

GENERAL TERMS OF FOREIGN SALES

(effective as of 1.04.2020)

I. GENERAL CONDITIONS

1. These General Terms of Sales („GTS“) form an integral part of agreements concerning the purchase of Goods sold by ZYMETRIC Sp. z o.o. based in Marki, address: Okólna 45, 05-270 Marki („Seller“) to recipients of the Goods („Buyer“) that are based outside of the Republic of Poland, in current and future trading conditions of the Seller and Buyer.
2. Wording used in GTS shall have the following meaning:
 - a) Units/Goods – movable items included in the Seller’s commercial offer, being the subject of the agreement, including also spare parts and accessories for the purchased units,
 - b) Spare parts – components intended for installation in the Unit, in order to replace a broken or worn original part,
 - c) Agreement – the sales contract concluded between Seller and Buyer following the Seller’s acceptance and completion of an order for Goods, placed by the Buyer.
 - d) Business day – a day which falls between Monday and Friday, with the exclusion of holidays and other days being statutory days off work, in force on the territory of the Republic of Poland.
 - e) Convention – United Nations Convention for the international sales of goods, done at Vienna on 11 April 1980 (OJ 1997 No 45, pos. 286, as amended).
3. The conclusion of an agreement following placement of an order, means that the Buyer is acquainted with the following GTS and agrees to their inclusion in the agreement. GTS bind the Buyer upon concluding the Agreement. GTS are available on the Seller’s website: www.zymetric.pl.
4. The content of the Seller’s website as well as the available Price Lists, do not constitute an offer within the meaning of the Civil Code and the Convention, and shall be used as an invitation to submit tenders, unless they were sent to the Buyer in response to submitted inquiry.

II. ORDERS

1. To commence the procedure for the conclusion of the Agreement, the Buyer shall provide the Seller with an order for the selected Units – the necessary condition. An order may be placed in paper form, also by electronic means – e-mail correspondence. An order shall include at least:
 - (1) precise specifications of the Unit: name, type,
 - (2) number of items/sets of ordered Goods,
 - (3) price of the Unit (expressed in the currency of binding price list),
 - (4) transportation conditions,
 - (5) order completion date,
 - (6) Buyer’s details, including contact information of the person authorized to perform do order,
 - (7) destination of the Goods (delivery).The price of the ordered Good shall be determined on the basis of the current Price List, including possible discounts granted to the Buyer.
2. The Agreement shall be concluded only at the moment of Seller’s confirmation of the submitted order as a whole (an order shall be confirmed within not more than 2 business days of the date of submission). Seller’s confirmation of the submitted order also refers to Sellers’ commencement of its execution, pursuant to the content of the order. In case of amendments or additions made by the Seller, that do not change significantly the content of the order, it is deemed that the parties are bound by the order submitted by the Buyer, taking into account the amendment or additions made by the Seller.
3. Buyer’s resignation of the whole or part of an order after conclusion of the Agreement or change to the Agreement shall not be legally effective, unless such changes has been agreed beforehand by the Seller in writing. The Goods are not subject to return or exchange. The Buyer is liable to the Seller for the damages arising from unfounded cancellation of the order in whole or in part, after conclusion of the Agreement. In duly justified cases, the Seller may accept returning the Goods, provided that the Goods are in the original packaging, wear no signs of use and are full-valued. In this case the Buyer shall pay costs associated with Goods returning and accepts purchase of Goods for the price agreed with the Seller.
4. The provisions of these GTS may be completely reviewed or limited under an Agreement, especially in case of purchase of custom-made Units with non-standard parameters.

5. Due to the fact that the Units contain greenhouse gases R410A - GWP 2088, R32 - GWP 675, R134A - GWP1430, the Buyer is obliged to submit at any time, at the request of the Seller, documents required by law, in particular, authorization to introduce the purchased Units on the market in question. In case the documentation is not submitted at the request of the Seller within the previously set time limit (not shorter than 3 business days), the Seller may refuse delivery/release of the Goods to the Buyer, until the documentation is submitted. A delay in the delivery of the Goods, caused by the circumstances indicated above, constitute a delay caused by a fault of the Buyer.

III. TERMS OF DELIVERY

1. The Seller and the Buyer shall establish the terms of Goods transportation/delivery before conclusion of the Agreement.
2. Goods delivery/collection may be held on the basis of two INCOTERMS 2020 terms, i.e. CIP or EXW, provided that the EXW term can only refer to Customers established on the territory of the European Union.
3. In case of application of the CIP term, the Buyer is obliged to make the prepayment which includes, in addition to the Goods value, also the cost of transportation and import customs clearance.
4. In case of application of the EXW term, the Buyer collects the prepared Goods from Seller's store. The risk of Goods damage or loss passes to the Buyer at the time of taking over the Unit by the Buyer. Goods release is dependent on submitting by the Buyer a written commitment to provide the Seller with documents confirming the delivery of Goods on the territory of the European Union (a copy of CMR or another document) within 14 days from the date of Units collection from the Seller's store. In case the above mentioned documentation is not submitted, the Seller shall charge the Buyer with the costs of applied VAT.
5. Delivery Times, specified in the Agreement, are only indicative and subject to change, and such circumstances shall not serve as a basis for the Buyer to terminate or change the terms of the Agreement.
6. The Buyer shall receive the notification of consignment at least 3 business days before Units collection. The buyer shall be obliged to collect the Goods by the time set by the Seller, not later than within 14 days after notification. In case the above mentioned deadline is exceeded, the Seller shall charge a fee of 1 euro for a pallet for a day in the period of up to 7 days and a fee of 10 euros for a pallet for a day after 7 days, until the collection of Units is made.
7. All costs incurred by the Seller, related to a failure to collect the Goods or delay of collection, shall be charged to the Buyer. This concerns in particular the costs related

to waiting for the Goods to be unloaded from the Carrier's vehicle, waiting for the collection of Goods from the Seller's store, storage costs of the Goods which are not collected, including their insurance, as well as costs of transportation, in case the Buyer decides not to collect the Goods. The above indicated costs shall be charged regardless of the fee specified in pt. 6.

IV. DAMAGED SHIPMENT

1. In case that the damage shall be noticed during collection of the Goods, the Buyer may refuse to accept the shipment, entering remark „Goods not accepted due to damage” on the consignment note.
2. If the Buyer decides to collect such shipment, a damage protocol shall be drawn together with photo documentation of the defects (Goods and packaging), and then send to the Seller a description of the event, damage protocol as well as an accurate and detailed photo documentation.
3. If the Buyer collects a damage shipment without a damage protocol and a record in the consignment note, he shall take full responsibility and risk concerned with a possible damage of the Goods. The Seller nor the carrier accepts no liability in case of such collection of the Goods.
4. In case that a damage is noticed after collection of the Goods – up to 7 days (damages that could not be identified at the moment of collection), the Buyer shall be obliged to send to the Seller a description of the event, a damage protocol as well as a very accurate photo documentation (Goods and packaging).
5. In case a damage is noticed after opening the package, it is difficult to determine the time when the damage occurred, therefore the Buyer shall provide a detailed information, together with documentation that allows objective processing of the complaint.
6. Complaints shall be sent to the address: reklamacje@zymetric.pl
7. Complaints without a detailed photo documentation shall not be processed.

V. PRICE. PAYMENT TERMS

1. Unless otherwise agreed with the Seller, the Goods price shall be determined on the basis of current Seller's Price List, effective on the day of placing an order or on the basis of an offer including an individual valuation. The Seller reserves the right to alter unilaterally the Price List during the course of Agreement. The new Price List binds the Buyer each time, from the moment it is provided to the Buyer or at the time the Buyer shall be able to easily review the contents of the new Price List in another way, including placing the Price List on the website www.zymetric.pl.

2. Order proceeding shall be conditional upon a pre-payment representing 100% of the ordered Goods value. The Buyer shall make a payment immediately upon order confirmation by the Seller, within a maximum of 7 business days. If no payment is made in due time, the Seller shall cancel the placed order. Partial payment for the placed order does not result in its completion.
3. An order placed by an entity, which has previously places orders with the Seller, shall be completed on condition that all remaining obligations are covered.
4. The payment day shall be the date of crediting the Seller's bank account.
5. All costs associated with payments made (particularly bank commissions and fees) shall be to the account of the Buyer.

VI. GUARANTEE AND WARRANTY

1. The Seller grants no guarantee on sold Goods. The above does not concern the procedure described in pt. VII.
2. The parties exclude the Seller's liability towards the Buyer for psychical and legal defects of the sold Goods and for non-compliance of Goods with the Agreement.

VII. DOA AND EPIDEMIC FAILURE PROCEDURE

1. DEAD ON ARRIVAL (DOA) – the Seller grants guarantee on the purchased units with defects detected during system commissioning, provided it was completed within 30 days from collecting the Goods or delivery of Goods. Notification of irregularities shall be included in the commissioning protocol, together with a detailed description of the measures taken.
2. EPIDEMIC FAILURE – the Seller grants guarantee on the purchased units with defects qualified by the Manufacturer as a massive manufacturing defect.
3. Procedure for both cases:
 - a) The Buyer shall make a record that documents the defect (the document must include the unit's serial number (S/N)),
 - b) The Buyer shall submit a complaint notification at the address: serwis@hvacbp.pl
 - c) shipment of the spare parts to the Buyer – the cost of parts and transportation are covered by the Seller,
 - d) in case that the Buyer's diagnosis of the defect is incorrect, warranty parts return shall be at the Buyer's expense; parts must be new, in original packaging, intact, with no signs of assembly,
 - e) in case the Seller sends an incorrect part, its return shall be at Seller's expense.

VIII. PROCESSING OF PERSONAL DATA

1. ZYMETRIC Sp. z o.o. shall endeavour to process personal data in line with applicable law regulations. Information about how the personal data are processed are available in Information Clause and Privacy Policy on the website www.zymetric.pl.

IX. RESPONSIBILITY

2. The Seller shall not be liable for delays in supplies of the Goods. In any case, Seller's responsibility for the execution of the Agreement's object is limited to the actual damage (with exclusion of loss of profit). The maximum amount of compensation to the Buyer for conclusion of a given Agreement is limited to the value of the Goods covered by the given Agreement.

X. FORCE MAJEURE

1. The parties shall not be liable for non-performance or improper performance of the Agreement raised by the force majeure events.
2. The force majeure in the meaning of the GTS is an extraordinary external event, independent of the parties, unforeseeable and inevitable which occurred after the date of Agreement's conclusion, in particular: wars, natural disasters, strikes, epidemics, etc.),
3. In case of the force majeure, the parties shall negotiate in good faith, in order to agree on further actions, in particular possible renegotiation or termination of the Agreement.

XI. RESALE OF THE UNITS

1. The Buyer – in case of further resale of the Goods – agrees to sell the Units with trade names, model designation, kind and type of Units as well as labels used for identification of Units purchased from ZYMETRIC Sp. z o.o.. The Buyer has the right to use the Goods company logos, exclusively for the purpose of further resale, only in accordance with the rules and within the limits set by the Seller.
2. Resulting from the execution of the Agreement, the Buyer agrees to refrain from any action, which could negatively affect the Seller's image and brand, as well as not to modify and implement any changes to the whole or part of the Goods without the Seller's consents.

XII. FINAL PROVISIONS

1. These GTS shall apply only to sales agreements concluded with entrepreneurs (according to the definition of an „entrepreneur” contained in Article 43¹ of the Civil Code), and therefore do not apply to agreements concluded with consumers.
2. On the entry into force of these GTS, all existing contracts, agreements, either verbal arrangements made between

- the Seller and the Buyer, which are contrary do the GTS, shall be repealed.
3. During the term of the Agreement, the Buyer agrees to keep confidential all information regarding the Seller, acquired as a result of its conclusion, including technical data, technology and trade information (in particular data concerning outlets, marketing, sales volume, applied pricing structures, lists and data concerning contractors, business plans) as well as organizational details of the Seller's companies (in particular data relating to the management, transmission of information).
 4. Any modifications to the Agreement require a written form for their validity, under pain of nullity.
 5. If a discrepancy is found between provisions of the GTS and provisions of the Agreement – the provisions of the Agreement, concluded following the entry into force of GTS, shall take precedence.
 6. Any dispute arising from the implementation or interpretation of the GTS or Agreement, shall be governed by the Polish law.
 7. The Buyer may not cede the rights and obligations to which he is entitled due to the Seller and which results from the Agreement, including completed orders, without the prior written consent of the Seller.
 8. If any of the provision of the GTS becomes invalid or unsuccessful for any reason, the validity or effectiveness of the remaining GTS provisions shall not be affected.
 9. Any disputes that may arise out of the completion of the GTS or the Agreement shall be resolved by a court of jurisdiction over the Seller's registered office.
 10. These GTS have been prepared in Polish and English version, i.e. in two official languages of the European Union. The Seller accepts no responsibility for the Buyer's failure to understand the contents of the GTS, especially if misinterpretation of its provisions results from improper translation. In case of doubts of interpretations, the Polish version of the GTS shall be binding.
 11. Any documents required by law, including certificates, attestations and manuals supplied with the Units are prepared in English version. The Seller shall not be obliged to provide the Buyer or any further purchaser with the documentation in another language.
 12. The parties exclude the ability to apply the provisions of the Convention, related to the Goods conformity with the Agreement (Section II of the Convention), remedies for breach of Agreement by the Seller (Section III of the Convention) as well as the provisions concerning payment. Excluded also is the ability to apply Chapter V of the Convention in case the Goods are purchased from the Seller.
 13. In case of non-compliance of these GTS and the Agreement with the Convention, the provisions of the GTS and the Agreement shall be deemed to be binding, which is equivalent to application in a specific case of Article 6 of the Convention,