

## **GENERAL TERMS OF SALE**

**Valid from 07.04.2020**

**AKROSTAL SP. Z O.O.**

### **1. General provisions**

- 1.1. This document - General Terms of Sale, hereinafter also called "GTS", constitutes a standard agreement in the definition of Art. 384 of the Civil Code and determines the principles of conclusion and performance of sale agreements with relation to goods offered by Akrostal limited liability company with its registered office in Poznan (address: Romana Maya 1, 61-371 Poznan) entered into the Register of Entrepreneurs of the National Court Register under entry number KRS 0000249764, whose company file is kept by the District Court for Poznan – Nowe Miasto and Wilda in Poznan VIII Commercial Division of the National Court Register, holder of tax identification number (NIP): 7822213458 and statistical number REGON: 0000249764, hereinafter called "the Seller".
- 1.2. The provisions covered by GTS constitute an integral part of all sale agreements concluded between the Seller and the buyer, hereinafter called "the Buyer", who is not a consumer in the definition of the provisions of the Civil Code, determining the rights and obligations of the Seller and the Buyer, unless stated otherwise in an agreement between the Seller and the Buyer concluded in writing under pain of being declared null and void.
- 1.3. General Terms of Sale have been sent in the email to the Buyer and are provided for the attention of the Buyer on the Seller's website: [www.akrostal.pl](http://www.akrostal.pl) in electronic form, in a manner enabling the Buyer to download, store and reproduce these terms.
- 1.4. The Seller and the Buyer are jointly called "the Parties" in the further part of GTS.
- 1.5. If the Parties accepted general terms of sale once, then unless they agree otherwise, and unless they remain in regular business contacts, GTS refer to all the subsequent purchase-sale agreements until the moment of modifying the contents or withdrawing the provisions of GTS

## **2. Conclusion of an agreement**

- 2.1. Conclusion of a sales agreement takes place at the moment of the Seller's confirmation of a correct order submitted by the Buyer and delivered to the Seller. An order may be placed via e-mail, fax or in writing, as well as via other remote communication means (e.g. phone), as well as directly with the Seller's representative.
- 2.2. The Seller may confirm the order in writing, via e-mail or fax, indicating the key terms of the agreement, such as, in particular: the assortment of goods, quantity, price, payment term, delivery/collection time and method, and, if applicable to the character of goods ordered, also the error tolerance with regard to cutting to size. Subject to the provisions of item 2.4, under no circumstances does a lack of reply from the Seller constitute conclusion of an agreement with the contents determined by the order placed by the Buyer
- 2.3. In case of orders placed by phone, it is allowed that a contract is concluded when the Seller starts processing the order placed by phone. When this happens, the Buyer is obliged to send an email with confirmation that he has read the General Terms of sale.
- 2.4. In case of a lack of confirmation of an order placed by the Buyer, an agreement is concluded if despite the lack of confirmation the Seller has begun fulfilling the order or has made the ordered goods available for collection by the Buyer at a time indicated in the order or no later than within 21 (in words: twenty one) days from the order placement date. The provision of item 2.3, sentence two, is applicable as appropriate.

## **3. Prices**

- 3.1. The sale price of goods ordered is the price determined in the order, provided that it has been confirmed by the Seller in the order confirmation. In special cases, where an agreement is concluded without a confirmation from the Seller, the sale price is determined based on the current price list of the Seller.

3.2. All prices provided by the Parties during mutual contact, including with relation to order placement and confirmation, are net prices, unless clearly stipulated otherwise in arrangements between the Parties.

3.3. If between the order placement date and the order fulfilment date (making the goods available to be collected by the Client) the following occurs:

3.3.1. an increase in the price of materials from which the ordered goods are made by over 5%, or

3.3.2. an increase in the exchange rate, according to the exchange rates announced by Narodowy Bank Polski: USD/PLN or EUR/PLN by over 5%,

the Seller has the right to request payment of an appropriately higher price, proportionate to the increase in the price of materials or in the exchange rate.

3.4. In case of intra-Community delivery of goods, the Buyer is obliged to return to the Seller, to enable the Seller to apply the 0% VAT rate, immediately, no later than within 3 (in words: three) days from the goods collection date, documents confirming the intra-Community delivery of goods. A failure or a delay in fulfilling this obligation will result in the Seller adding the VAT amount to the value of the completed transaction according to the current rate, which the Buyer shall be obliged to pay to the Seller.

#### **4. Commercial approvals**

4.1. A commercial approval, hereinafter called a Commercial Approval of the Seller, is an approval of the Seller issued on the basis of the data covered by the manufacturer's approval of the Seller and fully consistent therewith. A Commercial Approval of the Seller does not contain the data on the manufacturer of the product, which constitutes a trade secret of the Seller.

4.2. The Seller, upon a request of the Buyer, may provide an additional confirmation on the Commercial Approval stating that it is consistent with the manufacturer's approval.v

4.3. The Seller issues Commercial Approvals of the Seller exclusively. The Buyer does not have a right to demand from the Seller to issue an approval other than a Commercial Approval of

the Seller. The Seller is not bound by the Buyer's demand specified in the order to deliver an approval other than the Commercial Approval of the Seller, even if the Seller confirms the order.

**5. The Seller's liability arising from its warranty concerning concealed defects in goods and from a failure to perform or improper performance of the agreement.**

5.1. The Buyer is obliged to examine the goods purchased at the terminals and in a way determined in the following items.

5.2. While collecting the goods, the Buyer is obliged to verify the consistency of the quantity of the goods released with the Buyer's order, the Seller's order confirmation, shipping documents and to examine if the goods are not mechanically damaged, in particular, if there are no scratches, cracks or cavities. The Buyer is obliged to report all defects consisting of an inconsistency between the quantity of the goods and the documents specified above or any mechanical defects immediately after unloading of the goods and prepare the photographic documentation showing the goods after collection, which shall be sent to the Seller, to an email address of the Seller's employee who has received the order, within 7 days after the unloading at the latest. The defects shall be reported in the following way:

5.2.1. where the place of collection of goods ordered is located in Poland – in a defect report handed over to the person who has delivered the goods on behalf of the Seller or in the waybill and the stock issue information (WZ),

5.2.2. where the place of collection of goods ordered is located outside of Poland – by making an appropriate remark on the CRM waybill,

5.2.3. in case of collection in person at the Seller's warehouse – in the stock issue confirmation.

5.3. A failure to fulfil or an untimely fulfilment by the Buyer of any of the obligations described in item 5.2 above, results in, cumulatively:

5.3.1. a loss of the Buyer's rights arising from the Seller's warranty for the goods ordered in the scope of the quantity of goods ordered and also in the scope of the mechanical damage in the goods ordered,

5.3.2. an exemption of the Seller from liability for damages with regard to a failure to perform or improper performance of the agreement in the scope of the quantity of goods ordered and also in the scope of mechanical damage which could have been detected during an examination as described in item 5.2., except for intentional damage.

5.4. Moreover, the Buyer is obliged to immediately, not later than within 7 (in words: seven) days from the date of collecting the ordered goods, and in case of goods which may be subject to further treatment, including in particular heat or mechanical treatment, within the same deadline but not later than before starting the treatment of goods, check conformity of the ordered goods with contract in the scope of possible defects not provided for in item 5.2. With respect to the goods such as metals or their alloys which are subject to further treatment, they are subject to obligatory testing by the Buyer Prior to further treatment, in particular: testing with use of spectrometer, chemical composition test, impact test, examination of flatness, straightness, ovality, materials tolerance, hardness, structure, ultrasonic testing with the purpose of detecting defects inside the goods.

If during the examination or use of the goods the above mentioned defects are detected (in particular in case of steel, the defects related to the provision of steel with steel grade different from the grade that has been ordered), such defects should be notified to the Seller in writing under penalty of invalidity, within 7 days from the day the defects are detected. To such written notification the Buyer is obliged to attach results of the above mentioned tests performed prior to the goods treatment.

The Seller has the right to request the Buyer to perform the test mentioned above at the Buyer's expense with respect to the goods not subject to treatment and for this purpose apply the Paragraph below, i.e. request the Buyer to supplement the notification within 30 days.

In case the notification made by the Buyer about the weight of the purchased goods is considered by the Seller as incomplete, the Seller shall request the Buyer to submit the missing documents, necessary information or tests results within 30 days. In case of the Buyer's failure to supplement the notification concerning defects, despite the Seller's prior request, such notification shall be deemed not to have been filed.

The Seller has the right to perform tests, at the expense and risk of the Buyer, for the purpose of verifying the notification of defect and the tests performed by the Seller. For this purpose upon Seller's request the Buyer is obliged to supply the defective goods to the Seller or another place indicated by the Seller, within 14 days from the date of submitting a request.

- 5.5. A failure to fulfil or untimely fulfilment by the Buyer of any of the obligations described in item 5.4 above, results in, cumulatively:
- 5.5.1. a loss of the Buyer's rights arising from the Seller's warranty for defects in the goods ordered,
  - 5.5.2. an exemption of the Seller from liability for damages with regard to a failure to perform or improper performance of the agreement in the scope of the goods ordered, except for intentional damage.
- 5.6. At the moment of commencing processing of the ordered goods which are metals or their alloys (especially steel) and regardless of the provisions of the previous items, the Buyer:
- 5.6.1. loses all the rights arising from the Seller's warranty for defects in the goods processed,
  - 5.6.2. exempts the Seller, within the limits of the law, from liability for a failure to perform or improper performance of the agreement with regard to the goods processed, except for intentional fault.
- 5.7. The provisions of item 5.6. above are also applicable to goods with regard to which the Buyer has reported a defect or inconsistency with the agreement to the Seller.
- 5.8. Defects may only be reported in writing, under pain of being declared null and void.
- 5.9. The Seller shall not bear liability under the statutory warranty or liability for damages for the defects of goods detected during their treatment, in particular during heat treatment with gas burner or at a temperature above 1540°C, except liability for damage caused due to the Seller's wilful misconduct.
- 5.10. If the Buyer reports defects in the goods, the Seller shall arrange with the Buyer the time and place for an examination of the goods reported as faulty by the Buyer to be carried out. If the arranged way of examination requires transport of the goods, the transport costs are borne by the Buyer, whereas if the arranged way of examination requires a visit of an authorised representative of the Seller or a third party to the location of the goods, the costs of return travel, according to the rate of PLN 1 (in words: one) per each kilometre; if the distance

between the location of the goods and the Seller's office exceeds 150 (in words: one hundred and fifty) km from the Seller's office, the costs of overnight accommodation are borne by the Buyer

5.11. In case of an unjustified report of defects in goods, the Seller has the right to request the Buyer to pay all the costs incurred by the Seller with relation to the examination of the goods in order to check for defects.

5.12. If the report of defects is justified, the Seller may, at its discretion: exchange the goods for defect-free goods at a reasonable time, no later than within 45 days, repair the goods or refund the price paid by the Buyer. Under no circumstances is the Buyer entitled to withdraw from the agreement or to request a discount in the price.

5.13. The Seller is liable for a failure to perform or improper performance of the agreement solely in case of intentional damage caused to the Buyer, limited to the actual damage incurred by the Buyer. Under no circumstances is the Seller liable for unintentional damage or for loss of profit by the Buyer.

5.14. It is not considered an improper performance of the agreement, and the goods delivered shall not be considered delivered as faulty, if:

5.14.1. the amount of the goods delivered lies within +/- 1 kg, if the weight of the goods ordered is less than 1 t, +/- 5 kg, if the weight of the goods ordered is between 1 and 5 t, +/- 0.2 %, if the weight of the goods ordered exceeds 5 t, Whereas the weight of the goods should not be increased by the weight of pallets and other means protecting the goods.

5.14.2. in case of cutting to size, the following tolerance values shall be applicable: round and flat bars of cross-section of a diameter up to 300 mm - cutting tolerance - 0/+5mm round and flat bars of cross-section exceeding 300mm - tolerance -0/ +10mm metal sheets cut to size - 0/ +15 mm, panels cut to size - 0/ +15mm.

5.14.3. The Purchaser willing to order material with "ready-made" dimensions, undertakes to expressly stipulate that the dimension of the material specified by him is a "ready-made" dimension in the order. In the absence of such a reservation, the Purchaser takes note that the Seller applies the following machining allowance: rolled material -min. 5 mm, forged material – min. 10 mm. In the case of orders with smaller machining allowance than indicated in the above point, the Seller's liability under the warranty for defects of the goods covered by such order, as well as the Seller's indemnity liability for non-performance or improper performance

of the contract shall be excluded, with the exception of damage caused by the Seller's wilful misconduct, subject to the provisions of clause 5.13.

5.14.4. in the case of firing to a predetermined size on CNC thermal cutter, product geometries and quality tolerances shall be in accordance with PN-EN ISO 9013 cl. II

5.14.5. The Seller declares that all materials included in the offer (except for S355 material and wear-resistant sheets) are cut with cold band saws. Only at the customer's explicit request, materials can be cut thermally. However, the Seller does not accept any liability for damage to or loss of material cut thermally.

## **6. Delivery, date and costs of delivery**

6.1. Delivery of goods ordered is completed solely on the basis of data covered by the order confirmation. In special cases, defined in items 2.3 and 2.4 above, delivery of goods ordered is completed on the basis of data covered by the order. The order fulfilment start date is the date of order confirmation, while in cases referred to in items 2.3 and 2.4. above, it is the date on which the Seller has commenced fulfilment of the order.

6.2. The Buyer is obliged to collect goods at an arranged time, and in case of no such arrangement, immediately, no later than within 1 (in words: one) day from receiving information from the Seller on the goods having been made available for collection.

6.3. If the collection of goods by the Buyer from the warehouse of the Seller is delayed by more than 2 (in words: two) days or if the Buyer does not collect the goods at an arranged time from a different arranged location, the Seller has the right, at the risk and cost of the Buyer, to place the goods in storage or to store the goods at its own warehouse. The Seller also has the right to withdraw from the sale agreement within 180 (in words: one hundred and eighty) days from the date on which the Buyer was to collect the goods. The Seller is also entitled to sell the goods to another client. The costs of storage of unclaimed goods per each ton of goods and per each day of storage amount to - the equivalent in PLN of the amount of 20.00 (in words: twenty 00/100) euro, calculated on the basis of the average exchange rate from the storage period, according to the exchange rates announced by Narodowy Bank Polski, while the minimum charge per one day of storage of goods is equal to the amount of 20 euro regardless of the weight.

- 6.4. Costs of transport of goods ordered to the place of collection and the risks associated with transport are borne by the Buyer. In case of a failure to collect the goods, the Seller also charges the Buyer with the costs of transport of the goods to the place of storage, at the risk of the Buyer.
- 6.5. The risk of accidental loss or damage to the goods is transferred onto the Buyer at the time of the goods being released to a person authorised to collect the goods on behalf of the Buyer, including a carrier or a forwarder. The Buyer is liable for transshipment of the goods. The Buyer is also liable for the correct loading of goods from the Seller's warehouse in case of a delivery made using transport means which belong to the Buyer or persons authorised by the Buyer. In order to protect against theft or behaviors bearing the hallmarks of crime, the Seller has the right to monitor the proces of transporting goods using technical devices and obtain all information about the route of transport of goods also after the possible delivery of the goods to the buyer.
- 6.6. A delay on the Seller's side to deliver the goods which does not exceed 14 (in words: fourteen) days does not constitute a failure to perform nor improper performance of the agreement.
- 6.7. The Seller shall be under no liability for any delay in delivery execution if such delay is due to circumstances not attributable to him, e.g. untimely delivery by the Seller's suppliers, occurrence of any force majeure event, unforeseeable disturbances in the Seller's work, occurrence of a strike action, labour conflict, accident, fire, flood, epidemic, shortage of material, changes of law regulations or any other causes beyond the Seller's reasonable control. In such cases the Seller is entitled to additional time needed to for execution of order.
- 6.8. The Buyer may only withdraw from the obligation to collect the goods (withdraw from the agreement) after the Seller has commenced fulfilment of the order in case of obtaining a consent of the Seller in this regard made in writing, under pain of being declared null and void. In case of a withdrawal from the obligation to collect the goods upon the Seller's consent, the Buyer is obliged to cover the costs incurred by the Seller with relation to the actions taken in order to fulfil the order.
- 6.9. If the Buyer delays payment of the price of goods delivered to the Buyer, the Seller is entitled to withhold from fulfilling subsequent orders of the Buyer until the appropriate payments have been made.

## **7. Payment terms**

- 7.1. The sale prices becomes due when the payment deadline has passed as specified in the VAT invoice issued by the Seller.
- 7.2. The Buyer becomes the owner of goods when a payment in full for the goods has been made (retention of title to the goods sold – Art. 589 of the Civil Code), unless the Parties agree otherwise in this respect. Any other arrangements must be made in writing in order to be binding.
- 7.3. The payment date is the date of crediting the Seller's bank account indicated in the VAT invoice.
- 7.4. Setting off the amounts due from the Buyer against amounts owing to the Seller may relate only to the uncontested amounts or amounts determined by a final court ruling.

## **8. Final provisions**

- 8.1. GTS become effective on 25.06.2015 and are applicable to all sale agreements concluded by Akrostal sp. z o.o. to date as the Seller in the definition of the provisions of GTS, unless stipulated otherwise in arrangements made between the Parties in writing, under pain of being declared null and void, or in legislation.
- 8.2. All amendments to GTS become effective on the date of publication of the consolidated contents of GTS (after amendments) on the website of the Seller under the address [www.akrostal.pl](http://www.akrostal.pl). Amendments to GTS are not applicable to sale agreements concluded before the effective date of the amendments.

8.3. The Parties declare that they will attempt to solve amicably all disputes arising from the performance of the agreement, to which GTS are applicable. If the issue cannot be solved amicably, all disputes shall be settled by common courts competent in terms of jurisdiction to the office of the Seller.

8.4. The applicable law is the law of the Republic of Poland.

8.5. To all matters not settled within these GTS, in case of domestic and international sales, the appropriate provisions of the Civil Code and of the Act on Payment Terms in Commercial Transactions of 08 March 2013 (Journal of Laws of 2013, item 403) are applicable.