

General Terms and Conditions of Sale

hereinafter referred to as the "GT&CS", shall govern the sale of goods and services by SPIE ENERGOTEST sp z o.o., hereinafter referred to as the "Seller". The GT&CS shall constitute an integral part of contracts, offers, confirmations and purchase orders, and shall be binding upon both Parties, unless the Parties expressly agree otherwise in writing. The general terms and conditions of the Buyer may apply only to the extent to which they are compatible with the provisions of these GT&CS.

1. Contract formation

1.1. The contract shall be formed if either Party expresses its intent to enter into the contract (offer, purchase order), specifying the essential provisions and general terms and conditions (subject matter, price), and the other Party accepts such declaration without reservations, amendments or supplements – in the form of confirmation with the GT&CS accepted.

1.2. Any arrangements between the Parties shall be made in writing.

1.3. The contract shall also be formed upon the Parties' signature of the contract document in cases other than those described in Article 1(1) hereinabove.

2. Performance of the contract

2.1. Sale of goods

2.1.1. The Parties shall cooperate during the term of the contract. The Buyer shall provide the Seller with any and all information necessary to design and manufacture the goods or provide the service. The Buyer shall be liable for consequences of incorrect or incomplete technical data in the purchase order.

2.1.2. The Seller shall have the right to change the delivery date if circumstances not attributable to the Seller occur.

2.1.3. Execution of the purchase order or a part thereof shall be evidenced by a delivery report signed by both Parties or, in the case of shipment of the goods, by a waybill.

2.1.4. Quantitative complaints about the received goods may only be raised if the collected package did not display any external signs of damage. A written complaint shall be made after damage is revealed not later than within 7 days from the date of receipt of the goods. To the complaint the discrepancy report prepared by a committee, together with a copy of the waybill and the sales invoice or other documents accompanying the shipment, e.g. specification, shall be appended.

2.1.5. If the delivery to the Buyer is made at the cost and risk of the Seller, the Buyer shall specify in writing, in the delivery report, any patent defects in and damage to the delivered goods as well as any quantitative shortages, otherwise the Buyer shall lose its right to complain about defects, damage or quantitative shortages. In such a case, the Buyer shall submit the original waybill together with the divergence report, signed by the carrier, confirming the fact of damage in transport.

2.1.6. If the costs of delivery of the goods are borne by the Seller, the costs of collection and unloading shall be borne by the Buyer.

2.1.7. The Buyer shall pay for the goods in accordance with the contract/purchase order.

2.1.8. If the Buyer fails to pay in accordance with the contract/purchase order, the Seller may initiate debt collection proceedings or rescind the contract/purchase order in accordance with Article 6(3)(c) within 14 days from the due date for payment and demand that the Buyer return the goods for which it did not pay. If debt collection proceedings are initiated, the Seller may claim reimbursement of the costs of the proceedings from the Buyer. The Seller may also seek damages if the goods are used up or damaged, in particular if the value of the goods collected by the Seller from the Buyer is lower than the price that the Buyer should pay for the received goods.

2.1.9. If the Buyer is in arrears towards the Seller, the Seller shall have the right to suspend execution of the purchase order until the Buyer pays any overdue amounts, even if an offer has been sent to and accepted by the Buyer or if the Seller confirmed acceptance of the purchase order.

2.2. Sale of goods and services or services

2.2.1. Delivery of construction site / site of works as part of the service

2.2.1.1. The Buyer shall deliver the construction site / site of works as part of the services specified in the contract/purchase order in the form of a customary delivery report. Upon delivery of the construction site / site of works, the Buyer shall provide the Seller with any legally required permits, approvals, including environmental approvals, necessary to provide the service.

2.2.1.2. The Buyer shall provide the Seller with access to the construction site / site of works by making available access roads and passage through the Buyer's/Owner's premises and shall be responsible for keeping them in good condition.

2.2.1.3. The Buyer represents that the construction site / site of works is not contaminated with toxic or hazardous substances and shall bear all risk and liability if such contamination is revealed during the Seller's performance of works as part of the service.

2.2.1.4. For the period of service provision, the Buyer shall provide the Seller with access to electricity, drinking water, telecommunications connections, storage place for tools and social room for the Seller's personnel as well as utilities required for checking and start-up tests.

2.2.2. Duties of the Buyer

The Buyer's duties, apart from the duties listed in Article 2(2)(1) connected with delivery of the construction site / site of works, shall include:

- To pay the Seller's remuneration in accordance with the contractual provisions and, if the Buyer fails to do so, to cover the debt collection costs incurred by the Seller;
- To cooperate with the Seller in the process of developing the health and safety protection plan for people performing the obligation on behalf of the Seller or supervising the construction process on behalf of the Buyer;
- To provide persons indicated by the Seller, performing works at the Buyer's premises, with occupational health and safety and fire safety training based on applicable internal rules and regulations of the Buyer;
- To give a legally required consent for works being subcontracted by the Seller;
- To cooperate with the Seller during performance of works as part of the service, if required for proper performance of such works;
- To accept the works in accordance with the contractual provisions;
- To repurchase goods and materials supplied by the Seller that cannot be used by the Seller for performance of other works in the event of termination or rescission of the contract by the Buyer.

2.2.3. Duties of the Seller

The Seller's duties shall include:

- To perform the scope of works covered by the contract with all due care and diligence, in accordance with the applicable provisions, design documentation and standards of technical and construction knowledge;
- To take over the construction site / site of works from the Buyer as part of the service;
- To supply materials required for performance of the contract in accordance with the specification included in the contract;
- To supervise and coordinate works and supplies of materials;
- To obtain from the Buyer a legally required consent for works being subcontracted;
- To ensure property protection and fire safety on the site of works as part of the service;

g) To secure appropriate occupational health and safety conditions during performance of works as part of the service;

h) To undergo occupational health and safety and fire safety training for employees performing works based on applicable internal rules and regulations of the Buyer;

i) To mark workwear and protective helmets;

j) To keep the site of works as part of the service and its nearest neighbourhood in order on an on-going basis, and to clean it upon completion;

k) To remove from the Buyer's premises any machinery, equipment and other objects used by Seller during performance of the contract.

2.2.4. Works coordinator

The Parties shall designate persons responsible for supervision over and performance of works being the subject matter of this contract and authorised to engage in mutual contacts within the time limit and on the terms and conditions set forth in the contract.

2.2.5. Additional works

If in the course of performance of works it becomes necessary to perform works not covered by the scope of the contract that are required for putting the subject matter of the contract into operation in accordance with its intended purpose, the Seller shall perform such works under a separate written order of the Buyer specifying the scope of such works. The remuneration and the time limit for performance shall be specified by the Seller in consultation with the Buyer.

2.2.6. Acceptance

2.2.6.1. Upon completion of particular works, the Seller shall notify the Buyer in writing of its readiness to have the works accepted.

2.2.6.2. The Buyer shall assess the completed works immediately but not later than within 5 business days from the date of service of the Seller's notice of readiness to have the works accepted.

2.2.6.3. To that end, the Buyer shall appoint an acceptance committee and specify a date for commencement of the acceptance procedure with a written notice to the Seller. The works of the committee shall be concluded with drawing up and signing of an acceptance protocol, which shall be tantamount to confirmation of the date of completion of the works at the date of reporting them for acceptance.

2.2.6.4. If the Buyer raises objections as to performance of the works, the Parties shall sign an acceptance protocol specifying the identified removable defects and the time limit for their removal during the warranty period.

2.2.6.5. If the Buyer does not commence the acceptance procedure within 5 business days from the Seller's notice of readiness to have the works accepted or unreasonably refuses to follow the acceptance procedure within that time limit, the Parties shall deem the subject matter of the contract to have been performed in a timely manner and in accordance with the contract. In such a case, an acceptance protocol signed by a representative of the Seller shall be prepared that shall have, in every respect, the force of a report signed by both Parties, in particular it shall constitute the basis for the Seller to issue an invoice.

2.2.6.6. If the Buyer puts the subject matter of the contract into operation before acceptance, the Parties shall be deemed to have accepted the subject matter of the contract. In such a case, the Seller shall have the right to issue an invoice and receive due remuneration.

2.2.7. Occupational health and safety, waste management

2.2.7.1. The Seller represents that it provides services in accordance with the occupational health and safety and environmental protection requirements arising out of applicable law and standards of the Seller. The Seller shall make available to the Buyer the standards referred to in the preceding sentence at the Buyer request.

2.2.7.2. The Buyer shall immediately provide the Seller with any and all information relating to threats and its own occupational health and safety and environmental protection standards at the site of works.

2.2.7.3. If during performance of works as part of the services any member of the Seller's or its subcontractor's personnel finds himself or herself in danger to his or her health or safety, or if he or she is to perform a dangerous task, he or she shall immediately stop the works and report the matter to his or her supervisor. Such a task may only be performed if all Parties find the situation to be safe. The time of preparation of a safe workplace by the Buyer shall be deemed to be a delay in performance of the contract on the part of the Buyer.

2.2.7.4. The Seller shall manage waste produced during performance of works covered by the contract in accordance with the provisions of the Waste Act of 27 April 2001 ("Dziennik Ustaw" [Journal of Laws] No. 62, item 628 of 20 June 2001 as amended).

2.2.7.5. Scrap metal waste shall be given to the Buyer. Furthermore, the Parties agree that in relation to scrap metal the Buyer shall be the producer of waste within the meaning of the Waste Act.

2.2.7.6. If necessary, documents confirming waste management shall be appended to the delivery report.

2.2.8. Liability for defects

2.2.8.1. If in the course of the acceptance of works contemplated in the contract removable defects are identified, the Seller shall be liable for such defects under the warranty provided.

2.2.8.2. If in the course of the acceptance of works contemplated in the contract non-removable defects are identified, the Buyer may demand that the remuneration be reduced proportionally to the impaired useful and technical value (if the defects do not make it impossible to use the subject matter of the contract in accordance with its intended purpose) or rescind the contract (if the defects make it impossible to use the subject matter of the contract in accordance with its intended purpose).

3. Payment terms

3.1. VAT invoices issued by the Seller shall be payable within 30 days from the date of receipt by the Buyer; however, final payment terms shall be stated in the order confirmation.

3.2. If the price is indexed to the exchange rate of a foreign currency and is payable in PLN, the price shall be calculated at the average exchange rate of a given foreign currency (index currency) published by the National Bank of Poland as at the date of the invoice.

3.3. If the confirmation provides for an advance payment or earnest money payment to the Seller, the amount paid by the Buyer shall be credited towards the price. If either Party terminates or rescinds the contract, the advance payment shall be returned at its nominal value; to earnest money the generally applicable provisions (Article 394 of the Civil Code) shall apply.

3.4. The value of advance payments credited towards the price indexed to the exchange rate of a foreign currency that is payable in PLN shall be calculated at the average exchange rate of a given foreign currency (index currency) published by the National Bank of Poland as at the date of the advance payment request.

3.5. In the event of late advance/earnest money payment, the Seller shall have the right to extend the delivery date and/or service provision date by the time the Seller receives confirmation of advance/earnest money payment from the Seller's bank.

3.6. The Seller represents that it is an active Value Added Tax payer, registered with NIP No. 631-010-00-35 and EU VAT ID: PL 6310100035 assigned thereto for the purpose of intra-Community transactions.

3.7. In the event that the contract is formed in accordance with Article 1 of these GT&CS, the Buyer shall:

- Provide the Seller with its details required for issuance of VAT invoices in accordance with applicable provisions of law;
 - Pay the price together with VAT at applicable rates.
- 3.8. In the event of late payment for the goods/service, the Buyer shall be charged with interest at the legally prescribed rate.
- 3.9. A complaint shall not give rise to the Buyer's right to withhold payment of the price for the goods/service or any part thereof.
- 3.10. If the price specified in the contract is a gross price, it shall not change if the Value Added Tax rate changes; the rules arising out of provisions amending the Value Added Tax Act or delegated legislation issued thereunder shall be complied with.
- 4. Warranty**
- 4.1. The Seller warrants that the goods and services delivered as part of performance of the contract will comply with the specification, design documentation or technical drawings and any other contractual requirements, and that they are of good quality, properly designed and produced with the use of the proper material.
- 4.2. The Seller shall provide the Buyer with warranty for the period specified in the warranty document, contract or confirmation. Unless the contract provides otherwise, the Seller shall grant warranty for:
- 4.2.1. Delivered goods or delivered and assembled equipment and materials used – on the terms and conditions specified by the manufacturer.
- 4.2.2. Works performed as part of performance of the contract – for the period of 12 months.
- 4.3. The warranty period shall commence at the date of the Parties' signature of the delivery report in respect of the goods or, in the case of delivery of goods and services, at the date of start-up/assembly of the goods / provision of the service, but not later than within 3 months from the date of release/delivery of the goods.
- 4.4. Under the warranty, the Seller shall only remove, at its own cost and at its own choice, physical defects in the goods or the goods and service or deliver a defect-free thing if the defects are revealed during the warranty period and caused by reasons attributable to the goods sold or result from defective craftsmanship or use of defective materials or from defective performance of the subject matter of the contract/order.
- 4.5. Immediately after a defect in the goods or the goods and service has been identified, the Buyer shall report the defect in the form specified in the contract between the Parties not later than within 7 days. Furthermore, the Buyer shall deliver the defective goods at its own cost and risk to the place of repair indicated in the warranty document, unless the Seller undertakes to remove the defect in the goods at the place of use of the goods by the Buyer. Within 3 business days from receipt of the notice of defect and from delivery of the defective goods, the Seller shall inform the Buyer about measures that have been applied or are to be applied as well as about the time required for removing the defect. After the defect has been removed, the Seller shall deliver the goods to the Buyer at its own cost and risk to the place of use of the goods by the Buyer.
- 4.6. If the documentation specifying the operating conditions for the delivered goods and/or service, in particular the Operation and Maintenance Manual, requires that preventive maintenance, including warranty inspections, should be carried out during the warranty period, and the contract does not provide otherwise, the Buyer shall satisfy such requirements.
- 4.7. The Seller's warranty for replaced goods or parts thereof shall be extended by further 12 months from the date of replacement. The total warranty period for replaced goods or parts thereof shall not exceed 24 months.
- 4.8. The provisions of this Article shall not exclude or limit the Buyer's rights under the implied commercial warranty for defects in accordance with the general principles of the Civil Code.
- 4.9. The Buyer shall lose its rights under the warranty if it repairs or modifies the delivered goods or work performed by the Seller without notifying the Seller and obtaining the Seller's written consent, or if the Buyer fails to satisfy the Seller's requirements referred to in Article 4(6).
- 4.10. The warranty shall not cover any faults, defects and damage resulting from random events, mechanical damage, improper use or maintenance, self-willed repairs or modifications and construction changes made by the Buyer or to the Buyer's order.
- 5. Liability**
- 5.1. If the contract or any part thereof is terminated or rescinded, the Party to which the rescission is attributable shall pay the other Party liquidated damages in the amount of 10% of the value of the goods and services to which the rescission relates.
- 5.2. In the event of late order execution, the Buyer shall have the right to receive liquidated damages in the amount of 0.2% of the value of late delivery or non-provided services per each full week of delay – up to 10% of the price of the delayed part of the subject matter of the contract.
- 5.3. In the event that the Seller is late with removal of defects in the subject matter of the order that are revealed during the warranty period, the Buyer shall have the right to receive liquidated damages in the amount of 0.2% of the value of the defective part of the subject matter of the order per each full week of delay – up to 5% of the price of the delayed part of the subject matter of the order.
- 5.4. If paid liquidated damages do not cover the loss caused by events for which liquidated damages were calculated, the Parties shall have the right to seek supplementary damages.
- 5.5. The Seller's liability in damages for losses caused by reasons other than those for which liquidated damages are stipulated shall be limited to the value of the net contractual remuneration. In no event shall the Seller's liability in damages for non-performance or improper performance of the contract cover any loss of profits, loss of production or loss of use, loss of business, any consequential or indirect damages, including lost profits.
- 5.6. The Seller shall be liable for death, personal injury or damage to third parties' property only if such death, injury or damage was caused by circumstances attributable to the Seller.
- 6. Suspension of performance, termination of contract**
- 6.1. If the Buyer's performance is doubtful due to its financial standing, the Seller may suspend performance of the contract until the Buyer makes a down payment in full for the goods or service or provides a security accepted by the Seller.
- 6.2. The Parties may terminate the contract at any time by way of mutual agreement.
- 6.3. The Seller may withdraw from the contract within 14 days from occurrence of an event constituting grounds for withdraw in the case of:
- Failure to make an advance payment, if any, for a period longer than 1 month from the date specified in the contract;
 - The Buyer's failure to provide data necessary for performance of the subject matter of the contract;
 - Failure to pay, for a period of at least 2 months, any amounts due for an already-delivered batch of goods / already-provided service or goods/service delivered/provided under a separate contract between the same Parties.
- 6.4. If the Seller withdraw from the contract in cases referred to in Article 6(3), the Seller shall have the right to claim reimbursement for already incurred costs of contract execution.
- 6.5. The Buyer may withdraw from the contract in case of delay in delivery by more than 2 months caused by the fault of the Seller.
- 6.6. In cases referred to in Article 6(3) and Article 6(5), the withdrawing Party shall notify the other Party of such withdraw.
- 7. Force Majeure**
- 7.1. The Parties shall not be liable for non-performance or improper performance of contractual provisions as a result of a Force Majeure event if, when a Force Majeure event occurs, the affected Party immediately notifies the other Party in writing of such occurrence and reasons therefor and makes every effort to present, within 10 days from the date of notice, the other Party with documentation explaining the nature of and reasons for the Force Majeure event to the extent that it is obtainable.

- 7.2. For the purposes of the contract, Force Majeure shall mean a sudden and unforeseeable event beyond a Party's control, occurring after the contract has been entered into by both Parties, preventing a Party from performance of its obligations under the contract, excluding wilful misconduct and failure to exercise due care and diligence. In particular, such events may include: natural disasters, wars, revolutions, epidemics, general strikes in respective business sectors, road blockades, embargoes, official decisions of authorities and public administration bodies, weather conditions such as lightning, hurricanes, snow storms.
- 7.3. Due to occurrence of a Force Majeure event, time limits for performance of the subject matter of the contract shall be extended by the duration of the Force Majeure event and a period required for resuming works suspended due to occurrence of the Force Majeure event.
- 7.4. If a Force Majeure event lasts for a period longer than 90 days, the Seller shall have the right to terminate the contract upon one week's notice.
- 7.5. In the event that the contract is terminated due to a Force Majeure event lasting for a period longer than 90 days or that performance of the contract is continued after the Force Majeure event has ceased, the Seller shall have the right to recover additional costs incurred in connection with occurrence of the Force Majeure event.
- 8. Confidentiality**
- 8.1. Any confidential information, understood as technical, commercial, financial, cost information, transferred in connection with performance of the contract in writing or on electronic carrier, shall not be transferred to any third parties, published or otherwise disclosed during the term of the contract and for a period of 3 years following its expiration or termination.
- 8.2. Either Party shall have the right to make information available to its subcontractors, representatives or other persons and entities only upon prior written consent of the other Party.
- 8.3. Notwithstanding the provisions of Article 8(1) and Article 8(2) hereinabove, confidential information may only be disclosed by order of a court or other competent authority if the law so requires, provided that the other Party receives a prior written notice and that every effort is made to secure confidential information in relation to such disclosure.
- 8.4. The confidentiality obligation shall not apply to information in the public domain, information legally obtained from third parties and information developed independently by the other Party.
- 9. Intellectual and industrial property rights**
- 9.1. The Seller shall retain copyright, patents and other industrial property rights in respect of the subject matter of the contract delivered by the Seller, both existing prior to the contract and created during performance of the contract. The Seller shall grant to the Buyer a licence to the rights referred to hereinabove or transfer them to the Buyer on the fields of exploitation and on the terms and conditions specified in the contract between the Parties.
- 9.2. The Seller represents that to the best of its knowledge the subject matter of the contract delivered thereby does not infringe any patents and other third party industrial property rights, copyright and related rights.
- 9.3. The Seller shall have the right and duty to make decisions about defence against any claim, lawsuit or proceedings against the Buyer to the extent to which they are based on a claim that the subject matter of the contract delivered under the contract infringes any copyright and/or related rights, existing patent and/or other industrial property rights.
- 9.4. If the claim referred to in Article 9(3) is raised, the Buyer agrees that the Seller, at its own discretion and at its own cost: (a) obtains for the Buyer the right to continue using the subject matter of the contract; or (b) replaces or modifies the subject matter of the contract so that it does not infringe third party rights. If neither solution is possible, the Seller shall terminate the contract and return to the Buyer the price paid by the Buyer to the Seller for the subject matter of the contract, taking into account depreciation for the period of use thereof.
- 9.5. The Seller shall not be liable for any claims, and the Buyer shall indemnify the Seller against such claims, raised against the Seller as a result of: (a) commingling, operating or using the subject matter of the contract under the contract together with equipment, devices or software not delivered by the Seller; (b) altering or modifying any element of the subject matter of the contract delivered under the contract without prior written consent of the Seller.
- 9.6. Notwithstanding the remaining provisions of the contract, the Seller shall not be liable for any claims resulting from the Buyer's use of the subject matter of the contract or any part thereof, as delivered, after the Seller has informed the Buyer about modifications or alterations required to avoid third party claims and has proposed making such modifications or alterations, if such a claim could have been avoided if the Seller's suggestion had been followed.
- 9.7. The foregoing provisions of Article 9 shall comprise the total liability of the Seller in connection with infringement of any patents and other third party industrial property rights, copyright and related rights.
- 10. Change of law**
- 10.1. Under the contract, the Seller shall deliver the subject matter of the contract in compliance with the generally applicable provisions of law existing as at the date of the contract.
- 10.2. Any changes of law referred to in Article 10(1) shall give rise to the Seller's right to adjust the price and amend the terms and conditions of the contract, in particular to change the delivery date of the subject matter of the contract, if such changes affect performance of the Contract.
- 11. Change order**
- 11.1. Save for cases referred to in Article 10, the Seller shall have the right to demand justified amendments to the contract in respect of the delivery date and/or specifications of the goods or the goods and service as part of the subject matter of the contract, if the Seller is late with performance of the contract due to an act, omission or failure to perform contractual obligations by the Buyer.
- 11.2. In the event that the circumstances referred to in Article 11(1) occur, the Seller shall send to the Buyer, within 7 days from occurrence of such circumstances, a change order containing the amended contractual provisions.
- 12. Entire agreement**
- The contract/order together with these GT&CS shall constitute the entire agreement between the Parties in respect of its subject matter and shall supersede any prior declarations, offers, contracts, agreements and arrangements between the Parties, whether oral or written.
- 13. Validity of contract/order provisions**
- The Parties agree that if any part of the contract/order is held to be invalid or otherwise legally defective, the remaining part of the contract/order shall continue in effect. The foregoing shall apply in particular to the provisions on limitation of the Parties' liability and on liquidated damages. In respect of provisions held to be invalid or unenforceable, the Parties shall hold negotiations in good faith in order to replace such provisions, if possible, with alternative provisions that will be valid and enforceable and will reflect the original intent of the Parties.
- 14. Governing law and dispute resolution**
- 14.1. The contract shall be governed by and construed in accordance with the laws of the Republic of Poland.
- 14.2. Any disputes or claims arising between the Parties in connection with the contents or performance of the contract/order that the Parties could not settle amicably within 14 days from the date of such dispute shall be resolved by a court having subject-matter jurisdiction over the Seller's registered office, unless the contract/order provides for such disputes to be resolved by independent arbitration.
- 15. Final provisions**
- 15.1. In the event of any discrepancy between these GT&CS and the order acceptance confirmation, the terms and conditions stated in the order acceptance confirmation shall prevail.
- 15.2. Any amendments and supplements to the order acceptance confirmation and these GT&CS shall be made in writing, otherwise null and void.
- 15.3. The Buyer shall not assign any of its rights and duties under the contract to a third party without prior written consent of the Seller.
- 15.4. To matters not regulated in the provisions of these GT&CS or the contract between the Parties relevant provisions of the Civil Code shall apply.