

**SALES TERMS AND CONDITIONS OF  
ELECTRICAL COMPONENTS INTERNATIONAL SP. Z O.O. AND ITS AFFILIATES**

Except as otherwise agreed by the Seller in writing under pain of nullity (Polish: *forma pisemna pod rygorem nieważności*), these STC shall apply to all Agreements concluded between the Seller and the Buyer subject of which is sell or supply of goods. These STC applies also to any additional services or specified work (Polish: *działo*) performed by the Seller in connection with sell or supply of goods. These STC are in force from 12 July 2023.

**1. DEFINITIONS.**

Capitalized terms in this STC shall have the following meaning:

- 1.1. **“Acceptance”** – means acceptance of the Offer, i.e. a statement of acceptance of the offer (Polish: *oświadczenie o przyjęciu oferty*) within the meaning of Article 66 of the Civil Code;
- 1.2. **“Act on counteracting excessive payment delays in commercial transactions”** – means Polish Act on counteracting excessive payment delays in commercial transactions of 8 March 2013 (Journal of Laws of 2023, item 711 as amended);
- 1.3. **“Act on the Suppression of Unfair Competition”** – means Polish act on the Suppression of Unfair Competition Act of 13 April 1993 (Journal of Laws of 2022, item 1233 as amended);
- 1.4. **“Affiliate”** – means an entity that directly or indirectly controls the Party, is directly or indirectly controlled by the Party or remains together with the Party under the direct or indirect control of the same entity and, in respect to the Party being a natural person, also any of the following of such person: his/her ascendant, descendant, sibling, sibling’s ascendant and descendant, spouse and de facto spouse (Polish: *osoba pozostająca we wspólnym pożyciu*) and spouse’s and de facto spouse’s ascendant, descendant, sibling and sibling’s ascendant and descendant;
- 1.5. **“Agreement”** – means an agreement entered into between the Seller and the Buyer, as a result of issuing the Offer by the Seller and its Acceptance by the Buyer, subject of which is sell or supply of the Products the Seller to the Buyer (and/or provision of additional services or specified work as case may be), of which these STC are an integral part;
- 1.6. **“Business Day”** – means a day which is not a Saturday, a Sunday or a public holiday in Poland or the contracting ECI location;
- 1.7. **“Buyer”** – means any entity or person that enter into the Agreement with the Seller;
- 1.8. **“Civil Code”** – means Polish Civil Code of 23 April 1964 (Journal of Laws of 2022, item 1360 as amended);
- 1.9. **“Clause”** – means Clause of these STC unless otherwise stated;

- 1.1 **“Indemnify”** – means the obligation to release (Polish: *zwolnić*), to the largest extent permissible under the applicable law, from any obligation or liability (including any loss, damage, cost, claim, debt, penalty, interest or otherwise) and if such release is not possible or insufficient to fully redress the damage sustained by, or threatened to, the indemnified person, it should be understood as an obligation to refund to the indemnified person in full (on a PLN-per-PLN basis) the amount equivalent to all the relevant damages, costs (including the costs associated with court or administrative proceedings), professional advisors’ fees, charges, fines, interest, taxes and other payments incurred by such indemnified person.
- 1.2 **“Insolvency Law”** – means Polish Insolvency Law of 28 February 2003 (Journal of Laws of 2022, item 1520 as amended);
- 1.3 **“Materials”** – means are raw materials, including long lead-time and non-cancelable/nonreturnable items, work in process, and finished goods.
- 1.4 **“Offer”** – means an offer within the meaning of Article 66 § 1 of the Civil Code to sell Products (and/or provision of additional services or specified work as case may be), made by the Seller to the Buyer, to enter into the Agreement;
- 1.5 **“Party”** – means party to the Agreement, i.e. the Seller or the Buyer;
- 1.6 **“Price”** – means the remuneration payable to the Seller by the Buyer for performance of the Agreement;
- 1.7 **“Product(s)”** – means goods being subject of the Agreement;
- 1.8 **“Seller”** – means Electrical Components International sp. z o.o., with its registered office in Bielsko-Biała, Poland (address ul. Międzyrzecka 222, 43-382, Bielsko-Biała, Poland) entered into register of entrepreneurs of the National Court Register, maintained by District Court in Bielsko-Biała, VIII Commercial Register of the National Court Register, under no. 0000136732, tax identification number (NIP) 6342471473, share capital PLN 2,132,750.00 or its Affiliate;
- 1.9 **“STC”** – means these Terms and Conditions of Sale.

## **2. OFFER; ACCEPTANCE; EXCLUSIVE TERMS.**

- 2.1 The Seller has right to issue the Offers but has no obligation to do so. The Seller may reply to received requests for quotations or otherwise provide information to the Buyer. For the avoidance of doubt, replying requests for quotations and working contacts with the Buyers does not constitute entering into any Agreement, which may only be done in accordance with the rules set out in these STC.
- 2.2 Each Offer constitutes an offer, within the meaning of the Article 66 of the Civil Code, to enter into the Agreement, made by the Seller to the Buyer. The Offer together with these STC are the exclusive documents defining the content of the Agreement. Article 66<sup>1</sup> § 1 – 3 of the Civil Code is excluded and shall not apply.

- 2.3** The entering into of the Agreement is initiated by the Seller by submitting the Offer to the Buyer, containing all essential contractual provisions (Polish: *istotne postanowienia umowne*). The Offer and the Acceptance shall be drawn up at least in the documentary form under pain of nullity (Polish: *forma dokumentowa*), e.g. by e-mail, unless otherwise stated in these STC. In particular, any verbal arrangements shall not be binding.
- 2.4** The Agreement is entered into upon submission of the Acceptance by the Buyer to the Seller. These STC are integral part of the Offer regardless of whether there is a direct reference to these STC in a given Offer or not. However, the Seller will make these STC available to the Buyer at the time of issuing the Offer at latest. By submitting Acceptance the Buyer accepts these STC.
- 2.5** The Offer is valid for fifteen (15) Business Days after which it expires, unless otherwise stated therein. Tacit or implied acceptance of the Offer is excluded. Articles 68<sup>2</sup> and 69 of the Civil Code shall not apply.
- 2.6** The Buyer shall ensure that, in all material matters relating to the entering into of the Agreement, the Seller is contacted by a person who is authorized to represent the Buyer.
- 2.7** The procedure for contracting by the Seller described in these STC is exclusive. In particular, the Offer does not constitute an acceptance by the Seller of any offer or proposal from the Buyer, whether in Buyer's request for quotation, acknowledgement or otherwise. If any Buyer's request for quotation or proposal is held to be an offer, that offer is expressly rejected upon submission of the Offer.
- 2.8** The Offer may only be accepted by the Buyer without any reservations regarding changes or additions in accordance with Article 68<sup>1</sup> § 2 of the Civil Code. Article 68<sup>1</sup> § 1 of the Civil Code is excluded and shall not apply.
- 2.9** Article 385<sup>4</sup> of the Civil Code does not apply in any case. If the content of the Agreement should, for any reason deviate from that agreed in accordance with the Offer and these STC, the Agreement shall not be to be considered to have been entered into without the need of any objection from the Seller.
- 2.10** The place of entering into the Agreement is always the address of Seller's registered seat, i.e. ul. Międzyrzecka 222, 43-382, Bielsko-Biała, Poland, unless otherwise stipulated in the Offer.
- 2.11** In case of any discrepancies between the Offer and these STC, the Offer shall prevail.
- 2.12** By entering into the Agreement, the Buyer confirms that the Agreement has a professional character (Polish: *charakter zawodowy*) for him, arising in particular from the object of his business activity, in the meaning of Article 385<sup>5</sup> of the Civil Code.

### **3. PRICE.**

- 3.1** In consideration of the performance of the Agreement, the Buyer shall pay the Seller the Price.

- 3.2** The Price indicated in the Offer is binding and is not subject to negotiations or discounts. However Price may be subject to adjustment on the basis stipulated in these STC.
- 3.3** Should it be required for the Seller to provide any services in connection with the Products, these will be subject to an additional charge.
- 3.4** The Price may be specified either by sum or by indicating the basis for its calculation. In particular:
- (a)** in the case of a specific work, the Price is an estimate remuneration within the meaning of Article 629 of the Civil Code (Polish: *wynagrodzenie kosztorysowe*) unless otherwise stated in the Offer;
  - (b)** in the case of services, the Price can be calculated on the basis of the multiplication of the man-hour and the hourly rate, unless otherwise stated in the Offer;
- 3.5** Price should be paid by the Buyer to the Seller by transfer to the Seller's bank account indicated by the Seller's within the deadline indicated in the Agreement.
- 3.6** Notwithstanding any contrary provision herein, the Seller shall invoice Buyer for any Products which have remained at Seller's facility and/or a third-party logistics warehouse for thirty [30] Business Days or longer, provided that the delivery of such Products was accepted as described in these STC.
- 3.7** If this is stated in the Offer, the Buyer is obliged to pay the respective advance payments to the Seller. Any advance payment under Agreement shall be interpreted as advance payment (Polish: *zaliczka*) and not earnest payment (Polish: *zadatek*). The Seller may withhold performance of the Agreement without any negative consequences until the advance payment has been paid by the Buyer.
- 3.8** Buyer shall make all payments as provided herein without regard to whether Buyer has made or may make any inspection or use of any Products. In the event of a delay (Polish: *opóźnienie*) in any payment the Buyer will be obliged to pay interest in the maximum statutory amount for delays in commercial transactions (as defined in the provisions of the Act on counteracting excessive payment delays in commercial transactions).
- 3.9** Prices are quoted Ex Works Seller's plant or warehouse. Buyer shall pay or reimburse the Seller for all the costs related to the performance of the Agreement, including for the freight cost and insurance of the Products (whereby the seller is not obliged to provide insurance, but may do so if the Parties so agree). Seller's Prices do not include sales, use, excise, value added, custom duties, or other similar taxes. Consequently, in addition to the Price specified in the Offer, the amount of any such present or future taxes applicable to the shipping destination, sale of the Products by the Seller hereunder or the sales or the use of the products by Buyer hereunder shall be paid by Buyer.
- 3.10** In the event that, between the date of the Offer and the date of delivery, it becomes necessary to adjust the Price, in particular due to an increase in costs on the part of the Seller, the Parties will agree a new Price in good faith. To do so, the Seller will notify Buyer about need to adjust the Price. If no agreement is reached within thirty (30) Business Days from delivery of the

Seller's notification, Seller will have right to rescind (Polish: *odstąpić*) the Agreement, within 6 months of the expiry of the aforementioned 30 Business Days deadline.

- 3.11** The Price should be paid in the currency indicated in the Offer. In the event that the Price is indicated in a currency other than PLN, the Buyer is obliged to make payment in that currency exclusively.
- 3.12** Payment of the Price always occurs upon crediting the Seller's bank account.
- 3.13** The Seller has the status of large entrepreneur pursuant to the provisions of the Act on counteracting excessive payment delays in commercial transactions.

#### **4. MATERIAL LIABILITY.**

- 4.1** If Agreement state so, the Seller will receive forecasts from Buyer to support Buyer's requirements. The Seller will purchase raw Materials, based on component lead time plus manufacturing cycle time, to support forecasts assuming annual quantities, minimum order quantities, package minimum/multiples, and the most efficient manufacturing processes.
- 4.2** Forecasts are considered cancelled if (i) the Seller receives receipt of cancellation notice from Buyer; or (ii) if Materials are purchased by the Seller to meet the Buyer's forecasts and such materials remain on hand at the Seller's facility for thirty (30) days or more.
- 4.3** Upon cancellation, the Buyer is responsible for and will pay the Seller for excess Material. Buyer will pay the Seller for raw material, work in process, and non-cancelable/nonreturnable on-order material at 105% of the cost. Finished goods inventory will be paid at the quoted selling Price. The Seller will use reasonable commercial efforts, including the mutual involvement of Buyer, to return unused inventory for a full refund, net of restocking charges, and to cancel open purchase orders with Seller's suppliers. The Seller shall invoice Buyer, and Buyer will pay for all excess inventory and cancellation charges. Payment terms will be net thirty (30) Business Days from the invoice date.

#### **5. REPRESENTATION OF SOLVENCY.**

By entering into Agreement Buyer represents he is not insolvent as that term is defined in Article 11.1 or 11.2 of the Insolvency Law. If Buyer becomes insolvent before delivery of Products, it will notify the Seller. Failure to notify the Seller shall constitute a written reaffirmation of Buyer's solvency at the time of delivery.

#### **6. LIMITED GUARANTEE.**

- 6.1** For one (1) year following the date each Product is delivered to the Buyer, The Seller grants guarantee to the Buyer regarding such Products, subject to Clause 6.2.
- 6.2** Products manufactured to the Buyer's designs, specifications or other particular requirements or instructions of the Buyer are not guaranteed to perform in accordance with

such designs, specifications, requirements or instructions, and the guarantee period for such Products shall be six (6) months from the date of delivery.

- 6.3** Within the scope of the granted guarantee, the Seller guarantees to the Buyer that the each Product:
- (a)** is free from defects in materials and workmanship, and
  - (b)** conform to the specifications mutually agreed upon between the Parties.
- 6.4** If any Product fails to conform with the guarantee, the Seller shall, at its option, credit, repair, or replace the affected Product or refund the Price of the affected Product;
- 6.5** the Seller's guarantee will not apply to any Product with respect to which there has been (i) improper installation or testing, (ii) failure to provide a suitable operating environment, (iii) use of the Product for purposes other than that for which it was designed, (iv) failure to monitor or operate the Product in accordance with applicable the Seller specifications and good industry practice, (v) unauthorized attachment or removal or alteration of any part of the Product, (vi) unusual mechanical, physical or electrical stress, (vii) modifications or repairs done by other than the Seller, (viii) mishandling during shipment of the Product; (ix) occurrence of the Force Majeure Event or (ix) any other abuse, misuse, neglect or accident.
- 6.6** The guarantee does not cover natural wear and tear of the Products, their parts and accessories caused by their normal use.
- 6.7** To the maximum extent permitted by law, any liability of the Seller, including under guarantee, is excluded if the Buyer or its agents have supplied specifications, information, representation of operating conditions or other data to the Seller in selection or design of the Products, and the actual operating conditions or other conditions differ from those represented by Buyer.
- 6.8** Buyer assumes sole responsibility for determining that the Products purchased are suitable for their intended application and use.
- 6.9** Clause 6 indicate Buyer's exclusive remedies for failure of Products to be complaint with the Agreement. The foregoing guarantee is in lieu of and excludes all other guarantees, whether express or implied, including but not limited to the statutory warranty (Polish: *rekojmia*). The foregoing is subject to the limitations of liability herein and shall constitute Buyer's sole rights and remedies under these STC with respect to defects in the Products.
- 6.10** The Buyer shall notify the Seller about defect of the Products within seven (7) Business Days from the detection of the defect (guarantee claim notice).
- 6.11** The Seller will react to the guarantee claim notice within reasonable time. At the Seller's request, the Buyer shall immediately send for inspection Products indicated in the guarantee claim notice, at Seller's cost. The Seller may also decide to inspect the Products directly at the Buyer's premises. In this case, the Buyer is obliged to provide access to the Products on the agreed date.



- 6.12** If the guarantee claim is accepted by the Seller, the Seller will introduce a remedy as indicated in Clause 6.4.
- 6.13** In the event that Seller determines that guarantee claim is unjustified, the Buyer must reimburse the costs incurred by the Seller in processing the guarantee claim within 14 Business Days (including any delivery cost, travel cost etc.).
- 6.14** The Seller shall not be liable if the processing of a guarantee claim is impossible due to a lack of cooperation on the part of the Buyer.

## **7. LIABILITY.**

- 7.1** The Seller's liability towards the Buyer is at any time limited to the wilful misconduct or gross negligence on the part of the Seller, its representatives and workers. Any other liability of the Seller is excluded to the maximum extent permitted by applicable law.
- 7.2** However, the above exclusion does not apply to (i) liability for personal injury (Polish: *szkoda na osobie*), and (ii) liability for damages caused by a hazardous product (Polish: *product niebezpieczny*).
- 7.3** The liability of the Seller in the abovementioned scope is limited to the direct damages only – the Seller does not bear liability for the indirect damages, the damages caused by any third party or for damage caused by the production downtime of the purchaser or third parties. The Seller shall only be liable for loss (Polish: *strata*). Liability for lost profits (Polish: *utracone korzyści*) is excluded.
- 7.4** With no prejudice to the Clause 7.2, the Seller shall in no way be liable for any losses, costs, forfeitures, or damages (including loss of profits, liabilities of the Buyer to its customers, employees, or third persons, and all incidental or consequential damages) whether direct or indirect and whether or not resulting from or contributed to by unintentional default, negligence, whether in manufacturing or design, or failure to warn on the part of the Seller, its agents, employees and subcontractors, which might be claimed as the result of, or use (with or without an active malfunction) or malfunction of the Products.
- 7.5** Notwithstanding any other provision herein or in any other document or communication and without prejudice to the Clause 7.2 and Article 473 § 2 of the Civil Code, (a) the Seller's liability and obligations with respect to any claim(s) resulting or arising from or relating to the Agreement, shall in no event exceed in the aggregate the total Price received by the Seller under such Agreement.
- 7.6** In the event that the Buyer owes the Seller several debts, it is always up to the Seller to decide on which debt to credit the payment to. Article 451 § 1-3 of the Civil Code is excluded and shall not apply.
- 7.7** The Seller may use subcontractors for the performance of the Agreement without informing or obtaining the consent of the Buyer.
- 7.8** Where there is more than one entity on the Buyer's side, the liability of such entities for all obligations under the Agreement is joint and several (Polish: *odpowiedzialność solidarna*).

7.9 All deadlines arising from the Agreement including these STC are reserved for the benefit of the Seller within the meaning of Article 457 of the Civil Code.

## 8. DELIVERY

- 8.1 All deliveries are carried out in accordance with the Ex works Incoterms® 2020 rules.
- 8.2 All delivery dates are specified in the Agreement. Delivery period shall commence upon receipt of the Acceptance by the Seller.
- 8.3 Each delivery is subjected to the payment of the Price or credit arrangements to the satisfaction of the Seller. If payments are not made in accordance with such arrangement or if at any time in the judgement of the Seller, Buyer's credit standing has been impaired, the Seller may withhold performance of the Agreement in accordance with in Article 490 § 1 of the Civil Code, until payment of the Price or credit arrangements satisfactory to the Seller have been performed,
- 8.4 The Seller may make partial delivery under any Agreement or may distribute the available supply of the Seller among any or all Agreements entered into with such Seller.
- 8.5 If the delayed time of the delivery has exceeded the agreed delivery time by more than eight (8) weeks, the Buyer is entitled to set additional deadline for the Seller to provide the Product, which cannot be shorter than seven (7) days. If the deadline expires, the Buyer is entitled to rescind the Agreement by way of issuing statement to the Seller.
- 8.6 Insurance against damage during transport shall only be taken out at the express wish and expense of the Buyer.

## 9. TITLE, AND RISK OF LOSS. RETENTION OF TITLE

- 9.1 Risk of loss or damage of the Products pass to Buyer upon the Seller's delivery of the Products to the carrier for shipment, and no loss or damage will relieve Buyer of any obligation hereunder, including payment of the Price for lost or damaged Products.
- 9.2 Title to the Products shall pass to the Buyer upon cumulative fulfilment of the following conditions:
- (a) the Seller's delivery of the Products to the carrier for shipment
  - (b) payment by the Buyer of the full Price (the "**Retained Product**"); the foregoing constitutes a retention of title in the meaning of the Article 589 of the Civil Code (Polish: *zastrzeżenie własności*).
- 9.3 Until the Buyer acquires title to the Retained Product, processing (Polish: *przetworzenie*) of the Product by the Buyer requires the consent of the Seller expressed in writing under pain of nullity. In the absence of such consent, title to the item resulting from processing shall remain with the Buyer in accordance with Article 192 § 2 of the Civil Code until the payment of full Price. The above shall be without prejudice to the Seller's claims for damages due to the Buyer's processing of the Retained Product in violation of these STC.



- 9.4** Until the Buyer acquires title to the Retained Product, its combination (Polish: *połączenie lub pomieszczenie*) with another movable item or items shall require the written consent of the Seller under pain of nullity. In the event of a permanent combination of the Retained Product with another movable item or items, the Seller shall be entitled to co-ownership of the newly created item in the proportion of the value of the Retained Product to the value of the other items being combined. However, if the Retained Product have a significantly higher value than the other items being combined, such items shall become component part (Polish: *część składowa*) of the Retained Product and the Seller's right of ownership shall remain unaffected. The above shall be without prejudice to the Seller's claims for damages due to the Buyer's combination of the Retained Product in violation of these STC.
- 9.5** Until the Buyer acquires title to the Retained Product, the Buyer is not entitled to permanently connect (bind) the Retained Product to the land, building, structure or other objects being real estate. It must be always possible to disconnect the Retained Product from the land, building, structure or other objects being real estate at any time without damaging them.
- 9.6** If the Retained Products were already delivered and the Buyer is delayed (Polish: *opóźnienie*) with payment of the Price, in whole or in part, for period exceeding thirty (30 days) and, or if Buyer is in breach of any from Clauses 9.3-9.5 the Seller shall be entitled to:
- (a)** demand the immediate return to him of the Retained Products or of the items resulting from the processing or combination of the Retained Products (and if so the Buyer shall be obliged to return the reserved goods immediately, but no later than within 3 Business Days of receipt of the demand, which shall include in particular their detachment and preparation for collection and any other action required by the Seller);
  - (b)** rescind the Agreement subject of which are Retained Products, within 6 months from the occurrence of the state of the Buyer's delay in paying all or part of the Price,
- 9.7** The Buyer shall bear all costs related to the return of the Retained Product or the items resulting from the processing or combination of the Retained Product in connection with the exercise of the Seller's rights referred to in Clause 9.6, which includes in particular the costs for the detachment and release of the reserved goods, including but not limited to the costs for removal, return transport, possible taxes and duties.
- 9.8** Until the Buyer acquires title to the Retained Product, the Buyer shall be entitled to use the Retained Product as a dependent possessor (Polish: *posiadacz zależny*) only in the ordinary course of business. During this period, the Buyer is obliged to store and use the Product with the utmost care required of a diligent entrepreneur.
- 9.9** Until the Buyer acquires title to the Retained Product, the Buyer shall not be entitled to dispose or encumber of the Retained Product in any way or to transfer possession of the Retained Product to a third party.

- 9.10** Buyer is obliged to cause that all Retained Products are in a separate and distinct location, marked by conspicuous signage disclosing the Seller's title. Buyer shall be responsible for maintaining full replacement cost insurance for the Products, at Buyer's sole expense, with the Seller named as a loss payee and additional insured, until the Seller has been paid in full. Cost of all return shipments, for whatever reason returned shall be borne by the Buyer, with title passing to the Seller at Buyer's shipping point of origin and risk of loss passing to the Seller upon delivery to it at its shipping destination.
- 9.11** The Seller shall have no obligation to make any further shipments until all payments for prior shipments have been received by the Seller. Furthermore, the Seller may suspend production until such payment is received.
- 9.12** If the retention of title under the law of the country in which the Products are located is ineffective, a security interest closest to the retention of title shall apply. If the establishment of such security requires the cooperation of the Buyer, the Buyer shall immediately take the necessary measures at his own expense.

## **10. SET-OFF.**

- 10.1** Without consent of the Seller, granted in writing under pain of nullity, the Buyer may not set-off (Polish: *potrącić*) any receivables (Polish: *wierzytelności*) arising from or in connection with the Agreement owed against the Seller, with any receivables owed by Seller against the Buyer.
- 10.2** Seller may always set-off any receivables owed against the Buyer, without the need for consent from the Buyer.

## **11. TERMINATION.**

- 11.1** Without prejudice to other rights under the Agreement, the Seller may immediately rescind (Polish: *odstąpić*) the Agreement or any part of it in the following events:
- (a)** Buyer's delay (Polish: *opóźnienie*) in performance of any obligation under the Agreement, in particular payment obligation exceeds thirty (30) days,
  - (b)** in case stipulated in Clauses 9.6(b) and 16.3;
  - (c)** other Buyer's breach, threatened breach, or repudiation of any obligation, representation, warranty, covenant, or other term of the Agreement;
  - (d)** Buyer entering or offering to enter into one or more transactions effecting a sale of a substantial portion of Buyer's assets or business or any merger, sales or exchange of equity interests that would result in a change of control of Buyer; or
  - (e)** financial or other condition that could, in the Seller's sole discretion, endanger Buyer's ability to make required payments or otherwise perform, in particular if Buyer becomes insolvent within the meaning of Article 11.1 or 11.2 of the Insolvency Law; or make a

general assignment for the benefit of creditors, or if Buyer admits in writing its inability to pay its debts as they become due

(f) if the Buyer winds up its business, in particular enters into liquidation.

In each case the Seller may rescind the Agreement within 6 months from occurrence circumstances being basis for rescission.

- 11.2** In addition, the Seller may rescind the Agreement or any part of it if a state of Force Majeure preventing the performance of the Agreement has lasted for an uninterrupted period of longer than two (2) months – within 1 month form lapse of above period.
- 11.3** In addition, the Seller may rescind the Agreement or any part of it with or without cause, upon delivery of thirty (30) days' advance written notice to the Buyer. In each case the Seller may rescind the Agreement within 6 months from entering into Agreement.
- 11.4** Rescission of the Agreement under Clauses 11.1 - 11.3 shall have the following effect at the option of the Seller (indicated in the rescission notice):
- (a) *ex tunc* – i.e. the Agreement shall be deemed not to have been entered into or
  - (b) *ex nunc* – i.e. the Agreement shall be terminated to the extent that it has not been performed, and Buyer shall pay proportionate part of the Price;
- 11.5** Following the Seller's rescission have effect as stipulated in Clause 11.4(b), for all Products completed in accordance with the Agreement or release and for any work in progress, raw materials acquired for the manufacture of the Products, any unreimbursed NRE, and the Seller's costs for settling any claims or disputes with its sub-suppliers in connection with component parts, raw materials, or services related to the Products (collectively "**Termination Costs**"). Under no circumstances shall the Seller have an obligation to assist Buyer in any transition of supply of the Products (or substitutes of same) to Buyer or any other vendor, except to the extent otherwise expressly agreed to by the Seller, and then, only upon the Seller's actual receipt of all Termination Costs owed by Buyer to the Seller together with any applicable fees for transition support.
- 11.6** In the event that Seller rescinds (Polish: *odstąpić*) the Agreement through the reasons for which the is responsible (Polish: *przyczyny, za które Dostawca ponosi odpowiedzialność*), the Buyer shall pay the Seller a contractual penalty (Polish: *kara umowna*) equal to 25% of the gross Agreement value. Seller may claim damages exceeding the amount of the contractual penalty.
- 11.7** The Buyer may rescind the Agreement or any part thereof by way of issuing a notice of the rescission more than ninety (90) Business Days before the shipping date last agreed in the Agreement. In the event of any such rescission by the Buyer, Buyer shall reimburse the Seller for all costs and expenditures made or committed to be made by the Seller up to the date of receipt by the Seller of the notice, including reasonable overhead and profits lost on the portion cancelled.

## **12. SPECIAL TOOLING.**

If the Seller manufactures or purchases special tools, dies, or equipment in connection with Agreement, such tools, dies, and equipment, unless otherwise agreed to in writing by an authorized representative of the Seller, shall remain the exclusive property of the Seller, notwithstanding that part of the cost thereof is included as a part of the Price specified herein.

## **13. FORCE MAJEURE**

- 13.1** The Parties shall not be liable for failure to perform contractual obligations arising from the Agreement caused by a force majeure events.
- 13.2** Force majeure event means all external and sudden events, beyond the control of the Parties, which could not have been foreseen at the time of entering into the Agreement and whose consequences could not have been prevented and which make it impossible to perform the Agreement, in particular:
- (a)** acts of war (whether declared or not) and other armed operations and terrorist acts,
  - (b)** riots or protests,
  - (c)** government acts or legislation,
  - (d)** natural disasters such as earthquake, earthquake, flooding, fires,
  - (e)** epidemics, pandemics, quarantine restrictions, state of emergency (Polish: *stan nadzwyczajny*),
  - (f)** inability to timely obtain, at normal prevailing market prices, necessary and suitable labor, materials, components, manufacturing facilities, transportation, or instructions from Buyer.
- 13.3** For the avoidance of doubt, the consequences of the epidemic state or the epidemic threat state in Poland related to the Sars-Cov-2 does not constitute a force majeure event.
- 13.4** The Party whose performance of the Agreement has become impossible due to a force majeure event shall notify the other Party in writing of the occurrence of force majeure immediately (within seven (7) Business Days of its occurrence at the latest). The cessation of the force majeure event shall also be immediately notified to the other Party.

## **14. PATENTS, TRADEMARKS OR COPYRIGHTS.**

- 14.1** In connection with performance of the Agreement, the Seller may make available to the Buyer various types of contents, including in particular copyrighted works, patents, industrial designs, utility patterns, trademarks or databases that are owned by the Seller and are subject to protection under intellectual or industrial property rights. To avoid doubts, if any contents referred above are made available to the Buyer as part of their mutual cooperation, neither any rights to such contents are transferred to the Buyer nor any license to use the contents is granted to the Buyer, unless the provisions of the relevant Agreement

provide otherwise. Any contents of that type shall remain the exclusive property of the Seller.

- 14.2** Buyer shall Indemnify the Seller against any expenses, damages, costs or losses, including attorneys' fees, resulting from any suit or proceeding brought for infringement of third party rights, including in particular copyrighted works, patents, industrial designs, utility patterns, trademarks or databases, or for unfair competition, arising from compliance with Buyer's designs or specifications or instructions. The Seller shall have no indemnity or other obligation hereunder to the extent that any infringement is based on and would not have occurred but for the combination of the Product with other products or intellectual property, Buyer's designs or specifications, or any alterations or modification of the Product not performed by or authorized by the Seller.

## **15. ASSIGNMENT.**

- 15.1** The Buyer may not assign or encumber any rights under the Agreement, whether in whole or in part, to any third party, without the prior consent of the Seller granted in writing under pain of nullity.
- 15.2** The Seller may, without the consent of the Buyer, assign the rights under this Agreement in whole or in part, to the Affiliate or other third party.

## **16. COMPLIANCE**

- 16.1** The Seller warrants that all Products to be furnished hereunder were or will be produced, manufactured, and delivered in compliance with all applicable laws and ordinances, and all lawful orders, rules, and regulations thereunder.
- 16.2** The Buyer shall ensure that Buyer, its Affiliates, their ultimate beneficial owners or key personnel of any of the above is not a person subject to any legal, economic or financial sanctions imposed by the European Union or a government of a member state of the European Union or the OECD, including, in particular, being on any sanctions list maintained by above entities.
- 16.3** Any Buyer's breach of the obligations contained in this Clause 16.2 shall constitute a material breach of the Agreement which shall entitle the Seller to rescind (Polish: *odstąpić*) any Agreement with the Buyer and without prejudice to any other rights and remedies under these STC or applicable law. In any event, the Seller may exercise its right to terminate or rescind within 6 months of becoming aware of the breach by the Buyer of this Clause 16.2.

## **17. NO WAIVER OF TERMS AND CONDITIONS.**

- 17.1** The failure of the Seller in any one or more instances to insist upon performance of any terms or conditions of the Agreement, or to exercise any right arising from the Agreement shall not

be construed as thereafter waiving any rights by the Seller and the same such rights shall continue and remain in force and effect as if no failure or waiver had occurred.

- 17.2** The Seller's rights and remedies under the Agreement are cumulative and do not preclude the exercise of other rights and remedies under the Agreement or applicable law.

## **18. CONFIDENTIAL INFORMATION.**

- 18.1** "Confidential Information" shall mean any information:

- (a) regarding existence and the provisions of the Agreement and of any agreement entered into pursuant to the Agreement,
- (b) regarding the negotiations relating to the Agreement (and any such other agreements),
- (c) received as a result of entering into the Agreement in particular certain information, including but not limited to, product information, product designs, customer information, business processes, forecasts, samples, and financial information, whether disclosed in writing, orally, or in any other tangible or intangible form from a Party to another Party, which may or may not constitute enterprise secret in the meaning of the Act on the Suppression of Unfair Competition.

- 18.2** Subject to Clauses 18.3 each of the Parties shall treat as strictly confidential and not disclose or use any Confidential Information.

- 18.3** Clause 18.2 shall not prohibit disclosure or use of any information if and to the extent:

- (a) the disclosure or use is required by law, any governmental or regulatory body or
- (b) the disclosure or use is required for the purpose of any arbitral or judicial proceedings arising out of the Agreement;
- (c) the disclosure is made to a tax authority in connection with the tax affairs of the disclosing party,

provided that prior to disclosure or use of any information pursuant to above, the party concerned shall, where not prohibited by law, promptly notify the other party of such requirement with a view to providing the other party with the opportunity to context such disclosure or use or otherwise to agree the timing and content of such disclosure or use

- (d) the disclosure is made to a party to whom assignment is permitted under the Agreement on terms that such assignee undertakes to comply with the provisions of Clause 18 in respect of such information as if it were a party to the Agreement;
- (e) the disclosure is made to professional advisers of any party on a need to know basis and on terms that such professional advisers undertake to comply with the provisions of Clause 18 in respect of such information as if they were a party to this Agreement;
- (f) the information is or becomes publicly available other by than a breach of the Agreement;
- (g) the other Party has given prior written consent to the disclosure or use.



**18.4** The confidentiality obligation stipulated herein shall in any case apply for the duration of the Agreement and 10 years after its expiry for any reason.

## **19. NOTICE.**

**19.1** Unless otherwise stipulated in the Agreement including these STC, any notice required or permitted herein shall be in writing under pain of nullity and sent to the other Party at such Party's address indicated in the Agreement or to such other address as such Party shall designate by notice and shall be sent by certified mail or by overnight courier.

**19.2** Any correspondence sent in accordance with point 19.1 above shall be deemed to have been received: (i) upon actual delivery to the addressee or (ii) upon the expiry of 14 days after the first unsuccessful attempt of delivery by post or courier.

## **20. GOVERNING LAW**

These STC and any Agreement shall be governed by and interpreted in accordance with the laws of the Republic of Poland excluding the conflict of laws rules and excluding the United Nations Convention on Contracts for the on the International Sale of Goods.

## **21. ARBITRATION**

Any disputes arising out of or related to this agreement shall be finally settled under the Arbitration Rules of the Court of Arbitration at the Polish Chamber of Commerce in Warsaw in force on the date of commencement of the proceeding by an arbitrator or arbitrators appointed in accordance with the said Rules.

## **22. SURVIVAL**

Buyer's obligations under Clause 14, and 18 hereinabove shall not be deemed to be exclusive, and together with any service warranties and guarantees, if any, shall survive acceptance, of the Goods, payment therefore and/or expiry (Polish: *wygaśnięcie*) of the Agreement despite the reason.

## **23. ENTIRE AGREEMENT.**

The sole and exclusive provisions of the Agreement are these STC and the Offer, which shall control over any conflicting provisions in the Buyer's documents or otherwise. Such Agreement and these STC can be modified by the Parties only by understanding in writing under pain of nullity. Such Agreement constitutes the entire agreement between Seller and the Buyer.

## **24. SEVERABILITY**



If any provision of the Agreement or these STC shall be or become invalid, ineffective or unenforceable in whole or in part, the validity, effectiveness and enforceability of the remaining provisions shall not be affected. Any such invalid, ineffective or unenforceable provision shall, to the extent permitted by law, be replaced by the Seller with a valid and enforceable provision whose intention and purpose in economic terms is most similar to the invalid, ineffective or unenforceable provision in question.