

**Epoka A/S**  
**GENERAL TERMS AND CONDITIONS OF SALE**  
**“GTCS”**

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**1 SCOPE OF APPLICABILITY**

- 1.1 These General Terms and Conditions of Sale (“GTCS”) apply to all sales of goods by Seller notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from the Buyer. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by Seller unless and until Seller expressly confirms acceptance in writing.
- 1.2 Seller reserves the right to change these GTCS at any time. Seller will give the Buyer thirty calendar days’ notice of any changes by posting notice on the website of Seller.

**2 OFFERS, PURCHASE ORDERS AND ORDER CONFIRMATION**

- 2.1 All offers made by Seller are open for acceptance within thirty calendar days from the date of issue, unless otherwise specifically stated therein, and are subject to the stock prior to sales committed and availability of the goods offered.
- 2.2 All purchase orders issued by the Buyer shall specify as a minimum the type and quantity of goods requested, applicable unit prices, delivery place and requested delivery dates. No purchase order shall be binding on Seller unless and until confirmed by Seller in writing.

**3 PRICES AND TERMS OF PAYMENT**

- 3.1 The prices for goods shall be those set forth in the order confirmation from Seller. All prices are exclusive of taxes, impositions and other charges, including, but not limited to, sales, use, excise, value added and similar taxes or charges imposed by any government authority.

- 3.2 Unless expressly stated otherwise in the order confirmation from Seller, payment for goods shall be made Ex works without offset or deduction.
- 3.3 The Buyer must submit such financial information from time to time as may be reasonably requested by Seller for the establishment or continuation of payment terms. Seller may in its sole discretion at any time change agreed payment terms without notice by requiring payment cash in advance or cash on delivery, bank guarantee, letter of credit or otherwise.
- 3.4 If the Buyer fails to pay any invoice within seven calendar days of the due date of payment, Seller may suspend delivery of any purchase order or any remaining balance thereof until payment is made or terminate delivery of any purchase order or any remaining balance thereof by providing written notice of termination to the Buyer within seven calendar days of the expiration of the grace period. Further, Seller may charge the Buyer interest from the due date to the date of payment at the rate of 1,5% per month. This shall be in addition to, and not in limitation of, any other rights or remedies to which Seller is or may be entitled at law or in equity.
- 3.5 Delivered Products shall, to the extent permitted by applicable law, remain the property of Seller until Payment of any outstanding amount has been made by the Buyer.
- 3.6 At the request of Seller, the Buyer shall assist Seller in taking necessary measures in order to protect Seller's title to the Products in the country concerned. The retention of title shall not affect the passing of risk under *Clause 7*. Title to goods delivered shall remain vested in Seller and shall not pass to the Buyer until the goods have been paid for in full. If the Buyer fails to pay any invoice within fourteen calendar days of the due date of payment, Seller may retake the goods covered by the invoice. The Buyer must insure all goods delivered to their full replacement value until title to the goods has passed to the Buyer.

#### **4 TERMS OF DELIVERY AND LATE DELIVERY**

- 4.1 Unless expressly stated otherwise in the order confirmation from Seller, all deliveries of goods shall be Ex works in accordance with Incoterms 2010. The risk of loss of or damage to goods shall pass to the Buyer in accordance with the agreed delivery term.
- 4.2 The Buyer reserves the right to make delivery in instalments.

## 5 DELAY

- 5.1 If Seller becomes aware that Seller will not be able to deliver the Product on time, Seller shall forthwith notify the Buyer thereof in writing stating, if possible, the time when it is estimated that delivery can be effected.
- 5.2 If delay in delivery is caused by any of the circumstances mentioned in *Clause 12* or by an act or omission on part of the Buyer, including suspension under *Clause 5.4.*, the time of delivery shall be extended by a period which is reasonable with regard to all the circumstances in the case. This provision applies regardless of whether the reason for the delay occurs before or after the agreed time for delivery.
- 5.3 If the delay in delivery is caused for reasons due to Seller, and if the delay is of significance to the Buyer, the Buyer may by written notice to Seller fix a final and reasonable time, not less than thirty (30) days after the originally agreed time for delivery, and inform Seller of its intention to terminate the order unless delivery takes place within such final time. If delivery has not taken place within such final time, the Buyer shall be entitled to terminate the order by written notice to Seller.
- 5.4 If the Buyer terminates the order in accordance with clause 5.3 above the Buyer shall be entitled to compensation for the loss it has suffered as a result of Seller's delay. The total compensation in this respect shall be for the Buyer's direct damages only and shall not exceed fifteen per cent (15 %) of the price for the delayed Products. If the Buyer does not terminate the order, the Buyer shall not, unless otherwise specifically agreed, be entitled to any compensation for Seller's failure to deliver on time.
- 5.5 The right to termination and compensation as set out in this Clause 5 shall be the Buyer's exclusive remedy in case of Seller's delay in delivery and all other remedies shall be excluded, unless Seller has been guilty of willful misconduct or gross negligence.
- 5.6 If the Buyer fails to accept delivery at the delivery time, the Buyer shall nevertheless pay any part of the purchase price which becomes due on delivery, as if delivery had taken place. Seller shall arrange for storage of the Product at the risk and expense of the Buyer. Seller shall also, if the Buyer so requires, insure the Product at the Buyer's expense.
- 5.7 Unless the Buyer's failure to accept delivery is due to any such circumstance as mentioned in [*Clause 12*], Seller may by notice in writing require the Buyer to accept delivery within a final reasonable period. If, for any reason for which Seller is not responsible, the Buyer fails to accept delivery within such period, Seller may by notice in writing terminate the

Agreement in whole or in part. Seller shall then be entitled to compensation for the loss he has suffered by reason of the Buyer's default. The compensation shall not exceed the purchase price for the Products plus cost of delivery of which the Buyer has failed to accept delivery.

## **6 ACCEPTANCE OF GOODS**

- 6.1 The Buyer must inspect goods delivered upon receipt. The Buyer is deemed to have accepted goods delivered unless written notice of rejection specifying the reasons for rejection is received by Seller within five calendar days after delivery of the goods.

## **7 WARRANTY**

- 7.1 Seller warrant that upon delivery and for a period of twelve months from the date of delivery goods purchased hereunder will conform in all material respects to the applicable manufacturer's specifications for such goods and will be free from material defects in workmanship, material and design under normal use. The warranty does not cover damage resulting from misuse, negligent handling, lack of reasonable maintenance and care, accident or any other actions provided by the buyer not intended in the use of the product
- 7.2 Batteries and tapes are excepted warranty and is handled on every order.
- 7.3 With respect to goods which do not conform to the warranty Seller's liability is limited, at Seller's election, to (i) refund of the purchase price for such goods less a reasonable amount for usage, (ii) repair of such goods, or (iii) replacement of such goods; provided, however, that such goods must be returned to Seller, along with acceptable evidence of purchase, within fourteen calendar days after the Buyer discovered the lack of conformity or ought to have discovered it.
- 7.4 Seller makes no other warranty, express or implied, with respect to goods delivered hereunder, and the warranty constitutes Seller's sole obligation in respect of any lack of conformity of goods delivered hereunder (except title). In particular, Seller makes no warranty with respect to the merchantability of goods delivered or their suitability or fitness for any particular purpose.

## **8 INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT**

- 8.1 If any goods delivered hereunder are held to infringe a third party's patent, utility model, design, trademark or other intellectual property right and the Buyer are enjoined from using same, Seller will, at Seller's option and expense, (i) procure for the Buyer the right to continue using the goods; (b) replace the goods with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function; (c) modify the goods to make them non-infringing; or (d) refund the purchase price of the goods less a reasonable amount for usage. The foregoing states Seller's sole liability for intellectual property rights infringement.

## **9 GENERAL DATA PROTECTION REGULATION**

- 9.1 The seller considers all hardware sold free of GDPR regulated data. If it happens that data is detected on purchased from the seller it is the obligation of the buyer to contact the seller to agree on handling of the purchased goods and eventually return it to the seller who will pay the transportation cost. The hardware and the data upon it, is too be treated safely and may not be disclosed or handed over to any third part.

## **10 LIMITATION OF LIABILITY**

- 10.1 Neither Seller nor the Buyer will be entitled to, and neither Seller nor the Buyer shall be liable for, indirect, special, incidental, consequential or punitive damages of any nature, including, but not limited to, business interruption costs, loss of profit, removal and/or reinstallation costs, reprocurement costs, loss of data, injury to reputation or loss of customers. The Buyer's recovery from Seller for any claim shall not exceed the purchase price for the goods giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty or otherwise.
- 10.2 Seller shall not be liable for any claims based on Seller's compliance with the Buyer's designs, specifications or instructions or repair, modification or alteration of any goods by parties other than Seller or use in combination with other goods.

## **11 PRODUCT LIABILITY**

- 11.1 As for product liability, Seller is liable pursuant to the stipulations in the Danish Product Liability Act, which cannot be departed from by agreement. Seller disclaims any liability for personal injury or damage to property caused by the Deliveries on any other basis. In monetary terms, the product liability cannot exceed the coverage pursuant to Seller's product liability insurance.
- 11.2 Seller is not in any case liable for operating loss, time loss, loss of profit(s) or similar indirect/consequential loss.
- 11.3 If a personal injury or damage to property caused by the Deliveries occurs, or if there is a risk that such injury or damage will occur, the Buyer shall notify Seller in writing without undue delay. The Buyer shall immediately notify Seller if any third party makes a claim against the Buyer concerning liability pursuant to the Danish Product Liability Act.
- 11.4 If Seller should be held liable towards any third party, the Buyer shall indemnify Seller to the same extent as Seller's liability is limited in accordance with these GTCS.
- 11.5 The Buyer shall accept to be sued at the court that tries the product liability case against Seller.

## **12 FORCE MAJEURE**

- 12.1 Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of thirty calendar days, either party shall have the right to terminate the applicable contract(s) of sale, without liability, upon thirty calendar days' prior written notice to the other party.

**13**      **MISCELLANEOUS**

- 13.1      The United Nations Convention for the International Sale of Goods shall not apply to these GTCS or to any contracts of sale entered into between the parties.
- 13.2      No waiver of any provision of these GTCS shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Failure of either party to enforce any provision of these GTCS shall not constitute a waiver of such provision or any other provision(s) of these GTCS.
- 13.3      Should any provision of these GTCS be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision may be modified by such court in compliance with the law giving effect to the intent of the parties and enforced as modified. All other terms and conditions of these GTCS shall remain in full force and effect and shall be construed in accordance with the modified provision.
- 13.4      These GTCS and all contracts of sale entered into between the parties shall be governed by and construed in accordance with the laws of Denmark without giving effect to any choice of law or conflict of law provisions. Any suits, actions or proceedings that may be instituted by either party against the other shall be instituted exclusively before the competent courts of Denmark, however, without prejudice to Seller's right to bring suits, actions or proceedings in any other court which would have jurisdiction if this provision had not been incorporated into these GTCS.