

## **GENERAL TERMS AND CONDITIONS OF SALE OF GOODS PROBET – DASAG SP. Z O.O.**

VALID SINCE 01.02.2021.

### GENERAL PROVISIONS

#### § 1.

Definitions of notions used in the General Terms and Conditions of Sale:

**GTCS** shall be understood as these General Terms and Conditions of Sale of the Seller, i.e. Probet – Dasag sp. z o.o., with the domicile and address in Żagań (Poland), 68-100 Żagań, ul. Fabryczna 4-6, entered in the register of entrepreneurs maintained by the District Court of Zielona Góra VIII Commercial Division of the National Court Register under the number KRS 0000136496, NIP [*Tax Identification Number*]: 9281004140, with the initial capital of PLN 10.072.500,00, covered entirely;

**Goods** shall be understood as the goods listed in the Price List as defined below;

**Working Days** shall be understood as consecutive days of the week from Monday to Friday except the days which are statutory holidays in Poland;

**Business Hours** shall be understood as the time from 8:00 a.m. to 4:00 p.m. on Working Days;

**Price List** shall be understood as the list of net prices of the Good (without VAT) published at the Seller's website: [www.dasag.pl](http://www.dasag.pl);

**Ordering party** shall be understood as the Seller's contractor which purchases the Goods, and which is not a consumer within the meaning of law;

**Parties** shall be understood as the Seller or the Ordering Party both separately and collectively, depending on the context;

**Contract** shall be understood as an agreement for sales of Goods concluded between the Seller and the Ordering Party and arising from acceptance of a an order to be completed;

**Inaccuracies** shall be understood as errors in completion of the order consisting in delivery of Goods to the Ordering party:

- 1) in smaller volume than defined in the order accepted to be completed, or
- 2) in a damaged condition, or
- 3) in the assortment not complying with the order accepted for completion,

all of which shall be corrected within a complaint procedure;

**Defects** shall be understood as the defects removed solely under warranty and occurring from the reasons related to the Goods;

**Force Majeure** shall be understood as an event or set of events remaining beyond any reasonable control of the Party, which significantly and adversely affect the Party's performance of contractual obligations and which could not be foreseen, prevented, overcome or limited (partly or entirely) by the Party affected by such event despite their actions taken with due diligence.

#### § 2.

If the Parties does not resolve otherwise in a separate agreement, GTCS apply to the Contracts with no need for the Ordering Party to deliver a declaration on acceptance of GTCS.

§ 3.

1. GTCS are available at the Seller's website: [www.dasag.eu](http://www.dasag.eu).
2. Upon the Ordering Party's request, the Seller shall provide GTCS in written form.

ORDERS

§ 4.

1. Orders for Goods may be placed in written form, via telefax or electronic mail, and addressed to the Seller to:

- 1) postal address: 68-100 Żagań, ul. Fabryczna 4-6, or
- 2) telefax number: 68 363 16 58, or
- 3) electronic address: [handel@dasag.eu](mailto:handel@dasag.eu)

2. In correspondence related to orders the Seller is not obliged to maintain the form in which the Ordering Party placed their order.

3. The Seller's postal address, telefax number or electronic address may be changed, and such change shall be effective on publishing the change at the Seller's website [www.dasag.eu](http://www.dasag.eu).

§ 5.

An order of a batch of Goods shall include the following items:

- 1) name (firm) of the Ordering Party, and in case the Ordering Party is:
  - a) a natural person - also first name, surname and residence address of the Ordering Party,
  - b) a civil-law company - also first names, surnames, residence addresses and NIP [*Tax Identification Numbers*] of the partners of the Ordering Party,
- 2) bank account number of the Ordering Party,
- 3) NIP [*Tax Identification Number*] of the Ordering Party (in case of a civil-law company, NIP of the company),
- 4) data pertaining the entry in the register of entrepreneurs of the National Court Register (except entrepreneurs who are natural persons),
- 5) assortment and quantities of the Goods (with indication whether the Order concerns Goods of first or second grade),
- 6) indication of the place of collection of the Goods within the territory of the European Union in case the Ordering Party is going to use transport service of the Seller with relation to purchase of the Goods (if no place of collection is indicated, the Ordering Party shall collect the Goods from the Seller's works),
- 7) expected lead time of the order, understood as the date of release of the Goods to the Ordering Party on a Working Day and within Business Hours,
- 8) postal address of the Ordering Party, their telefax number and electronic address,

9) first name (-s) and surname(-s) of the person(-s) who is/are authorized to contract liabilities on behalf of the Ordering Party or who contract liability in their own name, and in case of placing an order in written form, the order shall be also signed by such person(-s).

#### § 6.

1. In case the Ordering Party is going to purchase the Goods under other conditions than those set out in the GTCS provisions, the departures from GTCS expected by the Ordering Party shall be indicated, or otherwise the Contract shall be deemed concluded under the provisions of GTCS.

2. In the case depicted in Item 1, the Parties shall promptly begin negotiations of the terms and conditions of sales of the Goods.

#### § 7.

An order is deemed accepted for accomplishment only after the terms and conditions of sale of the Goods have been explicitly confirmed by the Seller.

#### § 8.

If the Ordering Party who has been addressed with a confirmation of acceptance of an order for accomplishment, or with any other correspondence related with the order fails to inform the Seller promptly that the order is not theirs or that the Ordering Party was not properly represented on placing the order, the order is deemed to have been placed by person(-s) authorized to place same.

#### § 9.

1. After the order has been placed, further correspondence relating to the ordered batch of Goods shall be done via telefax or electronic mail.

2. If the Seller does not deliver any reply whatsoever within three (3) Working Days from receipt of the order, the order is deemed non-existent.

#### PRICES OF GOODS

#### § 10.

1. The prices of Goods indicated in the Price List shall be increased by VAT at the rate valid for the date of the invoice for purchase of the Goods.

2. Invoices for purchase of Goods shall be issued not later than within seven (7) days from the date of release of Goods to the Ordering Party unless other regulations require an invoice to be issued at other time.

3. Apart payment for Goods, the prices in the Price List include also the following:

1) cost of loading of Goods to a transport means at the Seller's works,

2) cost of packaging of Goods except europallets.

4) The Seller reserves the right to change the entire Price List or any part thereof.

5) Any price increase assumed after the order has been accepted does not concern the prices of the Goods covered by an order accepted for accomplishment.

## PAYMENT TERMS

### § 11.

1. Save provisions of § 16, payment for the sold Goods shall be made after the Goods have been released:

- 1) with banking form observed, to the bank account indicated in the invoice(-s),
- 2) in one installment and within twenty one (21) days from the date of the invoice.

2. Bank charges for the payment for Goods shall be borne by the Ordering Party.

### § 12.

The payment is considered as made on the date of crediting the Seller's bank account with due amount.

### § 13.

In case of any delay in payment the Ordering Party shall pay the price increased by due amount of statutory interest.

### § 14.

In case when the Ordering Party:

- 1) is in delay with payment of the price, and then pays the price without increasing the amount by the interest for delay, the Seller may consider the entire payment or part of same as payment of due interest, or
- 2) being in delay with payment to the Seller for previously collected batches of Goods, has paid the price and indicated that they satisfies the payment for the Goods collected later, the Seller is not obliged with such indication of the Ordering Party, and the Seller may record the payment according to their own choice, or
- 3) being in delay with payment for various batches of Goods, has made a payment with no indication which debt is satisfied, the Seller may.

### § 15.

Under the pain of losing the right to demand interest for delayed payment, the Seller shall post the invoice(-s) to the Ordering Party's postal address within five (5) days from the date of their issue. Delivery of invoice(-s) in electronic form is equivalent to delivery of same via traditional mail providing the Ordering Party has accepted the electronic form.

### § 16.

The Seller may make acceptance of an order dependent on paying the entire price or part thereof by the Ordering Party.

§ 17.

Without consent of the Seller, the Ordering Party shall not make any deductions from the liability for the price of the Goods or interest for delay in payment with mutual obligation of the Seller towards the Ordering Party.

§ 18.

Placing an order for Goods is equivalent to authorization of the Seller to issue an invoice (invoices) to the Ordering Party without their signature.

COLLATERAL

§ 19.

1. The ownership of the purchased Goods is transferred to the Ordering Party on payment of the entire price which, in case of any delay, should be increased by the interest for delay.
2. In case the Ordering Party is in delay with payment, the Seller may, at their own choice, demand the following:
  - 1) payment and interest for delay, or
  - 2) return of the Goods, for which the payment was not effected in due time, at the cost and risk of the Ordering Party to the Seller's works.
3. In case of further sale, the Ordering Party shall:
  - 1) inform the contracting party about the provision of Item 1,
  - 2) include provisions on the Seller's ownership right in the contract with the contracting party.

PACKAGING

§ 20.

In principal, the goods shall be packed in the following way:

- 1) on europallets,
- 2) in waterproof hoods from shrink film,
- 3) fixed with straps or otherwise at the Seller's discretion.

§ 21.

Payment for europallets shall be listed in a separate item of invoices for sale of Goods.

§ 22.

The Ordering party commits to sell the europallets used for packaging of the Goods to the Seller if the latter wishes so, and in such a case, the price for which the Ordering Party has purchased europallets shall be reduced by twenty (20) per cent.

§ 23.

Provisions:

- 1) § 11 to 18 apply accordingly to terms of payment for europallets,
- 2) § 19 applies accordingly to transfer of ownership of europallets to the Ordering party.

#### LOADING AND UNLOADING ACTIONS

§ 24.

1. Loading of Goods shall be performed at the efforts of the Seller.
2. Unloading of Goods shall be performed at the efforts and cost of the Ordering Party.

#### PASSING OF RISK

§ 25.

The risk of accidental damage to or loss of the Goods passes to the Ordering Party:

- 1) on loading the Goods onto a transport means in the case where the Ordering Party collects the Goods from the Seller's works, or
- 2) on commencement of unloading at the place of collection if the Ordering Party uses the Seller's transport services.

#### TRANSPORT

§ 26.

In case the Ordering Party uses the Seller's transport services with relation to purchase of Goods, the Parties shall agree upon the terms, including the price of the transport services, and provisions of § 11 to 18 shall apply accordingly to the terms of payment for transport services.

#### COLLECTION, COMPLAINTS, WARRANTY

§ 27.

The Ordering Party is obliged to:

- 1) timely collect the Goods which are the subject of the order accepted for accomplishment. In case of any failure to collect the Goods within the time agreed upon by both Parties, the Seller shall indicate an extra 30-days time for the Ordering party to collect the Goods; upon ineffective expiration of the indicated time, the Seller shall be entitled to apply a contractual penalty for storage of the Goods at the amount of 0.1% of the price of the order for each day of delay in collection of the Goods, or to withdraw from the Contract and to retain the entire price paid or part of same as per § 16. The foregoing right of the Seller does not exclude their right to claim damages exceeding the amount of the contractual penalty or the value of the price paid;

2) exercise due professional diligence on collection in order to find whether the quantity and assortment of the Goods comply with the order accepted for accomplishment, and whether the Goods are not damaged;

3) acknowledge collection of the Goods even in case Inaccuracies are found on collection in which cases the Ordering Party shall make an appropriate remark in the receipt; such remark shall be considered a signal and not a complaint.

#### § 28.

Under the pain of loss of the right to pursue claims in respect of Inaccuracies, the Ordering Party shall submit a complaint with details of the Inaccuracies indicated within seven (7) days from the date of collection of the batch of the Goods in which Inaccuracies were found.

#### § 29.

1. Inaccuracies shall be repaired (supplementing shortages, exchange Goods for free of defects Goods, reduction of the price) in the manner agreed upon with the Ordering Party and within the agreed time not shorter, however, than fourteen (14) days.

2. If the Parties fail to agree the manner or time of repairing the Inaccuracies within seven (7) days from the date of reporting the Inaccuracies, the Seller may, at their own discretion:

1) for each kind of Inaccuracies - repair the Inaccuracies by reducing the price, applying unit prices which the Ordering Party should have paid, and assuming the quantity of the Goods affected by Inaccuracies, or

2) in case of Inaccuracies consisting in incorrect assortment or damages - the Seller may change the Goods for ones free of Inaccuracies.

#### § 30.

1. The Seller grants the Ordering Party with a warranty concerning absence of Defects in the Goods of the first grade.

2. Slight variation of grits colors which are natural shades of stone, and natural lime efflorescence occurring in the process of curing of concrete in terrazzo Goods are not considered as defects. This process is negatively affected by storing goods on pallets for a longer time.

3. The warranty period is twenty four (24) months, and it commences on the day following the day of delivery of the Goods to the Ordering party.

#### § 31.

1. Any defects revealed within the warranty period shall be removed at times agreed upon by the Parties not longer, however, than twenty eight (28) days from the date on which the Seller receives the notification on Defects.

2. The ordering Party commits to agree upon the time of removal of Defects with consideration of ordinary workflow and technology to be applied in course of removal of Defects.

§ 32.

Defects shall be removed by:

- 1) repair of the Goods, or
- 2) exchange of the defective Goods for Goods free of defects.

§ 33.

The Seller may refuse to remove Defects in embedded (assembled) Goods if the cost of removal of such Defects exceeds the price of the defective Goods.

§ 34.

The Ordering Party shall not enjoy the warranty rights in case:

1. they do not notify the Seller on Defects within seven (7) days from revealing them, or
2. they embed the Goods despite the revealed Defects
3. they do not impregnate embedded Goods with chemicals which protect the Goods against harmful influence of external factors, or when impregnation is performed incorrectly, or
4. they embed (assemble) the Goods incorrectly, or
5. they embed (assemble) the Goods on an incorrect base, or
6. the Goods are used incompatibly with their purpose or properties, or
7. they are in delay with payment for all the Goods or part of them, and the delay exceeds seven (7) days,
8. they do not allow the Seller to inspect the Defects in order to find their source, or
9. after the source of the Defects has been indicated, they do not follow the suggestions of the Seller, which will cause spreading of the Defects; this provision pertains to loss of warranty rights related to spread Defects.

§ 35.

The warranty period does not run at the time of removal of Defects.

§ 36.

Submission of a notification on Inaccuracies or Defects does not entitle the Ordering Party to refrain from effecting timely and entire payment for the purchased Goods.

§ 37.

Provisions of § 9, Item 1 apply to correspondence concerning Inaccuracies and Defects respectively.

**SELLER'S RESPONSIBILITY**

§ 38.

1. In case any loss incurred by the Ordering Party as a consequence of Inaccuracies or Defects, the Seller shall repair such damage to the amount of the loss incurred by the Ordering Party.

2. The liability for damages indicated in Item 1 shall not exceed the net price (without VAT) of the batch of Goods affected by Inaccuracies or in which Defects are found.

#### FORCE MAJEURE

§ 39. 1. Neither of the Parties shall be held responsible towards the other Party for any failure to perform the contract or inappropriate performance of same caused by *Force Majeure*.

2. The provision of Item 1 does not concern payments.

#### CONTRACT LAW

§ 40.

Contracts are subject to the laws valid in the territory of Poland.

#### SETTLEMENT OF DISPUTES

§ 41.

Any disputes which may arise between the Parties on the grounds of the Contract shall be settled by the competent Court of Zielona Góra or Poznań, depending on the value of the object of the dispute.

#### FINAL PROVISIONS

§ 42.

1. Notifications or declarations of one of the Parties addressed to the other Party with reference to the contract shall be considered null and void unless made in writing and delivered in a registered letter, via courier or in person except the matters for which GTCS allow correspondence via telefax or electronic mail.

2. Any change of a given name, surname, name (firm) of the company, postal address, telefax number or electronic address of the Ordering party shall become effective after the Seller has been notified on such.

3. Any Seller's withdrawal from enforcing any provision of the GTCS from the Ordering party shall not be understood as permanent relinquishment of such provision or relinquishment of GTCS provisions, and such withdrawal shall become effective on written confirmation by an authorized representative of the Seller.

4. The Seller reserves the right to amend and/or change the GTCS, and such changes shall be binding for the Ordering Party on publishing at the website [www.dasag.eu](http://www.dasag.eu), however the GTCS in the wording from before the change shall apply to the orders accepted for accomplishment before a change.