



# **GENERAL TERMS AND CONDITIONS OF SALE FOR GRAW SP. Z O.O**

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## 1. BASIC DEFINITIONS

**GRAW** - Przedsiębiorstwo Usługowo – Techniczne „GRAW” sp. z o.o. with its registered seat in Gliwice, ul. Karola Miarki 12, 44 – 100 Gliwice, entered into the register of entrepreneurs held by the District Court in Gliwice, X Commercial Department of National Court Register under KRS no.: 0000137286, NIP [tax identification number]: 6310100673, share capital: 50 000,00 PLN.

**COUNTERPARTY** - it should be understood as the other party of any AGREEMENT concluded with GRAW within the scope of GRAW’s business activity, in particular within the scope of delivery of goods, sale of goods, or the provision of services by GRAW.

**AGREEMENT** - it should be understood as any agreement concluded by GRAW and the COUNTERPARTY on sales, delivery or provision of services concluded by GRAW with COUNTERPARTY within the scope of GRAW’S business activity, in particular by placing an order by the COUNTERPARTY, that GRAW has to accept.

**GTC** - it should be understood as these General Terms and Conditions of Sale implemented by GRAW and to be applied by its COUNTERPARTIES. geschafft, was den meisten „normalen“ Texten nicht gelingt. Ich bin Blindtext. Von Geburt an.

## 2. GENERAL PROVISIONS

These GTC shall apply to any or all AGREEMENTS concluded by GRAW with its COUNTERPARTIES both as part of regular commercial relations and as single orders, irrespective of the object of the order, which may in particular constitute a delivery of goods, sale of goods, or the provision of services by GRAW. The application of any contract templates or general terms and conditions of the COUNTERPARTY shall be excluded including if a reference to such documents is contained in any document presented by the COUNTERPARTY, also if signed by GRAW.

In case of any discrepancies between the provisions of the AGREEMENT and GTC, provisions of the AGREEMENT shall prevail. These GTC apply only to companies and apply also to all future business transactions with the COUNTERPARTIES.

## 3. CONCLUSION AND PERFORMANCE OF AN AGREEMENT

1. AGREEMENT may be concluded in any form, however its main conditions shall be determined in e-mail or in written form and approved by GRAW. Any order require an order confirmation from GRAW in e-mail or written form, otherwise such order may not be deemed effective.

2. The COUNTERPARTY is obliged to cooperate with GRAW in execution of the AGREEMENT or an order. The COUNTERPARTY is obliged to provide all data necessary for the performance of the AGREEMENT as indicated by GRAW.

3. GRAW is entitled to entrust the performance of part or whole of the AGREEMENT to the third party. In such case, GRAW is liable for the actions and inactions of such third party as for his own actions and

inactions.

4. In the event of any damage caused in connection with the performance of the AGREEMENT, GRAW's liability is limited exclusively to direct damages caused by GRAW intentionally or as a result of glaring negligence. GRAW's liability does not cover lost profit. In any case, GRAW's liability cannot exceed the amount of the order value.

5. „ Unless further determined in the supplier contract , in cases of default in delivery, caused by GRAW on it's own account, the COUNTERPARTY is entitled to charge a contractual penalty of 0.1% of the net delivery price per day of default , but not more than a total of 5% of the net delivery price.”

6. “In any case, GRAW's total liability, including all contractual penalties cannot exceed the amount of 50 % of the order value.”

## **4. PAYMENTS**

1. Prices for goods and services rendered by GRAW are net prices (without VAT) and do not include additional costs related to sales or delivery of goods or performance of services.

2. GRAW is entitled to change a price specified in its offer or confirmation of an order, if the COUNTERPARTY orders a different volume of goods or services, than specified in the offer or in the order confirmation.

3. COUNTERPARTY shall make payments for the performance of order by GRAW by bank transfers on the bank account specified by GRAW on the VAT invoice within 14 days since its reception.

4. Unless otherwise agreed, the COUNTERPARTY shall make a prepayment of 50 % delivery price on order and balance on delivery readiness.

5. If the COUNTERPARTY is exempt from taxes (including in particular VAT) a certificate confirming the proper status must be provided to GRAW at the time of placing an order.

6. If the subject of the COUNTERPARTY'S liabilities consists of an amount denominated in foreign currency (VAT invoice issued by GRAW for amounts denominated in EUR), the COUNTERPARTY is obliged to make such payment in foreign currency, which shall not waiver GRAW's demand for payments in Polish zloty if it is provided by law.

7. If the value of the COUNTERPARTY'S liabilities denominated in foreign currency (VAT invoice issued by GRAW for amounts denominated in EUR), and payment is made in Polish zloty, the value of liabilities in Polish zloty is determined according to the currency selling rate of the bank, with which a bank account is held by GRAW, which is published on a date of a VAT invoice or another account document. If it is not possible to determine the exchange rate in compliance with the foregoing sentence, the value of liabilities shall be set according to the currency selling rate of the bank, with which a bank account is held by GRAW, which is published on a due date of liabilities.

8. The COUNTERPARTY authorizes GRAW to issue VAT invoices without a need for GRAW and the COUNTERPARTY to sign them.

9. The payment date is considered respectively a date when the entire price for goods or services specified in the AGREEMENT or in an order is credited to GRAW's bank account.

10. In case of delay in payment of the price, GRAW shall be entitled to charge maximum default interests.

11. In case of delays in payments GRAW may suspend the performance of the AGREEMENT without bearing any liability for such suspension. The performance of the AGREEMENT will be resumed after the outstanding payment is credited on GRAW'S bank account.

## **5. DELIVERIES**

1. For all deliveries to the COUNTERPARTY Incoterms 2010 EXW shall apply unless stipulated otherwise in the AGREEMENT.

2. If the COUNTERPARTY collects goods personally, goods will be released on the basis of an acceptance report. In case of the COUNTERPARTY unjustified refusal to sign an acceptance report, GRAW may suspend release of the goods and charge costs to the COUNTERPARTY.

3. In other cases the COUNTERPARTY shall provide all necessary shipment data, including exact delivery address.

## **6. WARRANTY**

1. The COUNTERPARTY is obliged to check delivered goods promptly after its delivery or verify services promptly after their completion, in particular it shall verify completeness of goods, compliance of the quantity with an AGREEMENT or an order, and correct operations of goods.

2. The COUNTERPARTY shall lose rights under the warranty as stipulated in point 3 below, if it failed to examine goods or verify services and it did not report visible defects to GRAW within 3 days from release of goods to COUNTERPARTY or performance of a service, and if defects were revealed later – within 3 days from the day of their detection.

3. GRAW makes no warranties, expressed or implied, concerning the goods that it manufactures or sells except for the 12 months guarantee that accompanies the good, unless otherwise agreed. The warranty shall be always excluded if goods are used contrary to their purpose and in case of a defect resulting in particular from incorrect assembly of goods.

4. GRAW'S statutory warranty is excluded.

5. The detailed warranty conditions are described in GTW.

## **7. INTELLECTUAL PROPERTY**

1. Drawings and samples that GRAW makes available to the COUNTERPARTY remain GRAW's property,

and must not be given to third parties, or shown to them, or reproduced, without GRAW's specific agreement.

2. The COUNTERPARTY undertakes not to disclose to any third party confidential information that is received from GRAW, other than confidential information that GRAW consents in writing to being released or that is released under peremptory provisions in law or as a result of a decision by a public authority.

3. GRAW reserve the proprietary rights and copyrights to illustrations, drawings, costings and any other documents made accessible by GRAW for the purposes of the performance of the AGREEMENT, including in electronic form. They must not be made accessible to third parties without GRAW's prior consent in written form, otherwise being null and void.

4. Each of the Parties shall retain exclusive ownership of their intellectual property rights at the date of the AGREEMENT, whether patented or not, including know-how and knowledge, belonging to or acquired prior to the entry into force of the AGREEMENT or independently of the performance of the said AGREEMENT.

5. GRAW will retain exclusive ownership of the intellectual property rights, whether patented or not, of the know-how and knowledge that it may have acquired during the performance of the AGREEMENT.

6. GRAW shall solely retain the ownership of the intellectual property rights, title and ownership interest on the developed results, products and its components.

## **8. CONFIDENTIALITY**

1. The COUNTERPARTY shall keep confidential any and all information regarding GRAW, including but not limited to commercial and technical information, that the COUNTERPARTY has obtained in the course of performing the AGREEMENT or the order, except for the information that is publicly disclosed by GRAW and the information that has been previously shared with the right to disseminate it ('Confidential Information').

2. Any and all materials, documents, and information provided by GRAW to perform the AGREEMENT or an order shall remain the property of GRAW. The COUNTERPARTY shall store any and all information expressed in a physical form (including materials in writing and computer data carriers) in a manner preventing access thereto from unauthorized persons and shall return it immediately on the completion of the AGREEMENT or an order.

3. The obligation to keep Confidential Information confidential shall apply in the course of the performance of the AGREEMENT or the order and also after its performance until such information does no longer provide any value to GRAW or cannot be recognized as confidential any more.

4. The COUNTERPARTY shall ensure that the confidentiality obligation is observed by his employees, representatives, and any and all other entities cooperating with the COUNTERPARTY that have access to Confidential Information.

5. The COUNTERPARTY shall not have the right to refer, including by means of placing in his advertising materials, to information about GRAW without GRAW'S prior written consent, otherwise being null and

void.

6. The COUNTERPARTY shall treat Confidential Information in accordance with its nature, meaning for example that such Information shall not be distributed within the organization itself to any persons other than those who need the Information for their duties, and that Confidential Information that is documented shall be stored in a secure manner.

## **9. FORCE MAJEURE**

1. It is not qualified as breach of AGREEMENT, if one of the Parties cannot perform its contractual obligations due to reasons beyond the control of any of the Parties (Force Majeure). Circumstances to be considered as force majeure shall mean unforeseen events that cannot be prevented by human efforts (e.g. war, nation-wide strike, earthquake, flood, fires, terrorist attack, etc.), do not depend on the intention of the Parties and directly hamper the given Party's ability to perform its contractual obligations. Upon request of the other Party, the affected Party shall present a certificate on the occurrence of force majeure issued by the competent chamber of commerce of the originating country.

2. Unless otherwise agreed by the Parties in writing, contractual deadlines shall be extended in proportion to the duration of force majeure.

3. The Parties shall, without any delay, notify one another of the treat or the occurrence of any force majeure situation and its expected duration. Damages deriving from late notification of the treat or the occurrence of force majeure shall be borne by the Party liable for such late notification.

## **10. OTHER PROVISIONS/GOVERNING LAW**

1. If any provisions of these GTC become invalid, they shall be replaced by respective provisions of the binding provisions of the Polish law.

2. The COUNTERPARTY cannot transfer its rights or/and obligations arising from the AGREEMENT or the order without prior GRAW's written consent, otherwise being null and void.

3. These GTC, any AGREEMENT or order shall be governed exclusively by the Polish Law.

4. The competent court of law for GRAW'S registered office shall be the competent court to solve disputes resulting from the AGREEMENT/order or these GTC.