

## GENERAL TERMS AND CONDITIONS OF SALE OF CONTEC KROMISS SP. Z O.O. applicable from November 22, 2019

### § 1 – Scope

1. The General Terms and Conditions of Sale (**GTC**) define the rules and method of concluding sales and delivery contracts for products offered by CONTEC KROMISS SP. Z O.O. with headquarters in Chrzanów 32-500, ul. Krocymiech 38F, entered into the Register of Entrepreneurs of the National Court Register kept by the District Court for Kraków-Śródmieście in Kraków, 12th Commercial Division of the National Court Register under the number KRS 0000140289, with share capital in the amount of PLN 16,468,000.00, tax identification number (NIP ) 949-18-02 - 830, national business registry number (REGON) 151997690 (hereinafter CONTEC KROMISS SP. Z.O.O.) with the Customer.
2. A Customer within the meaning of these GTC is an entity, regardless of its legal form, purchasing products from CONTEC KROMISS SP. Z O.O. (hereinafter **the Customer**).
3. CONTEC KROMISS SP. Z O.O. and the Customer are jointly referred to as **Parties** in these GTC.
4. **The Product(s)** are all commercial goods included in the current commercial offer of CONTEC KROMISS SP. Z O.O.
5. These GTC constitute an integral part of all contracts concluded by CONTEC KROMISS SP. Z O.O. the subject of which are Products, in particular sales/delivery contracts, all commercial offers ,as well as acceptance and confirmations made by CONTEC KROMISS SP. Z O.O. all customer orders as well as any other contracts on the basis of which the transfer of Product ownership for a specified price is made by CONTEC KROMISS SP. Z O.O. The Customer is bound by the GTC with the content in force on the date of conclusion of the contract the subject of which are Products, in particular the sales contract/product delivery contract.
6. By placing an order referred to in § 2 or concluding the contract, the subject of which are the Products, the Customer accepts the provisions of these GTC.
7. The Parties may regulate their mutual relations differently from the provisions of the GTC. The change mentioned in the preceding sentence requires - under pain of nullity - consensual declarations of intent of the Parties expressed in writing.
8. Any provisions of the GTC relating to orders shall apply accordingly to sales/delivery contracts.

### § 2 - Order procedure

1. The Customer places an order by registered mail, fax or e-mail, based on commercial offers made by CONTEC KROMISS SP. Z O.O. The order should specify at least:
  - a) type and quantity of ordered products,
  - b) details of the order recipient,
  - c) details of the payer,
  - d) method of delivery/means of transport,
  - e) place and date of delivery of products - detailed delivery schedule
  - f) required product quality documents,
  - g) place where the product is assembled,
  - h) indication of whether the Customer guarantees the receipt of the ordered quantity of products,

- i) specification of whether the order is placed in connection with the conducted public procurement procedure or procedure conducted in a different manner, performance of a public procurement contract or other contracts under which the Customer will use the Products, along with the indication of the Ordering Party or the party to the contract concluded by the Customer.
  - j) details of the contact person responsible for the execution of the order.
2. An order placed in the above-mentioned manner must be signed by persons who are authorized to represent the Customer or who have a power of attorney to act on behalf of the Customer authorizing them to make declarations of intent at least in the scope covered by the order under pain of nullity.
3. While ordering the Customer is obliged to attach - with the first order placed at CONTEC KROMISS SP. Z O.O. and with each subsequent change in the Customer's data - the following documents:
  - a) an excerpt from the relevant register or business activity records, issued not earlier than one month before the date of submission to CONTEC KROMISS SP. Z O.O.;
  - b) certificate of REGON number assignment;
  - c) decision on NIP and EURO NIP numbers assignment;
  - d) certificates of the competent head of the Tax Office and the competent branch of the Social Insurance Institution, confirming, respectively, that the Contractor is not in arrears with the payment of taxes, fees and contributions for health or social insurance; or certificates that he has obtained a due exemption, deferral or payment in installments of overdue tax payments or suspension in full of the execution of decision of the competent authority - issued not earlier than three months before the date of submission to CONTEC KROMISS SP.Z O.O.;
  - e) the profit and loss account and the balance sheet for the last financial year of the Customer,
  - f) F01 declaration for the last quarter.
4. In the event of a change in the content of the documents listed in subparagraph 3 the Customer is obliged to send the currently valid documents within 14 days from their change.
5. In the event of suspicions regarding the authenticity of the documents referred to in subparagraph 3, CONTEC KROMISS SP. Z O.O. is entitled to suspend the execution of the order.
6. The order is not binding for CONTEC KROMISS SP. Z O.O. until a declaration of its acceptance is submitted, expressed in the form of an order confirmation. In the absence of confirmation of the order acceptance, it is considered that the order has not been accepted by CONTEC KROMISS SP. Z O.O. The template of the confirmation is attached as Annex 1. The order is confirmed by registered mail, e-mail or fax.
7. If the order concerns the execution of a public procurement, the order and order confirmation must be in writing.
8. The delivery schedule presented by the Customer requires the agreement of CONTEC KROMISS SP. Z. O.O.
9. The day of placing the order is the day on which the order form is delivered to CONTEC KROMISS SP. Z O.O., in such a way that CONTEC KROMISS SP. Z O.O. could get acquainted with it.

### **§ 3 Trade credit limit**

1. The deferred payment period may be applied after the determination of the size of the trade credit limit for a given Customer by CONTEC KROMISS SP. Z O.O..
2. The limit may be changed by CONTEC KROMISS SP. Z O.O. and in particular reduced to the amount of PLN 0.00 in cases when:
  - a. an application for a bankruptcy of Buyer or a proposal to initiate restructuring proceedings have been submitted
  - b. the Customer is in arrears with payments to CONTEC KROMISS SP. Z O.O. or entities referred to in subparagraph 3 of this paragraph for a period longer than 14 days from the date of payment due to CONTEC KROMISS SP. Z O.O.
  - c. the economic situation of the Buyer has deteriorated in the opinion of the Seller.
3. The Trade Credit Limit includes mature and not-mature receivables in the gross amount, i.e. with due VAT, due jointly to CONTEC KROMISS SP. Z O.O. and Companies belonging to the same capital group, i.e. Track Tec S.A. with its headquarters in Warsaw, Track Tec Koltram sp.z o.o with its headquarters in Warsaw, Track Tec GmbH with its headquarters in Dusseldorf, Track Tec Lipa Sp. z o.o. with headquarters in Lipa, Nasycalnia Podkładów Sp. z o.o. with headquarters in Pludry for the performance of current and future deliveries between CONTEC KROMISS SP. Z O.O., the entities mentioned above and the Customer.
4. As part of cooperation with the Customer, deliveries will be made up to the maximum amount of the trade credit limit.
5. CONTEC KROMISS SP. Z O.O. has the right to suspend further deliveries if the Customer is in arrears with any payments to CONTEC KROMISS SP. Z O.O. or any entity listed in subparagraph 3 of this paragraph for a period longer than 7 days, until the entire due amounts are paid.
6. In the event that subsequent deliveries will result in exceeding the trade credit limit or the case described in subparagraph 5 of this paragraph occurs, the delivery date will be postponed until the Customer's liabilities are paid in such a way that the subsequent deliveries do not result in exceeding the trade credit limit.
7. In order to avoid any doubts, the Customer is not entitled to any claims from CONTEC KROMISS SP. Z O.O for contractual penalties, damages or lost profits for the period of delay in deliveries for the reasons described in this paragraph.
8. The Customer agrees to transfer of information on the status of deliveries and payments by the Customer between CONTEC KROMISS SP. Z O.O. and the entities listed in subparagraph 3 of this paragraph.
9. Completion of deliveries made in accordance with these GTC will not result in the expiry of the provisions of this paragraph, which will continue to apply in future relations between the Customer and CONTEC KROMISS SP. Z O.O. and entities listed in this paragraph.

### **§ 4 - The price of the products**

1. The price of CONTEC KROMISS SP. Z O.O. products is determined each time for a specific order or contract.
2. The duration of the price is each time specified in the order confirmation or in the contract.
3. If the price includes transport costs, the price will change with the change of the delivery place, organization and means of transport, increase in electricity costs, fuel costs and costs of access to infrastructure.

4. The price of the products is a net amount to which tax on goods and services in the amount applicable on the date of the tax obligation will be added.

#### **§ 5 - Order execution**

1. The order execution date is specified in detail by the Parties in the order confirmation and in the delivery schedule.
2. The order execution date and the delivery schedule may be changed with the written consent of CONTEC KROMISS SP. Z O.O.
3. If the product cannot be delivered by CONTEC KROMISS SP. Z O.O. resulting from reasons beyond the control of CONTEC KROMISS SP. Z O.O., CONTEC KROMISS SP. Z O.O. proposes a new delivery date.
4. Placing an order by the Customer and confirming its terms by CONTEC KROMISS SP. Z O.O., concludes a sales contract regarding the number of products specified in the Order.
5. If the subject of the contract cannot be completed within the originally planned period, CONTEC KROMISS SP. Z O.O. is obliged to notify the Customer about this fact before the date of contract execution agreed between the Parties.
6. The execution of delivery on non-working days requires separate arrangements between the Parties and additional costs will be added. If loading on non-working days is necessary because of the Customer's fault, CONTEC KROMISS SP. Z O.O. will charge the Customer with the costs of such loading.
7. CONTEC KROMISS SP. Z O.O. loads the Products at its expense and risk.
8. The Customer unloads the Products being the subject of the contract with his best efforts, at his expense and risk.
9. The Parties are responsible for the actions of third parties that they use to execute the contract and for their own actions.
10. In the event that the Customer executes the contract in the scope of less than 95% of the original number of Products specified in the order or contract accepted by CONTEC KROMISS SP. Z.O.O. for reasons attributable to the Customer, the Customer will be obliged to pay CONTEC KROMISS SP. Z O.O. a contractual penalty in the amount of 10% of the net value of products that have not been purchased/picked up, but which have been ordered within the above-mentioned 95% volume.
11. Payment of the contractual penalties mentioned above does not exclude the possibility of seeking damages in excess of the reserved stipulated penalty amount.

#### **§ 6 – Transport**

The method of delivery of the CONTEC KROMISS SP. Z O.O. Products to the Customer, including in particular the specification of the means of transport, the obligations of the Parties in the scope of all transport formalities, arrangements for covering the costs of transport and insurance of Products, are specified in the contract and/or in the offer and order confirmation referred to in § 2 above or a separate offer containing detailed conditions and prices, in particular for rail transport.

### **§ 7 - Payment and reservation of title**

1. CONTEC KROMISS SP. Z O.O. reserves title on sold and delivered products until the Customer pays the full price for the delivered goods.
2. CONTEC KROMISS SP. Z O.O. applies non-deferred payment period. The non-deferred payment period is understood as the payment of the amount due before the goods are picked up or delivered. It is allowed to settle the due amounts in parts with partial picking up of products or partial deliveries.
3. CONTEC KROMISS SP. Z O.O. applies a deferred day payment period, counted from the date of issuing the invoice, to Customers to whom a trade credit limit has been granted in accordance with the provisions of § 3.
4. CONTEC KROMISS SP. Z O.O. may refuse to apply deferred payment period to those Customers who earlier ordered products from CONTEC KROMISS SP. Z O.O. and for reasons beyond the control of CONTEC KROMISS SP. Z O.O. failed to execute the placed orders.
5. Payment for the products delivered by CONTEC KROMISS SP. Z O.O. will be transferred to the bank account indicated by CONTEC KROMISS SP. Z O.O. in the issued invoice. The payment deadline is specified in the contract, offer or order confirmation and is counted from the date of the invoice issue. If the payment deadline is on a public holiday, the payment may be made on the next working day after that day.
6. The date of payment shall be understood as the date of the fund crediting to the bank account of CONTEC KROMISS SP. Z O.O .
7. CONTEC KROMISS SP. Z O.O. declares that it is a VAT payer and is authorized to issue VAT invoices.
8. The Customer authorizes CONTEC KROMISS SP. Z O.O. to issue an invoice without his signature.
9. CONTEC KROMISS SP. Z O.O. issues invoices on the day the goods are sent.
10. Extension of the payment deadline for the purchased products is possible only on the basis of a written statement by CONTEC KROMISS SP. Z O.O . Any additional deadlines for making overdue payments included in reminders or requests for payment will not constitute an extension of the payment deadlines, and will not result in the loss of the right of CONTEC KROMISS SP. Z O.O. to charge statutory interest for delay or statutory interest for delay in commercial transactions.

### **§ 8 - Delivery acceptance and complaint procedure**

1. The Customer is obliged to confirm receipt of the products by stamping the consignment note or another delivery document, placing a legible signature by the person accepting the products and indicating the date of delivery.
2. At the time of products receipt, they are accepted in terms of quantity and quality, which can be determined without detailed tests.
3. The risk related to product damage or loss passes from CONTEC KROMISS SP. Z O.O. to the Customer upon receipt of the products by the Customer at the delivery place or at the place where the Product was taken over by the carrier indicated by the Customer.
4. In the case of quantitative and/or qualitative deficiencies at the delivery of products, a representative of CONTEC KROMISS SP. Z O.O. and the Customer prepare and sign a relevant protocol. Quantitative deficiencies will be supplemented or CONTEC KROMISS SP. Z O.O. will issue a corrective invoice taking into account the relevant quantitative changes depending on the arrangements of the Parties.

5. If defects are found later, the fact should be reported to CONTEC KROMISS SP Z O.O. in writing and sent by registered mail, fax or e-mail.
6. Notification for CONTEC KROMISS SP. Z O.O. on product defects should contain a list of noticed defects and the proposed date and place of a commission inspection. This deadline must be given to CONTEC KROMISS SP. Z O.O. in advance of at least 7 working days before the scheduled date of the inspection. (working days are Monday to Friday, except for statutory holidays).
7. After the inspection of the product under complaint by representatives of both **Parties**, a protocol will be drawn up in which the representative of **CONTEC KROMISS SP. Z O.O.** will include his remarks, including information on whether he accepts the complaint, and if so, to what extent. The **Customer's** representative undertakes to sign the protocol, including any remarks as to the legitimacy of the result of the inspection carried out by the representative of **CONTEC KROMISS SP. Z O.O.**
8. A product that has physical defects resulting from improper handling as a result of its misuse or mechanical damage, is not subject to complaint.
9. Removal of physical defects will involve at the discretion of CONTEC KROMISS SP. Z O.O. repairing a defective product or replacing it with a product free from defects.
10. The product should be used and maintained in accordance with its intended use, performance requirements, in particular, the product should be assembled in the place indicated in the order and taking into account the guidelines - "Instructions for transport, unloading, storage, assembly and fixing to the foundation" - applicable to the anchor and "Instructions for transport, unloading and storage of the Special Economic Zone pole together with technical and assembly documentation" - attached to these GTC. Any deviations in this regard may result in the loss of the warranty and guarantee (if granted) by the Customer.
11. The Parties are responsible for the actions of third parties that they use to execute the contract and for their own actions.

#### **§ 9 Subcontracting for the delivery of Products in public procurement for construction works**

1. CONTEC KROMISS SP. Z O.O. agrees to submit a certified copy of the subcontract, the subject of which are deliveries or services, by the Customer to the Ordering Party on the terms provided for by the Act of January 29, 2004 Public Procurement Law.
2. CONTEC KROMISS SP. Z O.O. agrees to the direct payment of the amounts due from his invoices issued for the Customer - by the Ordering Party.
3. The Buyer declares that he agrees to deliver the Products to the Ordering Party if the Ordering Party pays for these Products to the Seller instead of the Buyer in accordance with the provisions of the Public Procurement Law.
4. CONTEC KROMISS SP. Z O.O. undertakes to submit a written statement on the settlement of all amounts due by the Customer and the absence of any claims in this respect, at each such a request of the Customer, provided that at the date of submission of the statement, all amounts mentioned above have been paid by the Buyer.
5. The Customer is obliged to provide the Ordering Party with a certified copy of the subcontract, the subject of which are deliveries or services, within 6 days from the date of its conclusion, with the exception of subcontracting contracts with a value less than 0.5% of the contract value on public procurement and subcontracts, the subject of which was indicated by the Ordering Party in the specification of essential terms of the contract, as not subject to this obligation. The

exclusion mentioned in the first sentence does not apply to subcontracting contracts with a value greater than PLN 50,000. The Ordering Party may specify a lower value from which it will be required to submit a subcontract.

6. The Customer is obliged to provide the Seller with a confirmation of submitting the contract to the Ordering Party within 6 days from the conclusion of the contract.
7. If the Customer does not submit the contract to the Ordering Party or there is no confirmation of the submission of the contract to the Ordering Party within the time limits specified in paragraph 5 and 6, CONTEC KROMISS SP. Z O.O. may withdraw from the contract. The right to withdraw is entitled within the period of 2 months from the date of the contract conclusion.
8. CONTEC KROMISS SP. Z O.O. may suspend the execution of the contract until the Customer submits the confirmation of the contract submission to the Ordering Party
9. In the event of non-payment over 21 days from the due date to CONTEC KROMISS SP. Z O.O., subject to sentence 3, CONTEC KROMISS SP. Z O.O. will set an additional deadline for payment settlement, which will not be an extension of the payment deadline. If the payment is not settled after this deadline, CONTEC KROMISS SP. Z O.O. will notify the Ordering Party about the lack of payment and report the amount due to the Ordering Party as a joint debtor under the Public Procurement Law. CONTEC KROMISS SP. Z O.O. is entitled to report the amount due to the Ordering Party in the event of a risk of bankruptcy, insolvency of the Customer or poor financial condition of the Customer. immediately after the due date of the claim.
12. The Customer agrees to give the Products to the Ordering Party if the Ordering Party pays for these Products to CONTEC KROMISS SP. Z O.O. instead of the Customer in accordance with the provisions of the Public Procurement Law.

#### **§ 10 - Force majeure**

1. The party whose action is subject to force majeure is obliged to immediately, but not later than within 3 (three) days from the date of receiving information about it, notify the other Party about the type and extent of this force and the expected duration of the force. Force majeure is an extraordinary event or an unforeseeable impediment to trade and production, which neither of the Parties was able to prevent, in particular: natural disasters, wars, military revolts, fires, strikes, uprisings, actions of government bodies, local government (e.g. embargo and/or import/export bans), failures of the machinery of CONTEC KROMISS SP. Z O.O. or another company from the Capital Group CONTEC KROMISS SP. Z O.O. and the lack of the possibility to load goods with cranes due to weather conditions.
2. Neither party shall be liable for the consequences of force majeure, provided that it has complied with the conditions set out above. If the obstacle caused by force majeure lasts longer than 1 (one) month, the Parties will amicably settle the terms of further cooperation. If the Parties fail to reach an agreement, the sales contract/product delivery contract shall expire.

#### **§ 11 - Confidentiality**

1. The Parties undertake to keep confidential the content of all materials, documents and information concerning the other Party, received or obtained as a result of the cooperation, which are not generally and legally available (hereinafter "**Confidential Information**"). In particular, this applies to undisclosed technical, technological, organizational or other information having economic value, as well as the conditions of mutual cooperation and data on financial settlements, prices of products.

2. The obligation specified above in subparagraph 1 applies to all confidential information, regardless of whether the Party has received it directly from the other Party or through its employees or persons cooperating with it, or third parties acting on behalf of the Party.
3. Disclosure of confidential information to any third party requires the written consent of the other Party, subject to the following subparagraphs.
4. The obligation of confidentiality does not apply to:
  - a) confidential information that was generally known on the date of concluding the sale/delivery contract between the Parties or became generally known during the term of the contract, in a manner other than a breach of the confidentiality obligation,
  - b) the obligation to disclose Confidential Information resulting from the provisions of applicable law.
  - c) presenting the contract to the Ordering Party for the performance of works/delivery on the basis of a tender organized in accordance with the Public Procurement Law.
5. The Parties undertake to make reasonable efforts to ensure that the means of communication used by each of them to receive and provide Confidential Information guarantee that this Confidential Information is secured against access by unauthorized persons.
6. The obligation of confidentiality is effective both during the term of the contract of sale/product delivery contract and after its completion.

## § 12 – Delivery

1. Any notices and declarations for which these GTC require a written form will be deemed effectively delivered if they are sent by courier, registered mail with acknowledgment of receipt or delivered in person with acknowledgment of receipt to the following addresses:  
For CONTEC KROMISS SP. Z O.O. : Chrzanów 32-500, ul. Krocymiech 38F,/or other specified in the contract/order confirmation.  
For the Customer: **specified in the order.**
2. The Parties undertake to immediately notify of any change of address or the person authorized to receive correspondence in writing. In the absence of the information mentioned in the preceding sentence, the documents sent to the previous address or addressed to the person previously indicated as authorized to receive correspondence, will be considered effectively delivered.

## § 13 - Final Provisions

1. The Parties agree that the Customer may exercise the right to set off mutual claims only with the prior written consent of CONTEC KROMISS SP. Z O.O.
2. The Customer may assign claims only with the prior written consent of CONTEC KROMISS SP. Z O.O.
3. CONTEC KROMISS SP. Z O.O. and the Customer undertake to immediately inform each other about all circumstances that may affect the order execution or which may result in the other party not being able to duly and timely fulfill any assumed obligations in connection with the execution of the contract.
4. CONTEC KROMISS SP. Z O.O. and the Customer will seek to resolve any disputes that may arise in connection with the submission and execution of orders, contracts, by mutual negotiations. If the Parties fail to reach a compromise, any disputes mentioned in the preceding sentence will be

considered by Polish common courts, i.e. the common court having jurisdiction over the headquarters of CONTEC KROMISS SP. Z O.O.

5. In the event that any provision of these GTC becomes invalid or not required, this fact will not affect the remaining provisions and will be interpreted as if the GTC and the order did not contain such invalid or not required provision.
6. The Customer agrees to the processing of his personal data by CONTEC KROMISS SP. Z O.O. in connection with the implementation of sales and delivery contracts.
7. Working days are days from Monday to Friday, excluding holidays indicated as holidays in the Act on non-working days.
8. The legal relationship established on the basis of contracts and orders is subject to Polish law. In matters not regulated in the GTC or specified in the contract, the relevant provisions of applicable Polish law, including in particular the provisions of the Civil Code shall apply to the order.
9. The use of any general terms and conditions of contracts, regulations, contract templates issued by the Customer is excluded.
- 10.. These General Terms and Conditions of Sale apply to contracts concluded from November 22, 2019.