

## GENERAL TERMS AND CONDITIONS OF SALES OF WELES ACOUSTICS SP. Z O.O.

### 1. Preamble:

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All orders and deliveries are made subject to the terms and conditions as set out in this document. Any conditions stipulated by the Customer which are in contradiction of the general conditions of sales shall be valid only if expressly acknowledged by an authorized representative of Weles Acoustics Sp. z.o.o. In Writing. Any local general terms and conditions or other terms and conditions supplied by Customers shall not take precedence over terms and conditions herein set out.

### 2. Definitions:

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In these General Terms and Conditions of Sales the following terms shall have the meanings hereunder assigned to them:

- "Vendor" - indicates Weles Acoustics Sp. z o.o. or any of its affiliates as named in any purchase/sale order, quotation, Service Proposal or Contract.
- "Purchaser" - indicates the company, firm or person, who places an order for purchase of Products and/or Services offered by the Vendor, as identified in any such order or Proposal.
- "Contract" - indicates the agreement In Writing between the Vendor and Purchaser concerning delivery and performance of the subject of the Contract and all appendices, including agreed amendments and additions in writing to the said documents. This includes Purchaser's submission of a purchase order for the Vendor's Products.
- "Products" - indicates goods manufactured or resold by the Vendor as part of the Contract. This includes, if applicable, any software.
- "Service Proposal" - indicates a document wherein the Vendor describes the scope Services to be rendered to or for the Purchaser, subject to these Conditions.
- "Services" - indicates any services, which the Vendor has agreed to render to or for the Purchaser under any Contract, or relevant Service Proposal.
- "In Writing" - indicates communication by document signed by Vendor and Purchaser or by letter, fax, electronic mail and by such other means as are agreed by Vendor and Purchaser.

### 3. Product Specification and Quotations:

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- 3.1. Product specifications referenced in the Vendor's quotations are provided for information purposes only and shall not be binding on the Vendor until all technical requirements have been agreed, and the Vendor has accepted the Purchasers order. This includes prices of Products, payment terms and scheduled delivery dates. All quotations issued by the Vendor shall terminate within 60 days from the date of quotation, unless otherwise stated in a given quotation.

### 4. Purchase Orders:

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- 4.1. Submission of a purchase order to the Vendor, by the Purchaser constitutes the Purchasers agreement to these General Terms and Conditions of Sales in their entirety. All orders submitted to the Vendor by the Purchaser in response to a quotation shall contain definite prices, Product quantities and mutually agreed shipping dates. Any and all orders, regardless if submitted based on a Vendors quotation, shall be binding upon the Vendor only after acceptance is provided by the Vendor In Writing.

### 5. Rendering of Services:

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- 5.1. Vendor will render services to the Purchaser according to terms laid out in these General Terms and Conditions of Sales and the terms provided in relevant Service Proposal. The Purchaser will provide the Vendor with all information/materials/samples required, or requested by the Vendor, to render the Service ordered by the Purchaser.

The Purchaser takes sole responsibility for accuracy and completeness of information/materials/samples provided to the Vendor as part of the relevant Service Proposal.

## 6. Prices and Taxes:

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- 6.1. All prices for Products and/or Services shall be the price and currency as stated on the quotation or purchase confirmation delivered In Writing by the Vendor to the Purchaser. Prices, unless otherwise agreed In Writing between Vendor and Purchaser, do not include taxes, transport charges, insurance, exports and/or import charges and VAT.

## 7. Payment and Cancelation Terms:

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- 7.1. All Products will be invoiced on delivery. In respect of Services, the Vendor reserves the right to invoice the Purchaser in advance. All payments shall be made in the currency indicated on the relevant invoice. Vendor may extend or withhold credit to the Purchaser in Vendor's sole discretion. Where credit is extended to the Purchaser, terms of payment shall be net thirty (30) days from date of invoice. Credit may be withdrawn or subsequent shipments held by the Vendor at any time for late payment. Purchaser shall pay interest at the rate of 1.5% per month from date of invoice for late payment. Furthermore, the Vendor may suspend or cancel further delivery of Products and/or the provision of Services or any part thereof under that Contract or any other Contract and claim damages and/or receive reasonable cancellation fees. Vendor's prices are exclusive of all taxes and duties. Without limitation of the foregoing, responsibility for all customs duties and charges, sales taxes, use taxes, value-added taxes and any other taxes imposed by any federal, state, local or municipal taxing authority (excluding any taxes solely on the Vendor's income), shall be borne solely by Purchaser.
- 7.2. Purchase orders accepted by the Vendor may be cancelled or rescheduled by the Purchaser only with the written consent of the Vendor. The Vendor reserves the right to charge the Purchaser with cancellation fees.
- 7.3. The Vendor shall have the right without penalty or payment to cancel any purchase order under the following circumstances:
- The Purchaser fails to make any payment when due to the Vendor under the Contract or any other contract with the Vendor.
  - An act or omission of the Purchaser delays the Vendor's performance of the Contract.
  - The Purchaser violates any of these General Terms and Conditions of Sales.

## 8. Delivery and Shipping :

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- 8.1. The Vendor shall deliver the Products in accordance with any agreed trade term, which shall be construed in accordance with the INCOTERMS ® in force at the date of formation of the Contract. If no trade term has been specifically agreed, delivery of the Products shall be Free Carrier (FCA) at the place named by the Purchaser. Any and all shipping charges relevant to the execution of the Contract by the Vendor will be charged to the Purchaser based on the invoice for Products and/or Services. Shipping dates provided on quotations, purchase order confirmations or other documents In Writing are approximate only. The Vendor shall not be liable for any costs or damages (incidental, consequential, special or otherwise) for the Vendor's failure to meet delivery dates. Delays experienced by the Vendor in obtaining a validated export license shall be deemed excusable and beyond the reasonable control of the Vendor.

## 9. Passing of Risk and Property:

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- 9.1. Responsibility for risk of loss and/or damage to the Products supplied by the Vendor shall pass to the Purchaser when the Products are delivered in accordance with paragraph 8 of these General Terms and Conditions of Sales. Claims for misdelivery loss and/or damage shall be notified to the Vendor by the Purchaser. However, it is the responsibility of the Purchaser to file claims for misdelivery loss and/or damage to the Products with the carrier. The Purchaser shall have net ten (10) days to inspect and accept the Products shipped by the Vendor. The Purchaser will notify the Vendor In Writing of any discrepancies in the Products shipped by the Vendor. Failure of the Purchaser to give notice under these

terms shall be deemed acceptance of the applicable Products. The Vendor reserves the right of ownership to the Products until the purchase price has been paid in full.

## 10. Intellectual property rights:

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- 10.1. The Vendor grants to the Purchaser a non-exclusive, non-transferable license to use the Products as are necessary, for the Buyer to obtain and utilize the intended benefit of the Products.
- 10.2. Notwithstanding delivery of and the passing of title in any Products, nothing in these General Terms and Conditions of Sales or any Contract shall have the effect of granting or transferring to, or vesting in, the Purchaser any intellectual property rights in or to any Products and/or Services.
- 10.3. The Purchaser acknowledges and agrees that all property, copyright and other intellectual property rights in any work or tangible deliverable item arising from or created, produced or developed by the Vendor under or in the course of provision of any Services, including without limitations all right title and interest in and to the Services and all documents, data, drawings, specifications, articles, sketches, drawings, reports, inventions, improvements, modifications, discoveries, tools, scripts and other items relating thereto shall immediately upon creation or performance vest in and shall be and remain the sole and exclusive property of the Vendor and the Purchaser shall acquire no right, title or interest in or to the same except as expressly stated in these General Terms and Conditions of Sales.
- 10.4. The Vendor shall, in accordance with paragraph 10.5-10.7, hold the Purchaser harmless against any claim of a third party, based on infringement of copyright or other intellectual property rights existing at the time of delivery, resulting from the Purchaser's use of the Products.
- 10.5. The Vendor shall not be liable for any claim in respect of infringement which is based on use of the Products by the Purchaser in a manner or place which has not been agreed and which the Vendor should not reasonably have foreseen, or changes/modifications to the Products undertaken by the Purchaser.
- 10.6. Defense against claims of infringement referred to in paragraph 10.4 shall be for the Vendor's account. He shall indemnify the Purchaser against such amounts as the latter is obliged to pay under a settlement approved by the Vendor or a final award. The Vendor shall be deemed liable under this paragraph, if the Purchaser without delay notifies the Vendor In Writing of any claim which he receives and lets the Vendor decide how the claim shall be dealt with in litigation and out of court negotiations.
- 10.7. If an infringement of intellectual property rights occurs and the conditions under paragraph 10.6, are fulfilled, the Vendor shall, within a reasonable time, at his own discretion provide for the Purchaser the right to continue to use the Products, change the Products so that the infringement ceases, or replace the Products with other Products having an equivalent function, the use of which does not result in an infringement.

## 11. Liability:

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- 11.1. The Vendor warrants that all Products are free from defects in material and workmanship under normal use for a period of two years from the date of the relevant invoice supplied by the Vendor to the Purchaser. The Purchaser shall be responsible for determining that the Product is suitable for the Purchaser's use.
- 11.2. The Purchaser shall notify the Vendor about any and all Product defects immediately upon discovery. Defective Products shall be returned to the Vendor. The Purchaser shall be responsible for the Products shipped to the Vendor. Purchaser will cover the costs related to the delivery of the defective products to the Vendor.
- 11.3. The Vendor shall not be liable in respect of defective/damaged Products supplied if:
  - Purchaser continues to use the Products after notifying the Vendor of the discovered defects.
  - Defects and damages or failure of the supplied Products arise from the Purchaser's own fault or misuse.
  - Defects and damages or failure of the supplied Products arise from any drawing, design or specification supplied by the Purchaser or from other materials or other property supplied by the Purchaser or from failure to supply such information or property, or from any parts or items that have not been completely manufactured by the Vendor.
  - Defects and damages or failure of the supplied Products arise out of the use of the Products in conjunction with products or materials not reasonably contemplated by the Vendor.

- 11.4. Products deemed defective by the Purchaser will be examined by the Vendor. If the Vendor determines that the Products are defective and that the Vendor is liable for the defects, he shall, at his own discretion, repair or replace the defective Products. Repaired or replaced Products will be shipped to the Purchaser at the Vendors expense. Any repairs or replacements of Products shall not extend the two year manufacturer warranty period. Repairs/replacements of Products past their warranty period are subject to a repair/replacement fee.
- 11.5. Failure of the Purchaser to pay when due any portion of the purchase price or any other payment required from the Purchaser to the Vendor under the Contract or otherwise, will render all warranties and remedies granted under this Section void.
- 11.6. The Vendor shall not be liable for damage to property caused by a defect in a Product, including damage to products produced or used by the Purchaser or to products of which the Product form a part, or for damage to property, which the Purchaser's products cause due to a defect in the Product.
- 11.7. Any claim arising out of or in connection with a Contract must be commenced against the Vendor within two years of the issue date of the invoice relevant to the Products, or provision of the Services (as applicable), giving rise to the claim. The Vendor shall have no liability to the Purchaser under or in connection with any claim commenced after the period of two years.
- 11.8. Maximum aggregate liability of the Vendor including the remedies mentioned in this paragraph under or in connection with any Contract shall in no event exceed the purchase price of the Product/Service. The Vendor shall not under any circumstances be liable for any indirect, incidental or consequential loss, including claims arising out of third party actions, regardless of whether such third party actions, or any other claims, losses, or damages where reasonably foreseeable to the Vendor

## **12. Disputes and applicable law:**

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- 12.1. The Contract shall be governed by and interpreted in accordance with Polish law. All disputes arising in connection with the Contract that cannot be solved amicably shall be submitted to the jurisdiction of the Polish Courts. No provisions stated in paragraph 12 shall prevent any party from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief without provision of security. If any provision of these Conditions is held to be unenforceable, such holding shall not affect the enforceability of any other provision. The United Nation's Convention on Contracts for the International Sale of Goods is expressly excluded.

## **13. Force majeure**

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- 13.1. Either party shall be entitled to suspend performance of his obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties, such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this paragraph. A circumstance referred to in this paragraph, whether occurring prior to or after the formation of the Contract, shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.
- 13.2. The party claiming to be affected by Force Majeure shall notify the other party In Writing without delay on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which he incurs and which he could have avoided had he received such notice. If Force Majeure prevents the Purchaser from fulfilling his obligations, he shall compensate the Contractor for expenses incurred in securing and protecting the Products.