

## **General Terms and Conditions of Purchase**

### **§ 1 – General**

1.1 All these General Terms and Conditions shall apply to all offers by and agreements with PILOT D&S Sp. z o. o. Sp. k. and its legal successors, as well as companies associated or with said successors (together as well as individually hereinafter also called: the Company) relating to the purchase of goods by the Company from the party the offer is addressed to or the other party concerned (hereinafter: the Supplier).

1.2 The General Terms and Conditions of the Supplier are hereby expressly rejected and inapplicable.

1.3 Any provisions that differ from these General Terms and Conditions only apply if and to the extent that they have been approved in writing by the Company.

### **§ 2 - Agreement**

2.1 An agreement shall be concluded in writing at the moment in time of signing contract by the board of management of the Company and by the Supplier, or on the date of dispatch (by post, e-mail and/or by telefax) by the Company of the written order confirmation, signed by its board of management, hereinafter referred to as the "Agreement". Unless they have been verified in writing by the Company's board of management, promises made by and agreements made with subordinates of the Company are not binding on the Company.

2.2 Any changes and/or additions to the Agreement must be agreed upon in writing in order to be valid and enforceable.

2.3 The Agreement accurately and completely summarizes the details of the deal reached between the parties. Unless the Supplier expressly and immediately rejects its contents in writing and with good reason, the Company's order confirmation must be deemed to present the Agreement's terms accurately and completely. In the event of such rejection, the order confirmation will also no longer bind the Company.

2.4 The Supplier is responsible for obtaining all necessary approvals, permits, and/or licenses on time, at his expense, and must ensure that the terms of the Agreement are observed. The Supplier shall be solely liable for any failure to acquire the permissions, permits or licenses, or to acquire them in time, or for the non-observance of the conditions made therein or thereby, whereas the Supplier shall indemnify the Company for any and all damage and costs arising from such failure.

2.5 Unless the Company expressly approves the Supplier's unilateral cancellation in writing, it is void and unenforceable.

### **§ 3 - Confidentiality**

Regarding any and all business information about the Company or the offer/order/Agreement that has been disclosed to the Supplier by the Company and/or within the context of the offer or the Agreement, the Supplier shall maintain confidentiality toward any third party in the broadest sense of the word.

### **§ 4 - Prohibition to make offers and such to the client**

In relation to the goods that the Company is negotiating with the Supplier about or has reached an Agreement on, the Supplier shall entirely refrain from announcing pricing and/or making any proposals, either directly or through third-party intervention, to the client of the Company.

### **§ 5 - Industrial and intellectual property rights**

5.1 The Supplier guarantees that the delivered goods and/or the use of the delivered goods do not infringe any and all logotype or trademark rights, copyrights or any other industrial or intellectual property rights of third parties (referred to hereinafter as: IP right holders) or any other rights of third parties.

5.2 In case the Company is purchasing goods with the express intention to resell these goods within the EEA market, not in transit, the Supplier guarantees that the delivered goods have been brought to market by the IP right holder itself, or with its permission, in the countries of the European Economic Area (EEA), also if the Supplier did not buy the goods from the IP right holder itself. The Supplier guarantees that those delivered goods are fit for sale in the EEA market and that they may be freely traded in the EEA market.

5.3 The Supplier indemnifies the Company and its client(s) against all claims related to circumstances of which the Supplier guaranteed the presence or absence in this article, and will compensate the Company, or its client(s) for any loss as well as the costs ensuing from such claims. If requested by the Company, the Supplier will furnish the names and other details of its own suppliers to the Company if the Company in its turn needs to furnish those details to a third party.

5.5 The Supplier indemnifies the Company against all claims by third parties in respect of industrial and intellectual property rights relating to the delivered goods to which the Company has title, and will compensate the Company for any loss as well as the costs ensuing from such claims.

5.6 Irrespective of any stipulation to the contrary, the Supplier is fully responsible if the goods infringe trademarks and/or intellectual property rights and will fully indemnify and compensate the Company and/or its clients for any loss, costs, expenses or liabilities in connection with such an infringement, in particular but not limited to duties, taxes, levies, penalties, storage costs and costs of destruction under customs control.

## **§ 6 – Prices**

6.1 All prices shall be fixed and inclusive of turnover tax, import and export duties, excise duties and all further levies and taxes payable by the Supplier in connection with or in relation to the goods or the delivery. In addition, the rates must be based on the delivery terms and conditions outlined in the following articles.

6.2 After the order confirmation has been sent by the Company or the Company has received a proforma issued by the Supplier, the prices for the consignment to which the order confirmation or the proforma relate may not be increased, irrespective of the cause of the increase. In the event of breach of this § 6.2., the Company may terminate the Agreement relating to such consignment and have any advance, prepayment or deposit paid by the Company with respect to such consignment refunded in full by the Supplier, without prejudice to the Company's other rights and remedies under the Agreement, these General Terms and Conditions of Purchase and the applicable law.

## **§ 7 - Delivery - terms and conditions of delivery**

7.1 Unless explicitly agreed upon otherwise, the delivery shall be made on EXW Incoterms 2020 basis at the place indicated in the Agreement.

7.2 The interpretation of the terms and conditions of delivery shall be determined by the edition of the Incoterms which is most recently issued by the International Chamber of Commerce at the time of conclusion of the Agreement.

7.3 The Supplier shall deliver the goods on the date mentioned in the Agreement, or not later than the last day of the term mentioned therein, and if there is no agreed date or term, within 30 days from the date of conclusion of the Agreement. Said date or term shall apply as a strict and final delivery date or term and must be observed irrespective of fault on the part of the Supplier. A term of delivery mentioned in the Agreement shall apply as of the date of conclusion of the Agreement.

7.4 The Supplier shall be required to promptly notify the Company of the precise time of delivery and of any impending risks which may cause the time of delivery to be exceeded.

7.5 At the request of the Company, the Supplier shall be obliged to deliver the goods at a later date than the agreed one and the Supplier shall do his utmost to deliver the goods at an earlier date than the agreed date, in the event that the Company considers this desirable, without being entitled to any compensation of damage and costs because of this.

7.6 Partial deliveries may only be made by the Supplier with the Company's prior written consent.

## **§ 8 - Transportation – unloading**

8.1 In no event shall the Supplier be entitled to any damages or costs as a result of any potential delay in the unloading of delivered goods.

8.2 The Supplier must present a delivery note immediately at the unloading of the goods, so as to have said note signed for approval by a person authorized on behalf of the Company to do so. The signing of the delivery note shall solely be a confirmation of the receipt of the delivered goods and does not imply any approval of (the quality or the quantity) of the delivered goods and does not discharge the Supplier of any guarantee and/or liability. Nor can the signing of the delivery note result in a change of the Agreement in any other way.

8.3 The Supplier shall be required to provide the documents required for transporting the goods to the place of destination in all circumstances and irrespective of the agreed terms and conditions of delivery.

## **§ 9 – Packaging**

9.1 The Supplier is responsible for properly packing the goods. He is responsible for any harm and expenses resulting or arising from inadequate packaging, damage to the packaging, or destruction of the package.

9.2 Unless specifically stated otherwise, the Company shall have no obligation to cover the costs associated with packing.

9.3 Upon request from the Company, the Supplier must take back any packaging that may have been used for the goods and must collect the packaging at his expense at the Company's location, while also returning any fees the Supplier may have charged for the packaging.

## **§ 10 – Quality**

The Supplier shall guarantee that the delivered goods are:

- a. original, being from the manufacturer and/or IP right holder identified on the package and labelling (and thus not produced under license either), being of the grade intended by the aforementioned manufacturer and/or IP right holder, and without any physical or legal faults or defects;
- b. suited for sale to re-sellers, and (in the end) for sale to and usage by consumers, both in terms of conservability and quality, and taking into account usual terms;
- c. given the manufacturer's or IP right holder's original and most recent packaging and labelling with regard to design and colour;
- d. in accordance with the stipulations made in the Agreement, the documents belonging to the Agreement as well as with the norms and specifications set by the Company;
- e. in accordance with the sample, if any; and

f. in accordance with national, European and other international rules and regulations, including the requirement of the presence of the original batch or code numbers (identical on the packaging and on the labels) enabling the identification of the goods.

## **§ 11 – Inspection**

11.1 At all times, the Company or any third party it designates shall have the right to inspect or test the goods, wherever they may be. The outcome of the inspection, test, or lack thereof shall not relieve the Supplier of any warranty and/or obligation.

11.2 If the inspection occurs at the Supplier's premises or on the Supplier's means of transport, the Supplier is responsible for providing all facilities and data required for an inspection or test, as well as any personnel or material support that may be required.

11.3 The Company is responsible for paying any personnel expenses incurred by it or the designated third party in connection with an inspection or test. Any additional expenses will be covered by the Supplier.

11.4 If the Company rejects any of the goods, it must immediately notify the Supplier. In such situation, without limiting the Company's other rights, the Supplier is obliged to repair or replace the rejected goods at his expense within a timeframe that will be specified by the Company, and in a way that ensures that they meet the approval standards. In the event of rejection, already delivered goods must be taken back upon request from the Company at the Supplier's risk and expense.

11.5 In the case of rejection of the goods, the Company shall also have a right to suspend the payment of the agreed price or installments for the rejected goods.

11.6 In the case of loss, damage, defect or non-conformity of the goods which is not apparent, the Company shall be entitled to inspect the goods and notify the Supplier of any such loss, damage, defect or non-conformity within 14 days from the date of arrival of the goods at their destination.

## **§ 12 - Property**

12.1 If the Company pays the Supplier in any way before the goods are delivered, the goods to which the payment relates or is related become the Company's property at the time of payment.

12.2 The Supplier shall be required to identify these goods on behalf of the Company and to take proper care of said identified goods, as well as to insure and keep them insured for the benefit of those concerned, in the event that the Company will be or will become the owner of (a part of) the goods already before the delivery and approval.

### **§ 13 - Payment and settlement**

13.1 Unless another term has been explicitly agreed upon and subject to any (suspension) rights the Company is entitled to, payment shall take place within sixty days after the last of the following moments in time:

- a. the time of delivery of the goods;
- b. the time of approval of the goods by the Company;
- c. the time of receipt of a invoice by the Company, fulfilling the requirements stated in the following article.

13.2 Payment for the delivered goods shall not discharge the Supplier of any guarantee and/or liability.

13.3 In the event that it has been agreed that the Company shall make any payments in advance, the Company shall have the right at all times, before making said payments, to require from the Supplier at the Company's discretion a sufficient security.

13.4 The Company shall be entitled to suspend the performance of the Company's own obligations if the Company has a reasonable belief that the Supplier won't fulfil his commitments.

### **§ 14 – Invoicing**

14.1 The invoices that the Supplier must deliver to the Company must meet the specifications established by or resulting from Polish VAT laws and regulations.

14.2 The comments signed for approval by a representative of the Company must be included with the invoices of the Supplier.

14.3 Invoices that do not adhere to the standards outlined in the article's previous paragraphs will not be processed or paid.

### **§ 15 - Return shipments**

15.1 If, as a result of the Supplier's actions, inactions or omissions, the market situation and/or the marketability of these acquired goods are essentially different from what they were at the time the Agreement was formed, the Company shall be entitled to return the goods purchased from the Supplier, thereby crediting and requiring refund of the price originally charged by the Supplier to the Company for said goods.

15.2 In addition, if the goods differ in terms of packaging or labelling from what is typical for the goods in question (for example, so-called action lots), the Company is permitted to return the goods purchased from the Supplier within a year of delivery without providing a reason. This entitles the Company to credit and demand a refund of the price that the Supplier initially charged the Company for the relevant goods.

## **§ 16 – Guarantee**

16.1 Without prejudice to the Supplier's liability or the Company's subsequent rights, the Supplier shall repair any and all defects, shown by the goods after the delivery in consultation with the Company, and in the event that in the Company's opinion repairs are not possible, replace said goods.

16.2 The Supplier shall bear all risks and expenses related to resolving the issue or replacing the goods.

16.3 The Company shall have the right to take the appropriate actions or to have them taken at the Supplier's expense in the event that the Supplier fails to promptly and/or adequately correct the deficiency or if the repair of the defect cannot be delayed. The Company shall notify the Supplier in writing if the Company exercises this right.

16.4 Following repair or replacement of the goods, all guarantees' obligations will continue to be applicable in full.

16.5 The Supplier is responsible for protecting the Company against any claims made by third parties regarding any defects in the goods or any consequences thereof.

## **§ 17 - Liability**

17.1 Any physical or legal defect in the delivered goods or other shortcomings, whether attributable or not to the Supplier and/or caused by natural persons or legal entities working for the Supplier or by any employed, directly or indirectly by (one of) said natural persons or legal entities, shall subject the Supplier to liability for any and all damages and costs, including business and other indirect damages (including loss of profit).

17.2 The Supplier is responsible for protecting the Company against any and all third-party claims for which he may be held legally or otherwise liable.

17.3 The Supplier shall maintain enough insurance covering his liabilities as set forth in this article and shall permit the Company to inspect all documentation pertaining to such insurance, including the policy and premium receipts.

## **§ 18 - Subcontracting – transfer**

18.1 The Supplier may not assign the Agreement or any part of it to a third party, transfer his obligations arising from the Agreement or any part of it to a third party, or use any employees other than his own staff (for example, employees made available (hired out) for the execution of the Agreement) without the Company's express prior consent.

Any consent the Company gives may be subject to conditions, in the Company's discretion. The Supplier is not exempt from any obligations resulting from the Agreement by virtue of the Company's consent.

18.2 The Supplier is responsible for covering all losses and expenses incurred by the Company as a result of the preceding paragraph not being followed. The Supplier is also responsible for protecting the Company from any claims made by third parties in this regard.

### **§ 19 – General**

19.1 The remainder of the Agreement's terms, including those in these General Terms and Conditions, shall survive the nullification or legal invalidity of any one or more of its provisions. In order to come up with a new agreement, the parties must first discuss the clauses that are no longer lawful under the law or that are otherwise null and void.

19.2 If any of the Agreement's clauses, including those in these General Terms and Conditions, conflict with any mandatory clauses that have been or will be stipulated by a competent body in that jurisdiction, the latter clauses shall be deemed to have superseded the clauses in question.

### **§ 20 - Disputes and applicable law**

20.1 Any disputes arising out of or related to this Agreement shall be subject to Polish jurisdiction and shall be resolved by the courts competent for the place of the registered seat of the Company.

20.2 These General Terms and Conditions, as well as any and all further Agreements arising or resulting from or in connection with said terms and conditions, shall be governed by the Polish law.