

MORGAN CARBON POLSKA SPÓŁKA Z O.O. TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 In the Contract:

"**Business Day**" means a day other than Saturday, Sunday or public or bank holiday in Poland;

"**Buyer**" means the person (other than consumer) purchasing Products pursuant to the Contract;

"**Buyer Designed Product**" means each product made by the Seller in accordance with the Buyer's Design Requirements;

"**Buyer's Design Requirements**" means the designs, drawings, parameters and/or specifications for Products provided by the Buyer to the Seller and to which the Seller has agreed in writing;

"**Civil Code**" means Act of 23 April 1964 Civil Code (unified text: Journal of Laws of 2014, position 121; as amended);

"**Confidential Information**" has the meaning given to such term in clause 10.1;

"**Conditions**" means the terms and conditions set out in this document;

"**Contract**" means each contract between the Seller and the Buyer formed in accordance with clause 2.4 for the purchase and sale of the Products;

"**Deliverables**" means the items produced by the Seller and supplied to the Buyer as part of the Services (other than Products);

"**Delivery Date**" means such estimated date for the delivery of the Products as may be agreed between the Parties or notified by the Seller to the Buyer from time to time in writing;

"**Delivery Location**" means the location agreed between the Parties from time to time in writing to which Products are or are to be delivered;

"**Due Date**" has the meaning given to such term in clause 8.3;

"**Guarantee**" has the meaning given to such term in clause 4.2;

"**IPR**" has the meaning given to such term in clause 9.1;

"**Order**" means the Buyer's order for the Products together with the Conditions (but excluding any terms and conditions which the Buyer may purport to apply in any such Order);

"**Order Number**" means the number associated with the Order, as notified by the Seller to the Buyer in writing;

"**Party**" means either the Buyer or Seller, and "**Parties**" means both the Buyer and the Seller;

"**Price**" means the price for each of the Products, as detailed in the Order, as such price may be increased in accordance with clause 7.1;

"**Products**" means the Buyer Designed Products and the Standard Products;

"**Seller**" means Morgan Carbon Polska spółka z ograniczoną odpowiedzialnością with its registered seat in Warszawa, ul. Iskry 26, entered into the register of business entities of the National Court Registry maintained by the District Court for the capital city of Warsaw in Warsaw, XIII Commercial Division, under KRS no. 168544, NIP [Tax Identification Number]: 5221901419, REGON [Statistical Identification Number]: 012382564, share capital: PLN 504,000, supplying Products pursuant to the Contract;

"**Seller's Materials**" has the meaning given to such term in clause 9.2;

"**Standard Products**" means any "off the shelf" products which are generally sold by the Seller to any of its customers;

"**Standard Specification**" means the Seller's specification for the Standard Product; and

"**Guarantee Period**" means (a) in relation to the Buyer Designed Products, the period of 30 days from the date on which they are delivered to the Delivery Location or (b) in relation to Standard Products, the Seller's standard guarantee period in relation to such Product or, in the absence of a standard guarantee period, the period of 30 days from the date on which they are delivered to the Delivery Location.

2. BASIS OF PURCHASE

2.1 The Buyer submits a request for a quotation for the Products to the Seller.

2.2 Any quotation for the Products which may have been given by the Seller to the Buyer together with the Conditions shall not constitute an offer by the Seller and is only valid for 30 days from its date of issue.

2.3 The Order constitutes an offer by the Buyer to purchase the Products provided by the Seller in accordance with the quotation and these Conditions.

2.4 The Order shall only be accepted by the Seller when it issues an acceptance, in writing and/or in an electronic form (e-mail, fax), of the Order and an Order Number.

2.5 The Contract together with the Conditions constitute the entire agreement between the Parties. The Buyer acknowledges that it has not relied on any statement, promise and/or representation made or given by/on behalf of the Seller which is not set out in the Contract and/or the Conditions.

2.6 These Conditions shall apply to the exclusion of any other terms and conditions that the Buyer may seek to impose or incorporate or, to the fullest extent permitted by law, which may otherwise be implied by trade, custom, practice or course of dealing. Neither the Seller's failure to respond to any such additional, different or inconsistent terms or conditions, nor Seller's commencement of performance shall constitute assent thereto. The Parties agree to exclude obligations specified in art. 66¹ section 2 and 3 of the Civil Code.

2.7 The Buyer acknowledges and accepts that:

2.7.1 it is fully responsible for the contents of the Buyer's Design Requirements; and

2.7.2 the Standard Products are commercial "off the shelf" products and are not made to satisfy any Buyer's requirements.

3. DELIVERY AND ACCEPTANCE

3.1 The Seller shall ensure that delivery of the Products and/or each instalment of the Products is accompanied by a delivery note which shows the date of the Order, the Order Number, the type and quantity of the Products, any special storage instructions for the Products (if any) and, if the Order is being delivered by instalments, the outstanding balance of the Order which remains to be delivered.

3.2 The Delivery Date is approximate only and the time of delivery of the Products is not of the essence of the Contract. Whilst the Seller shall use its reasonable endeavours to meet any Delivery Date, the Seller shall not otherwise be liable for any delay.

3.3 Unless otherwise agreed in the Order, the Products shall be supplied by the Seller "Ex-Works" (as this term is understood in Incoterms 2010) and the Buyer shall take delivery of the Products by collecting the Products from the Delivery Location within 3 Business Days of the Seller notifying the Buyer that the Products are ready for collection.

3.4 The Seller shall ensure that the Products are properly packed so as to enable them to be collected from the Delivery Location in good condition.

3.5 The Seller may deliver the Products by instalments. Any delay in the delivery of and/or defect in any instalment shall not entitle the Buyer to cancel any other instalment of the Products provided or to be provided under the Contract.

3.6 The Buyer shall not be entitled to refuse to take delivery of the Products if the Seller delivers up to and including 10 per cent more or less than the quantity of the Products ordered provided that the Seller's invoice is adjusted to reflect the actual quantity delivered.

3.7 Subject to the next sentences and clause 11, if the Seller fails to deliver any of the Products, its liability shall be limited to any direct additional costs and expenses which are incurred by the Buyer in obtaining replacement goods of similar description and quality in the cheapest market available which, in aggregate, exceed the Price that has been paid or would have become payable. The Buyer shall be entitled to buy goods of similar description and quality from a third party if the Seller fails to deliver any of the Products and such delay exceeds at least 30 days in relation to the Due Date. For the avoidance of doubt, the Seller shall only be liable for the excess, unless the Price for the non-delivered Products has been already paid by the Buyer. In the latter case the Seller is obliged to return the Price or its respective part and cover the excess. Once the Seller pays the relevant amounts specified (listed) in this clause, the Contract expires.

3.8 If the Buyer fails to comply with the terms of clause 3.3, the Seller shall store the Products until the delivery takes place and may charge the Buyer for all related costs and expenses (including but not limited to insurance and storage) and, if such delay exceeds 10 Business Days, the Seller may resell or otherwise dispose of part or all of the Products and shall be entitled to retain any proceeds of sale but shall return to the Buyer any deposits taken and Price paid by the Buyer in relation to such Products less the costs and expenses referred to earlier in this clause 3.8 and any sale costs.

3.9 The Buyer will dispose of all packaging in accordance with all regulations relating to the protection of the environment.

4. WARRANTY (REKÓJMIA) AND GUARANTEE (GWARANCJA)

4.1 On the basis of art. 558 § 1 of the Civil Code, the Parties exclude the Seller's liability on account of warranty for defects (rekójmia) in relation to the Products.

4.2 The Seller guarantees that the Products shall conform in all material respects with the Standard Specification or Buyer's Design Requirements, as applicable, for the Guarantee Period ("**Guarantee**"; *gwarancja*). For the avoidance of doubt, the Guarantee does not cover normal tear and wear of the Products.

4.3 The Buyer shall inspect and test the Products supplied by the Seller during the Guarantee Period. If the Buyer gives notice in writing (including reasonable details of the alleged failure) to the Seller within the Guarantee Period that some or all of the Products do not comply with the Guarantee set out in clause 4.2 the Seller shall, if such Products do fail to comply with such guarantee, at its sole option, repair or replace the defective Products, or refund such proportion of the Price of the defective Products that reflects the impact of the defect on the Products.

4.4 The Seller shall be entitled to require the return of any allegedly defective Products (freight prepaid) to verify the claim.

4.5 The Seller shall not be responsible for any defects and/or damages which are attributable to:

4.5.1 any repairs and/or alterations to any Products which are made by the Buyer without the Seller's consent; and/or

4.5.2 the Buyer failing to use, commission, install, maintain and/or store the Products in accordance with the Seller's instructions; and/or

4.5.3 any defect which arises as a result of the Seller following the Buyer's Design Requirements; and/or

4.5.4 any deviation from the Buyer's Design Requirements to ensure that the relevant Buyer Designed Products comply with applicable statutory and/or regulatory standards; and/or

4.5.5 the use of the Products with any other products and/or raw materials not approved and/or supplied by the Seller; and/or

4.5.6 any defects which arise as a result of fair wear and tear, abnormal working and/or storage conditions, and/or the wilful damage and/or negligence of any person other than the Seller and/or its subcontractors; and/or

4.5.7 any result of any accident and/or misuse by the Buyer, and/or any breach by the Buyer of the Contract. Except as provided in this clause 4, the Seller shall have no further liability to the Buyer in respect of any defects in the Products.

4.6 Except as provided in this clause 4, all warranties, conditions, representations and other terms implied by law are, to the fullest extent permitted by law, excluded from the Contract.

5. RISK AND TITLE

5.1 Risk of damage to and/or loss of the Products shall pass to the Buyer upon collection by the Buyer pursuant to clause 3.

5.2 Title to the Products shall not pass to the Buyer until the Seller has received payment in full for:

5.2.1 the Products; and

5.2.2 any other goods and services that the Seller has supplied to the Buyer and in respect of which payment is due.

5.3 Until title to the Products has passed to the Buyer, the Buyer shall:

5.3.1 store the Products separately from all other goods so that they remain readily identifiable as the Seller's property;

5.3.2 not attach the Products to any real property without the Seller's consent;

5.3.3 protect and insure the Products for their full replacement value as the Seller's property;

5.3.4 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;

5.3.5 not be entitled to pledge or in any way charge by way of security any of the Products and in the event that these circumstances occur, any monies owing from the Buyer to the Seller (without prejudice to any other right of the Seller) will become immediately due and payable;

5.3.6 maintain the Products in a satisfactory condition;

5.3.7 notify the Seller immediately if it becomes subject to any of the events listed in clause 13.3.

5.4 In the event that the Buyer has not made full payment for the Products by the Due Date, or the Buyer becomes subject to any of the events listed in clause 13.3, the Seller – at its absolute discretion – may and the Buyer hereby irrevocably permits the Seller (or shall procure permission for the Seller as appropriate) at any time after the Due Date, to retake possession of all or any part of the unpaid Products and enter the Buyer's or any relevant third party premises where the Buyer stores the Products to do all things necessary to repossess such Products and to remove them from such premises.

6. BUYER'S OBLIGATIONS

6.1 The Buyer shall:

6.1.1 ensure that the terms of the Order and the Buyer's Design Requirements are complete and accurate;

6.1.2 co-operate with the Seller in all matters relating to the Contract;

6.1.3 provide the Seller with such information and materials as the Seller may reasonably require to comply with its obligations under the Contract, and shall ensure that such information is accurate in all material respects;

6.1.4 obtain and maintain all necessary licences, permissions and consents which may be required for the Buyer's purchase, transportation and use of the Products (except where and to the extent that the Parties agree in writing that this is the Seller's responsibility);

6.1.5 keep and maintain all Products, materials, equipment, documents and other property of the Seller at the Buyer's premises in safe custody and in good condition and not dispose of or use the same other than in accordance with the Seller's written instructions or authorisation; and

6.1.6 notify the Seller in writing immediately on becoming aware of any Products or Deliverables being supplied into any country or territory in breach of any export or trade laws, or sanctions imposed by any one or more countries against such country or territory.

6.2 If the Seller's performance of any of its obligations is prevented and/or delayed by any act and/or omission by the Buyer and/or failure by the Buyer to perform any relevant obligation, the Seller shall without limiting its other rights and remedies:

6.2.1 have the right to suspend performance of the Contract until the Buyer remedies such default, and to rely on such default to relieve it from the performance of any of its obligations which are affected by such default;

6.2.2 not be liable for any costs and/or losses sustained and/or incurred by the Buyer arising directly and/or indirectly from the Seller's resulting failure and/or delay to perform any of its obligations; and

6.2.3 have the right to require the Buyer to reimburse the Seller on written demand for any costs and/or losses sustained and/or incurred by the Seller arising directly and/or indirectly from the Buyer's default.

7. CHARGES

7.1 The Price results from the Order accepted by the Seller and shall, unless agreed otherwise in writing, be exclusive of any applicable excise, sales, value added taxes and any other levies and/or duties all of which shall be payable by the Buyer at the prevailing rate.

7.2 The Seller may, by giving notice to the Buyer at any time before delivery, increase the price of the Products to reflect any increase in the costs of them that are due to:

7.2.1 fluctuations in the prices of raw materials, components, heat and power, wages or any other element contributing to the cost of manufacturing and/or delivering the Products;

7.2.2 any request by the Buyer to change the Delivery Date, the quantities and/or types of Products and/or the Buyer's Design Requirements;

7.2.3 any delay caused by any instructions of the Buyer and/or failure of the Buyer to give the Seller adequate or accurate information or instructions;

7.2.4 any failure by the Buyer to comply with its obligations under the Contract and/or any delay in the performance of such obligations.

8. TERMS OF PAYMENT

8.1 In respect of the Products, the Seller shall invoice the Buyer on or after the day of delivery of the Products to the Buyer by collecting the Products from the Delivery Location by the Buyer, however in any case not later than on the 15th day of the month following the month in which Products were supplied.

8.2 Unless otherwise agreed in the Order, the Buyer shall pay the Price in full and cleared funds to the bank account nominated by the Seller within 30 days of the date of issuance of the invoice by the Seller (the "**Due Date**"). Time for payment shall be of the essence of the Contract.

8.3 If the Buyer is in the delay (*opóźnienie*) with any payment, then the Buyer shall pay interest on the overdue amount at the statutory rate. If the Buyer is in qualified delay (*zwłoka*), the Seller may also demand a redress of the damage pursuant to general principles.

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8.4	The Buyer shall pay all amounts due under the Contract in full without any set-off, deduction or withholding, except to the extent required by law. For the avoidance of doubt, if law allows for any exemption for tax deduction or withholding, the Buyer shall take all necessary actions, which may be reasonably required, to apply the exemption. The Seller shall cooperate in this respect with the Buyer.	
9.	INTELLECTUAL PROPERTY	
9.1	For the purposes of this Contract, "IPR" means know-how, works, information relating to inventions, secret processes and manufacturing techniques, patents, patent applications, utility models, economic copyrights and related rights, trademarks, trade names and domain names, unfair competition rights, rights in goodwill, rights in designs, rights in computer software, database rights, topography rights, rights in Confidential Information and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.	
9.2	For the purpose of the Contract, the "Seller's Materials" means any of the following materials which are used by the Seller to produce the Products:	
9.2.1	any plans, drawings and specifications prepared by the Seller;	
9.2.2	any details in respect of any material and/or the mix of materials used;	
9.2.3	any pressing, moulding and/or firing/sintering method used; and	
9.2.4	any other process, apparatus, standards and/or measuring technique, used by the Seller.	
9.3	Except for IPRs owned by the Buyer and forming the Buyer's Confidential Information (including but not limited to any Buyer's Design Requirements), all IPRs which subsist in the Products, the Seller's Materials and/or the Deliverables, shall be the exclusive property of the Seller and may only be used by the Buyer in connection with its use for internal purposes of the Products and/or the Deliverables.	
9.4	The Buyer grants to the Seller a non-exclusive and worldwide licence to the IPRs which subsist in the Buyer's Design Requirements and any other Confidential Information of the Buyer disclosed to the Seller for the purposes of manufacturing and supplying the Products. The licence is granted for the period of 5 years. After the expiry of this period the licence is considered to be granted for an indefinite period. The Buyer may terminate the licence, after the lapse of the first 5-year period, with 4-year notice period effective at the end of the calendar year. The Buyer undertakes not to exercise its right to terminate the licence. The licence – with respect to the IPRs consisting works under the Copyright Act - shall include (but not be limited to) the following fields of use:	
i.	with respect to recording or saving and/or reproducing of a work – a permanent or temporary reproduction, in part or in whole, by any means and in any form, including the production of copies of the work with the use of any technique, including printing, reprographic, magnetic recording and digital technique, fixing and reproducing in the form of a computer print-out;	12.1
ii.	with respect to trading in an original or copies of the object on which a work is recorded or saved - marketing, lending or rental of the original or copies;	12.2
iii.	with respect to other forms of distribution of a work than that referred to in subparagraph (ii) - public performance, display, screening, replaying and broadcasting and rebroadcasting as well as communicating a work to the public in such a way that each person may access the work from a place and at a time individually chosen by them, including the publication and use in public computer networks, including the Internet;	12.3
iv.	the exercise of derivative rights in the works, in particular translation, alteration, adaptation, abridgement, combination, adjustment, rearrangement or any other changes, as well as the use in part, in fragments and as components of other works.	12.4
	The licence – with respect to the IPRs consisting computer software under the Copyright Act - shall also include (but not be limited to) the following fields of use:	
i.	permanent or temporary reproduction of a computer program by any means and in any form, in part or in whole; insofar as loading, displaying, running, transmission or storage of a computer program necessitate its reproduction, such acts shall be subject to authorization by the right holder;	12.5
ii.	translation, adaptation, arrangement and any other alteration of a computer program, without prejudice to the rights of the person who alters the program;	12.6
iii.	distribution, including rental or lending of a computer program or copies thereof. The Price covers cost of granting the licence by the Buyer to the Seller on all fields of use indicated above as well as granting a right to exercise of derivative rights by the Seller. The Buyer consents to exercising of derivative rights by the Seller, including the right to use and dispose of all the derivative works, on the all of the aforementioned fields of exploitation. The Buyer undertakes not to exercise the moral copyrights to the IPRs which subsist in the Buyer's Design Requirements and/or any other Confidential Information of the Buyer disclosed to the Seller for the purpose of manufacturing and supplying the Products and authorizes the Seller to exercise the abovementioned rights.	12.7
9.5	Unless supplied by the Buyer or unless otherwise agreed in writing, any patterns, jigs and tools which are used by the Seller to manufacture the Products shall be the property of the Seller notwithstanding any charge made by the Seller for their manufacture. Where the Seller, at the Buyer's request, uses the Buyer's patterns, jigs or tools, any required maintenance or replacements shall be paid for by the Buyer. If for two consecutive years no Order is received from the Buyer for products to be manufactured from a tool either supplied by the Buyer or for which the Buyer has paid full cost to the Seller, the Seller shall be entitled to make such use of the said tool as the Seller decides and the Seller shall be entitled to dispose of the said tool without incurring any liability to the Buyer.	12.8
10.	CONFIDENTIALITY	
10.1	Each Party undertakes that it shall not at any time disclose to any person any confidential information disclosed to it by the other Party concerning the business and/or affairs of the other Party and/or of any member of its group, including but not limited to information relating to the Party's business relationship with the other Party, the Party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customer information (" Confidential Information "), except as permitted by clause 10.2.	12.9
10.2	Each Party may disclose the other Party's Confidential Information:	
10.2.1	to its employees, officers, agents, consultants and/or sub-contractors who need to know such information for the purposes of carrying out the Party's obligations under the Contract, provided that the disclosing Party:	
10.2.1.1	takes all reasonable steps to ensure that such persons comply with the confidentiality obligations contained in this clause 10 as though they were a Party to the Contract; and	12.10
10.2.1.2	shall be responsible for such compliance with the confidentiality obligations set out in this clause;	12.11
10.2.2	as may be required by law, court order or any competent governmental or regulatory authority;	12.12
10.2.3	to the extent such information becomes public knowledge through no fault of that Party;	12.13
10.2.4	with the other Party's prior written consent.	12.14
11.	LIMITATION OF LIABILITY	
11.1	Nothing in the Contract shall limit and/or exclude either Party's liability for:	
11.1.1	loss caused due to intentional guilt;	12.15
11.1.2	any matter in respect of which it would be unlawful to exclude or restrict liability.	12.16
11.2	Subject to clause 11.1, the Seller shall not be liable to the Buyer, whether in contract, tort (including but not limited to negligence and gross negligence), or any breach of statutory duty, or otherwise, for any:	
11.2.1	direct or indirect loss of profit;	12.17
11.2.2	special, indirect or consequential losses arising under or in connection with the Contract;	12.18
11.2.3	direct or indirect loss of business;	12.19
11.2.4	direct or indirect loss of goodwill;	12.20
11.2.5	direct or indirect loss of business opportunity; or	12.21
11.2.6	direct or indirect loss of anticipated savings.	12.22
11.3	Subject also to clause 11.1, the Seller's total aggregate liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including but not limited to negligence and gross negligence), actions and omission(s) of third parties used by the Seller to perform its obligations under the Contract (except for damages due to intentional guilt of the third parties), breach of statutory duty, or otherwise, shall cover only actual damage (<i>damnum emergens</i>) and shall not exceed the total Price paid or payable under the Contract for the supply of the Products	12.23
	which are the subject of the claim or, if the claim does not relate to any particular Products, the total Price paid, payable or that would have become payable under the Contract.	
	INDEMNITY	
	To the extent that the Products are manufactured in accordance with any Buyer's Design Requirements, the Buyer shall defend and indemnify the Seller from and against all liabilities, demands, claims, costs, expenses, judgments, awards, sanctions, fines, settlements, damages and losses suffered or incurred by the Seller in connection with any claim(s) made against the Seller arising out of, related to or in connection with, in whole or in part, the design, manufacture, sale, re-sale or use of such Products by any person, and any claim(s) for death or personal injury, IPR infringement, property damage and/or other economic loss whether arising in contract, tort or under any other legal theory (including but not limited to negligence of Seller or strict liability).	
	TERMINATION OF THE CONTRACT	
	In the event that the Buyer has not made full payment for the Products by the Due Date (delay; "opóźnienie"), the Seller may (i) withdraw (<i>odstąpić</i>) from the Contract or its part and – in respective part - request return of what the Parties have already performed in an unchanged condition together with a payment for the use and delivery of Product, or (ii) raise a claim for payment against the Buyer. The right to withdraw from the Contract is made by giving a written notice to the other Party and it can be exercised within 12 (twelve) months as of the lapse of the Due Date (contractual right to withdraw) . If the Seller decides to withdraw from the Contract or its part, the Buyer hereby irrevocably permits the Seller (or shall procure permission for the Seller as appropriate) at any time after the Due Date, to retake possession of the unpaid Products and enter the Buyer's or any relevant third party premises to do all things necessary to repossess such Products and to remove them from such premises. In the case of withdrawal from the Contract by the Seller, the latter shall also be entitled to claim for compensation.	
	Without limiting its other rights or remedies, each Party - if the other Party commits a material breach of its obligations under the Contract and (if such a breach is remediable) fails to remedy that breach within 20 Business Days of receipt of notice in writing of the breach - may: (i) withdraw (<i>odstąpić</i>) from the Contract or its part and – in respective part - request return of what the Parties have already performed in an unchanged condition together with a payment for the use of Products, or (ii) request performance of the obligations under the Contract. The right to withdraw from the Contract is made by giving a written notice to the other Party and it can be exercised within 12 (twelve) months as of the lapse of the Due Date (contractual right to withdraw) . In the case of withdrawal from the Contract by the Seller, the latter shall also be entitled to claim for compensation.	
	Without limiting its other rights or remedies, the Seller may suspend performance of its obligations with immediate effect by giving written notice to the Buyer if:	
	the Buyer is unable or admits inability to pay or suspends payment of its debts as they fall due;	12.24
	any legal proceedings or other procedure or step is taken in relation to the indebtedness of the Buyer including, without limitation:	12.25
	assignment or arrangement with any creditor (or any proposal for or negotiation of any of the same);	12.26
	the appointment of a liquidator;	12.27
	an application, petition, notice, order or resolution for the winding-up, dissolution or liquidation (by way of voluntary arrangement, scheme of arrangement or otherwise); and/or	12.28
	an enforcement of any security over any assets;	12.29
	the Buyer ceases or suspends or threatens to cease or suspend the conduct of all or substantially all of its business; and/or	12.30
	The Buyer suffers a deterioration in its financial position to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; the Seller may (i) withdraw (<i>odstąpić</i>) from the Contract or its part and – in respective part - request return of what the Seller has already performed together with a payment for the use and delivery of the Products, or (ii) suspend performance of the Seller's obligations under the Contract until the Buyer performs its obligations under the Contract and/or the Buyer establishes appropriate security. The right to withdraw from the Contract is made by giving a written notice to the other Party and it can be exercised within 12 (twelve) months as of the lapse of the Due Date (contractual right to withdraw) . In the case of withdrawal from the Contract by the Seller, the latter shall also be entitled to claim for compensation.	
	Notwithstanding the above, on termination of the Contract for any reason:	
	the Buyer shall immediately pay to the Seller all outstanding sums in respect of the Contract;	12.31
	each Party shall return to the other Party all equipment, materials and property belonging to the other Party (including without limitation the Seller's Materials) that the other Party had supplied to it in connection with this Contract or which contain the other Party's Confidential Information;	12.32
	each Party shall erase all the other Party's Confidential Information from its computer systems (to the extent reasonably practicable);	12.33
	on request, each Party shall certify in writing to the other Party that it has complied with the requirements of this clause.	12.34
	Termination shall not affect any of the Parties' rights and remedies that have accrued as at termination.	12.35
	On termination of the Contract provisions of the Contract which expressly or by implication survive termination, shall survive and continue in full force and effect.	12.36
	FORCE MAJEURE	
	Notwithstanding any other provision of the Contract, the Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delays in performing or any failure to perform any of its obligations in relation to the Contract if the delay or failure is caused by any event beyond the Seller's reasonable control, which by its nature could not have been foreseen by the Seller or, if it could have been foreseen, was unavoidable, including without limitation acts of God, adverse weather conditions, road closures, accidents, blockages or other matters that adversely affect public transport networks (including without limitation road networks), interruption or failure of any utility service or the internet, fire, war, acts of terrorism, riot, civil commotion, insurrection, sabotage, labour disputes, strikes, lock outs, industrial action, fuel shortages, shortages of raw materials, non-performance by suppliers or subcontractors, and governmental actions (a " Force Majeure Event "). For the avoidance of doubt, lack of funds shall not be considered as the Force Majeure Event.	
	The Seller shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, notify the Buyer of the nature and extent of such Force Majeure Event and shall use all reasonable endeavours to remove any such causes and resume performance under the Contract as soon as reasonably feasible.	12.37
	The Buyer shall be liable for losses caused due to the Force Majeure Event.	12.38
	COMPLIANCE	
	The Buyer shall, at all times, in its dealings with the Seller and any third party with whom it deals in relation to this Contract, comply with all applicable competition and export/trade laws. The Buyer will not, through any act and/or omission, cause the Seller to be in breach of any such laws or regulations. A breach of this clause 15 shall be considered a material breach which shall give the Seller an immediate right to withdraw from this Contract without prejudice to its other rights and remedies.	
	GENERAL	
	The Seller may at any time assign, transfer, charge, sub-contract or deal in any other manner with any or all of its rights and/or obligations under the Contract and the Buyer agrees to the above.	
	The Buyer may not assign, transfer, charge or sub-contract or deal in any manner with any or all of its rights and/or obligations under the Contract without the prior written consent of the Seller.	
	Any variation of this Contract, including but not limited to, the introduction of any additional terms and conditions, must be in writing and signed by or on behalf of the Parties.	
	Any notice required or permitted to be given by either Party to the other under these Conditions, shall be in writing addressed to that other Party at its registered office address or principal place of business and shall be sent by recorded delivery, commercial courier or fax.	
	No waiver of any term or condition of this Contract shall be effective and valid unless in writing or shall constitute a precedent.	
	Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the Parties, nor constitute any Party the agent of another Party for any purpose.	

MORGAN CARBON POLSKA SPÓŁKA Z O.O. TERMS AND CONDITIONS OF SALE

- 16.7 A person who is not Party shall not have any rights under the Contract and the Contract shall not be considered as concluded for the benefit of a third party.
- 16.8 If any court or competent authority finds that any term of these Conditions and/or the Contract (or any part of any term) is invalid, illegal or unenforceable as drafted, that term or part-term shall, to the extent required, be deemed to be deleted and the validity and enforceability of the other terms of the Conditions or the Contract, shall not be affected.
- 16.9 If any invalid, unenforceable or illegal provision of the Conditions and/or the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 16.10 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual dispute and/or obligation) shall be governed by and construed in accordance with the Polish law.
- 16.11 Any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual dispute and/or obligation) shall be settled by the competent common court in Poland. The Parties irrevocably submit to the exclusive jurisdiction of the courts of Poland.