



1846

H.CEGIELSKI-POZNAŃ S.A.

INNOVATIVE TRADITION

DH/HS

Edition 01 dated 08.03.2017

GENERAL TERMS OF SALE AND DELIVERY OF GOODS AND RENDERING SERVICES

H.CEGIELSKI-POZNAŃ S.A.

1 INTERPRETATION

1.1 The terms included in these Terms (unless the context specifies otherwise) shall have the following meaning:

„**Buyer**” means a person, enterprise or company, which sent an inquiry and/or order regarding the Goods or Services specified in its document.

„**HCP**” means H.CEGIELSKI-POZNAŃ S.A. company, which sells and delivers Goods or renders services in accordance with the Agreement or Buyer's Order.

„**Terms**” mean rules and conditions of sale and delivery and rendering services by HCP, as stipulated in this document.

„**Agreement**” means an agreement for sale and delivery of Goods or rendering Services between the Buyer and HCP.

„**Goods**” mean the goods being sold or delivered by HCP and specified in the HCP's offer or in the confirmation of the order.

„**Services**” mean the services rendered by HCP and specified in the HCP's offer or in the confirmation of the order.

„**IPR**” mean any intellectual property rights of any nature, including rights to invention, patents, utility models, design, copyrights, qualified expertise, trade secret, confidential information, trademarks, service marks, trade names and enterprise values.

„**Order**” means an order for Goods or Services placed in HCP by the Buyer. The order which is received by HCP means that the Buyer totally accepts the terms specified by HCP, unless the parties agree otherwise.

„**Parties**” mean the Buyer and HCP.

„**Place of rendering Services**” means the place of execution of the Services by HCP together with the surrounding area used by HCP for rendering the Services.

„**Personnel**” means persons acting on behalf of HCP when rendering the Services.

1.2 The headlines included in these Terms are for Parties' convenience only and shall not have any influence on the interpretation.

2 ORGANIZATION

2.1 These Terms shall apply to all offers, Orders and Agreements, excluding any other principles and terms, also the ones which according to the Buyer apply to the Order. Any exceptions to the Terms shall apply only once they have been agreed upon in writing. If any of the approved exceptions results in a prolonged time and increase of Agreement performance costs to be incurred by HCP, then the content of the Agreement shall be adapted accordingly.

2.2 The Orders placed by the Buyer shall become binding for HCP when the Buyer is provided with the written confirmation of the Order and only on the terms specified in the confirmation of the Order.

2.3 Any information on the weight, dimensions, capacity, price, technical specification and other data set out in the catalogues, brochures, circular letters, advertisements, illustrated materials and price lists shall be treated as approximate data. Such information shall become binding when they are expressly stipulated in the confirmation of the Order or other documents being a part of the Agreement.



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- 2.4 HCP reserves a right to accept Orders partly or reject them without giving a reason.

3 DELIVERY, LACK OF DELIVERY OR DELAYED DELIVERY

- 3.1 Unless expressly agreed in writing by HCP:

- the delivery dates accepted by HCP are given in good faith, but they are the approximate ones; and
- the delivery of goods shall be performed on Ex Works terms (Incoterms 2010), excluding packaging costs which may be added to the regular price.

- 3.2 Prior to the delivery of Goods, the Buyer shall have a right to check all the Goods in HCP's warehouse in HCP representative's presence.

- 3.3 HCP may deliver the Goods in batches. In the event of a failure to fulfill HCP's obligation, regardless of the cause and with regard to one or more batches, it is not a basis for termination or withdrawal from the Agreement in its entirety.

- 3.4 Any costs related to storing and insuring the Goods as well as the risk of accidental loss or damage shall be transferred to the Buyer at the moment when the Goods are delivered or when the Goods are collected in HCP's warehouse, if the Buyer arranges the collection on its own.

- 3.5 The costs related to storing and insuring the Goods as well as the risk of accidental loss or damage shall be transferred to the Buyer also when the arranged delivery date expires, in particular when:

- (a) the Buyer does not accept or refuses to accept the delivery of the Goods ready for shipment in accordance with the Order; or
- (b) the date of Goods delivery has been modified at the request of the Buyer,
- (c) the Buyer does not provide HCP or its authorized entity with any guidelines, approvals or other documents necessary to perform the delivery of Goods at the required time;
- (d) the Buyer does not provide HCP with a specific delivery address for the Goods ordered within 5 working days after receipt from HCP the written notice of the Goods readiness for shipment.

- 3.6 If any situation specified in point 3.5 (a), (c), (d) of these Terms occurs, HCP shall set the Buyer the another Goods collection date, and if the term expires with no result, HCP may sell the uncollected Goods to other purchaser. Then HCP shall have a right to charge the Buyer with a difference between a value of Goods in the Agreement or Order and the sale price given to another purchaser increased by any costs and expenses related to storage and insurance of Goods up to the sale date.

- 3.7 The collection of Goods by the Buyer will be confirmed by means of the protocol signed by HCP and the Buyer or signed by the representative of the client on the shipping document. Any identified Goods shortages or damages shall be reported by the Buyer to HCP in writing within 3 working days following the delivery, under the pain of loss of the rights related to such shortages or damages.

If the complaint is considered, HCP will provide the Buyer the missing Goods or defect-free Goods as soon as possible. If such delivery is not feasible, HCP shall return the equivalent value of the undelivered Goods by transferring such amount to the Buyer's bank account. In such case, the Buyer shall not be entitled to withdraw from the Agreement in the scope the Agreement was performed by HCP.



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4 REALIZATION OF THE SERVICE OR ITS DELAY

- 4.1 The Services will be rendered in the Place of rendering Services, as stipulated in HCP offer or in the confirmation of the Order.
- 4.2 HCP may render Services in parts, one after another. In the event of a failure to render part of the Service by the arranged deadline, regardless of the cause, the Buyer shall not be entitled to withdraw from or terminate the Agreement in its entirety, unless the failure to render part of the Service results in lack of feasibility of timely completion of all Services.

5 TITLE OF OWNERSHIP

- 5.1 HCP shall reserve a right to the ownership of Goods and items generated as a result of rendering Services until the Buyer makes a full payment.
- 5.2 In case the Buyer fails to make a payment by the arranged deadline, HCP shall have a right to demand an immediate return of Goods or items generated as a result of rendering services at the Buyer's expense.
- 5.3 If the Goods or items generated as a result of rendering Services are taken back from the Buyer, HCP may require a proper remuneration for their possible wear or damage.

6 PRICE AND VALIDITY PERIOD OF PRICING AND OFFERS

- 6.1 Unless agreed otherwise in writing, the offer put forward by HCP shall remain valid for the period of 30 days.
- 6.2 Unless agreed otherwise in writing, the prices included in HCP's price lists, offers and confirmations of the Order shall be on the Ex Works terms (Incoterms 2010) and exclude taxes, duties, transport costs, packaging costs, insurance, charges, visa-related fees, accommodation, passes or similar to be paid extra to the price of the agreement in accordance with the costs incurred, increased by handling charges equivalent to 10% of the costs incurred.
- 6.3 Unless agreed otherwise in writing, the Buyer shall make a payment by means of the bank transfer to HCP's bank account number within 14 days following the invoice issuance.
- 6.4 HCP may require the Buyer to prepay the entire or part of the remuneration before the Goods are sent or before the Personnel visits the Buyer.
- 6.5 If any amount due on the basis of the Agreement is not settled at the proper time, without prejudice to other HCP's rights arising from these Terms, this amount due shall be increased by statutory interests starting on the due date until the payment is settled entirely; in this case HCP may also refuse to consider further Orders placed by the Buyer until all dues are settled.

7 RENDERING SERVICES

- 7.1 The remuneration for the Services excludes food, accommodation and transport, as well as other services rendered to the benefit of the Personnel which shall be provided by the Buyer free of charge. Any travel-related costs, costs related to transporting luggage, instruments, materials and tools incurred by the Personnel will be reimbursed by the Buyer.
- 7.2 Unless agreed otherwise in writing, the Buyer shall be obligated to provide at its own expense and in the place of rendering Services, the support of its personnel to the extent necessary to perform the Services properly by HCP. The Buyer shall incur any costs related to rendering Services, arising in the place of rendering Services, in particular utility expenses.



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- 7.3 In the case of the Services requiring the Buyer's approval, HCP shall notify the Buyer of the Service approval date. In the event of a failure of approval of the Services by the Buyer at the agreed time, the Service shall be deemed performed and approved on the day specified as approval date.
- 7.4 The Buyer shall be obligated to notify HCP and the Personnel of any legal regulations applicable in the Place of rendering Services, in particular with regard to safety and occupational health and - if necessary - provide a free training to the Personnel before starting the Agreement realization. The Buyer shall be liable towards HCP for a failure to fulfill its obligations stipulated in the previous sentence.
- 7.5 The organization of working time in the Place of rendering Services shall be established on the basis of the mutual negotiation between the Buyer and Personnel. A real working time shall be documented in the time sheets by the Personnel and approved by the Buyer. HCP shall present the settlement on the basis of such time sheets.

8 WARRANTY

- 8.1 HCP guarantees that the Goods will be free from material defects, production defects and structural defects. Any warranty claims of the Buyer shall expire if not submitted to HCP within 12 months following the date of Goods collection by the Buyer or date of delivery to the Buyer if HCP organized a delivery to the Buyer.
- 8.2 HCP guarantees that the Services will be rendered with utmost care and on the basis of the qualified expertise of the Personnel. All HCP's Services are covered by a 6-month warranty following the Service approval date or if the service does not require the approval - from the day of informing the Buyer about its completion by HCP or Personnel.
- 8.3 The warranty shall cover only those Goods which are subject of the Order or Agreement, and with regard to rendering Services as well as the defects of device with regard to which the Service was rendered, arising as a result of improperly performed Service.
- 8.4 The warranty shall not apply when the reported defect of Goods or device with regard to which the Service was rendered:
- (a) derives from the drawing, pattern, specification or intellectual property right delivered by the Buyer or is a result of normal wear or intentional damage, negligence of the Buyer, atypical working conditions, inappropriate operation or modification or repair without HCP's consent, or is an effect of a failure to follow HCP's guidelines related to treatment, operation, use or preservation;
 - (b) refers to a mechanical damage or damage arising from inappropriate operation of the device with regard to which the Service was rendered,
 - (c) when HCP or its representatives do not get to carry out a safe inspection of the reported defect or device with regard to which the Service was rendered;
 - (d) when the total amount due for the Goods or Services was not paid by the arranged payment date;
 - (e) if it is the Buyer's personnel who was responsible for the damage of the device in which the Goods was used or device with regard to which the Service was rendered;
 - (f) when the Buyer used also non-genuine parts (i.e. parts which were not delivered by HCP or an entity with HCP license);
 - (g) when the Buyer did not follow the requirements specified in point 8.9. of the Terms.



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- 8.5 HCP's responsibility for the warranty with regard to Goods delivery is limited, at HCP's discretion, to repair, defect rectification or replacement of faulty Goods into defect-free ones. Unless agreed otherwise in writing, the defective Goods shall be returned to HCP in the condition they were previously delivered, at the Buyer's expense, as soon as possible. HCP shall be held responsible for unloading the Goods and/or initial works necessary to repair and/or rectify the defect.

If it is unfeasible to repair, rectify defects or replace defective Goods into defect-free ones, the Buyer shall have a right to claim lower prices, whereby the lower price shall be proportional to the price arising from the Agreement, the same as defective Goods value is to defect-free Goods value. If the defect makes the Goods unfit for use, the Buyer may demand from HCP to return 100% of the value of defective Goods.

- 8.6 Any replaced Goods delivered in place of defective ones shall be covered by the warranty on the terms stipulated in the point 8.
- 8.7 HCP's responsibility for the warranty with regard to rendering Services is limited to another free-of-charge Service execution. If another Service is infeasible or seriously hindered or if the costs of another Service exceeds the value of remuneration received by HCP in accordance with the Agreement, then the Buyer may demand lower price only, whereby the lower price shall be proportional to the price arising from the Agreement, the same as value of defective device with regard to which the Service was rendered is to value of this defect-free device.
- 8.8 The warranty does not cover devices connected to the device with regard to which the Service was rendered.
- 8.9 In case the defect of the device with regard to which the Service was rendered is identified, the Buyer undertakes to immediately cease using such device and shall report the defect to HCP within 5 working days at the latest, counting from the day when the defect was detected.
- 8.10 HCP shall not be responsible for any damage incurred by the Buyer as a result of non-performance or inappropriate performance of the Service and inappropriate operation of the device, with regard to which the Service was rendered.

9 FORCE MAJEURE

- 9.1 In the event of natural disasters, collective disputes, civil unrests, governmental actions or authorities' actions, or any other events which cannot be anticipated or are out of the reasonable control of the injured Party, the Parties shall be temporarily released from their obligations in the period of occurrence of such events and in the scope that applies to their responsibilities. The aforesaid provision shall also apply to HCP, if HCP's subcontractor was also afflicted by such event and/or when the injured Party delays the performance of the provisions of the Agreement due to this reason.
- 9.2 The Parties undertake to provide each other with necessary information without undue delay, and adapt their obligations to the changing situation in good faith.



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10 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

- 10.1 Unless agreed otherwise in writing, the Buyer shall not acquire any rights to IPR (including copyrights) related to the Goods and the ones which may arise as from rendering Services, as well as rights to any plans, descriptions, blueprints, designs, technical information, software, documents, drawings and/or specifications pertaining to them, delivered to the Buyer by HCP or on its behalf as a result of the delivery of Goods or rendering Services. If the Buyer acquires such rights in any way, then it shall be obligated to notify HCP of this fact in no time.
- 10.2 HCP shall have a right to apply any trademarks, trade names and/or service marks for the Goods or provided Services. The Buyer confirms that it was not granted any rights to use such trademarks, trade names and/or service marks. The Buyer shall not cover, remove or rub out any trademarks, trade names or logotypes used by HCP and applied on the Goods or with regard to such Goods, as well as with reference to the Services.
- 10.3 The Buyer shall maintain confidentiality and shall not use, without prior HCP's consent, any information, including the information provided by HCP to the Buyer, disclosed or received by the Buyer in accordance with or as a result of the Agreement as well as shall not disclose them to third parties, except when such information is already available to public without Buyer's impact or their disclosure is required by the rules of law, or governmental authorities, or other inspection bodies.
- 10.4 In the case of production of the Goods by HCP in accordance with the documentation provided to HCP by the Buyer, HCP shall not be held liable towards third parties for violation of IPR. If a third party files a claim against HCP with regard to violation of its rights, the Buyer shall be obligated to satisfy them and release HCP from the obligation to perform its duties on this account. If third parties choose to file a lawsuit with regard to the aforesaid rights against HCP, the Buyer shall be obligated to support HCP and undertake any actions aiming to release HCP from participation in this matter.

11 LIMITATION OF LIABILITY

- 11.1 HCP shall not be held liable towards the Buyer on the basis of these Terms or the Agreement:
- (a) for loss of profits, employment, business contracts, revenues or expected savings; or
 - (b) for damage to reputation or image of the Buyer, or
 - (c) for any losses arising from third parties' claims; or
 - (d) for any losses or damages of any nature.
- 11.2 The total liability of HCP for damages arising from the fulfillment of the Order or performance of the provision of the Agreement shall be limited to the value of the Order or Agreement.

12 TERMINATION OF THE AGREEMENT

- 12.1 If the Buyer does not make any payment by the arranged deadline or does not fulfill its obligations on time, HCP shall be entitled to suspend the delivery of Goods or rendering Services. In such case:
- (a) the date of performing the provisions of the Agreement by HCP shall be automatically extended and
 - (b) any costs (including financial services and storage costs, delay fee or other charges) incurred as a result of the above by HCP shall be covered by the Buyer.



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- 12.2 Regardless of any other rights, HCP may terminate the Agreement immediately if occurs or it is likely that any of the events below may occur:
- (a) suspension of delivery of Goods or rendering Services, as stipulated in the Term 12.1, lasts longer than 120 days, or
 - (b) the Buyer violates the obligations arising from the Agreement, or
 - (c) liquidation proceedings of the Buyer's enterprise were initiated or the application for Buyer's bankruptcy was submitted, settlement proceedings were initiated or other proceedings of a similar nature or if there is the equivalent or analogical situation related to other jurisdiction or when the Buyer stops or there is a likelihood that it may stop running business or for other reasons fails to fulfill its obligations.
- 12.3 If there are grounds to terminate the Agreement, specified in item 12.2, HCP shall be entitled to suspend all further deliveries of Goods or rendering Services without any responsibility towards the Buyer. Regardless of other terms included in the Agreement, within 14 days following the receipt of notification of such situation, regardless of the cause, the Buyer shall provide the following payments to the benefit of HCP:
- (a) non-settled balance of the value of the Agreement for the Goods delivered or for the Services executed by the date of Agreement termination, and
 - (b) costs incurred or engaged by HCP by the day of notifying of the termination of the Agreement in the unfinished delivery of Goods or as a result of rendering Services, and
 - (c) costs reasonably incurred by HCP as a result of Agreement termination.
- 12.4 The termination, expiration or closure of the Agreement or its part shall not affect and modify provisions specified in points 9, 10, 11, 12 and 13.

13 BUYER'S OBLIGATIONS

- 13.1 The Buyer shall provide the Personnel for assistance with respect to obtaining the official permission to enter, leave or work, as required in the country where Services are to be executed.
- 13.2 The Buyer shall provide the Personnel with an easy and safe access to the Place of rendering Services.
- 13.3 The Buyer shall be responsible for assuring suitable conditions in order to avoid health impairment for the Personnel during its stay in the place where Services are rendered. The Buyer shall undertake suitable means with a view to securing the Personnel against any risk related to the work in hardly-accessible places and with substances dangerous for health.
- 13.4 HCP shall have a right to refuse to execute Service in the conditions or the environment which may be harmful to health or safety of the Personnel. In such case, HCP shall not be responsible for any delays in executing the Service. If the difficulties are not eliminated within 5 days, HCP shall be entitled to withdraw from the Agreement by fault of the Buyer.
- 13.5 The Buyer shall be obligated to provide tools, materials, equipment and rooms necessary to execute the Service. If the tools and materials are provided by HCP, then the Buyer shall be obligated to provide a free-of-charge assistance with regard to customs formalities required when importing and transporting the materials in HCP's possession. The Buyer shall return HCP the equivalent of customs duties or taxes which HCP was obligated to incur in connection with the delivery of tools and materials to the Place of rendering Services.



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- 13.6 The tools and unused materials necessary to execute Services, delivered by HCP, shall be returned by the Buyer to HCP in the same condition as left by the Personnel in the Place of rendering Services as soon as possible (i.e. within 30 days after the day when the Services have been completed by HCP at the latest). If this period is exceeded, HCP shall have a right to charge the Buyer a contractual penalty of € 400 (or equivalent to this amount) for every started calendar week. If the Buyer fails to return or damages the tools or materials, HCP shall charge the Buyer the amount being the equivalent to the value of these tools and devices.
- 13.7 At the request of HCP, the Buyer shall arrange suitable accommodation for the Personnel and assist in providing it with catering services. It shall be the Buyer's obligation to provide accommodation and food for the Personnel for the Buyer's cost, unless specified otherwise. If the accommodation is arranged on the ship, the Buyer shall provide suitably prepared and lockable cabins with the access to proper bathroom facilities at its own expense.
- 13.8 If the Personnel's accommodation is not at the distance shorter than 5 kilometers from the Place of rendering Services, then the travel time between the accommodation place and Place of rendering Services should be considered a part of the working time. If the Personnel uses public transport means, related costs shall be incurred by the Buyer. The same shall apply to transporting the equipment and other accessories necessary to execute the Service.

14 GENERAL PRINCIPLES

- 14.1 The Buyer shall be entitled to transfer its rights or obligations arising from the Agreement only if it has obtained a written consent of HCP.
- 14.2 If any provision of these Terms is considered invalid or infeasible in the eyes of the court or other relevant body, then such provision shall be deleted from the Terms, which however shall not have any impact on other provisions of the Terms or Agreement, which shall remain in full force. The Parties undertake to replace the invalid provision into another one – with regard to trade effect - which has the same meaning, as far as it is possible. If the circumstances show that lack of provision considered invalid or infeasible HCP would not sign the Agreement, such Agreement shall be utterly terminated.
- 14.3 The Agreement and Terms shall be construed by and shall be subject in all aspects to the rules of Polish law, excluding contradictory provisions arising from the international private law.
- 14.4 Any disputes arising from the Agreement or Terms shall be resolved by the court having its jurisdiction where HCP's head office is.
- 14.5 The provisions of these Terms shall apply in all Agreements unless the detailed provisions of the Agreement specify otherwise.

HCP 1878-17

The Document has been accepted by Commercial Director

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