

**GENERAL TERMS AND CONDITIONS OF SALES AND DELIVERY  
of Apator Powogaz S.A.**

**Applicable from 23.04.2019**

**§ 1. General provisions**

1. The General Terms and Conditions of Sales and Delivery (hereinafter the **GTCSD**) set forth the rules for concluding sales contracts and delivery contracts of goods offered by Apator Pawogaz S.A. with its registered office in Poznań.
2. The GTCSD apply to the following entities:
  - a. **Seller** - Apator Pawogaz Spółka Akcyjna with its registered office in Poznań, ul. Klemensa Janickiego 23/25, 60-542 Poznań, NIP (tax ID no.): 781-00-20-601, REGON (business ID no.): P-630509799, entered into the National Court Register under number: 0000028129, the place of storing the company's documents: District Court Poznań - Nowe Miasto i Wilda in Poznań, 8th Commercial Division of the National Court Register, the share capital of: PLN 4,000,000.00, paid up in full.
  - b. **Buyer** - a legal person, an organisational unit without legal personality, but possessing legal capacity, or a natural person - conducting economic activity within the meaning of Article 3 of the Act of 6 March 2018 - Entrepreneurs Law (Journal of Laws of 2018, items 646, 1479, 1629, 1633).
3. The GTCSD constitute an integral part of all sales contracts and delivery contracts concluded by the **Seller** with the **Buyer**.
4. The GTCSD do not apply to sales contracts and delivery contracts that have been governed in a separate manner, i.e. in writing or via e-mail, but only to the extent they are governed separately. The GTCSD continue to apply to the extent not governed separately. The employees of the **Seller** are authorised to regulate contractual issues separately from the GTCSD on the basis of the scope of their tasks.
5. The GTCSD are communicated to the **Buyer** no later than at the moment of the placing of an order by the **Buyer**. Appendix no. 1 to these GTCSD constitutes a binding order template. The GTCSD are communicated to the **Buyer** by publishing them at the following website: <http://www.apator.com/pl/grupa-apator/o-nas/struktura> and placing a link to the GTCSD in the footer of the **Seller's** representatives authorised to accept an Order. Orders are placed based on the template, referred to in the preceding sentence, or otherwise they will not be accepted. The GTCSD are available at the following website: <http://www.apator.com/pl/grupa-apator/o-nas/struktura>. In the situation in which the **Buyer** remains in permanent commercial relations with the **Seller**, the acceptance by the **Buyer** of the GTCSD in one order is deemed the acceptance of the GTCSD for all other sales and delivery contracts.
6. Any and all documents or statements originating from the **Buyer**, including the **Buyer's** general terms and conditions of contracts, will not change the conditions of sales and delivery contracts concluded even partly based on the GTCSD or any and all technical specifications or other documents issued by the **Seller**.
7. Orders containing significant elements of a contract are treated as offers for the conclusion of a contract and are binding upon the **Buyer** upon placing them, subject to issues separately governed by the GTCSD. Once an order has been placed, it may not be cancelled, unless the Seller gives consent in writing or other form of document, under pain of nullity. An order,

subject to issues separately governed in the GTCSD, is binding upon both parties if the Seller sends an order confirmation, in writing or via e-mail, **within 7 days of the date on which the Seller effectively obtains the order**. The moment of sending an order confirmation by the Seller together with any possible objections about it or additions to it not significantly changing the content of an order is deemed the moment of concluding a sales contract and a delivery contract in the shape covering objections and additions, unless the Buyer objects to including them to a contract not later than within 2 business days of the date of obtaining confirmation with objections or additions. If the Buyer submits an objection within the indicated time limit, a sales contract or a delivery contract is deemed not concluded.

8. From the moment the Seller commences to execute an order, any and all changes to an order made by the Buyer are not binding upon the Seller and will not be implemented by the Seller, unless the Seller gives its consent in writing or in the form of a document to be effective.

## **§ 2. Prices and payment terms and conditions**

1. Prices provided by the Seller are in the currency provided in the order, referred to in § 1(7) of the GTCSD, for a given unit of goods in net values.
2. A net amount due included in a VAT invoice will be increased by the rate of tax on goods and services applicable at the moment of issuing a VAT invoice.
3. Prices with fees for the preparation of a shipment with costs related to shipping, specified in pricelists (available at <http://www.apator.com/pl/grupa-apator/o-nas/struktura> or sent to the Buyer via e-mail or by post), are binding until a new pricelist is issued and in the absence of accepting different provisions in this scope in a sales contract or in a delivery contract.
4. A payment period indicated in a VAT invoice runs from the moment of issuing a VAT invoice, unless a sales contract or a delivery contract provides for otherwise.
5. Unless otherwise agreed by the parties, a payment is made based on a bank transfer to the Seller's bank account indicated in an invoice. The date of payment is the date on which the Seller's bank account is credited. Any and all set-offs of mutual receivables and unilateral accounting by the Buyer are not allowed.
6. In the case of a delay in payment, the Seller has the right to charge statutory interest for a delay in commercial transactions. Regardless of the above, from the first day of a delay in payments by the Buyer, the Seller is entitled to charge the Buyer, without any additional request, the Polish zloty equivalent of the amount of EUR 40, converted into Polish zloty according to the average EUR rate published by the National Bank of Poland on the last business day of the month preceding the month in which the amount due became payable, constituting compensation for recovery costs. Such a charge will be made with regard to each commercial transaction, confirmed by a VAT invoice, not settled on time.
7. Regardless of the rights provided for in the item above and resulting from the provisions of the commonly applicable provisions of law, in the case of a delay in making payment by more than 14 days or in the case of threatened insolvency of the Buyer, the Seller has the right to request that all amounts due be settled or has the right to stop deliveries, or has the right to request that the Buyer establish security or make a prepayment for deliveries. Moreover, the Seller has the right to withdraw from a contract, in part or in whole, and collect goods previously delivered at the expense of the Buyer, without any additional request, within 60 days of the date of making a specific delivery (partial withdrawal) or the date of commencing deliveries as part of a specific contract (overall withdrawal).

### § 3. Transfer of title and risk

1. The title to goods sold by the **Seller** and the risk of losing or damaging the goods passes to the **Buyer** at the moment of delivery of the goods by the **Seller** to the place of delivery without loading onto a collecting vehicle (Incoterms 2010: Ex Works). The place of delivery is: the **Seller's** warehouse located at ul. Klemensa Janickiego 23/25 in Poznań (60-542) or at ul. Zygmunta Starego 130 in Cracow (30-198), depending on the place indicated in the order confirmation. In case of doubts or if no place of delivery has been indicated, the place of delivery is deemed to be the warehouse located at ul. Klemensa Janickiego 23/25 in Poznań (60-542).
2. The **Buyer** is obliged to organise transport for the purchased goods on its own. If transport is organised by the **Seller** at the expense of the **Buyer**, the title to the goods sold and the risk of losing and damaging them still passes to the **Buyer** at the moment of delivery of the goods by the **Seller** to the place of delivery without loading onto a collecting vehicle. In such a case, the **Seller** issues an additional VAT invoice for the cost of organisation of transport.
3. The **Seller** will inform the **Buyer** in writing or via e-mail about issuing an invoice and making goods available for the **Buyer** in the warehouse each time, indicating the date of collection of goods or the period in which the **Buyer** may collect them.

### § 4. Delivery, transport, returns

1. Deliveries are made by the **Seller** at the place indicated in § 3(1) of the GTCSD.
2. If the **Seller** is delayed with the delivery of goods according to § 3(1) of the GTCSD, the **Buyer** is entitled to withdraw from a goods sales or delivery contract only after indicating an additional 30-day period for making a delivery, in writing to be effective. The **Buyer** may withdraw from a goods sales or delivery contract within 30 days of the expiry of the time limit indicated in the preceding sentence.
3. The transport of goods takes place according to § 3(2) of the GTCSD.
4. If the **Seller** organises the transport of the purchased goods at the expense of the **Buyer**, the **Buyer** is obliged to send a precise address of delivery, in writing or via e-mail. Any and all changes to the address of delivery have to be immediately communicated to the **Seller** and approved by the **Seller**.
5. The **Seller** is obliged to provide the **Buyer** with information related to the specifications of goods, if they have not been made available at the website earlier.
6. The **Seller** is not liable for damage during transport or caused by delayed transport, in the case indicated in § 3(2) second sentence of the GTCSD.
7. The **Seller** may accept the return of goods only in the following situations:
  - a. the **Buyer's** complaint has been accepted;
  - b. the **Buyer** decides not to accept goods for reasons not attributable to the **Buyer**, if the **Seller** gives its written consent for it.
8. If goods are effectively returned based on § 4(7)(b) of the GTCSD, the **Buyer** will bear any and all costs of the transport of goods to the **Seller**. The place of return is: the **Seller's** warehouse located at ul. Klemensa Janickiego 23/25 in Poznań (60-542) or at ul. Zygmunta Starego 130 in Cracow (30-198), depending on the place of delivery.

## § 5. Warranty and guarantee - terms and conditions of complaints

1. The GTCSD apply to the liability of the **Seller** based on a warranty (or a guarantee, if a guarantee for quality has been granted) for physical damage to the goods sold as part of a sales contract or a delivery contract.
2. The **Buyer** is obliged to carefully examine the completeness of the transported goods directly upon collection and to determine shortages or damage of goods occurred during transport, if any.
3. The **Seller** is liable towards the **Buyer** for physical defects of goods, only if goods have defects decreasing their value or usefulness due to their intended purpose, as well as when goods have been released to the **Buyer** incomplete, provided that the **Buyer** has not been aware of such defects at the moment of purchasing goods and such defects have been reported within 14 days of the date of detecting them or in the period such defects should have been detected according to the **Buyer's** level of carefulness indicated in item 2, however, not later than within 12 months of the date of obtaining goods. In the case of household water meters (DN15; 20) and ultra-sonic water meters, a time limit for submitting guarantee claims is extended up to 36 months of the date of obtaining goods, and in the case of heat meters - up to 24 months of the date of obtaining goods.
4. Any and all complaints concerning goods purchased from the **Seller** may be submitted only in writing and sent to the registered office of the **Seller** or, in the case of entities conducting economic activity outside the territory of Poland, also in an electronic form to the following e-mail address: [reklamacje.powogaz@apator.com](mailto:reklamacje.powogaz@apator.com).
5. The **Seller** may accept a complaint for goods already assembled. Costs related to the disassembly and reassembly of goods are borne by the **Seller** and the **Buyer** under the principles specified in the following item.
6. The costs of a complaint procedure, covering only the costs of transport of the defective goods and the costs of their disassembly and reassembly, are borne:
  - a) if a complaint is deemed justified - by the **Seller**.
  - b) if a complaint is not accepted (unjustified or delayed complaint) - by the **Buyer**.
7. The **Seller** is not liable for damage incurred by the **Buyer** in connection with the defects of goods and the initiation of a complaint procedure of the purchased goods.
8. If a complaint is not accepted, the **Buyer** is obliged to collect goods from the **Seller's** warehouse at its own expense, within 14 days of the date of obtaining notification about a complaint that has not been accepted. After the lapse of the 14-day time limit, the **Seller** has the right, at its sole option:
  - a) to charge a warehouse fee of 1% of the value of goods for each day of storing goods in the warehouse,
  - b) send goods to the address of the **Buyer**, at the cost and risk of the **Buyer**, for which the **Buyer** gives its consent,
  - c) destroy goods on the basis of an internal report, without any recourse on the part of the **Buyer**.
9. For a complaint to be substantively considered, each defective product has to be identifiable as actually coming directly from the **Seller**, i.e. it should be marked with its precise name and, moreover, a copy of a VAT invoice related to a defective product should be attached to it and, if a guarantee has been granted, a guarantee card.
10. In the case of accepting a complaint for consideration and in the case of refusal to consider a complaint for formal reasons, the **Buyer** will be informed of it in writing or via e-mail within 5 days of submitting a complaint.

11. Within 14 days of receiving a complaint, the **Seller** is obliged to consider it. If the submitted complaint is accepted, an appropriate accounting document will be issued in that period. In the case of an unjustified complaint, the **Seller** will provide relevant information to the **Buyer** in writing or via e-mail, indicating reasons for not accepting a complaint. The **Seller** reserves the right to extend the time limit for considering a complaint, if - due to reasons beyond its control - it is not possible to meet the 14-day time limit, in particular it is necessary to use an opinion of an independent expert or obtain information from a producer. In such cases, the **Buyer** will be informed of this fact in writing or via e-mail.
12. If a complaint is considered as justified, according to the request of the **Buyer** included in a complaint, the **Seller**:
  - a) will issue a correcting invoice for the return of goods,
  - b) will repair goods, free of charge, within 21 days of the date of accepting a complaint, unless it would be economically unreasonable for the **Seller**,
  - c) or will reduce the price of goods by issuing a correcting invoice.
13. The submission of complaints does not entitle the **Buyer** to withhold payment of amounts due resulting from the issued invoice, related to the defective goods.
14. The provisions of a guarantee card apply in the remaining scope not governed by the GTCSD and related to a guarantee.

## **§ 6. Force majeure**

1. Any and all circumstances beyond the control of the **Seller** and the **Buyer**, in particular: disturbances in traffic operation and energy disturbances, strikes, standstills etc. release the affected party from the fulfilment of contractual obligations in the period and within the scope justified by such events. The above applies also in the case of occurrence of the above-mentioned circumstances on the part of the **Seller's** subcontractors.
2. In the event that the delivery of goods or its part is hindered or is not possible directly or indirectly for reasons beyond the control of the **Seller** such as, in particular: fire, natural disasters, violent atmospheric phenomena, strikes, blockages, shortages in raw materials, fuel, transport or energy, legal acts, orders or legislation, decisions or directives of the European Commission, riots, unrest, military activities, sabotage, or for any other reasons beyond the control of the **Seller**, the date of delivery is extended by at least the period of delay caused by force majeure, and the **Seller** may not bear any negative consequence due to it.

## **§ 7. Final provisions**

1. By entering into commercial relations with the **Seller**, the **Buyer** confirms that it has acquainted itself with the GTCSD, and approves them.
2. The **Seller** reserves the right to enter changes into the GTCSD. Any and all changes are binding upon the counterparties, if the **Buyer** does not submit its objections, in writing or via e-mail, within 7 days of the date of publishing changes at the website of the **Seller** - <http://www.apator.com/pl/grupa-apator/o-nas/struktura>.
3. The **Buyer** agrees to immediately notify the **Seller** in writing or via e-mail of each change of its registered office or the place of conducting economic activity, including a change of its e-mail address. Failure to notify the **Seller** of the above-mentioned changes will result in

finding activities performed with the use of information possessed by the **Seller** fully effective.

4. The transfer of claims from a sales or delivery contract requires the prior written consent of the **Seller** to be effective.
5. The place of implementing a sales or delivery contract is in Poznań or Cracow, which will be determined according to § 3(1) of the GTCSD.
6. If individual provisions of the GTCSD or contracts regulating specific issues in a different manner than the GTCSD become invalid or ineffective, in part or in whole, it will not affect the effectiveness of other provisions of the GTCSD or a contract. Ineffective or incomplete provisions will be appropriately replaced by the parties with effective or completely new provisions, in a way closest to the provisions of the GTCSD or a contract and the intended economic purpose of the parties.
7. The provisions of Polish law, including the Civil Code, apply in full to matters not governed by the GTCSD. The parties fully exclude the application of the UN Convention on Contracts for the International Sale of Goods prepared in Vienna on 11 April 1980.
8. Polish courts will always have jurisdiction in disputes between the **Buyer** and the **Seller**.
9. The GTCSD apply to the execution of orders with counterparties having their registered office or the place of conducting economic activity in Poland and those operating outside Poland.
10. Once an order has been placed, it may not be cancelled, unless the Seller gives consent in writing or other form of document, under pain of nullity. An order, subject to issues separately governed in the GTCSD, is binding upon both parties if the Seller sends an order confirmation, in writing or via e-mail, **within 7 days of the date on which the Seller effectively obtains the order.**

