES**

**VALID SINCE 01.01.2017**

### **GLOSSARY:**

**PROMONT** – full name **PWPO-T Promont Spółka z o.o.** with its seat in Świebodzice, ul. Przemysłowa 6, 58-160 Świebodzice, entered into the Polish National Court Register kept by The District Court for Wrocław Fabryczna in Wrocław, 9<sup>th</sup> Economic Department of the National Court Register under number KRS 0000025785, NIP 884-001-10-85, initial capital 396 800.00 PLN.

**Buyer** – a Purchaser of the Products

**Sales Agreement** – An Agreement about selling products made between PROMONT and the Buyer

**PRODUCTS** – Goods or services offered by PROMONT, including spare parts and accessories for devices.

### **1. The SUBJECT MATTER of The GENERAL TERMS AND CONDITIONS of SALES (hereinafter referred to as „GENERAL CONDITIONS”)**

**1.1.** General Conditions specify the rules of entering the Sales Agreements by PROMONT, and they constitute an integral part of all Sales Agreements made between PROMONT and a Buyer (jointly referred to as “The Parties”). General Conditions constitute a complex regulation of the principles of cooperation and conditions of liability between Promont and the Buyer. The Parties may settle the cooperation principles between them in a way different from what is provided in General Conditions. Any changes and amendments to General Conditions are obligatory only when both of the Parties make them in writing.

**1.2.** General Conditions are binding for the Buyer since the moment of placing an order. General Conditions are uploaded by PROMONT on their Internet website [www.promont-swiebodzice.pl](http://www.promont-swiebodzice.pl)

### **2. ORDERS**

**2.1.** In order to initiate the procedure of making a Sales Agreement, the Buyer will send to PROMONT an order for Products (see items 2.9 – 2.13).

**2.2.** When PROMONT receives an inquiry, they will send to the Buyer an offer, which will include at least:

- a) a specification of the Devices, verified for the availability of products in the production plans,
- b) net price expressed in PLN,
- c) payment terms,
- d) estimated date of delivery.

**2.3.** The offer presented by PROMONT will be binding for PROMONT for a time specified in the Offer.

**2.4.** During the period of the Offer validity, the Buyer may, at any time, accept the offer by placing an order for the Products included in the Offer. The order should be placed by a person authorised to do it. The Buyer declares that the persons sending the orders on his behalf have authorisation to make the agreement with PROMONT.

**2.5.** The Buyer's order preceded by PROMONT's Offer should include:

- reference to the offer,
- specification of the ordered Products, in accordance with the designations included in the offer,
- the required date of delivery, not shorter than the period indicated in the offer,
- the destination place of the Products delivery,
- name of the person authorised for the Products reception.

**2.6.** Orders containing changes / modifications to the original offer or supplementing its contents, will not be treated as an acceptance of the offer, only as new inquiry about the possibility of purchasing the Products, which requires making a new offer. In such a case, the so-far offer is no longer valid.

**2.7.** After receiving the order mentioned in item 2.5, PROMONT will promptly send to the Buyer a confirmation of the order acceptance, indicating in it the value of the devices, payment terms, and method of delivery.

**2.8.** At the moment of receiving by the Buyer the confirmation of order acceptance, a Sales Agreement is made, which consists of: PROMONT's offer, Buyer's order and General Terms and Conditions of Sales.

**2.9.** The Buyer may skip the stage of inquiry about the conditions of purchasing the Products and directly place an order for Products to PROMONT, which, in such case, will constitute the Buyer's proposal to buy the Products on conditions specified in the order.

**2.10.** A Buyer's order which has not been preceded by PROMONT's offer must include the following elements:

- (a) specification of the ordered Products,
- (b) the required time of delivery, not shorter than the one indicated in item 3.1 or 3.2 of the General Terms and Conditions,
- (c) any other possible conditions agreed in advance with PROMONT.

**2.11.** Unless otherwise agreed with PROMONT, in case of an order placed using procedure described in item 2.9, the Products price will be established on the basis of an updated evaluation and possible discounts granted to the given Buyer, and the payment terms will be established on the basis of item 5.4 of The General Terms and Conditions.

**2.12.** PROMONT accepts a Buyer's order placed using procedure described in item 2.9, by sending the Buyer a confirmation of the order acceptance. At the moment of receiving the confirmation of the order acceptance by the Buyer, a Sales Agreement is made, which consists of: PROMONT's offer, Buyer's order and General Terms and Conditions of Sales.

**2.13.** PROMONT may refuse to accept a Buyer's order without providing the grounds of such decision, informing the Buyer within 5 working days from receiving the order. The Parties exclude the possibility of making an agreement by not responding to the Buyer's proposal.

**2.14.** Notwithstanding the procedure of making the Sales Agreement, PROMONT has the right to make corrections of obvious writing (typographical) errors in Buyer's orders. PROMONT informs the Buyer about the correction in the order acceptance confirmation. In case when the Buyer does not agree to the correction, the Sales Agreement is not finalised. A lack of response from the Buyer within 7 working days is equal to the Buyer's consent for the order to be executed in the form corrected by PROMONT.

**2.15.** Buyer's abandonment of the entire order or a part of it, as well as introduction of any changes and amendments to the order after making the Sales Agreement is impossible unless such possibility was reserved in writing in the PROMONT 's offer or in the confirmation of the order acceptance.

**2.16.** The Buyer is responsible towards PROMONT for all damages arising as a result of unjustified abandonment of all order or its part after making the Sales Agreement.

### **3. DELIVERY TERMS**

**3.1.** If the Products ordered by the Buyer are on stock in the PROMONT's warehouses, the delivery term is 3 working days from receiving the prepayment by PROMONT, in accordance with payment terms specified in the offer and item 5 of The General Terms and Conditions.

**3.2.** In case of orders related to Products requiring individual preparation against Buyer's order, the delivery time will be established individually, and it will be calculated from the day of receiving the confirmation of the order acceptance by the Buyer. If the order execution requires a prepayment made by the Buyer, the delivery time will be calculated from the date of receiving the prepayment by PROMONT.

**3.3.** PROMONT takes the obligation of timely execution of the deliveries of Products. In case of delay in delivery, PROMONT will be obliged to pay a contractual penal fee in the amount of 0.1% of the net value of the ordered Products for each day of delay, but no more than 5% of the net value of the ordered Products.

**3.4** In no case, though, PROMONT will bear responsibility for delays in Products deliveries caused by factors occurring out of PROMONT's control and, unless otherwise clearly agreed, PROMONT is not responsible for Buyer's contractual penal charges paid to his counterparties or for any other claims raised against the Buyer due to delay in Products delivery.

#### **4. PLACE OF DELIVERY, TRANSPORT COSTS**

**4.1.** The place of delivery of Products ordered by the Buyer is the premises of PROMONT, the date of delivering the Products is the day of giving out the Products from the PROMONT's warehouse.

**4.2.** The cost of Products delivery is covered by the Buyer, unless the Parties have agreed otherwise.

**4.3.** Unless otherwise agreed, the costs of unloading the Products in the place of delivery is covered by the Buyer.

**4.4.** The benefits and burdens related to the Products, including the risk of accidental loss or damage, are transferred onto the Buyer at the moment of the Products acceptance. If PROMONT executes the delivery of Products through a professional carrier, the risk of accidental Product loss or damage is transferred onto the Buyer at the moment of loading the Products on the means of transport used.

**4.5.** Before unloading, the Buyer is obliged to inspect the delivered Products in a way responding to the size and type of Products and their packaging; in case of finding any shortages or damages which could occur in transport, the Buyer has the duty to take all necessary actions to establish the scope of responsibility of the carrier, including informing PROMONT promptly, not later, though, than the next day after delivery, under the pain of losing the right to any claims against PROMONT in relation to this fact.

**4.6.** Unless it has been agreed otherwise, the date of sales of Products will be the date the Products are given out from PROMONT's warehouse or the date of forwarding the Products to the Buyer.

#### **5. DEVICES PRICE LIST, PAYMENT TERMS**

**5.1.** The offer presented by PROMONT includes net prices.

**5.2.** If it has not been specified otherwise in the offer, the Buyer is obliged to make a prepayment in the amount of 100% of the price of the ordered Products within 14 days from receiving the pro forma document unless the Parties have agreed otherwise.

**5.3.** In case of indicating in the Offer the necessity of making a prepayment of the partial or entire amount, the Buyer is obliged to make the prepayment in the amount specified in the offer within 14 days from the date of receiving the pro forma document. The start of completing the order and the time of delivery, in such case, are calculated from the day of the money coming into PROMONT's bank account. The remaining due amount of the price for Products will be paid by the Buyer by the date established by the Parties, or indicated on the invoice.

**5.4.** All payments are made by money transfer to the bank account of PROMONT indicated on the document which is the basis for payment.

**5.5.** The Buyer is obliged to make payments to PROMONT in timely manner. PROMONT has the right to charge statutory interest for each day of delay in payment.

**5.6.** PROMONT reserves the right to cancel the order if the payment specified in the pro forma document has not been made by the due date.

**5.7.** PROMONT has the right to withhold the execution of all or some of the Sales Agreements made with the given Buyer, and also to withhold the acceptance of new orders from the Buyer, in case of any delay in payment of due invoices or in case of exceeding a credit limit established with the given Buyer, i.e. a limit of PROMONT's undue receivables towards the Buyer, increased by the value of confirmed orders. In case of a Buyer's delay to pay any due amounts to PROMONT, the final dates of executing the orders accepted by PROMONT will be postponed by the time of delay in payment.

**5.8.** The Buyer authorises PROMONT to issue VAT invoices without the signature of a person authorised by the Buyer to receive them on his behalf, and to send them to the postal address indicated by the Buyer.

**5.9.** The day of receiving the payment is understood as the day the money comes into the bank account of PROMONT.

## **6. WARRANTY**

**6.1.** PROMONT grants warranty on the Products sold, on conditions specified in the offer.

**6.2.** The Buyer bears the entire responsibility towards the users of Products for claims reported by them and for proper and timely performance of all warranty procedures. The Buyer is responsible for repairs of the Products, on his own cost, with the use of parts provided by PROMONT.

**6.3.** The warranty granted by PROMONT does not cover the defects of Products which occurred after delivering the Products to the Buyer, for which the Buyer bears full responsibility.

**6.4.** Particularly, PROMONT does not bear responsibility for the Products conformance with the Buyer or his counterparts' expectations.

**6.5.** Responsibility arising from surety (statutory warranty) is excluded. PROMONT's liability for damages for any reason is limited to the net value of sold Products. Moreover, PROMONT is not liable for any profits lost by the Products Buyer or user.

**6.6.** In case when a warranty card is issued by PROMONT for Products, the provisions included in the warranty card supplement the provisions included in The General Terms and Conditions in respect to the warranty scope. In case of any discrepancy between the warranty card and The General Terms and Conditions, the warranty card prevails, except items 6.2 – 6.5, which are applicable independently from the warranty card.

**6.** PROMONT is released from the duty of performing warranty repairs in cases when the Buyer has not paid any of the due invoices from PROMONT.

## **7. OWNERSHIP RESERVATION**

**7.1.** PROMONT reserves the ownership of any and all Products until they are paid for by the Buyer. Until this time, the risk of loss, damage or reduction of Products value is born by the Buyer.

**7.2.** The Buyer, at the moment of making the Agreement transfers on PROMONT all Buyer's claims towards Buyer's clients resulting from a resale of the Products which are covered by the reservation of ownership.

**7.3.** If, before paying the price, the Buyer transfers the ownership to a third party, the amount obtained from the transaction will be assigned for satisfying PROMONT's claims first. If the amount from this transaction is not recoverable, the Buyer is responsible for any loss resulting from such situation.

## **8. CONFIDENTIAL INFORMATION**

**8.1.** PROMONT may disclose to the Buyer information classified as confidential. Unless PROMONT expresses his consent in writing, the Buyer will not use nor disclose information of this kind to third

parties. Particularly, but not limited to, the information about granted discounts is deemed as confidential information.

**8.2.** A Buyer who during executing the Agreement acts through or cooperates with third parties is obliged to inform these third parties about the obligation of keeping confidential information in secret, and to exact from them the non-disclosure obligation effectively in the same scope as it is applicable to the Buyer.

## **9. CHANGES TO THE GENERAL TERMS AND CONDITIONS**

**9.1.** General Conditions may be changed by PROMONT at any time. PROMONT will make all possible effort to inform the Buyers about all changes to the General Terms and Conditions, particularly by placing the information on their website. The changed General Terms and Conditions come into existence at the moment of expressing them on PROMONT's website [www.promont-swiebodzice.pl](http://www.promont-swiebodzice.pl)

**9.2.** Any changes to the General Conditions do not apply to the Sales Agreements made before the changes to The General Terms and Conditions entered into force.

## **10. FORCE MAJEURE**

**10.1.** Neither of the Parties will be responsible for negligence or non-performance of their obligations arising from the Sales Agreement if they result from an occurrence of Force Majeure.

**10.2.** By Force Majeure, the Parties understand extraordinary circumstances, out of the given Party's control, impossible to foresee and prevent, also when avoiding of which would have required taking actions the cost of which would exceed the profits possible to be saved; particularly, the cases of Force Majeure include: war, natural disasters (like earthquake or flood), or explosion, fire, or strike, etc.

## **11. FINAL PROVISIONS**

**11.1.** The Parties' intention is to settle out of court all disputes related to the interpretation or execution of the Sales Agreement.

**11.2.** A Court qualified to settle any possible litigations will be the Court competent for the PROMONT's seat.

**11.3.** In cases not settled in the General Terms and Conditions, the regulations of Polish law will apply.