

# GENERAL TERMS AND CONDITIONS FOR SALE OF GOODS

## 1. GENERAL PROVISIONS

1.1. These **General terms and conditions** govern all sales carried out by **FURTUNURI GROUP SRL**, with headquarters in Bucarest and business seat at: Bucuresti, Sector 5, Strada Toporasi, Nr. 2-6, et.2-1, CUI 16165382, J40/2663/2004, hereinafter referred to as the **Seller** and his **Buyers**, as preliminary define the terms and conditions under which the ownership of goods is being transferred and the payment is being made.

1.2. These **General terms and conditions** shall be considered approved by the **Buyer** when:

1.2.1. The **Buyer**, through his representative, declares in writing that he approves the **General terms and conditions for sale of goods** of the **Seller**. Any approval made by facsimile transmission or electronic signature shall be considered an approval in writing.

1.2.2. The **Buyer** has been familiar with the **General terms and conditions** and has not disputed them until the delivery of goods.

1.3. Any amendment of the **General terms and conditions** shall be considered absolutely approved by the **Buyer** upon his being informed of the amendments by any of the means previously specified.

1.4. Parties in a written agreement, in an annex to such written agreement and/or in an invoice in a form prepared by the **Seller** may agree between themselves conditions other than **General terms and conditions**. These conditions shall be specified in the written agreement, in the annex to such written agreement and/or the invoice following a model of the **Seller** and shall have effect only for the concrete sale. In this case, upon discrepancy between the agreed between the parties and the **General terms and conditions**, the agreed shall prevail.

## 2. SALES TRANSACTION

2.1. The sales transaction shall be considered made when: the **Seller's** offer has been approved in writing by the **Buyer**, or the **Buyer's** order has been placed and confirmed by the **Buyer**, or a bilateral invoice containing information of the goods sold, prices, quantities, payment terms and methods has been prepared, or an agreement in writing has been signed, or an annex to agreement in writing has been made, or the goods have been transferred with a bill of goods prepared by the **Seller**.

2.2. These **General terms and conditions** shall be considered absolutely approved by the **Buyer** when he, through his representative:

- approved the **General terms and conditions** in writing or by facsimile transmission or electronic signature; or
- has not objected in writing after their presentation, transfer or acquaintance with them;
- has prepared: an invoice and/or pro forma, and/or bill of goods, and/or declaration in which confirms the absolute approval of the **General terms and conditions**.

2.3. The **Seller** shall not be bound with the **Buyer's** orders. The **Seller** shall be bound with the **Buyer's** orders when the former has issued a pro forma for them and it has been paid in full by the **Buyer**.

## 3. DELIVERY OF GOODS

3.1. The delivery of goods to the **Buyer** or his representative shall be carried out at the **Seller's** premises after issue of invoice or bill of goods. The date of delivery shall be the date of delivery of the goods to the **Buyer**, respectively the date of issue of the invoice or the bill of goods.

3.2. Loading and transportation of the goods shall be carried out by the **Buyer** and at his expense. The risk of loss or damage of the goods shall be transferred to the **Buyer** on the date of delivery of the goods, at the **Seller's** premises.

3.3. The **Buyer** shall carry out the loading, transportation and storage of the goods at his own risk and with his employees, acting with due diligence and observing the usual safety rules.

3.4. The delivery of the goods can be arranged to another location or carrier. In these cases, the risk of loss and damage of the goods shall be transferred to the **Buyer** from the moment it leaves the **Seller's** premises.

## 4. OWNERSHIP AND RISK TRANSFER

4.1. The **Buyer** shall pay for the goods prior to their arrival at the premises of the **Seller** or within the terms and conditions specified in the invoice prepared by **Seller**.

4.2. Ownership of the goods purchased and the risk of their accidental loss and/or damage shall be transferred from the **Seller** to the **Buyer** at the time of their receipt at the **Seller's** premises.

4.3. In case the **Buyer** fails to appear to receive the goods within the stipulated period or after a notice sent, the **Seller** may cancel the agreement or the deal without providing additional period.

## 5. PRICES. PAYMENT TERMS AND METHODS. PAYMENT

### CURRENCY. PAYMENT GUARANTEE

5.1. Prices of the goods are specified and shall be interpreted in EXW (Ex Works) terms, according to Incoterms 2010.

5.2. Unless expressly stated otherwise, it shall be assumed that the price of the goods is exclusive of Value Added Tax.

5.3. The price shall be agreed between the parties and entered in drawing up the pro forma or written confirmation of the offer, or order, or an invoice following a model of the **Seller**. Upon an objective change of price conditions (increased exchange rate, fees, duties, etc.), the **Seller** shall be entitled to increase the prices to the appropriate rate.

5.4. All prices of the goods shall be agreed in writing between the parties. Prices negotiated by telephone, for which no written confirmation exists, shall not be binding for the parties.

5.5. The **Seller** shall issue an invoice to the **Buyer** for all sales in accordance with the applicable legislation at the time of sale.

5.6. The **Buyer** shall pay the invoice price immediately upon delivery of the goods.

5.7. Advance or deferred payment of price shall be admissible only when it is explicitly stipulated in an agreement in writing, in an annex to such agreement, and/or in a pro forma and/or in an invoice following the model of the **Seller**.

5.8. Upon deferred payment, the **Buyer** shall be obligated to carry out his entire obligation to pay on the day indicated on the invoice as deadline (at the latest). The payments due shall be considered cleared when the **Seller's** account is credited with the amount due on the invoices.

5.9. The **Buyer** shall be obliged to secure the **Seller** for the cost of the goods and:

- provide information to the **Seller** for the servicing banks and bank accounts to which the former is obliged to transfer the money from his turnover;
- provide to the **Seller** "CEC file" guaranteed by **Buyer's** bank;
- provide to the **Seller** "promissory note" guaranteed by **Buyer's** bank;
- issue, upon request of the **Seller**, a promissory note in favor of the latter, under "no cost and no protest" conditions for amounts covering his debts.

5.10. In case the price of the goods is over 2 000,00 / two thousand / euros or its equivalency in Romanian lei, the **Seller** may ask from the **Buyer** additional commercial security: commercial pledge, bank guarantee, payment guarantee, mortgage, etc. In other cases the **Seller** may, at his discretion, request additional commercial securities.

5.11. Payment shall be made via bank transfer (to a bank account provided by the **Seller**) or in cash:

- at the **Seller's** premises at: Fundatura Harmanului str. , Nr. 1A , Brasov , Romania;
- upon on-site delivery: to the **Seller's** employees;
- upon courier delivery: payment on delivery of the goods.

5.12. All amounts agreed upon deferred payments shall become due immediately when the **Buyer** falls into bankruptcy, liquidation or reorganization.

5.13. The payment currency shall be Romanian lei from Romanian physical and juridical persons, and in Euro from foreign juridical persons - **Buyers**.

5.14. The **Buyers** – Romanian physical and juridical persons, pay the good's price in Romanian lei, by the selling rate for Euro in Raiffeisen Bank – Romania, at the day of effecting the payment.

5.15. All bank charges shall be paid by the **Buyer**.

5.16. Payment shall be considered cleared after receipt of the amount to the **Seller's** bank account.

5.17. In case of payment delay or other breach of contractual obligations of the **Buyer**, the **Seller** shall be entitled to require satisfaction of his claims through realization of securities provided by the **Buyer**.

## 6. RIGHTS AND OBLIGATIONS OF THE SELLER

6.1. The **Seller** shall transfer the goods to the **Buyer** regarding the **General terms and conditions**.

6.2. The **Seller** shall issue invoices following his models in relation to any sale made, and other documents at the **Buyer's** request.

6.3. In case the **Buyer** delays to receive the goods, the **Seller** may:

- send it for storage;
- sell it at market prices after sending notification to the **Buyer**;
- sell it without sending notification upon rising of any circumstances threatening the **Seller's** interests.

6.4. Any expenses made by the **Seller** in relation to the above clause shall be paid by the **Buyer**.

6.5. The **Seller** shall be entitled to receive the agreed price of the goods.

6.6. The **Seller** shall be entitled to receive all interests and penalties due for payment delay on part of the **Buyer**.

## 7. RIGHTS AND OBLIGATIONS OF THE BUYER

7.1. The **Buyer** shall pay the price of the goods within the term, methods and currency stipulated in the **General terms and conditions** and/or in a written agreement, in an annex to such written agreement, in a pro forma, and/or in an invoice in a form prepared by the **Seller**.

7.2. Not possessing the original invoice issued by the **Seller** shall not exempt the **Buyer** of his obligation to pay for the goods received.

7.3. Upon payment delay, the **Buyer** shall pay interests and penalties pursuant to these **General terms and conditions**.

7.4. The **Buyer** shall receive and load the goods.

7.5. The **Buyer** shall examine the goods within 3 days of its reception and if it does not meet his requirements he shall notify the **Seller** immediately. If **Buyer** fails to do so, the goods shall be considered absolutely approved.

## 8. WARRANTIES. CLAIMS

8.1. The **Seller** declares that he has all necessary documents in connection with his performed sales of goods, in accordance to the applicable legislation at the time of sale.

8.2. The **Seller** shall, upon request of the **Buyer**, provide documents relating to the goods sold by the former in accordance with applicable legislation at the time of sale.

8.3. The **Buyer** shall reserve the right to return the goods to the **Seller** when reported any defects or lack of conformity noticed immediately, but not later than 3 / three / days from the date of receipt. After that period the goods shall be deemed accepted without any comments from the **Buyer**.

8.4. The claim shall be put in writing where all defects found shall be described. The claim shall be approved when it is being found that the occurrence of defects is not due to poor loading, transportation, storage or misuse on part of the **Buyer**.

8.5. The **Buyer** shall not be entitled to put claims:

- regarding the defects which can be seen in plain view of the item (including defects of the packaging) from the moment of receipt of goods from the **Seller**, EXW (Ex Works), according to Incoterms 2010;

- at any mixing, processing, use or repackaging of goods, which is considered a sign of their unconditional acceptance.

8.6. All warranties and claims shall be excluded when the **Seller** sells the goods to third parties, except the cases in which the law provides otherwise.

The **Seller** shall not be responsible for the proper use of goods, their testing and all products made of them.

8.8. The reason of a claim shall be assessed by the **Seller** on the basis of the samples provided or direct examination of the goods claimed.

8.9. In case the **Seller** approves a claim, he may offer a replacement at his expense or a price reduction being not more than 10 % / ten per cent / of the agreed value of the goods.

8.10. Small and normal in business relations unavoidable technical deviations or deviations in quality, quantity or size cannot be claimed.

8.11. By claiming quantities and qualities disagreements, the **Buyer** is not relieved of his obligation to pay the goods which haven't been denied or any other obligations to the Seller.

8.12. Any other liability of the **Seller**, unless specified in the preceding clause, shall be excluded under these **General terms and conditions**.

8.13. Article 8.11. from the present **General terms and conditions**, doesn't affect customers which rights are arranged by Law. 449/2003.

#### 9. TRADE SECRET

9.1. The **Buyer** shall comply with the conditions of confidentiality for any information he learns in the execution of any agreement subject to these **General terms and conditions**, both during its operation and after its termination.

#### 10. DEFAULT LIABILITIES

10.1. Either party may terminate any agreement under these **General terms and conditions** by sending a written notice to the other party, if the latter fails to perform his obligations under it. In this case, all liabilities of the parties become due immediately.

10.2. The **Buyer** cannot cancel an agreement if the quantity of the goods received deviates a little from the agreement.

10.3. In cases under the preceding clause, the **Buyer** shall pay for the actual goods received.

10.4. The **Seller** may terminate any agreement without further notice when the **Buyer** fails to perform any of his obligations under these **General terms and conditions** or any additional agreement and/or when he falls into liquidation, bankruptcy or reorganization in accordance with Romanian legislation.

10.5. In case of delayed payment, the **Buyer** shall pay the **Seller** a penalty being 1/360 of the base interest rate + 30 points for each day of the delay, accrued on the amount of the payment delayed; and all invoiced amounts, as of the moment of delay, shall be deemed delayed and a penalty shall be accrued on them as well. The penalties could overdraw the amount from which they are calculated.

10.6. In case the **Buyer** refuses to accept the goods unreasonably, the **Seller** can unilaterally cancel the agreement and shall be entitled to compensation of 35% /thirty-five per cent/ from the price of the goods. This compensation can be deducted from the advanced payment or part of it or from the commercial security.

10.7. In default of any of liabilities under these **General terms and conditions** or additional agreement, the **Buyer** shall pay penalty equal to 30% /thirty per cent/ accrued on the total value of sales or undone sales in violation of these **General terms and conditions** or additional agreements, as well as recovery of all damages and lost profits suffered by the **Seller** as a result of the failure.

10.8. The **Seller** shall not be liable for any failure caused by force majeure circumstances (natural disaster, social unrest, act of state or municipal authorities, etc.). Any liability shall be suspended during the occurrence of force majeure circumstances.

10.9. In cases of default of any of the liabilities under 9.1., the default party shall pay penalty to the amount of 1000.00 /a thousand/ euros.

#### 11. FINAL PROVISIONS

11.1. All notices and notifications between the parties will be in writing. The written form shall be deemed met for messages sent by facsimile transmissions or through electronic signature.

11.2. The invalidity of any of the clauses contained herein or of any additionally conditions agreed shall not invalidate any other clause or these **General terms and conditions** and/or the agreed as a whole.

11.3. For any dispute regarding the existence and operation of these **General terms and conditions** or in connection with their violation, including disputes and disagreements concerning their validity, interpretation, execution or breach, as well as for all matters unsettled herein and/or in written agreement or an annex to such written agreement and/or pro forma and/or invoice following the model of the **Seller**, shall apply the effective Romanian legislation, as the parties shall settle the relations between them by agreement. If no agreement is being reached, the dispute shall be referred to the competent legal instances of Romania.

11.4. These **General terms and conditions** shall apply until their abolition or replacement with other ones.

*These General terms and conditions for sale of goods were adopted by resolution of the General assembly of Furtunuri Group SRL, with effect from 9 September, 2011.*

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*Translated by Katya Kovacheva 12.12.2011*