

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. GENERAL

1.1. These General Terms and Conditions of Sale shall apply to all Offers submitted by Westerberg to the Customer and to Purchase Orders received from the Customer and accepted by Westerberg for the sale of Products. These Terms and Conditions shall prevail over any other terms and conditions contained in any Purchase Order or other document of or communication from the Customer.

1.2. The Offer is open for acceptance within 30 days after its date of issuance unless a different validity period is stated in the Offer. All Purchase Orders are subject to acceptance by Westerberg in writing.

1.3. Descriptions and illustrations contained in catalogues, brochures, price lists and other advertisements are for general information purposes only and the Customer shall be deemed to have purchased the Products without reliance on such descriptions and illustrations within the meaning of Article 71 of the Civil Code.

### 2. DEFINITIONS

For the purpose of this document the following definitions apply:

2.1. **“Terms and Conditions”** - shall mean these Westerberg’s General Terms and Conditions of Sale and Delivery.

2.2. **“Offer”** - shall mean an offer issued by Westerberg that includes a quotation and/or a price list for the purchase of products by the Customer.

2.3. **“Purchase order”** shall mean the order issued by the Customer for the purchase of Products, and acknowledged by Westerberg in accordance with the Terms and Conditions.

2.4. **“Products”** - shall mean the goods, materials or equipment and any part or component thereof supplied by Westerberg and / or any work or services performed by Westerberg pursuant to these Terms and Conditions.

2.5. **“Customer”** shall mean the buyer of Products, the recipient of an Offer or the party issuing a Purchase Order.

### 3. PRICE – PAYMENT

3.1. Westerberg reserves the right to change the prices payable for the Products, due to the significant rise in the pricing of raw materials, transport or labour costs. Such prices will apply 4 weeks after written notice and for all yet to be delivered Customer’s Purchase orders (made either prior or after Westerberg’s written notice). If there is a price increase of more than 50%, the Customer shall be entitled to terminate the contract of sale regarding to the undelivered Purchase Orders. The Customer must send a declaration of resignation from the order within 3 days of receiving notification of the price change from Westerberg.

The Customer shall not be entitled to any claims arising from the earlier termination of the sale and purchase contract.

3.2. Unless otherwise agreed to in writing, products are invoiced at the prices applicable on the date when the Products leave Westerberg’s warehouses.

3.3. Unless otherwise agreed to in writing, all prices are given by Westerberg on an Ex- Works basis (Incoterms 2020). Whenever Westerberg agrees to deliver the Products other than at Westerberg’s premises, the Customer shall be liable to pay all of Westerberg’s charges and duties in respect of carriage, freight, packaging, customs and insurance.

3.4. Payment for Products shall be made by the Customer by transfer to the Westerberg bank account in the currency of the invoice.

3.5. The price is exclusive of any applicable value added tax or any other taxes and duties, which the Customer shall be additionally liable to pay to Westerberg.

3.6. For any amounts not received by Westerberg by the due date, Westerberg reserves the right to charge interest and an additional fee to cover the costs of debt collection on the terms and in the amount provided for by the regulations in force on the date of sale. This amount is calculated on the overdue payments.

3.7. Westerberg reserves the right to refuse to accept the order, suspend the execution of the order or shipment of the ordered goods, if the Customer is late with payments or his legal or financial situation may cause problems with making payments in the future, or when Westerberg has doubts about the Client's financial situation.

3.8. Should the Customer fail to fulfil its obligations of payment at the due date, Westerberg reserves the right to cancel the sale within 5 days following notification to the Customer by registered letter or by e-mail with acknowledgement of receipt. This is without prejudice to any damages which may be claimed by Westerberg.

#### **4. DELIVERY**

4.1. All Products will be suitably packed for shipment in accordance with Westerberg's standard, unless otherwise requested by the Customer and agreed to in writing by Westerberg.

4.2. Westerberg shall put forth its best efforts to comply with the delivery date specified in the Purchase Order acknowledged and / or in the Offer. Partial delivery shall be permitted. Delays shall, in no case whatsoever, justify the cancellation of the Purchase Order. Westerberg shall not be responsible for delays in delivery or performance due to causes beyond its reasonable control, including Force Majeure as defined in Section 13. If performance by Westerberg is delayed by reason thereof, Westerberg shall notify the Customer, and the time for performance shall be extended for the period of such contingency. The Parties agree that the delay beyond Westerberg's responsibility according to the provision of the previous sentence is meant also as delays caused by the actions in prior chains of production and delivery of the Products or other materials needed for the Products manufacture to Westerberg. If, as a result of any such contingency, Westerberg is unable to perform any accepted Purchase Order in whole or in part, then to the extent that it is unable to perform, such Purchase Order shall be deemed terminated without liability to either party, but shall remain in effect as to the unaffected portion thereof, if any.

4.3. Delivery takes place in accordance with Ex-Works Incoterms 2020 at or as otherwise agreed to in writing between the parties.

4.4. It is agreed between Westerberg and the Customer that the Products are shipped at the Customer's risk even if the shipping is done at Westerberg's expense. The Customer shall take all necessary precautions including insurance to cover these risks.

4.5. The Customer shall perform a visual inspection at the receipt of the Products and notify Westerberg of any reservations within 48 hours. No Notification in such time shall be maintained as an acceptance of the order and no defects of the Products shall give any grounds for further claims due to the physical faults existing in the moment of delivery.

4.6. Should the Customer postpone delivery of any Product above 12 weeks from the confirmed delivery date by Westerberg, Westerberg shall have the right to deliver the Product and to invoice accordingly.

4.7. If the Customer shall find any visual disparateness between the received Products and the final order (i.e. specification) or any faults in the quantity and / or quality (with regard to point 1.3. of the Terms and Conditions) in the notification mentioned in point 4.5., above shall describe the disparateness / faults together with the photocopy of them. Westerberg shall verify the Notice and respond within 14 days from the Notification that has been received. In the event of acceptance of the notice by Westerberg, the products shall be removed at Westerberg's own expense or Westerberg shall propose a price reduction, in accordance with the scale of the disparateness and defects or any other solutions leading to their removal (i.e. rework or replacement).

## **5. RETENTION OF TITLE**

5.1. Westerberg retains full ownership of the Products until full payment of the selling price has been received.

5.2. Notwithstanding Westerberg's retention of title, the risks related to the products (including the risk of loss or destruction) shall pass to the Customer in accordance with Section 4.3 above.

5.3. Westerberg reserves the right to reclaim the Products if the selling price is unpaid at the due date and Customer undertakes to bear all related expenses.

5.4. In the event of failure of the payment period, Westerberg shall be entitled to request that the Product reimbursement commence on the first day of delay. This clause shall not preclude other rights arising from the reimbursement. Non-enforcement of such right shall not constitute an indemnification of the Customer liability arising therefrom.

## **6. WARRANTY**

6.1. Westerberg warrants that the Products shall, for a period of one year from Westerberg's delivery of such Products, be free from defects in materials and workmanship and shall conform to the contractual specifications or to the specification sheet of the Product. This warranty does not cover defects or failure caused by improper handling, storage, maintenance or repair or by any modification, misconnection, abuse, abnormal use of such Products (inter alia, overloading or overcharging) or any use not complying with Westerberg's user manual provisions, if any. To dispel doubts, any modification or changes shall lead to the termination of the warranty.

6.2. Warranty claims must be made to Westerberg immediately after discovering the defect and within the warranty period or are forever waived. The claims shall be notified until 7 days after its detection. Mentioned notification shall be made under pain of nullity via e-mail and shall describe the warranty claims together with a photograph of the defects or failure.

6.3. The foregoing warranty is exclusive of any other warranties, express, implied or statutory. In particular, this warranty shall not apply to failure arising from defect in design, when the design has been completed by the Customer or a third party. Unless otherwise agreed, the warranty shall not apply to the compliance of Products to Customer's needs. Should the Products warranty be breached, Customer's exclusive remedy against Westerberg, and Westerberg's sole obligation, shall be limited to, at Westerberg's option, repairing or replacing the defective Products or refunding the purchase price of such defective Products.

6.4. The Product shall be considered as defective if the failure may be duplicated by Westerberg, it being understood that nonconformity shall be determined by reference to the contractual specifications applicable to the allegedly defective Products.

6.5. If the establishment of the complaint procedure turns out that the damage/faults were caused by the Customer or arise from the circumstances thereof, Westerberg shall not be liable, and the Customer shall be obliged to cover any costs resulting from the complaint procedure.

6.6. On the scope of these Terms and Conditions to the sale and purchase agreement concluded with the Customer, the Civil Code provisions concerning the statutory warranty against product defects is hereby excluded.

## **7. INSTALLATION**

7.1. Unless otherwise agreed to in writing, all prices are exclusive of any installation or service that the Customer may require.

7.2. If Westerberg is required to install the Products supplied hereunder at the Customer's premises, Westerberg shall be under no liability whatsoever for damage incurred by the Customer, caused by Westerberg, its agents or sub-contractors in installing the Products or for any consequential damages or purely financial loss howsoever caused.

## 8. INSPECTION & TESTS

- 8.1. Tests on the Products specified in the Offer will be performed by Westerberg at its facilities.
- 8.2. If the Customer requires tests other than those specified in the Offer, or if the Customer requires that the specified tests be carried out in the presence of its representatives, the Customer shall pay for the cost of those tests and any other associated costs.

## 9. LIABILITY

- 9.1. In no event shall Westerberg have any liability for damages in an amount exceeding the purchase price of the related defective Products.
- 9.2. Westerberg shall not have any liability for incidental, indirect or consequential damages arising out of or relating to the Purchase Order or the Products, including but not limited to the loss of profit or revenue, loss of business opportunity or anticipated saving.
- 9.3. Unless otherwise agreed to in writing with the Customer, Westerberg shall not be liable for damages arising from the integration or the use of Products in a system or equipment (the "System"), on the design of which Westerberg has no control. In such case, the Customer is solely liable for the System quality and reliability, as well as for any necessary security device and shall indemnify Westerberg against any demand, claim, action, decision, loss or damage arising from the use of the System which incorporates the Products.
- 9.4. If for objective reasons beyond Westerberg's liability, the fulfilment of the contract becomes impossible, Westerberg shall be entitled to terminate the purchase agreement. Notice of termination shall be given in writing. In such case, the Customer has no grounds for any claims therefrom.

## 10. INTELLECTUAL PROPERTY

- 10.1. Any and all intellectual property rights related to or in connection with the Products (including any designs, drawings, specifications, test results, technical descriptions, catalogues, brochures, manuals, and other data, submitted with or in connection with Westerberg's Offer or resulting from the performance of the Purchase Order by Westerberg) is the property of Westerberg. No license is granted by Westerberg on the Products under these Terms and Conditions.
- 10.2. The Customer shall refrain from infringing upon Westerberg's intellectual property rights (as defined Section 10.1) and shall not destructively test, disassemble, radiograph, reverse engineer or otherwise analyse any Products, without Westerberg's prior written consent.
- 10.3. In the event that the Products are developed and / or manufactured in accordance with plans, drawings and specifications provided by the Customer, the Customer shall hold harmless Westerberg against any and all claims and damages resulting from alleged or actual infringement of any industrial or intellectual property rights of a third party.
- 10.4. The Customer shall promptly notify Westerberg of any intellectual property claim related to the Products and shall give Westerberg any assistance and information requested by Westerberg for the defence of such intellectual property claim.
- 10.5. Unless otherwise agreed to in writing, specific tooling designed and produced to manufacture Products designed by Westerberg according to the Customer's specifications shall remain Westerberg's exclusive property.

## 11. CONFIDENTIALITY AND COMPETITION CLAUSE

- 11.1. Any information, data, know-how disclosed by Westerberg shall at all times be treated by the Customer as strictly confidential and shall not, without Westerberg's prior written consent, (i) be used by the Customer for any other purpose than the use of the Product, and / or (ii) be communicated to third parties.
- 11.2. All the provisions of the Order as well as other information obtained from Westerberg by the Customer in the course of negotiation and further implementation of the sale and purchase contract concluded on the basis of these Term and Condition are trade secrets within the meaning of Article 11

of the Act on Combating Unfair Competition of 16 April 1993 and cannot be disseminated by any Customer. The Customer shall undertake to act in good faith in business relations with other parties and not to use the information provided against the other party. Notably, any trade secrets or information about the offer, price, and individual contractual terms conditions.

## **12. FORCE MAJEURE**

12.1. Force Majeure means any events beyond the Parties' control including without limitation, strikes or other labour disturbances, inability to obtain fuel, material or parts, delays in transportation, repairs to equipment, supplier's failings, fire or accident.

12.2. Should either party be prevented from performing its obligations by reason of Force Majeure, then such party shall not be liable for such non-performance and its obligations shall be suspended for the duration of the Force Majeure event.

## **13. APPLICABLE LAWS AND DISPUTES**

13.1. These Terms and Conditions shall be governed by the laws of the Republic of Poland. The place for resolving disputes is the common court competent for the registered office of Westerberg sp. z o. o. Westerberg may also take legal action against the Customer in the court having jurisdiction over the Customer's registered office/place of residence.

13.2. Any matters not regulated by these Term and Conditions shall be governed by applicable provisions of the law, particularly: the Civil Code, Incoterms 2020.

## **14. COMPLIANCE AND EXPORT CONTROL**

14.1. The Customer shall comply with all applicable laws including, but not limited to, laws relating to anti-bribery and anticorruption. The Customer shall not offer, promise or give any undue pecuniary, bribes or other advantage for any reason, whether in dealings with governments or the private sector.

14.2. The Customer undertakes that the Products shall not be sold, directly or indirectly, to any country/person if it is in violation of export control or economic sanctions laws or regulations. The Customer shall also ensure that its sub-distributors and agents will comply with such laws. Westerberg shall be excused from performance of any contractual obligation to the extent that such performance is prohibited under any export control or sanctions laws and regulations, without any liability whatsoever.

14.3. The Customer shall procure that any third parties to whom the products from Westerberg will be supplied to are under the same obligations as set out in this Section 14, such that all third parties down the supply chain, as far as the end-user, are under the same strict compliance obligations.

## **15. MISCELLANEOUS**

15.1. Modification: Westerberg reserves the right, at any time, to make any technical improvements of the Products subject to an increase in price.

15.2. Waiver: no failure or delay by Westerberg or by the Customer in exercising any of its rights under these Terms and Conditions shall operate as a waiver thereof, nor shall any single defective or partial exercise thereof preclude any other or further exercise of that or any other right.

15.3. Assignment: The Purchase Order shall be made only in writing and duly signed by Westerberg and the Customer.

15.4. Any modification to the Purchase Order shall be made only in writing under pain of nullity (also in electronic form, which means a copy of the undersigned document sent to the other party) and duly signed by Westerberg and the Customer.

15.5 Westerberg can revise these Terms and Conditions without notice to the Customer. The revised Terms and Conditions will apply from the date of their publication on the Westerberg webpage and will apply to sales and purchase contracts concluded prior to the amendment.

15.6. Nullity: if any provisions of these Terms and Conditions are declared null and void, the validity of the other provisions shall not be affected. An effective and valid provision shall take effect in place of the ineffective, invalid and / or void provisions, which best meets the sense and purpose of the ineffective, invalid and / or void clause.