

## **1. Scope of application**

These delivery terms regulate the sale of products and provision of services (hereinafter the Products) by ALSO Eesti OÜ (hereinafter ALSO) to its customers (hereinafter the Purchaser), unless otherwise agreed upon between the Parties in writing or by e-mail. The Delivery Terms constitute a part of a sale agreement between ALSO and the Purchaser (hereinafter the Parties), if these terms have been referred to in an offer made by ALSO or in an order confirmation of the Purchaser (ALSO's offer accepted by the Purchaser by an order confirmation is hereinafter referred to as the Sale Agreement). The general terms of the Purchaser or any third party do not constitute a part of the Sale Agreement between ALSO and the Purchaser. The general terms of the Purchaser or any third party do not constitute a part of the Sale Agreement between ALSO and the Purchaser even if ALSO has not submitted separate objections regarding such general terms or if ALSO delivers the Products without notes or without reference to these Delivery Terms.

## **2. Validity of offer**

Offers made by ALSO for sale of Products and provision of services are not binding and ALSO reserves the right to change the offers unless otherwise communicated by ALSO in relation to an offer. An oral offer requires a prompt response from the Purchaser, unless otherwise agreed upon between the Parties.

## **3. Placing of orders**

ALSO accepts orders from the Purchaser by telephone and by e-mail as well as via the electronic ordering environment (eLink) of ALSO.

For the use of electronic ordering environment, ALSO may provide the Purchaser with user ID enabling placement of orders via eLink. User ID allows ALSO to identify in the electronic ordering environment the Purchaser and persons designated by it. The Purchaser expressly acknowledges that the use of its user ID in the electronic ordering environment is conclusive proof of the use of its identity and all activities in ALSO's electronic ordering environment with the Purchaser's user ID are indisputably considered to be the Purchaser's activities. The Purchaser shall ensure that the user ID shall be duly maintained in secret and shall prevent misuse thereof (including it shall not disclose it to any third party and it will not save it anywhere). At the request of the Purchaser, ALSO shall immediately block the user ID. The request for blocking shall be submitted in writing or by e-mail addressed to [ee-sales@also.com](mailto:ee-sales@also.com). In case of misuse or unauthorised use or such threat, the Purchaser shall send the blocking request immediately. The Purchaser shall be solely liable for all the consequences of misuses and unauthorised uses of the user IDs. The Purchaser shall also be liable for all the orders placed by using the user ID assigned to the Purchaser. The Purchaser shall also be held liable if there was an unauthorised use or misuse upon placement of an order, unless ALSO delayed unreasonably long blocking the user ID. Use of the eLink is governed by ALSO Terms for Electronic Services.

ALSO has the right to unilaterally block and delete all user IDs that have not been active during the last 6 months.

## **4. Delivery**

The terms of delivery of the Products are CPT to the address indicated in an order by the Purchaser (Incoterms 2010).

A handling fee is added to each order according to the valid price list of ALSO. If there are other accessory expenses or other services are provided, the Purchaser shall pay for them according to the valid price list of ALSO.

The Purchaser shall inspect the delivered Products upon receipt thereof. A delivery shall be deemed accepted by the Purchaser and the possession of the Products shall be deemed transferred to the Purchaser if and when the Purchaser signs the instrument of receipt without any notes. The Purchaser shall make a note in the instrument of receipt if the number of delivered units is smaller than indicated in the delivery note or if the packaging has been damaged. The Purchaser can submit claims to ALSO with regard to missing units or damaged packaging within 3 business days after signing the instrument of receipt and provided only that the respective note was set out in the instrument of receipt. The Purchaser shall inform ALSO about transportation damage and other damages that cannot be detected upon receipt of delivery, within 7 business days after receipt of the delivery by the Purchaser. All claims shall be submitted by e-mail to the account manager of ALSO that services the Purchaser, and if the contact details of the account manager are not available, then to the e-mail address [ee-sales@also.com](mailto:ee-sales@also.com).

ALSO shall be entitled to gather several orders of the Purchaser that are to be delivered to the same address into one and the same shipment and deliver them together. ALSO shall also be entitled to make part-deliveries. The detailed terms for the transportation service provided by ALSO are available on ALSO's website [www.also.ee](http://www.also.ee).

## **5. Time of delivery**

ALSO shall deliver the Products by an agreed time. The times of delivery communicated by ALSO are not binding unless a definite time of delivery has been agreed upon in a format which can be reproduced in writing. Unless there is a respective agreement, ALSO shall deliver the products immediately or as soon as the Products to be delivered are available in ALSO's warehouse.

If the Purchaser wishes to cancel his order for the Products, the Purchaser shall immediately inform ALSO about the respective wish. Cancellation of an order is possible before the confirmation of the order by ALSO and provided only that

it is confirmed by ALSO's account manager. After the confirmation of an order, the order can be cancelled in case it is approved by ALSO's account manager.

If Products are not delivered by a binding date of delivery communicated by ALSO and the delay is caused by ALSO and not by the situation described in section 15 of these Delivery Terms, the Purchaser shall be entitled to cancel the Agreement. However, the right of cancellation shall not apply unless the delay exceeds 5 business days.

If the Purchaser has any overdue invoices payable to ALSO, ALSO shall be entitled to cancel an order of the Purchaser after informing the Purchaser about the overdue payment, or suspend the deliveries agreed upon with the Purchaser until full payment of the overdue amounts. In the latter case, the agreed date of delivery shall be deemed extended by the time that the Purchaser was in delay with payment of invoices, and the Purchaser shall not be entitled to submit any claims against ALSO deriving from a delay in delivery.

The Products shall be deemed delivered when they are delivered to the Purchaser by the carrier. ALSO may release the Products to the carrier for shipment to the Purchaser from ALSO's warehouse or from the warehouses of other group companies of ALSO.

## **6. Terms of payment**

The Purchaser shall pay for the Products and applicable accessory expenses and services according to ALSO's price list valid at the time of order confirmation before delivery of the Products in cash or by bank transfer within 7 calendar days from the date of the advance payment invoice. The Purchasers to whom ALSO provides limited credit (credit customers) shall pay an invoice within 14 calendar days from the date of the invoice, unless otherwise agreed between the Parties in the Sale Agreement.

If any state or local government taxes, carrier-imposed fees, author's remuneration (including private copying remuneration fee) or the handling fees imposed by the suppliers of ALSO which are applied upon the sale of the Products, change before the date of delivery, ALSO shall be entitled to change the price of the Products pro rata to the effect of the changed taxes or fees on the prices of the Products. Unless the Purchaser informs ALSO about cancellation of the order within 3 business days after receipt of a notice regarding the change, the Purchaser shall be deemed having accepted the change of the price.

If in case of business-to-consumer transactions involving producer support, e.g. BID or OPG transactions, ALSO agrees with the Purchaser on prices that differ from the prices quoted in the price list of ALSO (special prices), such prices shall be subject to a suspensive condition that the special prices shall be approved by the producer of the respective Products. The approval of the producer can be conditional and may depend on performance of special conditions (e.g. reporting condition) by the Purchaser. By placing an order for products that are subject to special conditions of the producer, the Purchaser approves the respective conditions and in addition, the Purchaser shall submit, at the request of ALSO, information for identification of an end user and submit the confirmation of the end user to evidence that the Products ordered under special conditions have been delivered to the respective end user. If the producer does not approve the special prices or if the Purchaser does not perform the special conditions established by the producer, the Products shall be priced according to the price list of ALSO valid at the time of confirmation of the order. In such case the Purchaser shall pay to ALSO the difference by which the prices in the price list of ALSO exceed the special prices. ALSO shall be entitled to assign a financial claim covering the respective difference to the producer.

In case the Purchaser delays in payment of an invoice submitted by ALSO, if in ALSO's view the Purchaser's economic condition has considerably deteriorated after the entry into the Sale Agreement or if there is reasonable doubt that the Purchaser will not pay submitted invoices on time, ALSO shall be entitled to deem the due dates for payment of all invoices submitted to the Purchaser as arrived irrespective of the due dates of payment agreed upon with regard to those invoices.

ALSO shall be entitled to demand an advance payment or guarantee from the Purchaser on terms and conditions requested by ALSO before as well as after the entry into the Sale Agreement, if the Purchaser does not duly perform his payment obligation deriving from the agreement or if ALSO becomes aware of any circumstances that will probably considerably deteriorate the Purchaser's ability to perform his obligations under the Sale Agreement. If the Purchaser fails to make the prepayment or submit the guarantee on the terms and conditions and by the due date requested by ALSO, ALSO shall be entitled to immediately extraordinarily cancel the Sale Agreement entered into with the Purchaser.

The Purchaser shall pay a default interest for late payment at the rate of 0.05% of an overdue amount per day starting from the due date of payment. The default interest shall be calculated on monthly basis and a separate invoice shall be submitted regarding the default interest.

The Purchaser agrees that ALSO shall assign or shall be entitled to assign the claims deriving from invoices unpaid by the Purchaser to third persons.

ALSO shall be entitled to enter into factoring contracts for assignment of the claims deriving from invoices issued to the Purchaser.

## **7. Currency clause**

If the price of a Product is based on a foreign currency, the Parties shall agree upon a mark-up. In such case the selling price of the Product consists of the price of the Product in euros, considering the exchange rate valid (determined by ALSO

group) on the day when the Product arrives in ALSO's warehouse, plus the agreed mark-up. As an exception, the Parties may also agree on a fixed exchange rate.

## **8. Ownership title and liability for risks**

The ownership title to the Products and the right to use the software products is transferred to the Purchaser as soon as the purchase price is fully paid to ALSO and the Products are delivered to the Purchaser. ALSO shall maintain the ownership title to the Products and may suspend the right to use the software products (if the passwords, access codes, etc that are necessary for using the respective products have been delivered to the Purchaser earlier) until full payment of the purchase price.

The risk of accidental loss of or damage to the Products is transferred to the Purchaser when the Products are delivered to the first carrier or another person who has been entrusted with the task of delivery of the Products to the Purchaser.

If the delivery of the Products is delayed due to a reason deriving from the Purchaser, the Purchaser shall be deemed to have delayed receiving the Products from the day when ALSO was ready to deliver the given Products and informed the Purchaser about it. If the Parties have agreed that the Purchaser shall pick up the ordered Products, the Purchaser shall be deemed to delay in receiving of the Products from the day when ALSO was ready to deliver the Products, the Purchaser had received a notice regarding the arrival of the Products, and the time prescribed for timely receipt of the Products had passed. Upon delay in receipt of the Products, the risk of accidental loss of and damage to the Products is transferred to the Purchaser. The Purchaser shall compensate ALSO for the costs and expenses (e.g. the costs of storing the Products) incurred by ALSO as a result of the delay in receipt of the Products by the Purchaser.

## **9. Warranty**

Generally the Products sold by ALSO have the producer's warranty. Further information regarding the existence of producers' warranties and terms thereof is available in eLink or can be obtained by contacting ALSO.

ALSO shall replace or repair certain products under the warranty on behalf of the producer. Further details regarding the respective products and conditions of the warranty service can be obtained by contacting ALSO.

The following conditions shall apply to warranty services provided by ALSO on behalf of the producer:

- The costs of delivering a Product for the provision of warranty service shall be paid by the Purchaser; the transportation costs for returning a Product that has been replaced or repaired under the warranty shall be paid by ALSO.
- In order to use the warranty service, the Purchaser must have performed his obligations deriving from the Sale Agreement.
- The warranty sticker on a Product may not be damaged or removed.
- A Product shall correspond to the invoice under which the Purchaser requests provision of the warranty service.
- A Product has a serial number that is legible, undamaged and not covered.
- Generally the Producer provides Products that have been replaced or repaired under the warranty with a new warranty but not for a longer term than until the expiry of the warranty originally provided to the Product.

For the avoidance of doubt, ALSO does not hereby provide the Products with a warranty against defects. All the obligations of ALSO as set out in this section are related with the producer's warranty (if provided).

## **10. Damage and limited liability**

Non-compatibility or non-functioning of the Products sold to the Purchaser by ALSO with other products or software shall not be deemed to constitute a deficiency of the Products, unless ALSO has expressly confirmed or promised the respective compatibility or functioning.

The Products shall be deemed to be sold for professional use or to experts/persons who are skilled in IT. The Purchaser is not entitled to rely on the so-called information errors, for example on missing user manuals or on the fact that the respective manuals are provided in a foreign language. Upon sale or delivery of the Products to his customers, the Purchaser shall ensure that the customers are provided with sufficient instructions (including instructions corresponding to legislation) and manuals for the use of the Products.

ALSO's liability for delayed deliveries or defective Products is in all cases limited to the value of the respective delivery or product. ALSO's liability for a defective Product is limited, at ALSO's choice, to repairing the defective Product, replacing it with a corresponding or similar product or, if such a product is not available, compensating for the value of the Product. Upon compensation for the value of a Product, ALSO's liability is limited to compensation for the value of a replacement product, but shall in no case exceed the selling price of the original product. ALSO is never obliged to compensate the Purchaser or any other persons (including the customers of the Purchaser) for interruptions of work, lost margin, agreements of the Purchaser or damages related to the loss or destruction of data, files or software or any other possible consequential damage irrespective of whether it was caused by a defective Product or a delay in delivery.

ALSO shall not be liable for damage caused by possible interruptions or technical difficulties in the eLink system.

## **11. Intellectual property rights**

All intellectual property rights applicable with regard to the Products (including the software contained therein) are held by the producer, the official representative of the producer or a third person to whom the producer has assigned the respective rights. The Purchaser shall not modify, hide or remove any references to the respective intellectual property rights. The Purchaser shall inform his customers about the aforesaid intellectual property rights and terms of the licence as well as other restrictions relating to the use of the Products.

If a third person files a claim against the Purchaser or an end user for the reason that a Product delivered by ALSO infringes the patent, copyrights or other intellectual property rights of a third person, the Purchaser shall immediately inform ALSO about such claim in writing.

The Purchaser shall not be entitled to file any claims against ALSO in relation to a possible infringement of the intellectual property rights of third persons by the Products delivered by ALSO. ALSO shall not be liable for any expenses caused to the Purchaser who has filed claims against producers.

## **12. Software**

The terms of use and the warranty conditions of the software products sold by ALSO are included in the software licence agreement between the producer of the software, representative of the producer or another third person to whom the producer has assigned the rights to the software (holder of rights to software), and the end user.

The Purchaser shall agree to adhere to the terms of the licence agreement upon resale and other transfer of software products. The Purchaser shall ensure that the applicable terms of the licence agreement shall be passed on to the end users. The Purchaser shall adhere to the instructions for the resale and use of the software submitted by the holder of rights to software.

The Purchaser shall take reasonable organisational measures to prevent illegal copying of the software delivered by ALSO. The Purchaser shall adhere to the instructions of the holder of rights to software in this regard.

## **13. Special liability and obligations of Purchaser**

By placing an order, the Purchaser confirms that he has received required permits from the respective producers for resale of the Products ordered from ALSO. The Purchaser further confirms that he adheres to the terms of resale of the producers.

The Products delivered by ALSO are meant to be used in the country agreed upon with the Purchaser (country of destination of the delivery) and are also meant to remain in the country of destination of the delivery. The re-export of the Products shall take place pursuant to the provisions of internationally coordinated export controls and if the Products have been imported from the United States of America, then pursuant to the US export controls. The Purchaser shall independently obtain information regarding the respective provisions of foreign trade and export coordination controls and independently obtain all the required licences from the respective foreign trade authorities before any re-export of the Products. The re-export of the Products delivered by ALSO shall take place at the Purchaser's risk, and the Purchaser shall obtain the respective permits and licences and complete customs formalities on his own account.

Should ALSO be sued or summoned to a court for the reason that the Purchaser has not obtained the permits or applicable export licences mentioned above, the Purchaser shall compensate ALSO for all the costs and damages caused to ALSO in relation to the court proceedings.

## **14. Confidentiality and data protection**

The Purchaser shall avoid disclosing the business information of ALSO, for example ALSO's price lists and information about pricing components, e.g. price reductions, bonuses, etc, and shall use the respective information only for the purpose of performing the agreement entered into with ALSO.

ALSO shall be entitled to use software that monitors the behaviour of the Purchaser in ALSO's electronic ordering environment (eLink) for the purpose of improving the quality of customer service. By such monitoring, ALSO gathers information regarding the operations carried out by the Purchaser in the ordering environment, including basket compilation, confirmation, cancellation, making purchases, etc. ALSO shall be entitled to contact the Purchaser on the basis of and with regard to the information gathered in the course of such monitoring with the purpose of finding out the reasons and considerations for the operations of the Purchaser. The Purchaser shall ensure that ALSO shall be entitled to process the personal data of the employees and representatives of the Purchaser who act in the ordering environment on behalf of the Purchaser in the course of such monitoring and for the purpose and to the extent described herein.

The Purchaser shall herein grant ALSO the permission to process personal data of certain data subjects in relation to whom the Purchaser is the data controller for the purposes of receiving, processing, fulfilment of orders (for the procurement of Products) placed by the Purchaser or to prepare such orders or ensure the fulfilment of such orders. ALSO has the right to process the foresaid personal data for the foregoing purposes for the fulfilment of the current agreement and any other agreement concluded between the Parties or to ensure the fulfilment of those agreements. ALSO is processing non-sensitive personal data of the following data subject categories for the foregoing purposes: the employees of the Purchaser, any contact persons/representatives provided by the Purchaser, end users of the Products. ALSO shall be deemed as a data processor in relation to processing of the personal data of the foregoing data subjects. The current section of the agreement is construed in accordance of Article 28 of the Regulation (EU) 2016/679 of the European

Parliament and of the Council of 27 April 2016 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 the GDPR), forming a data processing agreement between the Parties.

ALSO is processing the personal data referred to above using automated (via IT-systems, eLink, etc.) and non-automated (if necessary, documents in paper format or relevant copies) means. In order to fulfil or ensure the fulfilment of the purposes stated herein, the Purchaser shall grant ALSO the permission to transfer and disclose the personal data to third persons, including, but not limited to, the producers of the Products, service providers and insurance providers. The Purchaser shall ensure, and be respectively be liable, that all the affected data subjects have been duly informed of such disclosure and transfer and all the necessary consents and permissions have been obtained from them, including the necessary notices have been provided to them.

ALSO shall process the personal data as long as the Purchaser is purchasing or using the Products or there are any other contractual of statutory obligations between the Parties or applicable towards the Parties. In the aforementioned case, ALSO may retain the respective personal data until the end of the statutory retention periods or until no legal actions can no longer be brought on the basis of such obligations.

Under the agreement ALSO and the Purchaser agree that ALSO shall:

- 1) process the personal data solely on behalf of the Purchaser, on the basis of reasonable instructions (in the extent it is possible by the Purchaser to give such instructions) given by the Purchaser, in accordance with the legislative acts governing the processing of personal data and this agreement;
- 2) in case the Purchaser issues any instructions to ALSO and such instructions are in accordance with the delivery of the Products, ALSO shall process the personal data only on such documented instructions given by the Purchaser, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by European Union or Estonian laws to which ALSO is subject to;
- 3) as an exception to the previous section 2), ALSO shall have the right to disclose or transfer personal data to third countries or outside of the European Union or the European Economic Area, provided that appropriate safeguards, as stated in Chapter V of the GDPR, are in place or an adequacy decision has been adopted in relation to the data importing country by the European Commission;
- 4) ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- 5) take all security measures required, including the measures stipulated in Article 32 of the GDPR;
- 6) assist within reasonable means, taking into account the nature and processing activities, the Purchaser by appropriate technical and organisational measures for the fulfilment of the Purchaser's obligation to respond to requests for exercising the data subject's rights laid down in the obligations in Chapter III of the GDPR;
- 7) assist the Purchaser in ensuring compliance with the obligations laid down in the Articles 32-36 of the GDPR, to the extent that is reasonable, relevant and not unreasonably burdensome;
- 8) delete or return all the personal data to the Purchaser after the end of the delivery of the Products at the choice of the Purchaser, and delete existing copies to the extent the laws of European Union or Estonia give ALSO the right to further storage the personal data;
- 9) maintain the data processing registry as required under Section 2 of Article 30 of the GDPR;
- 10) upon a prior notice of 15 business days, shall make available to the Purchaser all information necessary to demonstrate compliance with the obligations deriving from the agreement and the GDPR, and contribute to audits, including inspections, conducted by the Purchaser or auditor mandated by the Purchaser. The Purchaser shall cover the expenses relating to the aforementioned audit and informs ALSO about the audit at least 15 business days in advance.

In case the application of the foregoing measures and the fulfilment of the foresaid obligations shall cause ALSO to bear excessive expenses, which shall substantially exceed the economic benefits deriving from the agreements concluded between ALSO and the Purchaser, ALSO has the right, subject to the prior notification to the Purchaser, to demand monetary compensation for the application of the respective measures.

ALSO shall notify the Purchaser promptly, but not later than within 48 hours:

- 1) after becoming aware of a personal data breach, which affects the personal data received from the Purchaser; or
- 2) if in ALSO's opinion an instruction given by the Purchaser infringes the GDPR or other legislative acts governing the processing of personal data. Simultaneously and if possible, ALSO will inform, to what extent the instruction received is infringing the foregoing legislative acts and how the instruction should be amended to ensure compliance with the legislative acts.

ALSO has the right to engage other processors for the delivery of the Products, in such case they will be deemed as the sub-processors of ALSO. If ALSO engages another processor, it shall:

- 1) engage processors, that provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR and the protection of the data subject's rights; and
- 2) make reasonable efforts to oblige such processor, through concluding a contract, to fulfil obligations equivalent to that agreed in this agreement.

ALSO shall notify the Purchaser, e.g. via its webpage, in case there are any changes to the sub-processors who are involved in the delivery of the Products to the Purchaser, giving the Purchaser the opportunity to object to such changes. In case the Purchaser is not content with the foregoing changes, ALSO has the right to cease the delivery of the Products to the Purchaser and terminate the agreement, provided that not introducing such changes would make it impossible to deliver the Products to the Purchaser or the cost of the delivery would increase or be deemed unreasonable from the point of view of the business perspectives of ALSO.

ALSO has also the right to process the personal data, in anonymised form, for any statistical purposes.

### **15. Force Majeure**

ALSO shall not be liable for a default if the default is excused, i.e. was caused by Force Majeure. Force Majeure means circumstances which were beyond the control of ALSO and which, at the time when the Agreement was entered into, ALSO could not reasonably have been expected to take into account or avoid or overcome the impediment or the consequence thereof. A strike or a lockout shall be deemed to constitute Force Majeure also in case ALSO itself is the object thereof or a participant therein. The Force Majeure affecting a subcontractor or other contractual partner of ALSO is deemed to constitute a basis for releasing ALSO from liability provided that the subcontracting or the product or service cannot be obtained from any other source without excessive expenses or substantial loss of time. ALSO shall inform the Purchaser promptly about Force Majeure and termination of Force Majeure.

### **16. Disputes**

These terms of delivery and the agreements between the Purchaser and ALSO are governed by Estonian law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) and the related implementing regulations shall not be applied.

Disputes between the Parties shall be resolved in Harju County Court as the court of first instance. ALSO shall still be entitled to refer a dispute to the court competent in the location of the Purchaser.

ALSO reserves the right to amend or supplement these Delivery Terms at any time. Amendments to the Terms shall not affect the Sale Agreements entered into before the entry into force of the amendments, and such Sale Agreements shall be governed by the version of the Delivery Terms that was valid at the moment of entering into the Sale Agreements. The valid version of the Delivery Terms is available at the website [www.also.ee](http://www.also.ee).

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ALSO Estonia General Terms and Conditions 2021