

# General Terms and Conditions of Sale

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## 1. Scope

These general conditions of sale shall govern the Contract between the parties to the exclusion of any other terms of the buyer regardless of any specific or general conditions which may appear on the purchase order or other documents of the buyer. The "Contract" means the contract for the sale by D.K.LAMIN and purchase by the buyer of goods and/or services (hereinafter 'Deliveries') whether present or future. "D.K.LAMIN" shall mean the company selling or offering Deliveries to the buyer. "D.K.LAMIN" shall mean any company directly or indirectly controlled by P.P.D.K.LAMIN Sp.J. Piotr Daniluk, Wiktor Kiersnowski.

## 2. Offer, Information, Conclusion of Contract

No offer shall be binding for D.K.LAMIN unless expressly agreed in writing to be binding. Any quality data or information contained in data sheets, brochures and other oral or written information shall be deemed guidance on principles only and an invitation to treat as opposed to a firm offer. The same shall apply for the samples, sample rolls and the like provided.

The Contract shall become binding only once D.K.LAMIN has confirmed the order in writing. If the buyer then requests or causes any additional modifications to the order data D.K.LAMIN may correspondingly adjust any Contract terms affected thereby. Any oral arrangements as well as any such additional modifications of the order data shall not be binding until D.K.LAMIN has confirmed them in writing.

## 3. Prices, Terms of Payment, Delay

Unless agreed otherwise, the prices are ex works without packing charges and transport costs and expenses and exclusive of the valid VAT. The buyer bears the applicable VAT as well as all packing charges, transport costs, fees, other taxes and duties in connection with the Deliveries.

Payments are not considered to be settled until D.K.LAMIN receives payment confirmation from its bank. Time is of the essence with regard to payment of any sums due to D.K.LAMIN. Without prejudice to D.K.LAMIN's other rights, if the buyer fails to pay on the due date, D.K.LAMIN may charge interest per anno on a daily basis according to the Polish Commercial Code ("Odestki ustawowe") as well as compensation for recovery costs according to the Polish Commercial. The payment period shall be calculated starting with the invoice date.

D.K.LAMIN may at its sole discretion require the buyer to pay for Deliveries in advance. In cases of repeated late payment or changes in D.K.LAMIN's reasonable evaluation of the financial standing of the buyer D.K.LAMIN may request advance payment where the same has not been agreed beforehand and the buyer shall bear any costs and expenses resulting therefrom.

The buyer shall not be entitled to withhold payment of any amount due to D.K.LAMIN nor shall the buyer have any right of set-off unless counterclaims arising under a Contract concluded between the parties different to the respective Contract as defined by these general condition of sale are acknowledged by D.K.LAMIN in writing, undisputed or recognized by final and legally binding court decision. The buyer must not assign any claims to any third party with-out D.K.LAMIN's prior written consent.

## 4. Delivery and Passing of Risk

Unless otherwise agreed, D.K.LAMIN shall choose the mode of dispatch and the dispatch is at the buyer's risk and expense. The packing shall be determined upon confirmation of the order. Transportation insurances shall only be concluded upon the buyer's explicit instruction and at its own expense.

In cases of Force Majeure (see below) D.K.LAMIN may store the ordered goods at D.K.LAMIN's or at a carrier's premises at the buyer's risk and expense.

The risk of loss or damage shall pass to the buyer at the latest upon dispatch of the goods. If Delivery is delayed due to circumstances within the buyer's reasonable control, the price risk shall pass to the buyer at the date of notification of readiness for Delivery. Without prejudice to its other rights, D.K.LAMIN shall be entitled to bill the warehousing costs commencing one month following the notification of readiness to dispatch, and to dispose of the goods at its own discretion provided that an appropriate grace period notified in writing to the buyer announcing the intention to dispose of the goods has expired without results.

## 5. Delivery Time, Partial Deliveries, Variances

D.K.LAMIN's written confirmation (including per e-mail) of the order shall be authoritative for Delivery time, mode and quantity. D.K.LAMIN is entitled to deliver in instalments provided that these are reasonable for the buyer.

Delivery dates and times quoted are estimates only unless explicitly guaranteed in writing by D.K.LAMIN to be binding. If the beginning of the term of Delivery is not fixed by D.K.LAMIN, the term of Delivery commences with the date of the confirmation of the order. However, D.K.LAMIN shall not be obliged to deliver until all obligations incumbent on the buyer before Delivery (e.g. technical, commercial requirements, official permits, authorizations and licenses, etc.) have been fulfilled. If the buyer requires any modifications after acceptance of the order, the term of Delivery shall commence only upon D.K.LAMIN's written confirmation of such modifications. The Delivery term shall particularly not commence until the buyer proves that – if contractually agreed – a letter of credit has been obtained, or that an advance payment or security has been provided by the buyer. The Delivery term is complied with if the goods subject to Delivery leave D.K.LAMIN's premises on the last day of the Delivery term, or if D.K.LAMIN notifies the buyer that the goods are ready for dispatch within the term of Delivery.

D.K.LAMIN is entitled to deliver quantity variances of  $\pm 30\%$  of the quantity ordered for standard goods (which are not manufactured according to the requirements provided by buyer only) of less than 500 kg and  $\pm 20\%$  for goods over 500 kg to 999kg and  $\pm 10\%$  for goods over 1000kg, being customary in this trade and hence reasonable. The allowed variance has to be related to the average of the respective order.

## 6. Warranties and Liability

The buyer is obliged to examine each Delivery immediately upon arrival. Any apparent defects (including damage in transit), incompleteness of the goods or any other variances from the confirmation of the order have to be notified immediately upon arrival of the Delivery at the destination in writing by specifying the defect, incompleteness or other variances, and quoting the invoice number. Any hidden defects (including defects surfacing during manufacturing) have to be notified immediately after discovery. It shall be assumed that hidden defects are normally detectable within a period of sixty days after arrival unless the buyer is able to prove that it could not have reasonably detected the defect within that period. Defective products must be kept available for D.K.LAMIN's inspections for 14 days from the date of the notification and must not be returned to D.K.LAMIN earlier. Upon D.K.LAMIN's request, specimens of the goods found faulty must be sent back to D.K.LAMIN. If the buyer does not comply with this clause negligently it shall not be entitled to reject the goods and D.K.LAMIN shall have no liability for such defects or incompleteness.

The buyer must immediately notify D.K.LAMIN if it receives any notice from any of its customers concerning defects in the delivered goods. If the buyer fails to meet this obligation, it shall not have any claims against D.K.LAMIN based on the defective goods, nor shall D.K.LAMIN be obliged to indemnify it.

If the goods are defective, D.K.LAMIN shall have the choice to either rectify the goods or provide faultless substitution. Only if such rectification or faultless substitution is impossible or unacceptable for D.K.LAMIN or for the buyer, a price reduction may be granted to the buyer.

D.K.LAMIN shall not be liable for negligible deviations from the agreed specifications and/or for only minor impairment of the goods' applications, nor shall D.K.LAMIN be liable for damages resulting directly or indirectly from instructions or specifications provided by the buyer, improper handling, willful damage, negligence, abnormal working conditions, or any alteration of the goods by the buyer. D.K.LAMIN shall not be obliged to notify the buyer of the unsuitability of its instructions or specifications unless D.K.LAMIN is aware of such unsuitability.

Except in respect of death or personal injury caused by D.K.LAMIN's negligence, or liability for defective products towards end consumers as defined in the applicable Consumer Protection Law or except in respect of a breach of Contract due to D.K.LAMIN's willful misconduct or blatantly gross negligence, D.K.LAMIN shall not be liable for consequential losses or damages, costs or expenses, financial loss, loss of profits or interest, or third party claims unforeseeable to D.K.LAMIN. In any case, the entire liability of D.K.LAMIN under, or in connection with, the Contract shall not exceed the price of the Deliveries subject of the claim and, if this amount is lower, of the actual insurance coverage of D.K.LAMIN for the respective damage. The buyer is obliged to unconditionally impose these liability limitations to its customers.

D.K.LAMIN warrants that goods which have been manufactured by it will correspond with the agreed specification at the time of Delivery and will be free from defects in material and workmanship for a period of 12 months from Delivery. This warranty is given subject to the other express conditions set out in these general conditions of

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sale. The liability limitations as set out in this clause shall also apply to D.K.LAMIN's legal representatives, employees and agents.

Until clarification of the warranty complaint the buyer shall provide for appropriate storage and for insurance at full resale value plus transportation and warehouse expenses for its own benefit as well as for the benefit of D.K.LAMIN. In case the warranty claim turns out to be justified, D.K.LAMIN shall reimburse external expenses to a reasonable extent.

### 7. Force Majeure

D.K.LAMIN shall not be liable or be deemed to be in breach of Contract by reason of any delay in performing or any failure to perform any of its obligations if the delay or failure was due to any cause beyond its reasonable control ('Force Majeure') including strikes, lockouts, insufficient supply of materials or energy, lack of transport means and similar events or circumstances. This clause shall also apply if D.K.LAMIN's suppliers suffer any of these Force Majeure events. In case where a Force Majeure event occurs during an already existing delay, the period of grace which has to be granted to D.K.LAMIN by the buyer shall not expire before the Force Majeure event ceased. D.K.LAMIN shall inform the buyer of the start and end of any Force Majeure event as soon as possible.

### 8. Retention of Title

Title to all delivered goods remains with D.K.LAMIN until the buyer has paid all sums owing to D.K.LAMIN in connection with the respective Contract and all other obligations of the buyer towards D.K.LAMIN arising under or in connection with the respective Contract have been fulfilled. Any processing of the delivered goods by the buyer takes place on behalf of D.K.LAMIN without imposing obligations on D.K.LAMIN. If the delivered goods are processed with other goods not owned by D.K.LAMIN, D.K.LAMIN acquires a co-ownership on the newly produced goods pro rata the value of the delivered goods at the time of the processing.

The buyer shall be entitled to sell the delivered goods in the usual course of business. Any possible claims resulting from such sale shall herewith be assigned to D.K.LAMIN in advance and the buyer shall undertake all necessary publicity requirements for enforceability of such assignment. The buyer shall not provide D.K.LAMIN with written customer lists without D.K.LAMIN's prior consent in writing. If the buyer sells any goods co-owned by D.K.LAMIN, the assignment shall apply in the same volume as this co-ownership. D.K.LAMIN shall be entitled to collect the assigned sum.

The buyer is obliged to appropriately insure the goods still owned by D.K.LAMIN against all common risks, particularly against fire, burglary or damage caused by water at its own expense, to treat them cautiously and store them properly.

In case the buyer is in delay of overdue payment considering a grace period of 10 working days, D.K.LAMIN shall be entitled to demand restitution of the delivered goods or to collect the delivered goods and to sell them as they are (i.e. including their packing) to any third person. One or several of these acts shall not be considered as termination of the respective orders and do not relieve the buyer to effect payment of the invoiced amounts. In case the delivered goods are sold to third parties by D.K.LAMIN, the buyer states and guarantees that this will not result in the infringement of any intellectual property rights (e.g. trademark rights with regard to signs, logos and words, etc.) that are imprinted on the respective goods or packaging and waives any rights the buyer may have against D.K.LAMIN resulting therefrom.

D.K.LAMIN may, at its free discretion, however, also terminate the un-paid order, without limiting any of D.K.LAMIN's claims arising out of or in connection with the buyer's breach of Contract, in particular claims for damages.

### 9. Intellectual Property Rights of Third Parties

The buyer shall bear the sole responsibility for the obtaining of intellectual property rights in the subject of the Contract, including, but not limited to, ordered design of the goods as well as in all printed matter, drafts and completed specimens and shall indemnify D.K.LAMIN and keep D.K.LAMIN indemnified against all claims, costs, damages, and expenses (including legal expenses) resulting from any actual or alleged infringement of any third party intellectual property rights.

Notwithstanding the above, the intellectual property rights in any specifications written or determined by D.K.LAMIN as well as samples, sample rolls, patterns, etc. shall remain the exclusive property of D.K.LAMIN.

### 10. Place of Performance, Venue, Applicable Law

The place of performance is agreed to be D.K.LAMIN's place of business as set out in the offer.

These conditions of sale shall be construed according to the substantive laws of Poland and the parties submit to the exclusive jurisdiction of the court competent for the district of Bialystok. This venue shall also apply for proceedings pertaining to bills of exchange, deeds or cheques. D.K.LAMIN shall, however, also be entitled to sue the buyer at his place of business if it so elects.

### 11. Miscellaneous

The buyer must not assign any of its rights or obligations without D.K.LAMIN's prior written consent.

D.K.LAMIN may cancel the Contract with immediate effect if the buyer enters a voluntary arrangement with its creditors, is subject to a bankruptcy proceeding, suffers an administration order, goes into liquidation or has a receiver appointed.

If any part of any provision of these conditions is deemed illegal, void or unenforceable, it shall be deemed severed from the remainder of these Conditions which shall remain in force.

No waiver of any provision by D.K.LAMIN shall be deemed a waiver of any subsequent breach by the buyer.

No variations to these Conditions shall be binding unless agreed in writing by D.K.LAMIN.

04/10/ 2014