

**PROMOLOG s.r.o.**  
**GENERAL TERMS & CONDITIONS OF SALE**

**Article 1 - Definitions**

In these General Terms & Conditions of Sale (hereinafter referred to as "GTCS") the following terms are understood to mean:

*PROMOLOG*: PROMOLOG s.r.o., with its seat in Havránkova 49/66, 61900 Brno, Czech Republic (hereinafter referred to as: "PROMOLOG");

*Principal*: every natural or legal person, by order of whom PROMOLOG delivers products and/or services, or with whom PROMOLOG enters into an agreement or with whom PROMOLOG is negotiating or in discussion about entering into an agreement;

*Offer*: the written offer of PROMOLOG to deliver at a certain price a particular quantity of goods or to provide a previously well-defined service;

*Order*: the assignment to deliver, or as the case may be the acceptance of the offer of PROMOLOG by the Principal. The order leads to the agreement, provided this has been entered into by a person of PROMOLOG, who is authorized to do so;

*Products*: all goods, including documentation, drawings, models, sketches, samples, printer's proofs and all (other) results of the service rendered by the Principal, which are the object of an agreement;

*Services*: all activities, in whatever form and under whatever name (purchase, assignment, contracting of work, etc.), which PROMOLOG carries out for, or on behalf of the Principal;

*Agreement*: any agreement which is drawn up between PROMOLOG and Principal, any alteration in, or addition to that, as well as all (legal) acts for the preparation and execution of that agreement;

*Delivery*: the placing of goods in the Principal's possession, respectively power;

*Parties*: PROMOLOG and the Principal;

*In Writing*: electronic data traffic and/or messaging per fax and/or messaging by mail or delivery otherwise of written documents;

**Article 2 - Applicability.**

1. In case of a conflict, the specially made agreements prevail over these GTCS.
2. Deviation from these GTCS can only be agreed upon in writing.
3. These GTCS apply to all enquiries, offers and agreements regarding the delivery of goods by PROMOLOG to the Principal. General conditions – under any name – of Principal, do not apply. These are explicitly rejected.

**Article 3 - Offers.**

1. All offers, in any form, are for PROMOLOG without obligation, unless they contain a term for acceptance and are based on delivery under normal conditions and during normal working hours.
2. If an offer without obligation is accepted, PROMOLOG has the right to rescind the offer within two days after reception of the acceptance.
3. Images, catalogues, drawings and other data supplied to or by PROMOLOG are subject to alterations without prior notice and are not binding for PROMOLOG.

**Article 4 - Price and price review.**

1. Unless otherwise agreed in writing, the prices given by PROMOLOG are based on delivery Ex Works, warehouse or other storage depot, excluding sales tax, import duties or other taxes, levies or obligations and excluding the costs of loading and unloading and insurance.
2. The agreed prices and rates are in Euros unless agreed otherwise in writing.
3. A quotation submitted by PROMOLOG is not binding and only applies as an invitation for placing an Order by Principal.
4. PROMOLOG has the right at all times to determine that certain articles will only be delivered in certain minimum quantities.

5. Every change in the factors which influences the price of PROMOLOG, including purchase prices, rates of exchange, import and export duties and other levies due to import and export, insurance rates, freight rates and other levies or taxes, PROMOLOG may pass on to Principal.
6. Principal indemnifies PROMOLOG for all costs and damage which for PROMOLOG might result from the fact:
  - (a) that Principal is not properly registered for sales tax or a comparable tax in a relevant EC member state; and/or
  - (b) that Principal provides incorrect or untimely data to PROMOLOG and/or the authorities in the area of sales tax or a comparable tax in a relevant EC-member state.

#### **Article 5 - Delivery time.**

1. The given delivery times will never be considered deadlines, unless explicitly agreed otherwise. Therefore, in case a delivery is not in time, PROMOLOG must be declared in default in writing.
2. Principal makes sure that from their side there are no obstacles for realizing certain agreed terms, including delivery and acceptance times.
3. When exceeding any term, Principal is not entitled to any compensation (for damage) concerning the matter. In that case, Principal is neither entitled to annulment or cancellation of the Agreement, unless exceeding the term is such that one cannot reasonably expect Principal maintaining (the concerning part of) the Agreement. Then, Principal is authorized, after proof of default containing a reasonable further period of fulfillment, to annul or cancel the Agreement by registered mail. However, only to the extent that it is strictly necessary.
4. The delivery time commences at the last of the following points in time:
  1. the day of the establishment of the agreement.
  2. the day of reception by PROMOLOG of the documents, data, permits and such, necessary for carrying out the agreement.
  3. the day of reception by PROMOLOG of that which, according to the agreement, has to be paid in advance by Principal.

#### **Article 6 - Delivery.**

1. For the interpretation of delivery conditions the "Incoterms" apply, edition 2010, or the most recent version, published by the International Chamber of Commerce (ICC).
2. PROMOLOG reserves the right to deliver and to invoice maximum 5% more or less than the agreed quantity in case of products specially made for the benefit of Principal, or as the case may be, specially composed products.
3. Shipping goods in parts by PROMOLOG is permitted after proper consultation beforehand, whereby every shipment is to be paid separately.
4. Unless otherwise agreed in writing, delivery of goods shall be ex works, ex warehouse, in which case goods shall be deemed to have been delivered by PROMOLOG and accepted by Principal, as soon as they have been offered to Principal.
5. If a customer from within the EU (but outside the Czech Republic) collects the goods from suppliers warehouse, customer must provide a transport declaration. If no transport declaration is being provided, customer must pay Czech VAT.
6. If a customer from outside the EU collects the goods from suppliers warehouse, customer must provide an export accompanying document (aed document) If no such document is provided, customer must pay Czech VAT.
7. Unless otherwise agreed in writing the transport will take place at the expense and risk of Principal, also if the forwarder has stipulated explicitly that all transport documents must mention that all damage resulting from the transport are at the expense and risk of the sender. (ex works).

8. If PROMOLOG shows or provides a model, sample or specimen, this happens only by way of indication: the qualities of the goods to be delivered may deviate from the sample, model or specimen. The provision in article 3 applies accordingly.
9. Should Principal not take, or not take in time, the Products for legally invalid reasons, he will be in default, without proof of default. In that case PROMOLOG is authorized to store, or to sell to a third party, the Products at the Principal's risk and expense, including the risk of loss of quality. Principal still owes the purchase price, increased by the interest and collection charges, by way of compensation. However, as the occasion arises, less the net yield of the sale to that third party.
10. Delivery takes place ex works, warehouse on the ground floor of only one address, which is understood to mean the place from where, or by means of which or on behalf of PROMOLOG, delivery is done. The delivery of Products is considered to have taken place:
  - when dispatched by intervention of a professional carrier; by transfer of the Products to the professional carrier; - if the Products have been collected by or on behalf of Principal; by receiving the Products; - when dispatched through a means of transport of PROMOLOG; by delivery to an address given by the Principal.

#### **Article 7 - Delivery of printed goods.**

1. In the event PROMOLOG is commissioned to deliver products, which have been manufactured or composed specially for the benefit of the Principal, especially branded items, the Principal is obliged to supply directly reproducible material in quality as requested by PROMOLOG.
2. PROMOLOG is exclusively obliged to send to Principal beforehand a printer's proof for approval. In this case PROMOLOG is committed to submit without any delay after receiving the assignment to that effect and after receiving the materials to be reproduced to Principal a printer's proof. The proof must be approved by the Principal in writing.
3. All costs of the print work or in connection with that, will be charged separately and are not included in agreed prices, unless explicitly the opposite has been agreed upon.

#### **Article 8 - Force majeure.**

1. If the delivery is wholly or partly prevented by force majeure, PROMOLOG is authorized to put the delivery on hold, or to wholly or partly annul the agreement insofar as it has not been executed and to demand payment concerning the parts that have actually been executed, this and that without being obliged to pay any damages to Principal.
2. Parties will inform each other as soon as possible of a possible condition of force majeure.
3. If this condition of force majeure has lasted for three months, both parties have the right to wholly or partly annul the Agreement in writing.
4. Force majeure in these GTCS is understood to mean: any circumstance independent of the will of PROMOLOG – also if this circumstance at the establishment of the agreement could already be foreseen – which permanently or temporarily prevents the fulfilment of the agreement, as well as insofar as not yet included in that: war, danger of war, civil war, revolt, work strike, exclusion of workers, transport troubles, fire and/or serious interruptions of operations in the company of PROMOLOG or of their suppliers.

#### **Article 9 - Complaints.**

1. Complaints concerning noticeable defects must be reported in writing within eight days after delivery of the goods, at the exceeding of which PROMOLOG is not obliged to any form of compensation. Defects, which could not reasonably be established within the aforementioned term, must immediately after establishment thereof, but not later than within 30 days after arrival of the Products, be reported in writing to PROMOLOG.
2. After discovery of any defect Principal is obliged to stop the usage and/or further delivery to third parties of the concerning Products without delay.

3. Principal will render all assistance, as required by PROMOLOG for investigation of the complaints, amongst other things by giving an opportunity to PROMOLOG to do an investigation or to have one done, or by returning some representative defective Products at PROMOLOG's expense.
4. It is not open to Principal to return the Products before PROMOLOG has agreed to that in writing. The costs of returning the goods are for Principal and the products remain at his risk. Returning never implies any recognition of liability.
5. Defects concerning a separate batch of Products, which is a part of a delivery consisting of more lots, only give Principal the right to annulment of the entire Agreement if Principal cannot reasonably be expected to maintain the remaining part of the Agreement.

**Article 10 - Guarantee.**

1. If PROMOLOG delivers Products to Principal which PROMOLOG has received from her suppliers, PROMOLOG is never obliged to further guarantee liability in relation to Principal, other than that which PROMOLOG can claim in relation to their supplier.
2. The Products remain completely at Principal's risk in case repair activities are carried out by PROMOLOG to the Products, unless the repairs result from a faulty performance of PROMOLOG and one may not in fairness expect from Principal that she insures the Products for the abovementioned risk.

**Article 11 - Reservation concerning ownership.**

1. PROMOLOG reserves the right to ownership for all goods delivered by them to Principal, until the purchase price for all these has been paid in full.
2. If PROMOLOG within the framework of the agreement concluded with Principal carries out activities to be reimbursed by Principal for the benefit of Principal, the reserved right of ownership also applies until Principal has also paid this claim of PROMOLOG in full.
3. The reserved right of ownership also applies in regard to claims which PROMOLOG might obtain towards Principal due to Principal's failure in one or more of her obligations towards PROMOLOG.
4. As long as the ownership of the delivered goods has not been transferred to Principal, she may not hypothecate the goods or grant to a third party any other right on those other than within the framework of the normal operation of her company whereby Principal commits herself, in the case of sale on credit, to require from her customers an ownership reservation on the basis of the provisions of this article.
5. The Principal is obliged to keep carefully and as PROMOLOG's recognizable ownership, the Products which have been delivered under ownership reservation and to insure these against risks like fire, explosion, damage and theft. At PROMOLOG's first request to that effect Principal will assign all rights towards the insurers involved in this connection to PROMOLOG.
6. If and as long as PROMOLOG is owner of the Products, Principal will post PROMOLOG without delay in writing when any part of the Products has been lost, or has been damaged, or (any part of) the Products (has) have been seized and/or otherwise been claimed. Furthermore, Principal will inform PROMOLOG upon PROMOLOG's first request where the Products, of which PROMOLOG is the owner, are.
7. In case of seizure, (provisional) moratorium or bankruptcy Principal will immediately point out to the seizing bailiff, the receiver or the curator bonis the (ownership) rights of PROMOLOG.

**Article 12 - Payment.**

1. Unless otherwise agreed in writing and without prejudice to the provisions in the following paragraph, payments to PROMOLOG are to be made without any delay at the day of invoice issue, which date will be considered the deadline. The date of the credit entry in PROMOLOG's bank account applies as date of payment.

2. Unless explicitly agreed otherwise, all Principal's payments, no matter how they were made, will be used in the first place to reduce the costs, subsequently to reduce the apparent interest and finally to reduce the principal money of the still unpaid invoices.
3. PROMOLOG must be notified in writing of possible objections against invoices, specifications, descriptions and prices within 8 days after the date of invoice. If this is not possible due to any cause, which cannot be imputed by Principal, Principal will at any rate report in writing to PROMOLOG her objections as soon as is reasonably possible.
4. Comparison of debts or other forms of settlement are never allowed without explicit written agreement. PROMOLOG always has the right before delivery, or before continuing the delivery, to ask from Principal – according to PROMOLOG's judgment sufficient prepayment or security for the fulfillment of the obligation to pay, whereby PROMOLOG is authorized to postpone further deliveries if Principal does not fulfill these requirements, also in case a fixed delivery time has been agreed, this and that without prejudice to PROMOLOG's right to claim compensation because of late fulfillment, or as the case may be non-fulfillment of the agreement.
5. If Principal does not pay within the agreed term he will be in default without any notice of default being required and PROMOLOG has the right - without any proof of default – to charge their interest from the due date of the unpaid invoice or invoices at the rate of 0,05% per day.
6. If Principal gets in default, then from that moment all outstanding claims of PROMOLOG against Principal are immediately due.
7. All extrajudicial collection costs to be made by PROMOLOG will be at Principal's expense.

#### **Article 13 - Consultancy and product development.**

1. If, on being asked, PROMOLOG acts in an advisory role, they are obliged to look after Principal's interests to the best of her knowledge and ability.
2. In case of product development, advice on promotional products to be applied, advice concerning creative concepts, offers for extensive projects with or without printed products, national or international market research on specific products or product enquiries concerning not concretely described products, Principal owes – in all cases which do not provide the delivery of concretely described products – a compensation at an hourly rate or at a fixed rate, to be agreed upon beforehand between the parties.

#### **Article 14 - Intellectual property.**

1. PROMOLOG declares that, as far as it is known, the Products do not infringe on third party's intellectual property rights applicable in the Czech Republic. However, PROMOLOG cannot indemnify Principal against possible infringement on intellectual property rights of third parties.
2. If PROMOLOG manufactures Products, or has these manufactured, by specific assignment of Principal on the basis of a design which is not originating from PROMOLOG, Principal will indemnify PROMOLOG against all infringements in regard to (the manufacturing and the usage of) the Products on the intellectual property rights of third parties.
3. The copyright on sketches, drawings, litho's, cliché's, photographs, models and such designed by PROMOLOG, will at all times be held by her, even if Principal concerning this matter has placed an order and has fulfilled the financial obligations resulting from this.
4. Principal stands by not infringing (nor allowing or enabling third parties to do so) on intellectual property rights of PROMOLOG, or her suppliers, concerning the Products.

#### **Article 15 - Typeset proof, printer's proof and other proofs.**

1. On PROMOLOG's request or otherwise, Principal is obliged to check the received typeset proofs, printer's proofs and other proofs carefully on flaws and/or weaknesses and, as the occasion arises, to return these to PROMOLOG with all due speed, corrected or approved.

2. Approval of the proofs by Principal applies as recognition of the fact that PROMOLOG has carried out the activities which precede the proofs, on time and correctly.
3. PROMOLOG is not liable for defects, flaws and faults, which have remained unnoticed in the proofs approved or corrected by Principal.
4. Every proof, manufactured by Principal's explicit request will be charged in addition to the agreed price, unless it has been explicitly agreed that the costs of these proofs are included in the price.

**Article 16 - Return of rented or loaned goods.**

1. If PROMOLOG in executing the agreement has rented and/or loaned goods to Principal, against payment or otherwise, Principal is obliged to return these goods in the original state, default-free and complete, within fourteen (14) days after the termination of the agreement, for whatever reason. The term mentioned for this is to be applied as deadline.
2. If Principal, for whatever reason, remains in default concerning the obligation mentioned under paragraph 1., PROMOLOG has the right to recover the damage and costs resulting from this, including the costs of replacement and lost rental income, from Principal, without prejudice to the other rights, PROMOLOG is entitled to in this connection.

**Article 17 - Responsibilities Principal.**

1. Principal will make available to PROMOLOG on time all data necessary for the execution of PROMOLOG's activities and guarantees the correctness and completeness thereof.
2. Principal will not wholly or partly remove the brand and/or distinguishing marks on the Products or make them invisible.

**Article 18 - Liability.**

1. Subject to gross guilt or intent on the part of PROMOLOG or managerial subordinates of PROMOLOG, PROMOLOG is not liable for costs, damage or interests, resulting from deeds of negligence of above-mentioned persons or of other subordinates of PROMOLOG, or persons charged by PROMOLOG for the execution of the agreement.
2. Every liability of PROMOLOG for loss of profits or other indirect damage is explicitly out of question.
3. The liability of PROMOLOG towards Principal is, by reason of whatever, per event (whereby a coherent range of events is considered one event) limited to the contract sum (excluding VAT). If no contract sum can be indicated, PROMOLOG's liability is limited to the amount she will receive from her company liability insurer, concerning this matter.

**Article 19 - Annulment.**

1. In case of a (provisional) moratorium, bankruptcy, shut down or liquidation of Principal's company, all Agreements with Principal will be legally annulled, unless PROMOLOG informs Principal within a reasonable time (as the occasion arises at the demand of the receiver or the trustee) to demand the fulfilment of (a part of) the Agreement(s) concerned, in which case PROMOLOG is authorized, without proof of default, to:
  - (a) delay the execution of the Agreement(s) concerned until payment has been secured sufficiently; and/or
  - (b) delay all her possible obligations in relation to Principal; this and that without prejudice to PROMOLOG's other rights under any Agreement whatsoever with Principal and without PROMOLOG being obliged to any compensation.
2. If Principal does not, or not properly, or not within the stipulated term fulfil or otherwise does not fulfil in time any obligation which might result for her from any Agreement, Principal is in default and PROMOLOG is authorized, without proof of default or legal intervention to:

- (a) delay the execution of that Agreement and of directly related Agreements, until payment has been secured sufficiently; and/or
  - (b) annul wholly or partly that Agreement and directly related Agreements; all this without prejudice to PROMOLOG's other rights under any Agreement with Principal whatsoever and without PROMOLOG being obliged to any compensation.
3. In case an event occurs as meant in paragraph 1 or paragraph 2, respectively all claims of PROMOLOG against Principal and the claims meant by reason of the Agreement(s) concerned, are immediately and in their entirety due and PROMOLOG is authorized to take back the Products concerned (see article 11). In that case PROMOLOG and her authorized representative(s) are authorized to set foot on Principal's premises and in Principal's buildings in order to take possession of the Products. Principal is obliged to take the necessary measures in order to give PROMOLOG the opportunity to exercise her rights.

**Article 20 - Disputes, competent judge and applicable law.**

1. Disputes between parties, including those which are considered such by one of the parties, will as much as possible be resolved by mutual consultation.
2. If parties fail to come to a solution, disputes will be brought before the competent judge in the district in which PROMOLOG has her domicile (Commercial Court in Brno), save insofar as compelling competence rules would hinder this choice.
3. If a stipulation of these conditions appears to be invalid, it will not affect the validity of the whole agreement. In that case PROMOLOG has the right to replace such a stipulation by a – for Principal not unreasonably burdensome – stipulation which comes closest to the invalid one.

**Article 21 - Language.**

These GTCS will be filed in both the Czech and the English language. In case of any difference between the Czech and the English text of these GTSC, the Czech text will prevail.