

## GENERAL SALES TERMS AND CONDITIONS

### Art. 1 Definition

1.1 The terms applied in the following General Sales Terms and Condition means:

- a) **OWS** – the present General Sales Terms and Conditions binding at Lubuskie Zakłady Termotechniczne „Elterma” Joint Stock Company, seated in Świebodzin;
- b) **LZT** - Lubuskie Zakłady Termotechniczne „Elterma” Joint Stock Company, seated in Świebodzin;
- c) **Goods** –heat treatment equipment for metal, other equipment, their parts and subcomponents and all other objects that are being sold, manufactured and delivered by LZT;
- d) **Services** – renovations, repairs, modernization or other works carried out by LZT in the interest of its contractors;
- e) **Purchaser**– subject being LZT’s Goods and services recipient, in the order connected with doing economic activity.

### Art. 2 General provisions

2.1.The present OWS finds use to all agreements concluded by LZT, that covers selling Goods, Services offering or other type performances carrying out, and agreements by the LZT’s execution in the interest of the Purchaser.

2.2.OWS are the integral part of every agreement concluded between LZT and the Purchaser. All additional or different from OWS provisions need written acceptance of LZT, on penalty of nullity.

2.3 OWS finds to be accepted when the Purchaser accepts LZT’s offer by making an order or agreement signing.

2.4 In case of OWS contradiction with the agreement consent, sides are bound by the agreements provisions.

### Art. 3 Standards’ conflict

3.1.The used by the Purchaser agreement standard, general terms of purchase or orders particularly, do not bind LZT,

unless LZT clearly accepts the standard in the written form.

3.2. In case of any contradictions of the present OWS along with the agreement standard’ provisions applied by the Purchaser, particularly with general trading terms and conditions, general terms of purchase or order, in use are only the present OWS, whereupon the Purchaser assents. Making the sale or other performances by the LZT can not be treated like trading terms and conditions applied by the Purchaser acceptance.

### Art. 4 Offer/Order confirmation

4.1.LZT’s offers shall bind LZT only when it is unequivocally pointed in the offer consent or in the separate writing addressed to the Purchaser. In such case as far as LZT does not reserve otherwise, the offer is binding to LZT within the 30 days since the offer to the Purchaser sending date.

4.2. At no situation LZT is obliged to Purchaser order acceptance and realization. The Purchaser order is not binding up to the LZT’s confirmation in writing receiving and only within this confirmation range.

4.3. In case of the Purchaser’s order by the LZT’s acceptance with reservation, the Purchaser is this agreement’s reservation consent-tied unless possible remarks will be presented within 7 days. In case the remarks are made by the Purchaser, LZT will be order binned only when the all agreement terms and conditions’ settlement between both sides will be finally agreed.

4.4. Order acceptance is not LZT’s binding when, because of some circumstances LZT has no effect, force majeure first of all, the Purchaser or third party (sub-suppliers or sub-contractors including) behavior, the order realization is going to be impossible.

### Art. 5. Licenses

5.1. The Purchaser takes note that LZT is duty bound to subject all agreements and

provisions the to control procedures, resulting in Polish legal and European Union rules, herein with double application products export connected. In case of export license obtaining necessity LZT will inform the Purchaser about this fact immediately after such information taking. At the same time LZT will pass the Purchaser message concerning the documents the Purchaser is going to provide in order to get the required certificate.

- 5.2. If the Purchaser's duty is to obtain the import license the Purchaser is obliged to inform LZT about this fact and present such permission before agreement signing.

#### **Art. 6 Documentation**

- 6.1. Data included in catalogues, prospectuses, offer and contract documentation in a form of illustrations, drawings, dimensions and weights, consumption and performance rates and other are approximate data and shall not bind LZT, unless evidently indicated that they shall bind.
- 6.2. In special cases LZT reserves the right to amend a project in particular where an amendment is justified by material changes not reducing product quality.
- 6.3. LZT reserves a proprietary right and copyrights to drawings and other documentation which constitute a part of an offer. The Purchaser shall not exercise a right to use the documentation in other purposes, copy, replicate it, nor release to the third party. This documentation shall not transfer title deeds nor shall imply granting any license. The drawings and documentation which are LZT's property, upon LZT's request, shall be promptly returned together with all their copies.
- 6.4. LZT has a right to the protection of patents and technical solutions used while the construction of ordered Goods including the protection of wording of entered agreements.
- 6.5. The Purchaser obliges themselves not to release to other entities information and documentation on the basis of which the Goods ordered by the Purchaser was constructed.

6.6. All sales references and other documentation passed to the Purchaser on by LZT shall be returned upon LZT's request. If no order was submitted to LZT, all the documentation shall be returned immediately without the said request.

- 6.7. Having sold Goods, LZT enjoys a right to include the sold Goods and Purchaser's particulars in a standard reference list which specifies type of Goods, date of sale, client's name and country. Signing these general sales terms and conditions is equal with approving of including these data in the reference list.

#### **Art. 7. Prices, packing, insurances**

- 7.1. Sale prices are net prices excluding value added tax, duty and other fees which LZT may impose upon the Purchaser pursuant to applicable law regulations.
- 7.2. Unless explicitly requested by the Purchaser, LZT does not insure ordered equipment against transportation risk. Costs of entered insurance shall be covered by the Purchaser.
- 7.3. Packaging and shipping costs shall be added to the sale price or LZT's remuneration.

#### **Art. 8 Terms of payment**

- 8.1. Payments shall be made according to Agreement provisions or to order receipt conformation.
- 8.2. Payments shall be made exclusively to LZT's bank account and shall be free from transfer costs, on due time, without charging LZT with deductions, fees, costs and expenses resulting from the acceptance of a bank guarantee, a bill of charge, or a cheque.
- 8.3. Suspending payments due to mutual claims or compensational deduction of such claims is allowed only in the cases when these claims are disputable and are legally stipulated.
- 8.4. LZT has a right to charge statutory interests for delayed payments.
- 8.5. If a delay of a delivery, an assembly or a start-up is not due to LZT's fault, payments are due at the date originally accepted.

- 8.6. Failure to make a payment on the part of the Purchaser in due time and on the date specified by this Agreement entitles LZT to discontinue work and relevant correction of the Agreement term, and/or Goods release after payment completion. LZT is obliged to inform the Purchaser about the new, binding the Purchaser terms.
- 8.7. When such failure in paying exceeds over 60 (sixty) days after due time, LZT can in any moment, by giving the Purchaser a written notice, withdraw from the Agreement, following this LZT has a right to recover the costs of all done work and supplied Goods. In this order LZT shall issue the invoice or other proper accounting document payable at maturity of 7 days since the delivery date. The request for remuneration payment is independent from compensation claims and conventional penalty owing to LZT in virtue of Agreement provisions and law rules.
- 8.8. The Purchaser failure in duties concerning the terminally LZT's charge paying in the due time results in that the Purchaser has no right to advance any claims to LZT in virtue of contracted responsibilities' delays, including works cessation, resulting in the delay in payment.
- 8.9. Date of payment is the day of the receipt of money to LZT's bank account.

**Art. 9. Transfer of risk**

- 9.1. Unless it is explicitly otherwise agreed the Goods loss or damage risk shall be transferred to the Purchaser at Goods passing to the Purchaser disposal, according to the accepted rules of INCOTERMS 2000. In other cases the risk shall be transferred to the Purchaser since the Goods release.
- 9.2. If shipment is delayed due to the Purchaser's failure to fulfill its obligations or if the shipment delay results from circumstances beyond LZT's control, the risk shall be transferred to the Purchaser upon its notification by LZT about availability to ship the products.

**Art. 10 Terms of Agreement performance by LZT**

- 10.1. The detailed delivery date of Goods or Service carrying out is determined by the Sides in the Agreement. Agreement date of completion compliance depends on term agreement obligations by the Purchaser fulfilling. Any of the technical design or used by LZT's technology deviations that are required by the Purchaser may cause delivery prolongation. The Goods is found to be terminally delivered if it is passed to first carrier or when it is declared as ready to be shipped before the agreed term expiration. The partial deliveries are acceptable. Slight defects do not influence on the Purchaser responsibility to Goods collecting, in such case the delivery term is found to be kept.
- 10.2. If the delivery is delayed because of the reasons that Purchaser bears the responsibility or, if it was not collected by the Purchaser in the due time, LZT according to ones approval and without any responsibility has a right to store the Goods at Purchaser's risk, invoice it on Ex WORKS INCOTERMS 2000 conditions and burden the Purchaser with storage costs. If the storage takes place at LZT's stores then storage costs are not less than 1,0% of the Agreement value for every started storage month, starting with the shipment readiness date entering. LZT has right to set the next acceptance date, and after the failure to comply with the deadline LZT shall right to sell or dispose the Goods at will. The Goods sales or other disposal do not frank the Purchaser from the payment for Goods duty.
- 10.3. If the Goods delivery or Services carrying out is delayed by unforeseen events LZT-independent, such as force majeure above all, the necessity of export permission getting, third person behaviors (sub-suppliers and sub-contractors including), the term of the Agreement completion will be reasonably elongated. In such case the Purchaser is not entitled to terminate the Agreement

nor is entitled to any claims due to delivery delay.

- 10.4. If, because of the Purchaser's reasons, LZT is not in a position to start assembling, starting-up and training activities in due time of 30 days since the readiness to start application, the LZT has the right to invoice on these activities value. The invoice is claimed in time of 14 days from the date of issue.
- 10.5. LZT may repudiate the Agreement performance or delay its realization without being exposed to any responsibility, liability of damage including, and keeping the right to the remuneration and all liabilities of damages from the Purchaser, in case when in relation to the Purchase a bankruptcy, repair proceedings, are opened or when the Purchaser opened the liquidation proceedings or stopped business doing.
- 10.6. LZT may repudiate the Agreement performance or delay its realization without being exposed to any responsibility, liability of damage including, and keeping the right to the remuneration and all liabilities of damages from the Purchaser, in case when LZT will not receive the export permission or procedure of getting the permission exceed 30 days, and the Purchaser was immediately, after quoad hoc message by LZT taking, informed about the mention above facts.

#### **Art. 11 Copyright protection**

- 11.1. LZT reserves a proprietary right to Goods until the receipt of an entire payment covering all claims resulting from a transaction between LZT and the Purchaser. If the Purchaser delays any payment, LZT has a right to request the return of the Goods
- 11.2. During the time when the Goods copyright being the subject of the Agreement between LZT and the Purchaser is protected in the interest of LZT, the Purchaser has no right to write the pledge and making any encumbrances on the Goods. It is also forbidden to

alienate the Goods to the Purchaser for the protection. Information concerning the Goods about confiscation, seizure, or any other third parties must be immediately passed to LZT.

- 11.3. While the copyright protection time in the interest of LZT is binding, the Purchaser is obliged to insure the Goods at their own expense against robbery particularly, fire, mechanical damage etc. LZT reserves a right to impose such insurance on the Purchaser's cost.

#### **Art. 12 Warranty**

- 12.1. LZT guaranties and answers for right Goods designing, materials quality and reliable Goods manufacturing.
- 12.2. For want of no separate agreement provisions LZT gives the Purchaser warranty on the Goods, in the range of written above, for a period of 12 months, since the Goods final acceptance date or its working beginning date, depending on which of the events was first. Simultaneously the warranty period can not be longer than 18 months since the Goods to the Purchaser delivery date.
- 12.3. The warranty entirely covers the period pointed in the forgoing agreement provisions, and when the warranty period is over all Purchaser rights in virtue of this provisions expire. In particular at the Purchaser-side there is no right for warranty period prolongation or re-starting this warranty period course regardless of the repair works carrying out, Goods component parts and elements replacement.
- 12.4. LZT reserves the rights to refuse the warranty duties realization if the Purchaser is delayed in the LZT's remuneration payment, totally or partly. In such case LZT shall bear no responsibility for damages arisen as a result of warranty duties realization lack.
- 12.5. LZT is released form the responsibilities in the virtue of warranty if the Purchaser knows about the defect while the Goods giving.

- 12.6. The Goods warranty provided by LZT covers only these Goods and can be applied neither to the part nor to the total manufacturing process, the Goods are a part of it.
- 12.7. In no situation shall LZT bear responsibility for any losses, damages or expenses resulting directly or indirectly from Goods by the purchaser using, including (but not limiting to) indirect damages and conditional responsibility of any nature.
- 12.8. Components and materials used to Goods manufacturing are under their manufacturers' or suppliers' guarantees. LZT shall execute the cession of owned warranty rights.
- 12.9. This guarantee does not cover parts exposed to fast wear and tear such as, in particular (but not limited to): electric bulbs, fuse-links, seals, V-belts, rotameter glass pipes, filter cartridges, heater plugs, and also charge tooling, thermoelements and vacuum heads, heating elements and infusible shields, operating oils and fluids, heat resisting steel elements working in high temperatures and elements such as charge slides, furnace ceramic hearths, and fine ceramic elements.
- 12.10. The guarantee does not cover defects resulting from misusing or the Purchaser neglecting of periodical examination and maintenance according to the recommendations included in the Instruction Manual.
- 12.11. The warranty does not cover the natural Goods or its parts, elements, components wear that is connected with Goods by the Purchaser using.
- 12.12. The Purchaser loses the warranty rights when any Goods changes, modifications, repairs or other intervention was carried out or when the building, assembling and commissioning were carried out without LZT's supervision or in the way contrary to methods accepted and delivered by LZT.
- 12.13. While the being in-force warranty period LZT shall repair or exchange free-of-charge all elements which LZT

considers and confirms as being defective.

- 12.14. LZT guarantees to commence a guaranteed repair within 10 days since the day it was informed about the defect at the latest.
- 12.15. LZT must be informed about the defect promptly at the latest within 7 days since the day of its occurrence. The letter of complaint should be presented in a written form, as a registered letter or fax and contain the defect's description.
- 12.16. The defect existence is protocolary confirmed after inspection carrying out, in the agreed by both Sides date. For this occasion the Purchaser is obliged to make the Equipment operation documentation, in the form provided in the Equipment Instruction Manual available.
- 12.17. The Purchaser reserves the right to take all steps in order to prevent or to minimize the Equipment damages and other damages coming up, or costs connected with defects removing (e.g. by immediate using stoppage or Equipment protection).
- 12.18. The warranty regulated in Polish Civil Code is excluded.

### **Art. 13 LZT's liability**

- 13.1. Possible LZT's liability for damage to the Purchaser in virtue of any reason is limited to real loss at the Purchaser side and does not cover damages in the virtue of lost or expected benefits, production loss, Purchase's renown loss among the contracting parties, etc.

### **Art. 14 Final provisions**

- 14.1. The Sides agree that Polish law is the right one. Matters which are not regulated by this agreement shall be subjected to the Polish regulations - Civil Code.
- 14.2. All disputes resulting from this agreement shall be subjected to Polish courts justification. The venue for litigation will be courts appropriate to LZT's location.
- 14.3. If individual provisions of the OWS were invalid or ineffective because of some reasons, then this fact does not

influence on remain OWS provisions

validity and efficiency.