

GENERAL TERMS AND CONDITIONS OF AGREEMENTS
FOR THE SALES OF GOODS AND THE PROVISION OF SERVICES

§1

The sales of goods and the provision of services by Messer Eutectic Castolin Sp. z o.o. (hereinafter referred to as MEC), with its registered office in Gliwice, take place under the conditions specified in these General Terms and Conditions of Agreements for the Sales of Goods and the Provision of Services (hereinafter referred to as the "GTCA").

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Definitions

1. The following terms used in these GTCA have the following meaning:
 - a. **MEC** - Messer Eutectic Castolin Sp. z o.o. with its registered office in Gliwice, ul. Leonarda da Vinci 5, 44-109 Gliwice, entered into the Register of Entrepreneurs of the National Court Register kept by the District Court in Gliwice, 10th Commercial Department of the National Court Register, under KRS (National Court Register) number 0000137485, NIP (tax ID no.) 6311674749, REGON (business ID no.) 273229857, share capital: PLN 5,000,000.00;
 - b. **Counterparty** - a natural person, a legal person or an organisational unit without legal personality, to which legal capacity is granted by the Act, which has placed with MEC the Order for the Goods or the Services included in the MEC's offer;
 - c. **Order** - an offer to buy the Goods or the Services made by the Counterparty in writing, by fax or e-mail. The Order should include at least: determination of the ordered Goods or Services and their quantity, details of the Counterparty necessary to issue a VAT invoice, in particular a tax ID number, contact details, method, date and place of collection of the ordered Goods or the performance of the Services, including a payment method. The order placed via the Counterparty's company e-mail boxes is deemed placed by the person authorised by the Counterparty to place orders;
 - d. **Order Confirmation** - MEC's declaration about accepting the Order, made to the Counterparty in writing, by fax or e-mail - together with determination of at least: the price of the Goods or the Services, the total value of the Order, the form of payments and conditions of delivery of the Order;
 - e. **Goods** - MEC's products as well as any and all items and objects offered by MEC;
 - f. **Services** - services provided by MEC according to these GTCA;
 - g. **Object** - goods delivered by the Counterparty for the purpose of performance of the Services;
 - h. **Report** - a report of acceptance of the subject matter of the Agreement, delivery note, VAT invoice or another confirmation of the performance of the Agreement signed by the Counterparty's representative or accepted by the Counterparty without objections;
 - i. **Agreement** - each agreement concluded by MEC with the Counterparty, in particular a sales agreement or an agreement for the provision of services;
 - j. **Force Majeure** - any type of unforeseeable events, in particular: war, riots, coup d'état, social unrest, earthquake, fire, flood, strike and any other events which may hinder or will not allow for regular supply, production process, delivery of the Goods or the provision of the Services.

§3

Subject matter and applicability

1. The General Terms and Conditions of Agreements for the Sales of Goods and the Provision of Services apply to the execution of all Orders placed by the Counterparties and other declarations of intent made by the Counterparties related to the purchase of the Goods or the Services offered by MEC. Upon placing the Order by the Counterparty, the GTCA become an integral part of the agreement and apply for the entire term of that Agreement. The Counterparty or the person authorised in writing to act on behalf of the Counterparty, by placing the Order confirms that it is aware of and accepts the GTCA. Regardless

of the above, acceptance of delivery of the Goods by the Counterparty or commencement of the provision of the Services constitutes unconditional acceptance of these GTCA.

2. The General Terms and Conditions of Agreements for the Sales of Goods and the Provision of Services are delivered to the Counterparties in writing, in particular, together with a commercial offer, agreement or invoice. The GTCA are also deemed delivered to the Counterparty, if they are mentioned in the offer, agreement, order confirmation and invoice, and the MEC's website with full contents of the GTCA is indicated.
3. These GTCA are made available at the MEC's website (<https://www.castolin.com/pl-PL/>) – in such a way that they may be stored and reconstructed by the Counterparty in the ordinary course of activities.
4. Any and all deviations from the provisions included in the GTCA have to be in a written form and do not entail the annulment of other provisions of the GTCA.
5. The Counterparty's commercial conditions, different from those specified in the GTCA, are not applicable to MEC also when MEC has not raised any clear objections about them. If the Counterparty delivers to MEC its general terms and conditions of agreements, they will apply in the part in which they are consistent with the GTCA. In the case of conflict between the Counterparty's general terms and conditions of agreements and the GTCA, mutually exclusive clauses are deemed not binding.
6. Any and all oral or phone arrangements made by the employees of MEC are applicable to the Counterparty only if they have been confirmed in writing by the persons authorised to act on its behalf and if they have been included in the Order Confirmation sent by MEC.
7. In the case of discrepancy between the provisions of the Agreement and the GTCA, the provisions of the Agreement are prevailing.
8. The General Terms and Conditions of Agreements for the Sales of Goods and the Provision of Services are applicable to all entities being entrepreneurs within the meaning of Article 43¹ of the Civil Code and to natural persons to whom consumer provisions apply in the scope not governed by these provisions.

§4

Personal data protection

1. Personal data is protected according to the Act of 29 August 1997 on Personal Data Protection (Journal of Laws of 2016, item 922, consolidated text) and the Act of 18 July 2002 on the Provision of Services by Electronic Means (consolidated text: Journal of Laws of 2017, item 1219, consolidated text) in such a way that no third party has access to it.
2. The controller of personal data is MEC. Personal data will be processed in order to conclude and implement the Agreement, and it will not be made available to other recipients.
3. A person to whom data refers has the right of access to its data and to correct it.

§5

Agreement and General Terms and Conditions

1. The Agreement is concluded upon the Order Confirmation by MEC or upon the release of the Goods or the commencement of the provision of the Services or the issue of a VAT invoice related to the Order.
2. Failure to confirm the Order is not tantamount to the acceptance or refusal to accept the Order by MEC (Article 68² of the Civil Code is excluded from application). The Order Confirmation is issued by MEC:
 - a. at the request of the Counterparty;
 - b. if the contents of the Order departs from the current offer of MEC or from the agreed commercial conditions of the Counterparty, MEC reserves the right to commence to execute the Order after acceptance by the Counterparty of changes presented in the sent Order Confirmation, of which the Counterparty is obliged to inform MEC in writing, by fax or e-mail.

3. If MEC confirms the Order with significant changes or objections (e.g. in the scope of a price, extension of the date of performance of the Agreement), the Agreement is concluded upon confirmation by the Counterparty that it accepts the confirmation (offer) submitted by MEC with changes or objections. If, within 3 business days, MEC does not receive information that the Counterparty accepts the confirmation (offer) with significant changes or objections, it is deemed that the Agreement is not concluded, and MEC is no longer bound by the submitted offer.
4. If MEC confirms the Order with insignificant changes or objections (e.g. in the scope of a change of the date of implementation of one of stages of the provided Services, without changing the date of completion of the Agreement, or in the scope of entrusting a subcontractor with the part of the Agreement, if the Order does not contain a ban on using subcontractors), the Agreement is concluded upon confirmation by the Counterparty that it accepts the confirmation (offer) submitted by MEC with changes or objections. If, within 3 business days, MEC does not receive information that the Counterparty accepts the confirmation (offer) with insignificant changes or objections, it is deemed that the Agreement has been concluded in accordance with the remarks of MEC.
5. Orders which are not consistent with the offer of MEC are treated as the further request for quotation of the Counterparty.
6. MEC has the right to refuse to accept the Order for justified reasons, of which MEC informs the Counterparty.
8. Discounts and reductions require individual agreement between the authorised employee of MEC and the Counterparty, and are granted only in writing.-
9. By concluding the Agreement with MEC and accepting these GTCA, the Counterparty authorises MEC to issue VAT invoices without the Counterparty's signature.
10. If the Counterparty fails to meet the determined payment date, MEC will charge interest for delay in the amount applicable in the Republic of Poland (the so-called statutory interest).
11. If there are invoices not settled on time, payments made by the Counterparty may be applied at the sole discretion of MEC, in the first place towards the oldest outstanding invoices. The Counterparty hereby gives its consent to the above-mentioned method of applying payments made by it, and MEC - in this scope - is released from the obligation to submit a separate declaration on the method of applying individual payments made by the Counterparty.
12. If, after the conclusion of the Agreement, but before its performance by MEC, circumstances beyond the control of MEC occur, justifying the increase in the price of the Goods or the Services e.g. a sudden increase in the price of goods by a producer, increase in customs duty, introduction of additional customs fees or other public and legal charges, MEC has the right to appropriately and unilaterally increase the price of the Goods or the Services, but it is obliged to indicate the reason for increasing the price. The increase in the price of the Goods or the Services may not be higher than the actual increase in components affecting the price.
13. MEC reserves the right to provide economic information about the Counterparty's liabilities under conditions specified in the Act of 9 April 2010 on Disclosure of Economic Information and Exchange of Economic Data (Journal of Laws of 2014, item 1015, consolidated text, as amended).
14. In relation to the Counterparty subject to an entry into the Register of Insolvent Debtors, kept by the competent District Court, Commercial Department of the National Court Register, under the Act of 20 August 1997 on the National Court Register (Journal of Laws of 2017, item 700, consolidated text, as amended), MEC reserves the right to file applications for entry with the above-mentioned register, if the amounts due, referred to in Article 56 of the mentioned Act, are not settled.

§6

Payment conditions and invoices

1. MEC reserves the right to request that the Counterparty pay an advance or a deposit towards the concluded Agreement before commencing the execution of the Order, and the right to request that the performance of the Agreement be secured, in particular in the form of blank bills of exchange together with a bill of exchange declaration, registered pledge, or establishment of bank guarantees.
2. MEC reserves the right to secure the performance of the Agreement by the Counterparty by requesting partial or total payment in advance - before delivery of the Goods - or to suspend the provision of the Services which have not been performed yet, until full payment of the price due, if:
 - a. a petition for bankruptcy has been filed or recovery proceedings have been initiated in relation to the Counterparty
 - b. the Counterparty is in arrears with payments resulting from any other titles towards MEC.
3. MEC may suspend deliveries of the Goods or postpone commencement of the provision of the Services until the Counterparty meets additional conditions: payment of an advance or deposit, provision of security requested by MEC. The execution of the Order may also be suspended if the Counterparty fails to make payments or performs other activities to the detriment of MEC, until the occurred obstacle affecting the performance of the agreed obligation is removed.
4. Amounts due for the Goods/Services are paid:
 - a. according to a payment date provided by MEC, by transfer to the bank account of MEC on the basis of the issued VAT invoice;
 - b. before collection of the Goods or commencement of the provision of the Services by bank transfer to the account of MEC.
5. The Orders should include the agreed payment method.
6. The Order Confirmation includes the applicable prices of the Goods/Services. Prices are indicated in the PLN or EUR currency, in net amounts, without VAT, unless otherwise stipulated. The Counterparty is obliged to pay remuneration in the amount increased by VAT, according to the applicable provisions of law.
7. Prices of the MEC's Goods include a packaging price for standard Goods/Services. In special cases, the Counterparty may be charged with additional costs, of which it will be informed before commencing the execution of the Order.

§7

Delivery of the Goods

1. Deliveries of the MEC's Goods are made under conditions specified in Incoterms 2010 or according to the Order Confirmation sent by MEC.
2. Any and all other non-standard costs that may arise in the course of the execution of the order are borne by the Counterparty, unless otherwise stipulated.
3. The Goods may be delivered by MEC to the address of the recipient through a carrier chosen by MEC or indicated by the recipient.
4. The Counterparty is obliged to carry out quantitative and qualitative inspections of the Goods and packaging upon collection, confirming - by putting its signature on a delivery note or a transport document - the compliance of the subject matter of collection with specifications included in a delivery note or a transport document. MEC is responsible for the Goods only until the moment of collection of the Goods by the Counterparty, subject to the following provisions.
5. If the Goods are delivered by MEC directly to a third party (recipient) indicated by the Counterparty and transport is organised by MEC, MEC is responsible for the Goods only until the moment of collecting them and confirming this fact on a delivery note or a transport document by a third party. If a third party refuses to collect the Goods in connection with the incompliance of the Goods with parameters for reasons attributable to the Counterparty (e.g. defective indication of parameters in the Order), any and all costs resulting from a delivery and return of the Goods are born by the Counterparty.

6. The Counterparty is obliged to inform the person responsible for the collection of the Goods and third parties indicated by, collecting the Goods, about the above-mentioned obligations and the assumption of responsibility for the delivered Goods after confirming the collection of the Goods.
 7. Failure by the Counterparty to meet the obligation to inform about the necessity to carry out an inspection of the collected Goods does not result in extending the responsibility of MEC beyond the moment of collection of the Goods by the indicated third parties.
 8. By signing collection documents and the collection of the Goods, the Counterparty or the designated third party declares that it does not raise objections to the condition of the products. Upon the collection of the Goods by the Counterparty or the indicated third party, any and all risk related to the Goods, in particular the risk of losing or damaging the Goods, passes to the Counterparty.
 9. If, within the determined time limit, MEC may not hand over the Goods for reasons attributable to the Counterparty or the indicated third party, the Counterparty will bear any and all costs related to delivery of the uncollected Goods, including the costs of transport in both directions, ordered by MEC, on the basis of a VAT invoice issued by MEC with the indicated payment date. In the above-mentioned situations, the provisions on transport at the cost of MEC do not apply.
 10. If the Goods are delivered to the Counterparty or the indicated third party at the cost of the Counterparty and by means of transport provided by the Counterparty, the risk of accidental loss or damage passes to the Counterparty upon the hand-over of the Goods by MEC to a forwarder, carrier or Counterparty from the MEC's warehouse.
 11. Based on the spread transport risk agreed according to this article, MEC and Counterparty insure the Goods at their own cost.
5. A complaint has to be made in writing.
 6. The Counterparty delivers defective Goods to the registered office of MEC at its own cost and risk. MEC will reimburse the Counterparty the above-mentioned costs, provided that a complaint is found justified. If a complaint is found unjustified, the Counterparty bears the costs of return transport as well as any and all additional costs borne by MEC, including, in particular, costs of selection or laboratory testing, if any.
 7. In justified cases, MEC may send its representative to the registered office of the Counterparty or the place where the defective lot of the Goods is actually stored in order to assess the legitimacy of a complaint. The necessity of such procedure is each time agreed jointly with the Counterparty.
 8. MEC considers the legitimacy of a complaint within the time limit not longer than 14 days of the date of receiving the defective Goods or lodging a complaint for the Services. When considering complaints, the legitimacy of complaints is assessed taking into account the applicable technical standards and good industry practice. If a complaint is not found justified, MEC may charge the Counterparty with the costs of complaint processing. If a complaint is found justified, the date of settlement of a complaint will be agreed individually with the Counterparty.
 9. If a complaint is found justified, MEC may, at its sole discretion, make a repair, replace the defective product with the one free of defects or correct the issued VAT invoice and return the amount due to the Counterparty. If a complaint is settled in the above-mentioned manner, it is not possible to assert further claims by the Counterparty.
 10. If the defective Goods have not been sent to MEC, until the final consideration of a complaint the Counterparty is obliged to store the Goods in a proper manner preventing from damaging or losing the Goods.
 11. The liability of MEC resulting from a warranty for damage as a result of the existence of defects, if the above-mentioned rights have been exercised, it excluded under Article 558 of the Civil Code. MEC will also not be liable for any damage caused by products manufactured by the Counterparty of materials delivered by MEC. MEC will not be liable towards the Counterparty and third parties for production losses, loss of profit, loss of use, loss of agreements or any other secondary or indirect loss of any type.

§8

Delivery date

1. The date of the planned shipment of the Goods or the performance of the Services is determined in the Order Confirmation sent by MEC. MEC reserves the right to change the planned date of execution of the Order in cases beyond the control of MEC, of which the Counterparty will be informed in writing.
 2. A delivery date is deemed met, if the Goods have been handed over to a courier for shipment or when the Counterparty is informed by MEC of a possibility to collect the Goods.
 3. Unless otherwise agreed, the Counterparty is obliged to collect the subject matter of the Order immediately after it has been informed of readiness to release the Goods. If collection is delayed, the Counterparty may be charged with the costs of storage, subject to other rights of MEC.
12. A condition for accepting returns of the Goods which have been questioned by the Counterparty and recognised by MEC is that the Goods may not be damaged, may not be processed in the Counterparty's production processes and have to be identifiable with regard to parameters included in certificates, in original packaging.
 13. Any and all quantitative or qualitative complaints do not entitle the Counterparty to stop payments for the completed delivery of the Goods or the Services or to make any deductions from amounts due to be paid by the Counterparty for the Goods or the Services.
 14. MEC has the right to postpone the settlement of claims resulting from a complaint until the moment the Counterparty settles any and all overdue amounts.
 15. MEC is not liable for damage resulting from the improper or negligent use, in particular incorrect installation.

§9

Quality guarantee and warranty

1. MEC ensures that the delivered Goods meet technical parameters specified in:
 - a. Catalogues related to the Goods,
 - b. Operation and Maintenance Manuals,
 - c. Product Data Sheets.
2. A guarantee for the rendered Services is determined individually in consultation with the Counterparty.
3. The Counterparty/recipient is obliged to inspect the delivered Goods in terms of quantity and quality in the scope of non-hidden defects, immediately after collecting the Goods.
4. If the Counterparty finds, after inspecting the Goods, that there are inconsistencies with the Goods release documents, it should immediately, but not later than within 3 days, inform MEC of this fact in writing in order to agree a further procedure.

§10

Rules for the provision of the Services

1. MEC will render the Services with due diligence, in accordance with the Agreement approved by the parties.
2. The completion of the Services is documented by the Report. If the Counterparty fails to indicate the person authorised to sign the Report (if the form of the Report so requires) or if the person is not present, the representative of MEC has the right to sign the Report unilaterally.

§11

Improper performance of the Agreement and the right of withdrawal

1. MEC has the right to withdraw from the Agreement if - on the part of the Counterparty - there are financial difficulties that may result in insolvency, in particular if liquidation proceedings have been opened towards the Counterparty, enforcement proceedings have been initiated towards the Counterparty or there are premises to file a petition for initiation of bankruptcy proceedings. MEC has the right to exercise the above-mentioned right within 30 days of becoming aware of the existence of the above-mentioned circumstances.
2. If the Counterparty exceeds the date of payment, MEC has the right to withdraw from the Agreement by fault of the Counterparty after setting an additional time limit for payment of arrears, but if the indicated time limit expires to no effect, MEC will be entitled to withdraw from the Agreement.
3. If MEC obtains information on financial difficulties of the Counterparty, MEC may stop the execution of the Order/Agreement until payment of due amounts related to the Order/Agreement is made in full by the Counterparty.
4. The Counterparty does not have the right to withdraw from the concluded Agreement for reasons not attributable to MEC, unless otherwise stipulated in the Agreement or in the written Order Confirmation, or MEC gives its consent to withdrawal from the Agreement against payment of a fee agreed with the Counterparty.
5. If MEC withdraws from the Agreement by fault of the Counterparty, the Counterparty is obliged to cover any and all costs related to it, arising on the part of MEC.
6. MEC reserves the right to withdraw from the performance of the Agreement within 30 days of delivery of the Object of the Customer, if - in the opinion of MEC - the delivered Object has defects making it impossible to correctly perform the Agreement. If the above defects of the Object come to light in the course of the execution of the Order, MEC reserves the right to withdraw from the performance of the Agreement within 30 business days of the date on which a defect is disclosed and to charge the Counterparty with costs incurred so far.
7. If the disclosed defects are removable in the opinion of MEC, MEC will stop the performance of the Services and will immediately inform the Counterparty of this fact. In such a case, the Parties will mutually agree further activities, including a possibility to repair defects by MEC against separate remuneration or by an external entity, or they will terminate the concluded Agreement. In the absence of agreement concerning further activities, MEC reserves the right to withdraw from the Agreement within 30 days of informing the Counterparty of the disclosed defects. MEC reserves the right to unilaterally change the price for the Services in the case of occurrence of circumstances that could not have been predicted at the moment of concluding the Agreement, including, in particular, the increased number of man-hours due to the specific nature of the subject matter of the Agreement, of which MEC will immediately inform the Counterparty for approval.
8. In the case of withdrawal from the Agreement for reasons indicated in item 7 and 8 of this article, the Customer is not entitled to any claims towards MEC, and the Customer is obliged to immediately collect the Object at its own cost and risk.

§12

Retention of title

1. Until the date of payment by the Counterparty, MEC has the exclusive title to the Goods. The Counterparty does not have the right to sell, give or encumber the Goods with a pledge or rights of third parties until the Goods are the property of MEC, unless authorised in writing by MEC.
2. Until the day the amounts due are paid, the Counterparty is obliged to:
 - a. exercise due diligence during transport, storage and use of the purchased Goods in order to avoid any damage, deterioration or loss of the Goods;

- b. upon the initiation of bankruptcy proceedings, mark the Goods as the property of MEC and inform immediately inform MEC of this fact.

3. If the Counterparty is in delay with the payment of amounts due, MEC may request that the Goods be returned on the date indicated by it.
4. In the above-mentioned situation, the Counterparty is obliged, at its own cost, to return the Goods to MEC and to pay MEC remuneration for the time of use of the Goods according to lease prices applied by MEC. The remuneration is paid on the date on which the Counterparty is obliged to return the Goods. The Counterparty is obliged to cover any and all costs resulting from the use or damage to the Goods.

§13

Force Majeure

1. The Parties are not liable towards each other for damage, charged penalties or other liabilities which may arise as a direct consequence of the fact that a given Party could not perform its liabilities resulting from the Agreement or performed its liabilities resulting from the Agreement with a delay due to the existence of Force Majeure.
2. Force Majeure events entitle MEC to extend the date of execution of the Order or withdraw from the performance of the Agreement, and the Counterparty is not entitled to any claims against MEC resulting from it.
3. Withdrawal from the performance of the Agreement may take place within 30 days of the existence of Force Majeure.

§14

Final provisions

1. Each agreement or legal act made between MEC and the Counterparty as part of these GTCA is subject to Polish law.
2. Disputes arising from the implementation of the GTCA will be solved by a competent court having jurisdiction over the registered office of MEC.
3. If the Goods are sold or the Services are rendered as part of international transactions to which provisions of international law apply, MEC and the Counterparty give their consent to exclude the application of such provisions of law in relation to agreements concluded by them to such an extent to which those provisions exclude applicability or are in conflict with these GTCA.
4. If the Goods are sold or the Services are rendered as part of international transactions, the English language is a main language in which MEC communicates with the Counterparty in a written and oral manner. Communication may be held in the official language appropriate for the registered office of MEC or the Counterparty or in another jointly agreed language, but the main language is the English language.
5. The application of the UN Convention on Contracts for the International Sale of Goods is hereby excluded.
6. The invalidity or ineffectiveness of any provision of the GTCA does not affect the validity and effectiveness of other provisions of the GTCA. The Parties will aim for replacing the invalid or ineffective provision with the valid and effective provision that will achieve, as close as possible, the same or similar financial and economic objective, subject to the provisions of Article 58 § 3 of the Civil Code.