

General Terms and Conditions applicable in ES System K Sp. z o.o. no 1/07/2021

I. GENERAL TERMS AND CONDITIONS AND GLOSSARY

1. The terms used in these General Terms and Conditions shall have the following meanings:
 - a) "GTAC" – these General Terms and Conditions applicable in ES System K Sp. z o.o.;
 - b) "Order":
 - offer of purchase of the Devices or performance of the Services, or
 - reply to the offer of sales of the Devices or performance of the Services;
 - c) "Producer" – ES System K Sp. z o.o., with its registered office in Wolbrom;
 - d) "Customer" – an entity interested in the purchase of Devices or an entity which has purchased Devices;
 - e) "Devices" – Devices which are manufactured and sold by the Producer; if GTAC mention the Devices, they shall be also understood as parts of such devices and the components needed for their production;
 - f) "Multiplexed line of Devices" – several Devices placed next to each other;
 - g) "Services" – Services provided by the Producer, such as the assembly of Devices, etc.;
 - h) "Customer Consultant" – an employee or an associate of the Producer, whose responsibility is the ongoing contact with the Customer;
 - i) "Working Day" – each day of the week from Monday to Friday, excluding public holidays, within the meaning of the Act of 18 January 1951 (Journal of Laws 2015, item 90).
2. GTAC set out the rights and obligations of the parties to the sales agreements concerning Devices and Services, in which the Producer is the selling party or the contractor.
3. GTAC constitute an integral part of all sales agreements concerning Devices concluded with the Producer. Only provisions of the sales agreement made in a written form shall take precedence over these GTAC. In particular, the provisions of the sales agreement made in an oral form shall not take precedence over these GTAC.
4. The GTC do not apply to the relations between the Producer and consumers.
5. In the relations between the Producer and a privileged customer, the GTAC shall apply to the extent that is not in conflict with the mandatory provisions of law, in particular the Act of 30 May 2014 on consumer rights (Journal of Laws of 2020, item 287).

II. ORDERS

1. Orders shall be placed in the following forms:
 - a) written – to the Producer's address: Wrzosowa 10, 32-340 Wolbrom;
 - b) via e-mail, to one of the following e-mail addresses: handlowy@essystemk.pl, or to the e-mail address (in the @essystemk domain) assigned to the Customer Consultant.
2. The Order shall include:
 - a) full name and registration data of the Customer placing an Order, for which the sales documents shall be issued;
 - b) indication of people responsible for representing the Customer and people authorized to conduct effective placement and confirmation of the orders, on the Customer's behalf, as well as people authorized to sign delivery documents,
 - c) detailed description of the ordered Devices, i.e. full name, detailed description of the required options, color, etc.;
 - d) detailed information on the location of Devices,
 - e) detailed information on the purpose of Devices, e.g. keeping fish on ice,
 - f) expected deadline for the execution of an Order;

- g) indication of expected terms of delivery of Devices, according to points IV.1 – IV.4,
 - h) if the Customer wants the Producer to handle the transportation of Devices, the address to which the Devices shall be delivered;
 - i) contact phone number of the Customer,
 - j) expected financing method (own or external – in this case, it is required to clarify the method),
 - k) in the case of orders for the Multiplexed line of Devices – additionally: plan of the facility in which Devices are to be installed, with sketched Devices, whereby the plan should indicate on which side of Devices there is the Customer buying a product in the facility and on which side there is the seller,
 - l) signature of the person/people authorized to represent the Customer, according to registration documents, or the signature of the person authorized to place Orders on the Customer's behalf – in such a case, it is additionally required to submit the relevant power of attorney, signed by the person/people authorized to represent the Customer, according to registration documents. In the case of lack of such a power of attorney, it shall be presumed that the person using the Customer's stamp or e-mail address in the domain used by the Customer, is entitled to effectively place Orders.
3. The Order shall include all elements specified in point II.2 above, and the information specified in the Order shall be presented to the Producer at the latest upon the Order Confirmation, with the reservation that the information concerning transportation and the financing method may be indicated at a later date, but no later than 7 days before a planned delivery date.
4. The Producer shall not be held responsible if, as a result of not providing the data specified in point 2 or providing inaccurate information, the Customer shall incur any damage, e.g. financial damage, or if the Customer receives Devices in different quantity or with different parameters than the ones the Customer wanted to order.
5. Amendments to the Order shall be made only in the manner specified in points II.6-II.8 below. After the receipt by the Producer of the Customer's statement concerning the correspondence of the Order Confirmation with the Order, any amendments in the Order shall be understood as a new Order.
6. The Producer, within 3 working days from the receipt of the Order shall confirm – in a written form or by e-mail – the acceptance of an Order, and it shall specify the terms of delivery the Devices, in particular what kinds of Devices shall be delivered to the Customer on the basis of the placed Order (hereinafter referred to as the "Order Confirmation"), their prices and the delivery approximately date – with the accuracy of 3 calendar weeks. The Order Confirmation shall be understood as a pro forma invoice, signed by the Customer Consultant, which includes the Order number, acc. to the following formula: ON/year/month/4-digit number, or the systemic Order Confirmation, with a request of sending its confirmation or an e-mail with the Order Confirmation, if it includes the Confirmation of the acceptance of an Order. A lack of reply from the Producer shall not be understood as accepting an Order.
7. Within 3 working days since the receipt of the Order Confirmation from the Producer, the Customer shall confirm to the Producer that the content of the Order Confirmation is consistent with the Order (hereinafter referred to as the "Mutually Confirmed Order") or indicate the proper content of the Order Confirmation. The statement concerning the correspondence of the Order Confirmation with the Order shall be placed on the Order Confirmation, referred to in in point II.6; alternatively, the express statement of the Customer confirming an Order, with a number consistent with the formula specified in point II.6, shall be sent via one of the forms specified in point II.1.
8. If the Customer, within the period specified in point II.7, instead of confirming to the Producer that the Order Confirmation corresponds with the Order, indicates the proper content of the Order Confirmation, a sales agreement shall not be concluded. The Producer – within 3

working days since the receipt from the Customer of the information referred to in the preceding sentence – may send the subsequent Order Confirmation, taking into account the amendments reported by the Customer (point II.7 shall be applicable). In such a situation, a previous Order Confirmation shall expire.

9. A sales agreement concerning Devices shall be concluded upon the Producer's receipt of the confirmation of the correspondence of the Order Confirmation with the Order. Such a Mutually Confirmed Order constitutes a basis for providing the Devices to the Customer. If the Producer provides the Customer with the Devices, according to the conditions specified in the Mutually Confirmed Order, the Customer shall not be entitled to make any claims connected with the improper obligation of a sales agreement of Devices by the Producer.

10. The deadline for completing the Order may not be longer than 16 weeks from the date of confirmation of the Order, unless the Parties agree otherwise, subject to provisions that this does not apply to prototypes and other special Devices, subject to individual arrangements, which will be included in the Order Confirmation. In the case of any delay in the processing of the Order, the Producer shall notify the Customer about a changed delivery date of the Devices and in this case, the Customer is not entitled to claim damages for improper performance of the contract.

11. The producer has a right to withdraw from the sales agreement concerning Devices if, as a result of the lack of proper range of components, in terms of both quality and quantity, the agreement cannot be properly performed. The Producer is entitled to, in accordance with the first sentence, withdraw from the concluded sales agreement concerning Devices, within 4 weeks since the receipt by the Customer of the statement concerning the confirmation of the correspondence of the Order Confirmation with the Order.

12. In the case of Mutually Confirmed Orders, the Customer is entitled to withdraw from the concluded sales agreement concerning the Devices, and pay the compensation fee, in accordance with art. 396 of the Civil Code. The amount of the compensation fee is 50% of the net value of a given Mutually Confirmed Order, with the reservation of provisions of point II.13 below.

13. The withdrawal from the agreement, according to point II.12 above, may be done in a written form or by e-mail to the address to which the Order has been placed, within 2 weeks since the submission of the Customer's statement confirming that the content of the Order Confirmation corresponds with the Order (in accordance with point II.7 above), but no later than on the date of commencing the production of any Device under the Mutually Confirmed Order. The withdrawal made by the Customer after the deadline specified in the preceding sentence is possible only with the simultaneous payment of the compensation fee, in the amount of 100% of the net value of the Mutually Confirmed Order.

14. A privileged customer who has concluded a distance or off-premises contract with the Producer may withdraw from it within 14 days without giving any reason and without incurring costs, subject to the provisions of chapter 4 of the Act of May 30, 2014 on consumer rights (Journal of Laws 2014, item 827), and in particular the right to withdraw from the contract is not entitled to the customer who is privileged in relation to the contract where the subject of the service is a non-prefabricated item, manufactured according to the specifications a privileged customer or serving to satisfy his individual needs (sale to order).

III. PAYMENTS

1. The price of the Devices shall be specified each time in the Mutually Confirmed Order and it shall be binding for the parties of the sales agreement concerning Devices, with the reservation of situations specified in GTAC. The prices of the Devices binding for the Producer shall be the prices specified in catalogues, brochures and other similar marketing materials, which do not constitute offers within the meaning of the Civil Code.

2. The price of the Device does not include the costs of transportation of Devices to the Customer. If the Producer is responsible for the arrangement of transport, such transport shall be considered the service which is subject to a separate valuation, at the Customer's request. The price of Devices, specified in the Mutually Confirmed Order, includes the cost of the agreed Devices' packaging.
3. If, after the Order Confirmation, unforeseeable circumstances, justifying the increase of the price of Devices, shall occur, the burden of such an increase shall be divided between both parties of the sales agreement concerning Devices. In such a situation, the Producer shall be entitled to unilaterally increase the price of the Devices, within the scope described in sentence 1. The increase shall have the form of a statement submitted to the Customer by the Producer. The Producer shall properly document to the Customer the increase in price factors.
4. The acceptance of the first three Orders from the same Customer is dependent on making a prepayment in the amount of 100% of the value of the Mutually Confirmed Order. The Producer may also make the acceptance of an Order dependent on making a prepayment in situations other than the ones specified in the preceding sentence. The acceptance of the first order from a new Customer also requires the submission of current registration documents of the Customer (KRS/CEIDG, NIP, REGON, obtained no earlier than 1 month before).
5. On the basis of the Customer's application for trade credit, the Producer is entitled to specify the amount of the trade credit and the credit collateral. The type of a granted credit collateral shall influence the amount of the granted trade credit limit. Upon the processing of an application for granting trade credit, the Customer is obliged to present documents confirming its current financial situation, which are individually specified by the Producer or the Producer's insurer. The procedure concerning granting trade credit shall be also applicable in the case of the Customer submitting an application for an increase in the trade credit limit.
6. The Producer is entitled to change the amount of trade credit granted to the Customer.
7. In the case of the Customer's delay in settling, fully or partially, the receivables or parts of receivables for sold Devices, the Producer shall be entitled to charge statutory interest for such delay.
8. In the case of the Customer's delay in settling receivables for any invoice issued previously by the Producer, the Producer shall be entitled to refrain from the manufacture of any Devices included in a sales agreement (including, handing the Devices over to the Customer) until the date of settlement of outstanding receivables and interest due. In the case of refraining from handing over Devices to the Customer, on the basis of the previous sentence, points IV.8 – IV.17 shall be applicable.

IV. TERMS OF DELIVERY OF DEVICES

1. Terms of delivery of the Devices (specifying who is responsible for the arrangement of transport of the Devices and who is responsible for the costs of transport of the Devices) shall be specified in the arrangements between the Producer and the Customer, in particular the chosen Incoterms 2010 provisions, agreed upon the conclusion of a sales agreement concerning Devices, in accordance with the provisions of point II.9 above, or no later than 7 days before a planned delivery of the Devices. In the case of a lack of such an arrangement, the provisions of point IV.2 below shall be applicable. The delivery date shall be specified by the Producer.
2. In the case of transactions, in which the transport of the Devices takes place through the Customer's own resources, the risk of accidental loss and damage of the Devices shall pass to the Customer upon the receipt of the Devices in the Producer's warehouse (ul. Wrzosowa 10, Wolbrom, Poland).
3. In the case of transactions, in which the transport of the Devices shall be dealt with by a professional carrier, the risk of accidental loss and damage of the Devices shall pass to the

Customer upon the handing of the Devices to the carrier, irrespective of the fact who had to bear the transportation costs.

4. The costs of loading the Devices for transportation shall be borne by the Producer, and the costs of unloading – by the Customer, irrespective of the fact who had to bear the transportation costs and who is responsible for the arrangement of transportation.

5. Upon factual receipt of the Devices, the Customer (or a person acting in its name) is obliged to perform qualitative and quantitative checks of the Devices. If, upon the receipt of the Devices, the Customer shall detect a qualitative or a quantitative difference between the delivered Devices and the ones specified in transport documents or if the Customer shall detect any damage to the Devices, it shall enter its objections into a delivery document (i.e. a goods dispatched note or a bill of lading) and report them to the Producer, to the following address: serwis@essystemk.pl. In the case of not entering such objections, the delivery shall be deemed to be complete in qualitative and quantitative terms.

6. If the qualitative defects of the Devices, due to their nature, could not have been identified upon handing over of the Devices, the Customer shall report them via e-mail or in a written form, within 7 working days since the date of the actual receipt of Devices. After the expiry of the period specified in the preceding sentence, the delivery shall be considered trouble-free. In order to meet the deadline, it is sufficient to send a registered letter to the Producer's address.

7. The delivery date of the Devices shall be considered a moment of passing of risk concerning accidental loss and damage of the Devices to the Customer and the Customer shall have a right to use them like an owner, in accordance with points IV.2 – IV.3.

8. If the delivery of the Devices cannot take place due to the reasons attributable to the Customer, within the period specified in accordance with point IV.1, the Devices shall be warehoused by the Producer. The burden of proving the fact that the delivery of the Devices cannot take place within the period specified in accordance with point IV.1, due to the reasons not attributable to the Customer, shall lie with the Customer. The provision of warehousing services by the Producer, does not exclude the Customer's delay due to the sales agreement concerning Refrigeration Devices.

9. During the first 7 calendar days, the provision of warehousing services shall be free of charge. If, after the expiry of the deadline, the delivery of the Devices does not take place, the Producer shall charge the Customer with the warehousing services.

10. For each day of the provision of chargeable warehousing services, in accordance with point IV.11, the Producer shall collect remuneration in the following amount: 25 EUR net for each commenced calendar day for warehousing one Device. Due VAT, at a rate resulting from the applicable provisions of law, shall be added to the Producer's remuneration, specified in the preceding sentence.

11. The Producer shall issue the VAT invoice including the remuneration, referred to in point IV.10, after the end of the warehousing services. However, if the chargeable warehousing services shall take a period of time longer than 30 days, the Producer shall issue VAT invoices successively for each 30 calendar days of the provision of chargeable warehousing services, whereby the last VAT invoice shall concern the period which has expired since the issuance of a previous VAT invoice until the end of the provision of warehousing services.

12. The VAT invoice, referred to in point IV.11, shall be payable within 14 days since its receipt by the Customer.

13. The Producer's responsibility for the performance of both free of charge and chargeable warehousing services as well as for the destruction, damage or other similar events causing a decrease in the value of the stored Devices shall be only limited to the situations in which the destruction, damage or other similar events causing a decrease in the value of the stored Devices are a result of the Producer's willful act. The limitations (exclusions) of the Producer's liability,

described in the preceding sentence, concern all bases for claims, including, in particular, contractual and non-contractual liability.

14. In the case of the Customer's delay in accepting Devices, under the sales agreement concerning Refrigeration Devices, the provisions of point IV.13 shall be applicable to the Producer's responsibility concerning destruction, damage and other similar events causing a decrease in the value of the stored Devices.

15. If the Devices have been totally destroyed, during their, free of charge or chargeable, warehousing, the Producer is entitled to withdraw from a sales agreement. A notice concerning a withdrawal from the agreement shall be submitted to the Customer within 45 days since the date of an event causing a complete destruction of the Devices. A complete destruction of the Devices shall be understood as a situation in which their repair is impossible or economically unjustified.

16. Remuneration for the warehousing of the devices, on terms specified above, shall be payable to the Producer also in the situation of the withdrawal from a sales agreement, on terms specified in point IV.15 and in the case of withdrawing from a sales agreement by the Producer, on terms specified in applicable provisions of law.

17. If the Producer provides the warehousing services, referred to in points IV.8 – IV.16 above, irrespective of their duration, the Customer is obliged to pay the price for the ordered Devices, as a prepayment, irrespective of the methods of payment agreed previously. If, in the case of a situation described in the first sentence, the full price shall not be paid, as a prepayment, the Producer is entitled to refrain from handing over the Devices under the Order until the date of payment of the full price by the Customer.

18. After the receipt of Refrigeration Devices by the Customer, the Customer shall send to the Producer (via a registered letter) an original bill of lading (CMR) confirming the delivery of the Devices.

V. RETENTION OF TITLE

1. The Producer reserves the right of ownership of sold Devices until the payment of full price for the Devices by the Customer. If the Customer fails to pay for the ordered Devices on time, the Producer has the right to request the Customer to return the Devices for which the Customer has not paid, regardless of other rights specified in the GTAC.

2. Upon the initiation of the restructuring or insolvency proceedings with regard to the Customer, it shall be obliged to mark the Devices in a way indicating the retention of title of the Producer. In the case of the seizure of Devices which constitute the Producer's property, during the enforcement proceedings aimed at the Customer's assets, the Customer shall be obliged to immediately notify bailiff and the Producer.

3. At the Producer's request, the Customer is obliged to immediately provide all information concerning the place of storage of the Devices subject to the retention of title of the Producer and enable the Producer to control such Devices' condition.

VI. QUALITY ASSURANCE

1. Producer grants quality assurance for the sold Devices solely for the EU countries, in accordance with "Complaint procedures in ES SYSTEM K Sp. z o. o., applicable in the European Union", which constitute Annex to these GTAC.

2. The Producer's liability due to warranty for defects shall be excluded, according to art. 558 of the Civil Code, also to a privileged customer, in accordance with art. 556 (4) of the Civil Code..

3. The above does not mean that the Devices are of low quality. The Producer ensures that the Devices are produced and packed in accordance with the highest quality standards. The Devices have CE marking.

4. Notwithstanding from the above provisions, in special cases, which the Producer qualifies as a factory defect of the Devices at its own discretion resulting from his fault, such defects will be removed if they are notified to the Producer within 7 days of such defect becoming apparent, but not later than in the period of 12 months from the date of purchase of the Devices.

5. To the extent permitted by law, Producer's liability for damages is limited to the value of the Devices from which the damage is resulted.

VII. CONFIDENTIALITY

1. The Producer and the Customer are obliged to keep confidential any commercial information and technical details which have been provided to them as a result of the commercial cooperation.

2. The Customer agrees to inform about the cooperation of the Parties in any advertising and marketing materials of the Producer.

VIII. FINAL PROVISIONS

1. The provisions of Polish law, in particular the Civil Code, shall be applicable to the purchase agreements concerning Devices.

2. The application of the United Nations Convention on the International Sale of Goods (CISG) is expressly excluded.

3. Any disputes arising in connection with the purchase agreements concerning Devices shall be settled by a common court having jurisdiction over the registered office of the Producer.

4. The Customer is obliged to immediately notify the Producer, in a written form, about every change of a registered office, place of residence or correspondence address. The lack of notification shall make effective the delivery made to the previously indicated address.

5. Any arrangements made via any means of communication, amending or repealing any of the provisions of GTAC, have to be made in a written form in order to be valid.

6. The Producer reserves a right to exclude warranties for non-standard devices, i.e. the devices which deviate from the standards available in the options specified in information materials (pricelists, catalogues, website: www.essystemk.pl).

7. It is assumed that if the non-performance or improper performance of the contract by the Producer, occurred as a result of force majeure, which is understood as catastrophic actions of nature (eg tsunamis, floods, earthquakes, volcanic eruptions); acts of the legislative and executive power (e.g. expropriation, martial law, states of emergency, etc.); some disorders of collective life, including acts of force (e.g. wars, street riots, terrorist attacks, power or water outages), or the effects of diseases, in particular COVID-19 disease and epidemics related to it, the Customer is not entitled to any claims for compensation of the damage on this account.

8. These GTAC shall be applicable for the orders placed since July 1, 2021.

Annexes:

- 1. Complaint procedures in ES SYSTEM K Sp. z o. o., applicable in the European Union.*
- 2. Principles of complaint procedure in ES SYSTEM K Sp. z o. o. air purifier SAFE AIR, applicable within the European Union,*
- 3. Principles of complaint procedure in ES SYSTEM K Sp. z o. o., SAFE HANDS dispenser, applicable within the European Union,*
- 4. Principles of complaint procedure in ES SYSTEM K Sp. z o. o., CARE LIGHT luminaire, applicable within the European Union.*

Andrzej Konsor
President of the Management Board
of ES System K sp. z o.o.