

## General Terms and Conditions of Sales Agreements

### 1. GENERAL PROVISIONS

- 1.1. These General Terms and Conditions of Sales Agreements (hereinafter referred to as General Terms and Conditions) apply to all agreements under which the Purchaser, as an entrepreneur, purchases the product from the Manufacturer.
- 1.2. The following phrases, when used in these General Terms and Conditions of Sales Agreements, shall have the meaning as defined below:
  - 1.2.1. "Manufacturer" is FIAB Spółka z ograniczoną odpowiedzialnością Spółka komandytowa, KRS [Polish National Court Register] 0000357875; NIP [Polish tax identification number]: 8942999829, REGON [Polish business registry number]: 021278590.
  - 1.2.2. "Purchaser" means the entrepreneur – legal entity who is either an addressee of the offer, or the other party to an agreement.
  - 1.2.3. "Parties" are the Manufacturer and the Purchaser.
  - 1.2.4. "Product" means equipment or ancillary items as specified in an offer or agreement.
  - 1.2.5. "notification of manufacturing the product" or "notification of the product's readiness for sending" means the Manufacturer's statement made in any acceptable form to the Purchaser, informing that the product's manufacturing process has been completed, or that the product can be delivered. Whenever the General Terms and Conditions refer to a notification of manufacturing the product, the role of such a statement may also be performed by a notification of the product's readiness for sending.
  - 1.2.6. "arrangement of delivery" means a set of actions relating to the carriage of the product prior to its release to the carrier, which include in particular: choice of a carrier or freight forwarder; conclusion of an agreement of carriage or freight forwarding agreement; payment of initial transport-related fees, and others.
  - 1.2.7. "confidential data" means all information concerning the business activity and business plans of the Manufacturer that have come into possession of the Purchaser and are not made generally available by the Manufacturer. Confidential data include, in particular, any information about the construction and way of manufacturing of the product, information about the principles of construction and manufacturing of the product and other goods manufactured by the Manufacturer, as well as other technical, economic, financial, accounting-related, commercial, legal, tax-related, or HR-related information.
- 1.3. Should the Purchaser not clearly object to the content of the General Terms and Conditions, this shall be deemed as the Purchaser's acceptance of the whole General Terms and Conditions.
- 1.4. The current text of the General Terms and Conditions is available on the Manufacturer's website with stipulation that, unless agreed and documented otherwise by the Parties, the binding version of the General Terms and Conditions is the version valid at the time of conclusion of an agreement.
- 1.5. The subject-matter of an agreement and offer is always a finished product, even if it requires to be manufactured at the time of conclusion of an agreement. The Purchaser does not have authority to intervene in the Manufacturer's technological process, nor are they authorised to give the Manufacturer any instructions relating to the process of manufacturing.

### 2. AGREEMENT CONCLUSION PROCEDURE

- 2.1. An offer does not require to be signed by the Manufacturer and it can be submitted in any form provided that it is recorded in writing. In particular, an offer may be submitted as electronic or written documents. An offer submitted in any other form shall not be binding and has no other effects. An offer may be expressed in any language.

- 2.2. Unless otherwise stipulated in the offer, an offer is a fixed-time offer valid for thirty (30) days, and it may be withdrawn by the Manufacturer before it is accepted.
- 2.3. Unless otherwise stipulated in the offer, the acceptance of the offer does not constitute the conclusion of an agreement, but makes it obligatory for both the Parties to conclude an agreement under the terms and conditions expressed in the offer. An agreement may be concluded in written or electronic form with scanned signatures of persons authorised for representation or duly authorised representatives.
- 2.4. When an offer is accepted with reservations, this shall not constitute the acceptance of the offer and shall not obligate any party to conclude an agreement, but shall only constitute a proposal addressed to the Manufacturer to suggest changes to the terms and conditions specified in the offer.
- 2.5. The acceptance of an offer may be submitted in written or electronic form with scanned signatures of persons authorised for representation.
- 2.6. The acceptance of an offer should be expressed in the language in which the offer was expressed.
- 2.7. If an agreement is not concluded within thirty (30) days of the date the Manufacturer receives the Purchaser's statement of acceptance of the offer, the Manufacturer's obligation to conclude the agreement shall expire.
- 2.8. An agreement is effective if it has been concluded in written or electronic form with scanned signatures of persons authorised for representation or duly authorised representatives.
- 2.9. Should the Manufacturer not respond to the proposal to conclude the agreement submitted by the Purchaser, or to the Purchaser's reservations in relation to the offer, this shall not be interpreted as agreeing to conclude the agreement under the terms and conditions specified by the Purchaser. The above principle also applies to the Manufacturer's regular counterparties.

### 3. PRICE

- 3.1. Unless otherwise stipulated in the agreement, the specified price is a net price. All taxes, customs duties and other fees incurred by concluding or performing the agreement shall be added to the price.
- 3.2. Unless otherwise stipulated in the agreement, the price is stated on the basis of the rule "Ex Works (EXW) Pietrzykowice, Poland" (Incoterms 2010).
- 3.3. If the agreement provides that the Purchaser must pay the Manufacturer a specified amount for delivery of the product, the said delivery shall also be executed according to the rule "Ex Works (EXW) Pietrzykowice, Poland" (Incoterms 2010)", with stipulation that the arrangement of delivery itself rests with the Manufacturer. In that case, the amount paid by the Purchaser to the Manufacturer for delivery of the product shall be used as the Manufacturer's remuneration for arrangement of delivery and as refund of the costs incurred by the Manufacturer in connection with arrangement of delivery. The provisions of this Section also apply when the agreement provides that delivery of the product is included in the product price.
- 3.4. Unless otherwise stipulated in the agreement, the price does not include installation of the product, training of its future users, corrective maintenance, and any other similar services.
- 3.5. If the agreement provides that the Manufacturer's obligations also include installation, and does not stipulate otherwise, the Manufacturer shall bear the cost of travel and accommodation of persons who, on behalf of the Manufacturer, provide the services of first installation and first training of operators of the product at the Purchaser's. The above rule does not apply to other services provided by the Manufacturer, in particular repair and maintenance services, including any guarantee services.
- 3.6. The price specified in the agreement, or if only part of the price has been paid then that part of the price is the upper limit of the Manufacturer's liability to the Purchaser for any non-performance or improper performance of a contractual obligation. The Parties exclude the Manufacturer's

liability for any loss of profits on the part of the Purchaser, as well as the Manufacturer's liability for the negative contractual interest.

#### **4. PAYMENT TERMS**

- 4.1. The price shall be paid in the currency of the price stated in the agreement.
- 4.2. Unless the agreement stipulates otherwise, the Manufacturer shall only initiate the manufacturing of the product, or the product shall only be purchased from a third party, if the first instalment of the price (prepayment) is paid. The product shall only be released to the carrier, or arrangement of delivery shall only take place, if the second instalment is paid. This also applies when the schedule of payments specified in the agreement is different than that provided in Section 4, with stipulation that if more than two instalments become payable to the Manufacturer before the product is released to the carrier or before the arrangement of delivery takes place, then the product shall be released or the arrangement of delivery shall take place only when all the instalments have been paid prior to the said actions.
- 4.3. The product remains the property of the Manufacturer until the whole price has been paid.
- 4.4. All fees for bank transfers, save for the Manufacturer's bank fees, shall be paid by the Purchaser. Payment is made only when it is credited in its entirety to the Manufacturer's bank account.
- 4.5. If payments payable to the Manufacturer are delayed, the Manufacturer has the right to rescind the agreement without obligation to set up an additional payment date, in which case the rescission of the agreement is due to reasons attributable to the Purchaser. It is, however, stipulated that the agreement may be rescinded not later than three (3) years after the conclusion of the agreement. In the event of delayed payment, all the time limits that the Manufacturer is required to meet shall be extended by the number of delayed days increased by fourteen (14) days. Furthermore, a delay in payment shall entitle the Manufacturer to withhold the release of the product, or cease the manufacturing of the product together with the performance of other obligations of the Manufacturer, including installation or training.
- 4.6. By paying the price in its entirety, the Purchaser shall obtain from the Manufacturer a non-time-limited license to use a source code of the product, and the said source code is the basis for operation of the product. The source code shall in all circumstances remain the property of the Manufacturer. The Manufacturer may terminate the license at any time with immediate effect when the Purchaser is in any financial arrears with the Manufacturer, regardless of what the arrears are for. In the case described above, the Manufacturer's liability for damage suffered as a result of withdrawal of the license is excluded.
- 4.7. If, despite the stipulated ownership of the product until payment of the price, or in connection with the contractual exclusion of such stipulation, the Purchaser who has not paid the full price to the Manufacturer sells the product to a third party, then a claim for payment of the price of such a transaction is transferred to the Manufacturer – up to the unpaid amount of the price payable to the Manufacturer, along with interest.
- 4.8. The Purchaser who has received the product with the stipulated ownership despite not paying the full price is obliged to insure the product against the risk of theft, destruction, or damage. Any claims for compensation under the said insurance are transferred to the Manufacturer, up to the unpaid amount of the price along with interest, until payment of the full price payable to the Manufacturer along with interest.
- 4.9. If the Purchaser is in any financial arrears with the Manufacturer, regardless of what the arrears are for, the Manufacturer shall not accept any repair and maintenance requests or requests under the guarantee.

## **5. PRODUCT DELIVERY**

- 5.1. If the agreement provides that arrangement of delivery rests with the Manufacturer, the Purchaser is obliged to inform the Manufacturer about the Purchaser's readiness to accept the product – not later than seven (7) days after the Manufacturer notifies the Purchaser that the product has been manufactured – and to receive the product.
- 5.2. If the Manufacturer withholds the release of the product to the carrier, arrangement of delivery or re-delivery, in an authorised manner, for longer than thirty (30) days, the Manufacturer is entitled to rescind the agreement, but not later than within three (3) years after the conclusion of the agreement. In the event mentioned above, the rescission of the agreement is due to reasons attributable to the Purchaser.

## **6. INSTALLATION**

- 6.1. If the agreement provides that installation of the product rests with the Manufacturer, the Manufacturer, within thirty (30) days of receiving the first instalment, shall determine any technical requirements to be met by the site where the product is to be installed.
- 6.2. The Purchaser is obliged to ensure that all the technical requirements specified for the installation site by the Manufacturer are met, and notify the Manufacturer when the site is ready for installation – not later than seven (7) days after the Purchaser has been notified that the product has been manufactured.
- 6.3. If the Purchaser fails to give notification that the site is ready for installation by the expiry of the time-limit indicated above, the Manufacturer is entitled to withhold the arrangement of delivery, release of the product to the carrier, or installation activities until the Purchaser gives the said notification.
- 6.4. When installation is complete, this shall be confirmed with a post-installation product acceptance protocol.
- 6.5. The Manufacturer is entitled to draw up a unilateral post-installation acceptance protocol if the Purchaser refuses to sign the post-installation acceptance protocol without due cause or prevents completion of installation. A unilateral post-installation acceptance protocol has the same effect as a protocol drawn up between the Manufacturer and the Purchaser.
- 6.6. If installation does not take place for more than thirty (30) days because of not meeting the technical requirements specified by the Manufacturer for the installation site, or because notification of meeting the said requirements has not been received, the Manufacturer has the right to rescind the installation-related part of the agreement, but not later than three (3) years after the conclusion of the agreement. In the event mentioned above, the rescission of the agreement is due to reasons attributable to the Purchaser.

## **7. GUARANTEE**

- 7.1. The Manufacturer is liable for defects in the product under the guarantee.
- 7.2. The guarantee entitles the Purchaser to receive the following guarantee benefits from the Manufacturer and regulates the Manufacturer's entire liability:
  - 7.2.1. repair of the product by the Manufacturer;
  - 7.2.2. replacement of defective parts of the product for parts free of defects – if the product cannot be repaired;
  - 7.2.3. replacement of the entire product – if the product cannot be repaired or its parts cannot be replaced.
- 7.3. The Purchaser shall bear the cost of travel and accommodation of persons providing any guarantee benefits at the place of installation of the product. No guarantee benefits shall be provided if the said costs are not born.
- 7.4. The Purchaser shall bear the cost of customs duties, the cost of defective parts of the product, or the cost of the entire product delivered to the Manufacturer for replacement. No parts or product shall be replaced if the said costs are not born.
- 7.5. The guarantee covers only the defects present in the product at the date when the risk of accidental damage or loss of the product was transferred to the Purchaser, or defects due to causes that existed in the product at the date when that risk was transferred to the Purchaser. The Purchaser is obliged to check the product for presence of any defects within fourteen (14)

- days after the product has been delivered, and failure to do so shall result in the Purchaser losing their guarantee rights. The guarantee does not cover any used products and, in particular, any:
- 7.5.1. post-guarantee inspections and costs thereof;
  - 7.5.2. defects in the product that have not been reported by the Purchaser within fourteen (14) days from the time such defects were detected during the guarantee period;
  - 7.5.3. destruction and damage arising through no fault of the Manufacturer, in particular any destruction and damage arising from improper use of the product, mechanical damage and its effects, installation not performed by the Manufacturer, improper conditions at the place of use of the product (e.g. dust and dirt, incorrect temperature and humidity in the place of use of the product), the use of non-original consumables, damage from external causes (e.g. flood, fire, power surge);
  - 7.5.4. defects in the product that has been repaired or modified by anyone other than the Manufacturer or the Manufacturer's authorised representative;
  - 7.5.5. defects in the product if the rating plate or serial number of the product has been hidden, covered, or removed;
  - 7.5.6. damage caused during transport, unloading, or in other circumstances for which the Manufacturer has no liability;
  - 7.5.7. immobilisation of the product caused by delays in payments to the Manufacturer, including any consequences of the immobilisation;
  - 7.5.8. use of raw materials or other materials that are not intended for the relevant type of the product, and may affect its correct operation, in the process of operation or use of the product;
  - 7.5.9. wear of consumables or wear parts, i.e. parts whose service life, by their nature, depends on the intensity of use (e.g. Melinex, Teflon, ground foot kit, filters).
  - 7.6. If the installation has been carried out by the Manufacturer, any inoperability of the product caused by its incorrect installation shall also be deemed a defect of the product covered by the guarantee.
  - 7.7. The termination of the license referred to in Section 4.6. of the General Terms and Conditions should be reported on a guarantee basis.
  - 7.8. The guarantee does not entitle the Purchaser to demand performance of any actions referred to in the manual that the user of the product is obliged to perform by their own means and at their own cost, nor does the guarantee entitle the Purchaser to demand performance of any actions which form part of normal operational support, e.g. cleaning, maintenance, adjustment, and setting of parameters.
  - 7.9. The product comes with the Manufacturer's guarantee for one year (365 days) or two thousand (2,000) operating hours – whichever comes sooner. The guarantee period starts running from the date when the risk of accidental damage or loss of the product is transferred to the Purchaser, or if installation of the product rests with the Manufacturer – from the date of completion of installation, not later than thirty (30) days from the date when the risk of accidental damage or loss of the product is transferred to the Purchaser. For vacuum tube oscillators, the guarantee period does not start running anew after replacement or repair, but continues from the date the guarantee was granted.
  - 7.10. Any faults and defects found during the guarantee period must be reported within fourteen (14) days after the problem has occurred to the Manufacturer's Repair and Maintenance Department: [service@FIABmachines.com](mailto:service@FIABmachines.com). Failure to report defects or failures in the above-specified time limit results in a loss of rights under the guarantee.
  - 7.11. The guarantee granted by the Manufacturer excludes the Manufacturer's liability under statutory warranty.
  - 7.12. The Manufacturer's liability for damages for non-performance or improper performance of an obligation does not include loss of profits, negative contractual interest, costs of substitute provision of the product, and manufacturing of the Purchaser's goods at the substitute contractor's or with the use of a third party's machinery, or loss of materials used in the course of manufacturing by the Purchaser, and it is limited only to damage resulting from wilful misconduct or gross negligence on the part of the Manufacturer.
  - 7.13. Provision of repair and maintenance services by the Manufacturer, including details of the Manufacturer's provision of guarantee benefits, is subject to the General Terms and Conditions of Repair and Maintenance Services.
  - 7.14. The Manufacturer has the right to rescind the agreement within one hundred and twenty (120) days from the date on which the Manufacturer became aware that it will not be possible to deliver

the whole product or part of it from their subcontractor/supplier, and informed the Purchaser about the above. In the event described above the Manufacturer's liability is excluded.

## **8. CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

- 8.1. The Purchaser shall maintain confidentiality of all confidential data received. In particular, the Purchaser shall not disclose confidential data and not use confidential data for any purposes other than performance of the agreement or normal use of the product. The obligation to maintain the confidentiality of confidential data is unlimited in time.
- 8.2. If the Manufacturer receives any intellectual property object from the Purchaser and the Purchaser has stated that they hold intellectual property rights to the said object, the Purchaser shall be liable for any acts or omissions by the Manufacturer that arise as a result of reliance on the said statement. In particular, the Purchaser shall indemnify the Manufacturer from any and all claims against the Manufacturer that may be made by any third parties alleging infringement of their intellectual property rights.

## **9. FINAL PROVISIONS**

- 9.1. If any provision of the agreement or General Terms and Conditions proves invalid, this shall not affect the validity of the whole agreement or the whole of the General Terms and Conditions. The Parties shall endeavour to replace any invalid provision with a valid provision, and until such replacement occurs, all invalid provisions should be so construed as to keep them effective with the closest possible legal effects.
- 9.2. The agreement, General Terms and Conditions, offer, acceptance of offer and effects thereof are subject to the law of Poland, excluding the United Nations Convention on Contracts for the International Sale of Goods, drawn up on 11 April 1980 in Vienna, and the Convention on the Limitation Period in the International Sale of Goods, drawn up on 14 June 1974 in New York.
- 9.3. In the event of rescission of the agreement due to reasons attributable to the Purchaser, the Manufacturer shall be entitled to retain the amount of the price received before the agreement (or part thereof) has been rescinded, as liquidated damages for rescission of the agreement. On the same basis, in the event of rescission of the agreement due to reasons attributable to the Purchaser, the Manufacturer shall be entitled to require the Purchaser to pay any unpaid parts of the price.
- 9.4. The Purchaser allows the Manufacturer to use the name and logo of the Purchaser's company in the Manufacturer's promotional, advertising, or informative materials and business correspondence.
- 9.5. Any disputes arising out of the General Terms and Conditions, Agreement, Offer, or Acceptance of Offer are subject to the jurisdiction of the courts of Poland. The courts competent for the settlement of disputes are the common courts competent for the seat of the Manufacturer.