

General Terms and Conditions of Sale of the company TOMKET EXPORT

Article 1 – Scope of Application

- 1.1. These General Terms and Conditions of Sale (hereinafter referred to as “GTC”) shall apply to any legal relationship between the Purchaser (hereinafter referred to as “the Client”) and the Seller (hereinafter referred to as “TOMKET”).
- 1.2. Any other provisions or general terms and conditions of the Client shall not apply and their use is thus excluded.

Article 2 – Registration, Orders

- 2.1. Prior to be entitled to make orders, the Client shall be obliged to register himself. No orders can be made without prior registration. Documents necessary for the registration are as follows:
Certificate of incorporation or any similar document proving that the Client has been incorporated in his Member State (in case of a legal entity), ID number and VAT number proving that the Client is an entrepreneur, Copy of the ID card or a passport of the managing director of a company or these documents of a natural person entrepreneur
- 2.2. All documents shall be processed and stored electronically and used exclusively to the purpose indicated in these General Terms and Conditions.
- 2.3. The Client shall be obliged to state a contact phone number and an email address for easy access by TOMKET. Only these contact data shall be used for communication towards the Client and the Client takes responsibility for their accuracy.
- 2.4. Any orders shall be made exclusively electronically on the website of TOMKET. Unless otherwise expressed, any order shall only become legally binding for the client upon its receipt by TOMKET and the Client shall not be entitled to withdraw from it. TOMKET shall be obliged to confirm its receipt within one working day if possible. However, TOMKET may approve of a withdrawal request in specific cases. In such a case TOMKET is entitled to charge the Client a cancel fee amounting to 5 % per cent of the order plus the consignment costs amounting to 15€. The Client is aware of the fact that there is no contractual right for mutual cancellation.
- 2.5. On the other hand, TOMKET reserves the right to refuse, cancel or terminate any order (even when already confirmed) with immediate effect for any reason. The Client does not have this right and shall not be entitled to claim any damages or whatever else if TOMKET cancels an order.
- 2.6. Always make sure that the delivery address and the items in the order are listed correctly.
The following conditions apply to pallet transport (for tires heavier 31.5 kg):
cancellation's order fees: 100% of shipping cost per tire + 12% of the order price + 20 Eur per pallet
refus fees: 100% of shipping cost per tire + 20% of the order price + 20 Eur per pallet
return fees: at customer's expense or price by inquiry
address changes fees: within one country 10 Eur

Article 3 – Non-disclosure Agreement, Data Privacy

- 3.1. The Client undertakes to keep confidential all information which will become accessible to him in connection with the legal relationship to TOMKET.
- 3.2. If the Client is a natural person, then he is a data subject according to the Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, hereinafter referred to as “GDPR”) and other relevant legislature. TOMKET undertakes to fulfil all obligations arising from data privacy.
- 3.3. The Client hereby gives consent to the processing of his or her personal data for the purposes of the mutual business relationship. The consent may be withdrawn any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.

3.4. The Client as the data subject is hereby being provided with following information according to Article 13 GDPR:

- (a) the identity and the contact details of the controller is TOMKET s.r.o/TOMKET EXPORT s.r.o.,
- (b) the purpose of the processing is a business contract,
- (c) the recipients of the personal data are only companies involved in the transaction, i.e. the delivery company,
- (d) the personal data shall be transferred to a third country only if it is necessary to fulfill obligations arising from any order made, the data shall not be transferred to any international organization,
- (e) the data shall be stored during the business relationship and afterward as long as it is necessary to fulfill obligations towards the state (for instance storage of invoices required by the law etc.),
- (f) the Client has the right to request from TOMKET access to and rectification or erasure of personal data or restriction of processing concerning the Client or to object to processing as well as the right to data portability,
- (g) the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal,
- (h) the right to lodge a complaint with a supervisory authority,
- (i) the provision of personal data is a contractual requirement which is necessary to enter into a contract, the Client is not obliged to provide the personal data, in case of failure to provide such data the contractual parties could not enter into a contract,
- (j) no automated decision-making, including profiling shall be effectuated.

Article 4 – Payment, Delivery

4.1. Any payment must be effectuated via bank transfer or via SEPA B2B Direct Debit. TOMKET does not accept any cash, cheques, bills etc.

4.2. Every new client shall be obliged to make a deposit amounting to the presumed volume of orders for 3 months, at least 1.000 EUR. TOMKET shall effectuate no dispatch prior to receiving the deposit on its bank account. If the deposit is exhausted, the client shall be obliged to make a new one and the previous sentence stands even under these circumstances. If the presumed volume of orders is not achieved, the deposit shall be adjusted according to the actual turnover for the 3 preceding months. If the Client does not place an order within 3 months upon the registration, the deposit shall be refunded.

4.3. Dispatch prior to payment (invoice maturity 5 working days) is standard, if not agreed otherwise by a specific agreement between the Client and TOMKET.

4.4. The Client is responsible for the accuracy of the provided data. If any data turn out to be inaccurate which could result in failure to deliver the goods properly, the Client shall be obliged to compensate any additional costs paid by TOMKET. In case of any such problem the Client should immediately contact TOMKET.

4.5. Non-delivery of goods. The Client shall be entitled to make a complaint about non-delivery of goods and request a proof of delivery (POD) within 30 days after payment of the invoice. Subsequent complaints cannot be claimed from the parcel delivery service. Therefore, such a claim shall not be possible to process. The Client shall be obliged to provide TOMKET with all required documents for a complaint about non-delivery of goods. The complaint about non-delivery of goods cannot be made if the delivery address had been changed which was announced after dispatching the goods. TOMKET shall forward the information to the parcel delivery service, but the delivery of the goods to the changed address cannot be thus guaranteed.

4.6. Rejection of goods. In the event of rejection of goods delivered in standard delivery time (7 working days after dispatching of goods), cancellation fee amounting to 10% of the purchase price of goods. The rejection must be notified within 14 days upon receipt of goods.

Article 5 – Warranty, Liability, Recycling Fee

5.1. TOMKET provides warranty only on construction defects of the goods and disclaims all other warranties (wear and tear etc.). The warranty period shall be 6 months commencing upon the delivery of the goods on the condition that the purchase price has been fully settled. Notification must be made by the Client in written. The Client shall bear the costs of the delivery of the goods back to TOMKET. He shall either dispatch the goods back to TOMKET on his own or if TOMKET arranges the transport, the Client shall be charged the remuneration paid by TOMKET to the haulier (DPD, GLS etc.).

5.2. The Client is aware of the fact that it is the producer who acknowledges or disclaims any claim arising from defective goods. If the producer acknowledges the defect, the transport cost shall be refunded to the Client by TOMKET. If the producer disclaims his responsibility, no costs shall be refunded. In such case TOMKET is obliged to dispatch the goods no sooner than upon receipt of the payment for the new delivery.

5.3. If the acknowledged defect is reparable, the defect shall be removed free of charge. If the defect is irreparable, the goods shall be exchanged at TOMKET's expense upon the termination of the claim procedure.

5.4. The warranty claim expires in following cases:

- improper installation, handling or use of goods contrary to the approved technological procedure,
- use of goods in conditions that do not match their parameters with the parameters listed in the documentation or other breach of technological discipline,
- damage to goods by natural elements,
- damage to the goods by excessive loading or their use contrary to the technological or other conditions specified in the documentation,
- wear-off to the limit set by law.

5.5. In no event shall the liability of TOMKET towards the Client exceed the amount that has been paid by the Client for the goods that are the subject of the order. TOMKET shall not be liable for any other damages, lost profits, lost business etc.

5.6. The Client is aware of the fact that the price of the goods is without the recycling fee, it is the Client's responsibility to charge this fee to his end customer.

Article 6 – Final Provisions, Jurisdiction, Applicable Law

6.1. Any legal relationships or any other matters between the contractual parties shall be governed by the Czech law with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (CISG).

6.2. Any dispute arising from any legal relationship between the Client and TOMKET shall be settled in accordance with Article 25 REGULATION (EU) No 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters by the District Court in České Budějovice, Czech Republic. The jurisdiction of the court shall be exclusive.

6.3. These general terms and conditions come into force on March 26, **2024** and cancel any previous terms and conditions.