

**Virtute Maris**  
**General Terms and Conditions**  
**of**  
**Delivery and Service**

**Article 1**  
**GTC Application**

- 1.1 All deliveries made, services provided and offers proposed by us will be made exclusively based on these General Terms & Conditions ("**GTC**"). Any terms and conditions of the client which deviate from or contradict GTC will apply only to the extent pre-approved by our director of board, corporate representative or our attorney. Lack of express waiver of the client's general terms and conditions is not sufficient to deem them binding. Any implied consent to the client's general terms and conditions is hereby waived.
- 1.2 GTC apply both to business operators as defined in Article 43<sup>1</sup> of the Polish Civil Code (hereinafter "Civil Code") as well as to consumers as defined in Article 22<sup>1</sup> of the Civil Code. According to those regulations, a consumer means a natural person (i.e. an individual) who makes a legal transaction which is not directly connected with his/her economic or professional activity. Whenever indicated expressly in bold font, a given GTC provision does not apply to consumers or applies only in a modified form – it will not affect validity of GTC in any other aspects with respect to both businesses and consumers.
- 1.3 GTC also apply to future contractual relations. **In relation to consumers, GTC apply to future contractual relations concerning our sale of certain items as well as consulting services provided within the framework of such sale, and our maintenance services. As regards such consulting and maintenance services, GTC apply only to the extent not otherwise arranged with the client.**
- 1.4 Any deviating provisions and additions to GTC must be made in writing or else will be null and void. It will not apply to provisions agreed on with the board, the corporate representative or other persons authorised by us to agree any deviating provisions and additions.

**Article 2**  
**Offer and contract conclusion; Document rights; Cost estimates**

- 2.1. Our announcements, advertisements, price lists and other information addressed to the general public or to individual persons do not constitute an offer, but an invitation to conclude a contract. A contract becomes effective only once we accept a purchase order placed by the client. In no event sending a non-binding estimate will lead to conclusion of a contract with the client. A contract between us and the client will become effective without our confirmation if we provided the ordered service and the client has accepted it. If an ordered performance has not been completely carried out because it is partially impossible or its complete fulfilment is economically unreasonable, and the client rejects such entire performance for this reason according to Article 2.5 or 3.1 of GTC, we will have a right to invoice the entire performance made by us until such point in time.
- 2.2. We will decide whether to accept orders within two weeks of their receipt. **In relations with consumers, the period for their acceptance is two weeks after their sending by the client.**
- 2.3. As regards our offers, cost estimates, drawings, illustrations, descriptions as well as other documents and materials made available by us or by third parties, we reserve property rights,

copyrights and all other legal protection, unless agreed otherwise. The client does not have a right to make the above items or their content available to any third parties without our express consent. Use of such items and documents as well as their copying is permitted only to the extent necessary in order to conclude and perform a contract with us. Such documents and materials, including their copies, will be promptly returned to us at the client's cost if a contract does not become concluded or if they are not required for further performance of a contract.

- 2.4. The client must follow our guidelines on how to use such items and documents referred to in Article 2.3 of GTC. In particular, the client must comply with the restrictions of use stated in such documents, and will not use such documents or items for any other purposes than they were intended for.
- 2.5. All cost estimates are non-binding. If a contract is concluded based on a non-binding cost estimate, we will have a right to exceed prices indicated in such estimate by 10%. If foreseeable that the prices of a cost estimate will be exceeded by more than 10%, we will notify the client. We will then have a right to discontinue our work until binding arrangements are made with the client. Based on our notice of expected cost estimate excess of more than 10%, the client will have a right to withdraw from a contract. In such event we will calculate a price according to the cost estimate, potentially increased by 10%, for the performance which have carried out until the time of the notice. **In the case of consumers, the following sentence applies instead of the previous one: In such event we will have a right to demand part of our fee corresponding to the actual work performed as well as refund of expenses that are not covered by such fee.**

### Article 3

#### Repair, replacement and calibration

- 3.1. Our maintenance or repair work will be based on a separate agreement. Such agreement will be formulated using data and information to be provided to us by the client. If during performance of a contract it becomes apparent that the maintenance or repair work cannot be carried out and it could not have been foreseen at the time of concluding the contract, we will have a right to invoice the client for all work carried out until such time at which the above fact is established. The client will have a right to withdraw from a given order upon such notice from us, and in this case we will have a right to invoice the work carried out until such time (**in the case of consumers, the following additional clause applies: according to Article 2.5 Bold font**). We will be required to continue the work only if the client instructs us in a formally binding way to continue the work.
- 3.2. If we accept a certain item belonging to the client as a form of payment, it will imply entry into a sale contract with such client concerning sale of such item that we have been required to deliver, as well as that the client has only a right to transfer the ownership title to such item onto us in lieu of the purchase price. Any claims for defects in the item transferred by the client onto us will be vested in us without any prejudice. Such items accepted as payment will be, in particular, free of welded or unwelded breaks and/or cracks.
- 3.3. If we accept an item as payment, the agreed price for such item will be conditioned on the fact that the item is actually repairable. If individual parts of such item are not repairable, we will have a right to replace these parts and make an appropriate deduction from the agreed price for the item which has been accepted as payment. The client has a right to demand return of the replaced parts.

- 3.4. If the client requests us to calibrate the subject matter of a contract or otherwise rework an item that has been withdrawn (oldtimer), we will be required to perform the agreed work with due diligence. Unless agreed otherwise, any results exceeding the work will not be the subject matter of our contractual performance.

#### **Article 4 Maintenance services**

- 4.1. We will perform maintenance services based on a separate agreement. Such agreement will define the scope of the maintenance services that we are required to provide.
- 4.2. Based on a maintenance contract, we are only required to perform the services agreed upon in such contract. Any further results, in particular a certain service life achieved for a given item that has been covered by the maintenance, will require a separate agreement.
- 4.3. Without such separate agreement we will not be required to respond to and/or rectify defects reported to us within any specific period of time. **The following applies to consumers: It will be without prejudice for the client's rights to claim defects of performance.**
- 4.4. The client is required to grant access for us to specific items that are covered by a maintenance agreement and to make available as necessary all additional and professional resources, driving fluids, energy and water, including necessary connections, heating and lighting, and to make any other arrangements as may be necessary in order to perform the maintenance. In the event of obstacles and/or delays caused by **(in the case of consumers: wilful)** failure to fulfil or defective fulfilment by the client of all or any of the above obligations, we will have a right to charge an appropriate compensating amount.

#### **Article 5 Consulting services**

- 5.1. In the event we give advice on fitness, functionality or other features of our products, the client will be required to provide us (without any prior request) with all necessary information and documents. Advice will be given based such information and documents as provided by the client.
- 5.2. If we advise the client on installation and/or assembly of our products, regardless whether the installation and/or the assembly is carried out by the client or by a third party, such advice will be only an answer to specific questions related to the installation and/or the assembly without any separate agreement. It will not include our supervision over the installation and/or the assembly.

#### **Article 6 Training services**

- 6.1. We will carry out training based on a separate agreement made with the client. We are not required to provide any further services that would go beyond the agreed scope.
- 6.2. We reserve the exclusive use right to all materials provided to the client and/or its designated training participants. The client and its designated training participants have a right to only use the training materials for their own purposes during the training (no exclusivity of use). Our prior written consent is required for every disclosure to a third party.

- 6.3. The client is required to verify that its designated training employees are qualified to attend the training. We have a right to refuse training certain individuals who, based on existing evidence, are not qualified to receive the training.

#### **Article 7**

##### **Prices and payments; Offsetting and retention; Advances**

- 7.1. Unless agreed otherwise, our prices are ExWorks. Transport and packaging are not included in a price, but will be charged separately.
- 7.2. The statutory goods and services tax is not included in our prices. It will be itemised separately and calculated based on the statutory rate as of the day of an invoice, insofar as our delivery is subject to such tax. As regards foreign transactions, the client will cover fees and taxes associated with transport to the country of destination, in particular any customs duties, as well as any statutory taxes and/or fees due in the country of destination. In the case of foreign transactions, if we pay taxes and/or fees ourselves beforehand, the client will refund them to us.
- 7.3. Any amounts stated by us in our invoice will be payable by a due date specified there. If our service involves performance of *creative work* as referred to in Article 627 of the Civil Code, and such work is not about delivery of certain mobile assets that have been produced or manufactured, then the invoiced amount will be payable only once the client accepts such work, in addition to its effective delivery to the client. If the client fails to accept such work within a time limit set by us, it will be deemed an implied acceptance. Upon expiration of the due date stated in an invoice, the client will become in default and no reminder will be needed to that effect; **it applies to consumers only if indicated so in our invoice**. In the event of payment default, we will have a right to demand statutory default interest. It will be without prejudice for the right to seek further claims for damage.
- 7.4. Any discounting can be offered only based on a separate agreement.
- 7.5. The client has a right to offset amounts against only those claims which it is entitled to and which have been legally established or are undisputed. It also applies to the right of retention of things. **In the case of consumers, the following additional clause applies: Sentence 1 does not apply. Sentence 2 does not apply to the client's right of retention vested under Article 488 of the Civil Code or to the right of retention on account of the client's claims arising from the same contractual relationship.**
- 7.6. If our performance for the client requires us to provide certain preparatory services, as well (e.g. material sourcing, design services), we will have a right to demand an advance payment corresponding to such preparatory services. It will be without prejudice for our rights under Article 490 of the Civil Code.

#### **Article 8**

##### **Delivery times and delays**

- 8.1. Our compliance to specific delivery dates is subject to timely receipt of all documents, other information and official approvals (if any) which the client is required to provide. The same applies to advance payments to be made by the client. If these conditions are not met for reasons which we are not responsible for, the delivery times will be extended accordingly.

- 8.2. Any disruption caused by force majeure, labour strikes or lockouts, or by defective processes or raw materials, insofar as we are not responsible for them, will entitle us to withdraw from a contract (unless already completed), if such circumstances render deliveries or services impossible beyond temporarily and if such circumstances have not been foreseeable at the execution of the contract. **In the case of consumers, the following additional clause applies: We will promptly notify a consumer of it and any counter-performance of such consumer will be promptly reimbursed by us.**
- 8.3. The performance of our services and deliveries will depend on proper and timely deliveries being made to us by our own suppliers. **In the case of consumers, the following additional clause applies: The above condition means that we are not required to make delivery on time if and when, due to reasons which we are not responsible for, a supplier (whom we contracted for the purposes of our obligations) fails such contract. In such event, the client will be promptly notified by us. If a disruption of a delivery is not merely temporary, we will have a right to withdraw from a contract; any counter-performance of the consumer will be promptly reimbursed by us.**
- 8.4. If we delay a delivery or a service, or it becomes impossible, the client's claims for any compensation will be limited according to Article 14.
- 8.5. The client does not have a right to withdraw from a contract for reasons of a delayed delivery for which we are not responsible. If the client is entitled to withdraw from a contract due to a delayed delivery which we are responsible for, the client will (at our request) declare within a reasonable period whether it wishes to withdraw from such contract or wait for the delivery. If the client fails to make such declaration within a reasonable period, the client will be required to indicate an appropriate period for our performance and will be entitled to withdraw from the contract only once such period expires without effect.
- 8.6. If agreed with the client that our performance will not take place on any specific date but within a defined period, we will have a right to make the deliveries or the services also before such date. If a specific delivery date has been agreed with the client, we will have a right to complete the delivery or the service on a reasonable date earlier after first informing the client in good time before the actual delivery or service. It will not apply whenever for reasons known to us a given delivery or a given service can only be made on the agreed date. **This clause does not apply to consumers.**

## **Article 9**

### **Transfer of risk; Acceptance procedure**

- 9.1. Deliveries are made ExWork, unless agreed otherwise.
- 9.2. The risk of accidental loss or damage will pass onto the client at the time of the delivery. The risk will also pass onto the client regardless whether it delays its acceptance of the delivery or the service.
- 9.3. At the client's request, we will insure the transport of items in delivery. The client will cover the related costs. The client is required to ensure all conditions as may be necessary for the installation and/or the assembly.
- 9.4. Once completed our work will be subject to an acceptance procedure at (according to our discretion) our facilities, however to the extent technically possible and reasonable for the client.

**Article 10**  
**Delivery; Third party involvement**

- 10.1. Partial deliveries are permitted to the extent reasonably acceptable for the client. It will also apply to deliveries with commercially customary shortage or excess of quantity. **In the case of consumers, partial deliveries are permitted only to the extent reasonably acceptable for the client, without prejudice for the client's claims for timely and proper performance.**
- 10.2. Unless agreed otherwise, we will make a fair choice of packaging and shipping methods at the time of shipping.
- 10.3. If the client delays its acceptance or **(in the case of consumers: wilfully)** violates any other obligation to collaborate, we will have a right to seek all statutory claims for compensation and refund of extra expenses.
- 10.4. We will have a right to use third parties in order to cause our obligations to be performed.

**Article 11**  
**Installation and assembly**

- 11.1. We will carry out installation and assembly works based on a separate agreement.
- 11.2. If we accept to perform the installation or the assembly, the client will be required (at its own cost) to grant temporary access for us, provide as necessary on site all additional and professional resources, driving fluids, energy and water, including necessary connections, heating and lighting, as well as make all other arrangements as may be necessary in order to perform the installation and the assembly.
- 11.3. Furthermore, the client is required to make available necessary premises to us.
- 11.4. The client will notify us of any possible risks and deviations in the installation and the assembly.
- 11.5. In the event of obstacles and/or delays caused by **(in the case of consumers: wilful)** failure to fulfil or defective fulfilment by a client of the above obligations, we will have a right to charge an appropriate compensating amount.

**Article 12**  
**Claims for defects**

- 12.1. Any information relating to items and other services that we provide is only information on properties and does not constitute a guarantee. If we carry out deliveries or services based on specifications or catalogues of requirements, they will exhaustively describe the required properties of our deliveries and services. Unless there is a separate agreement to that effect, our deliveries and products comply with regulations binding in Poland and good technology practices recognised in Poland.
- 12.2. The client does not have a right to return a delivery for reasons of minor defects only. Any deviations within a commercially customary range are not deemed defects.
- 12.3. The client will promptly examine a delivered item upon its receipt. It also applies to deliveries made personally to a third party at such request of the client. Delivered items will be deemed

accepted if a defect which could have been discovered with careful inspection was not reported immediately (but not later than within 3 days). A registered letter dispatched prior to lapse of such time limit will satisfy this condition. If a defect could not have been discovered with careful inspection, then the period for such written notice will run from the time of its discovery. If a defect becomes apparent prior to further use of a delivered item (in particular prior to its installation), the client will be required to refrain from any further use insofar as it could hinder or prevent the inspection and identification of such defect, its rectification or the return of the defective item to us for replacement or repair, or insofar as it could damage the delivered item. **This clause does not apply to consumers.**

- 12.4. The client will reasonably and promptly allow us to examine delivered items during normal working hours. In the event of an incorrect notice of defect, the client will be liable for any damage resulting and incurred by us.
- 12.5. We are not liable for defects caused by unprofessional handling of delivered items by the client or by a third party. It applies in particular to defects which involve faulty installation. Neither are we liable for wear and tear of any items delivered by us resulting from their use.
- 12.6. In the event of a physical defect, we will be required to (at our discretion) deliver a defect-free item or repair it (redo our contractual performance). A repair will be carried out at the place of delivery, according to Article 9.1. Any transport costs will be covered by the client. If we choose to ship an item again, the defective items will be sent back to us (at our cost) and the client will be required to choose the most cost-effective shipment method. **This clause does not apply to consumers: The consumer will enjoy all rights as stipulated in laws.**
- 12.7. In the event we fail to redo our contractual performance, the client will have a right to (at its discretion) demand a discount or withdraw from a contract, or – in the case of *creative work* contract (referred to in Article 627 of the Civil Code) which does not involve delivery of manufactured or produced items – demand rectification of a defect or an appropriate advance payment. Article 566 of the Civil Code will not apply unless the damage has been caused intentionally or results from gross negligence. The client does not have a right to withdraw from a contract for reasons of minor defects. We will be deemed to have failed to redo our contractual performance if we do not rectify the defect within an appropriate period (but not be shorter than 4 weeks), if we fail two attempts to repair a given item, or if we definitively and persistently refuse to redo our contractual performance. It will be without prejudice for our statutory right to refuse redoing such contractual performance in the event it is simply impossible. **The following applies to consumers instead of the above clause: The client will have a right to claim defects to the extent permitted by laws, with the exception of claims for compensation. Claims for compensation are subject to limitations according to Article 14 of GTC. It will be without prejudice for our statutory right to refuse redoing a contractual performance.**
- 12.8. If the client is further entitled, on the one hand, to demand us to redo our contractual performance and, on the other hand, is entitled to exercise its statutory rights, we will have a right to call the client to exercise its rights within a reasonable period. The client will notify us of its decision in writing. Such period will be counted based on the time when we receive the client's written notice. If the client does not exercise its rights within a reasonable period, the client will be able to exercise them (in particular the right to withdraw from a contract or to claim compensation) in the event such second time limit set by it for us to redo our contractual performance lapses without effect. **This clause does not apply to consumers.**

- 12.9. Any rights to claim defects of items against us will expire one year after delivery to the client or its designated third party. **Statutory time limits apply in the case of consumers.**
- 12.10. It will be without prejudice for the regulations of Article 12 of the Consumer Sale Conditions Act.
- 12.11. In the event of a secondhand sale contract made with the client, our liability for defects will be excluded unless we bear such liability based on peremptory regulations of law or unless agreed otherwise. **This clause does not apply to consumers. In the case of sale transactions with consumers, the right to claim defects expires within the statutory time limits.**

### **Article 13** **Liability for legal defects**

- 13.1. Insofar as we are liable for legal defects in delivered items, to redo our contractual performance will not redo a delivery or rectify the defects but rather we will need to acquire a certain right, conclude a certain licence with the holder of such right or otherwise change the delivered item so that it no longer violates the right and is reasonably acceptable for the client. We will have a right to choose the method of redoing our contractual performance as described above. **In the case of a consumer, it will enjoy full rights stipulated in laws.**
- 13.2. Unless with a separate agreement acknowledging such legal defects, their existence will be determined based on the Polish system of laws.
- 13.3. In all other situations Article 12 of GTC contains applicable clauses on defective items.

### **Article 14** **Limitation of claims**

- 14.1. We will be liable for wilful misconduct and gross negligence of our corporate bodies and persons whom we hire to carry out our obligations.
- 14.2. Any liability beyond the scope described in Article 14.1 of GTC is hereby waived, regardless of grounds for such liability. It will apply in particular to all claims for breach of contractual obligations or tort, unless peremptory legal regulations govern otherwise.
- 14.3. Any limitations of liability referred to in Article 14 of GTC will also apply to our corporate bodies and persons whom we hire to carry out our obligations.
- 14.4. Furthermore and regardless of the clauses of Articles 14.1 – 14.3 of GTC, claims for compensation against us (unless resulting from wilful misconduct) are limited to EUR 10,000.00 and, where the value of a contract exceeds such sum, the sum of the contract. In the event of non-wilful misconduct, claims for compensation against us will be also limited to the actual losses suffered: claims for lost profit or consequential losses are waived.
- 14.5. It will be without prejudice for any claims under Article 449<sup>1</sup> et seq. (*liability for damage caused by dangerous product*).
- 14.6. If we are liable for the fact that a delivered item cannot be put to use and the client wishes to seek claims on that account, then the client will be required (to the extent possible in given circumstances) to enable us to deliver an item substituting for such item that cannot be put to use, for a given period concerned. If the client (**in the case of consumers: wilfully**) neglects the



above obligation although it would have been possible for us to supply such substitute in given circumstances, we will be required to compensate for any damage resulting from expenses incurred for procuring such substitute otherwise, however only to the extent of the expenses that would have been incurred by us should we procure the substitute. It will be without prejudice for Article 14.4.

- 14.7. We will not be liable for any damage accidentally caused to any items that belong to the client or that have been provided to us by the client, in particular during tests and trial runs.

## **Article 15** **Retention of title**

- 15.1. We reserve the ownership title in every item delivered under a sales contract until all claims arising from the commercial relationship with the client will have been satisfied, in particular until any outstanding balance becomes paid for (retention of money). In the event of the client's misconduct, in particular payment default, we will have a right to (after ineffective expiry of an additional reasonable time limit) withdraw from a contract and take back items delivered by us or to establish a pledge over them. After accepting a delivery of one or more items, we will have a right to dispose of them, and proceeds from their disposal will (after offsetting reasonable costs of disposal) be used to settle amounts due from the client.
- 15.2. The client will be required to keep delivered items in custody for us and take due care of them. If maintenance or inspection is required, the client will be required to timely conduct it at its own cost.
- 15.3. The client will promptly notify us in writing about any seizure or other interference by a third party in order to enable us to seek action under Article 841 et seq. of the Civil Procedure Code (hereinafter "Civil Procedure Code"). If a third party is unable to pay our court or out-of-court expenses incurred by us with such action under Article 841 et seq. of the Civil Procedure Code, the client will be liable for the resulting damage.
- 15.4. The client has a right to resell a delivered item in the ordinary course of its business however it must not assign it as security interest assignment or establish pledge over it. The client hereby assigns onto us any and all claims it has against its customers or other third parties arising from such resale of the delivered item, up to the final invoiced sum (including goods and services tax) of our claims. Such assignment establishes security interest protecting our claims equally as *retention of title* according to Article 15.1 of GTC. The client will remain entitled to collect its claims also after such assignment. However, we have a right to collect the claims in the event the client no longer covers its financial liabilities, is in default with payment, a bankruptcy petition has been filed for the client or the client has ceased to repay its liabilities. In these events, we will have a right to cancel the authorisation for the client to collect its claims. Furthermore, we may request the client to promptly notify us of any assigned claims and its debtors, and the client will issue a written statement of assignment and all other documents and information as may be necessary in order to collect the claims. **This clause does not apply to consumers.**
- 15.5. If a delivered item is inseparably fixed to or mixed with other items which do not belong to us, we also acquire the title to a fraction reflecting the share which our own items have (final invoiced amount including the goods and services tax) in the value of all the fixed or mixed items. If the item has been fixed or mixed in a way that makes the items of the client regarded as the main element, the client will transfer the ownership title in such fraction onto us. The client is required to store every item in which we enjoy full or fractional ownership title.

- 15.6. The client will also assign onto us as security interest all claims it has against customers or third parties arising from fixing of the delivered item to a real property. And Article 15.4 of GTC will apply accordingly.
- 15.7. We will release (at the client's request) the security interest which we are entitled to insofar as the enforceable value of our claims exceeds the secured claims by more than 10%. The choice of the security instrument to be released will be at our discretion.

## **Article 16 Final provisions**

- 16.1. All legal relations arising in relation to the conclusion, performance or termination of the Contract will be governed by the substantive regulations of the Polish law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 16.2. The place of performance is Warsaw (our address).
- 16.3. Exclusive jurisdiction for all legal disputes vests with the court based in Łódź (Poland). However, we have a right to (at our discretion) take legal action against the client also at any other courts of jurisdiction according to laws.
- 16.4. Article 16.3 of GTC applies only to businesses, public entities and public property, and **will not apply to consumers.**

## **Virtute Maris General Terms and Conditions of Repair**

### **Article 1 Application**

- 1.1. All repair services performed by us (hereinafter "**repair**") will be carried out only based on these General Terms and Conditions of Repair (hereinafter "**GTC**"). Any terms and conditions of the client which deviate from or contradict GTC will apply only to the extent expressly pre-approved by our director of board, corporate representative or our attorney. Lack of express waiver of the client's general terms and conditions is not sufficient to deem them binding. Any implied consent to the client's terms and conditions is hereby waived. Any deviating provisions and additions to GTC must be made in writing or else will be null and void. It does not apply to clauses agreed with the board, the corporate representative or other persons authorised by us to agree any deviating provisions and additions.
- 1.2. GTC also apply to future contractual relations related to repair. They will apply regardless whether express there is an express reference to them in a given case.
- 1.3. GTC apply both to business operators as defined in Article 43<sup>1</sup> of the Polish Civil Code (hereinafter "Civil Code") as well as to consumers as defined in Article 22<sup>1</sup> of the Civil Code. According to those regulations, a consumer means a natural person (i.e. an individual) who makes a legal transaction which is not directly connected with his/her economic or professional activity. Whenever indicated expressly in bold font, a given GTC provision does

not apply to consumers or applies only in a modified form – it will not affect validity of GTC in any other aspects with respect to both businesses and consumers.

- 1.4. The application of General Terms and Conditions of Contracts related to deliveries and services will be unaffected.

## **Article 2**

### **Order placement; Document rights; Cost estimates**

- 2.1. The contract for our repair services becomes effective when this order form is signed by the client. The scope of our services is determined by contents of the form, unless agreed otherwise. In no event sending a non-binding estimate will lead to conclusion of a contract with the client.
- 2.2. As regards our offers, cost estimates, drawings, illustrations, descriptions as well as other documents and materials made available by us or by third parties, we reserve property rights, copyrights and all other legal protection, unless agreed otherwise.
- 2.3. Cost estimates are non-binding. If a contract is concluded based on a non-binding cost estimate, we will have a right to exceed prices indicated in such estimate by 10%. If foreseeable that the prices of a cost estimate will be exceeded by more than 10%, we will notify the client. We will then have a right to discontinue our work until binding arrangements are made with the client. Based on our notice of expected cost estimate excess of more than 10%, the client will have a right to withdraw from a contract. In such event we will calculate a price according to the cost estimate, potentially increased by 10%, for the performance which have carried out until the time of the notice. **In the case of consumers, the following sentence applies instead of the previous one: In such event we will have a right to demand part of our fee corresponding to the actual work performed as well as refund of expenses that are not covered by such fee.** It will be without prejudice for Article 3 of GTC.

## **Article 3**

### **Impossible repair**

- 3.1. This agreement is formulated based on data and information provided to us by the client. If during performance of a contract it becomes apparent that the agreed repair work cannot be carried out (e.g. no actual defect was revealed during our inspection, certain replacement parts cannot be obtained) and it could not have been foreseen at the time of concluding the contract, we will have a right to invoice the client for all work carried out until such time at which the above fact is established. **In the case of consumers, the above applies on the condition that we are entitled to charge for our performance under Article 2.3 bold font.** The above will also apply if a contract is terminated or withdrawn from in the course of its performance for reasons which we are not responsible for. We will be required to continue the work only if the client instructs us in a formally binding way to continue the work or, alternatively, places a new order.
- 3.2. In the events referred to Article 3.1, we will only restore repaired item to its original condition at such request of the client. The client shall cover the related costs. It will not apply to work carried out by us that has not been necessary.
- 3.3. If the repair turns out to be impossible and this fact could not have been foreseen by us when we started the work, we will have no liability to compensate for the work carried out by us on with respect to the repaired item.

#### **Article 4**

##### **On-site repair transport and insurance**

- 4.1. Unless agreed otherwise, transport of a repaired item from and to the destination (including packing and loading) will be carried out at the client's request and at its cost. It will not apply to repaired items delivered to us by the client at its cost and collected from us after the repair.
- 4.2. The transport risk will be on the client. At the request of the client, we will insure the final and (if any) return transport of a repaired item, at its cost, against transport risks which are customary subject of insurance.
- 4.3. In the event the client delays acceptance of a delivery of a repaired item, we will have a right to invoice the client for necessary storage costs according to customary commercial practices or to send the repaired item to the client at its cost. In the event of delayed acceptance, the risk will be transferred to the client.

#### **Article 5**

##### **Consulting services**

We will perform consulting services based on a separate agreement. In such case, the General Terms and Conditions of Delivery and Service will apply and we will make them available.

#### **§ 6**

##### **Prices and payments; Offsetting and retention; Advances**

- 6.1. The statutory goods and services tax is not included in our prices. It will be itemised separately and calculated based on the statutory rate as of the day of an invoice, insofar as our delivery is subject to such tax. As regards foreign transactions, the client covers public fees and charges associated with transport to the country of destination, in particular any customs duties, as well as any public fees and/or charges due in the country of destination. In the case of foreign transactions, if we pay taxes and/or fees ourselves beforehand, the client will refund them to us.
- 6.2. Any amounts stated by us in our invoice will be payable by a due date specified there. If the client fails to make a payment by the specified due date, the client will be in default without any additional reminder needed to that effect. **It applies to consumers only if indicated so in our invoice.**
- 6.3. Any discounting can be offered only based on a separate agreement.
- 6.4. The client has a right to offset amounts against only those claims which it is entitled to and which have been legally established or are undisputed. It also applies to the right of retention of things. **In the case of consumers, the following additional clause applies: Sentence 1 does not apply. Sentence 2 does not apply to the client's right of retention vested under Article 488 of the Civil Code or to the right of retention on account of the client's claims arising from the same contractual relationship.**
- 6.5. If our performance for the client requires us to provide certain preparatory services, as well (e.g. material sourcing, design services), we will have a right to demand an advance payment corresponding to such preparatory services. It will be without prejudice for our rights under Article 490 of the Civil Code.

**Article 7**  
**Delivery times and delays**

- 7.1. Our compliance to specific repair dates is subject to timely receipt of all documents, other information and official approvals which the client is required to provide. The same applies to advance payments (if any) to be made by the client. If these conditions are not met for reasons which we are not responsible for, the delivery times will be extended accordingly.
- 7.2. Any disruption caused by force majeure, labour strikes or lockouts, or by defective processes or raw materials, insofar as we are not responsible for them, will entitle us to withdraw from a contract (unless already completed), if such circumstances render a repair impossible beyond temporarily and if such circumstances have not been foreseeable at the execution of the contract. **In the case of consumers, the following additional clause applies: We will promptly notify a consumer of it and any counter-performance of such consumer will be promptly reimbursed by us.**
- 7.3. The performance of our services and deliveries will depend on proper and timely deliveries being made to us by our own suppliers. **In the case of consumers, the following additional clause applies: The above condition means that we are not required to make delivery on time if and when, due to reasons independent of us, a supplier (whom we contracted for the purposes of our obligations) fails such contract. In such event, the client will be promptly notified by us. If a disruption of a delivery is not merely temporary, we will have a right to withdraw from a contract; any counter-performance of the consumer will be promptly reimbursed by us.**
- 7.4. If we delay a repair, or it becomes impossible, the client's claims for any compensation will be limited according to Article 11.
- 7.5. The client does not have a right to withdraw from a contract for reasons of a delayed repair for which we are not responsible. If the client is entitled to withdraw from a contract due to a delayed repair which we are responsible for, the client will (at our request) declare within a reasonable period whether it wishes to withdraw from such contract or wait for the repair. If the client fails to make such declaration within a reasonable period, the client will be required to indicate an appropriate period for our performance and will be entitled to withdraw from the contract only once such period expires without effect, as well.

**Article 8**  
**Third party involvement; Client's cooperation**

- 9.1. We will have a right to use third parties in order to cause our obligations to be performed.
- 9.2. You are required to support us at your own expense in our repairs. In particular: The client is required to take the necessary measures in order to protect persons and property at the repair site. The client is required to notify us of any applicable safety regulations insofar as they may be relevant to us during a repair. The client is required to notify us of violations by our staff of such regulations. The client is required (at its own cost) to provide technical assistance, and in particular:
- to provide as many qualified helpers as needed in order to carry out a repair;
  - to provide all necessary instruments, technical equipment, tools (including necessary heavy equipment) as well as all items and materials necessary for operation of a facility;
  - to provide heating, lighting, motor power, water, including all necessary connections;

- to provide dry and locked premises (if any are needed) for storing tools and/or spare parts needed for our repair;
  - to protect the repair site and materials used for the repair against any impacts which we are not responsible for;
  - to clean the repair perimeter;
  - to provide adequate, anti-burglar rooms fit for stay and work of people (including heating, lighting, washing facilities and sanitation devices) as well as first aid equipment to address any accidents of our designated staff;
  - to provide materials and information for required inspections of a repaired item, its calibration or other adjustments.
- 9.3. In the event of obstacles and/or delays caused by **(applicable to consumers: wilful)** failure to fulfil or defective fulfilment by the client of all or any of the above obligations, we will have a right to charge an appropriate compensating amount.

### **Article 9 Claims for defects**

- 9.1. Any information relating to our repair services are only information on properties and do not constitute a guarantee. If we carry out a repair service based on specifications or catalogues of requirements, they will exhaustively describe the required properties of our services. Unless there is a separate agreement to that effect, our deliveries and products comply with regulations binding in Poland and best technological practices recognised in Poland.
- 9.2. In the event of a physical defect, we will be required to redo our contractual performance according to the legal regulations. Defects will be rectified at the place of performance, according to Article 12.2. Any transport costs will be covered by the client. **The consumer will enjoy all rights as stipulated in laws.**
- 9.3. In the event we fail to redo a contractual performance, the client will have a right to (at its discretion) demand a discount or withdraw from a contract, or demand rectification of a defect or an appropriate advance payment. Article 566 of the Civil Code will not apply unless the damage has been caused wilfully or results from gross negligence. The client does not have a right to withdraw from a contract for reasons of minor defects. We will be deemed to have failed to redo our contractual performance if we do not rectify the defect within an appropriate period (but not be shorter than 4 weeks), if we fail two attempts to make good a defective performance, or if we definitively and persistently refuse to redo our contractual performance. It will be without prejudice for our statutory right to refuse subsequent performance in the event it is simply impossible. **The following applies to consumers instead of the above provision (9.3): The client will have a right to claim defects to the extent permitted by laws. It will be without prejudice for our statutory right to refuse redoing a contractual performance in a certain manner or altogether.**
- 9.4. If the client is entitled to demand us to redo a contractual performance that we have already failed to redo before and at the same time is entitled to exercise its statutory rights, then we will have a right to call the client to exercise such rights within a reasonable period. The client will notify us of its decision in writing. Such period will be counted based on the time when we receive the client's written notice. If the client does not exercise its rights within a reasonable period, the client will be able to exercise them (in particular the right to withdraw from the contract or to claim compensation) in the event such second time limit set by it for us to redo our contractual performance lapses without effect.

- 9.5. Any rights to claim defects of items against us will expire one year after receipt. **Statutory time limits apply in the case of consumers.**

**Article 10**  
**Liability for legal defects**

- 10.1. Insofar as we are liable for legal defects of the repair, to redo our contractual performance will not redo a delivery or rectify the defects but rather we will need to acquire a certain right, conclude a certain licence with the holder of such right or otherwise change the delivered item so that it no longer violates the right and is reasonably acceptable for the client. We will have a right to choose the method of redoing our contractual performance as described above. In all other situations Article 9 of GTC will apply. **In the case of a consumer, it will enjoy full rights stipulated in laws.**
- 10.2. Unless with a separate agreement acknowledging such legal defects, their existence will be determined based on the Polish system of laws. If a repaired item has not been delivered by us, the client will indicate any valid industrial property rights relating to such item; and the client will be liable towards us to cause no third-party industrial property right claims (if any) to be sought against us unless the cause of violation of such rights is attributable to us.

**Article 11**  
**Limitation of claims**

- 11.1. We will be liable for wilful misconduct and gross negligence of our corporate bodies and persons whom we hire to carry out our obligations.
- 11.2. Any liability beyond the scope described in Article 11.1 of GTC is hereby waived, regardless of grounds for such liability. It will apply in particular to all claims for breach of contractual obligations or tort, unless peremptory legal regulations govern otherwise.
- 11.3. Any limitations of liability referred to in Article 11 of GTC will also apply to our corporate bodies and persons whom we hire to carry out our obligations.
- 11.4. Furthermore and regardless of the clauses of Articles 11.1 – 11.2 of GTC, claims for compensation against us (unless resulting from wilful misconduct) are limited to EUR 10,000.00 and, where the value of a contract exceeds such sum, the sum of the contract. In the event of non-wilful misconduct, claims for compensation against us will be also limited to the actual losses suffered: claims for lost profit or consequential losses are waived.
- 11.5. It will be without prejudice for any claims under Articles 4491 et seq. (*liability for damage caused by dangerous product*).
- 11.6. If we are liable for the fact that a delivered item cannot be put to use and the client seeks claims on that account, then the client will be required (to the extent possible in given circumstances) to enable us to deliver an item substituting for such item that cannot be put to use, for a given period concerned. If the client (**in the case of consumers: wilfully**) neglects the above obligation although it would have been possible for us to supply such substitute in given circumstances, we will be required to compensate for any damage resulting from expenses incurred for procuring such substitute otherwise, however only to the extent of the expenses that would have been incurred by us should we procure the substitute. It will be without prejudice for Article 11.4.

- 11.7. We will not be liable for any damage accidentally caused to any items that belong to the client or that have been provided to us by the client, in particular during tests and trial runs.

**Article 12**  
**Final provisions**

- 12.1. All legal relations arising in relation to the conclusion, performance or termination of the Contract will be governed by the substantive regulations of the Polish law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 12.2. The place of performance is Warsaw (our address). Exclusive jurisdiction for all legal disputes vests with the court based in Warsaw (Poland). However, we have a right to (at our discretion) take legal action against the client also at any other courts of jurisdiction according laws.
- 12.3. Article 12.2 of GTC, sentences 2 and 3, applies only to businesses, public entities and public property, and will not apply to consumers; and Article 12.2 of GTC, sentences 2 and 3 **will not apply to consumers.**