

## GENERAL SALES CONDITIONS

### EXHIBIT A

General Sales Conditions of Moser Baer India Ltd.

The following General Sales Conditions are part of and applicable to each and every Agreement ("Agreement") between Moser Baer India, a company incorporated and existing under the laws of India, and the customer ("Customer"), on the basis of which Moser Baer India Ltd. sells goods, to the Customer.

#### A. General

1. The following General Sales Conditions are part of and applicable to all the offers and agreements of Moser Baer India Ltd. and the performance thereof, unless Moser Baer India Ltd agrees in writing that the General Sales Conditions shall not apply, in whole or in part, to an offer or agreement.
2. Except where otherwise provided herein, any references to any number of days shall mean calendar days inclusive of national holidays.
3. Moser Baer India Ltd. strives for accuracy in all price lists, price quotations, brochures, order confirmations, invoices and other information provided by Moser Baer India ; however, Moser Baer India Ltd. shall not be responsible or liable for any misstatement, typographical error or other similar error under good faith made by Moser Baer India Ltd .or a representative of Moser Baer India, which the customer knew or should have reasonably known was a misstatement, typographical error or other similar error.
4. Terms and conditions of Customer shall not apply to the Agreement unless agreed upon by Moser Baer India Ltd .in writing.
5. In the event that the Agreement is executed in more than one language, the English language version shall prevail in the case of any discrepancy.

#### B. Offers and Agreements

1. Moser Baer India's offers shall not bind Moser Baer India Ltd. and may be revoked at any time by Moser Baer India Ltd. prior to full and unconditional acceptance of such offer by Customer, unless Moser Baer India Ltd. explicitly agrees that such offer is irrevocable for a certain period of time.
2. Customer and Moser Baer India Ltd. will have entered into an Agreement only if Moser Baer India:
  - a. confirms after receiving the order or commences with carrying out the order; or
  - b. if otherwise stated in these General Sales Conditions.

The order confirmation is deemed to correctly and completely reflect the Agreement subject to Article A.3., unless Customer provides written objection to Moser Baer India Ltd. regarding such order confirmation within seven (7) days of the order confirmation.

3. Any subsequent supplementary agreements or alterations shall bind Moser Baer India Ltd. only if these have been confirmed by Moser Baer India Ltd. in writing.
4. For deliveries for which no written offers or order confirmations are sent, the invoice for such deliveries will be considered as an order confirmation that, subject to Article A.3., is also deemed to correctly and completely reflect the Agreement.

#### C. Prices

1. Unless Moser Baer India Ltd. otherwise agrees in writing, all prices are quoted subject to price changes.
2. Unless Moser Baer India Ltd. otherwise agrees in writing, all prices are exclusive of V.A.T., sales tax, or any other levies imposed by the authorities.
3. Unless Moser Baer India Ltd. otherwise agrees in writing, the price for ordered goods shall be the price mentioned in the Moser Baer India Ltd. price list in effect at that time.

#### D. Delivery

1. Delivery terms will be agreed upon, in writing, on a customer-by-customer basis in conformity with the INCOTERMS, as published by the International Chamber of Commerce and in force on the date the Agreement was concluded.
2. The delivery term shall take effect on the date when the Agreement has been concluded. If prepayment or a down payment has been stipulated, then the delivery term shall not take effect until the receipt of the complete down payment or prepayment.
3. Customer shall promptly inspect delivered goods and shall notify Moser Baer India Ltd. in writing within fourteen (14) days of delivery of any non conformance of or damage to the delivered goods. Failure of Customer to promptly notify MBIL of any non conformance of or damage to the delivered goods shall be a waiver of Customer's rights in this respect.
4. Moser Baer India Ltd. may deliver by installments and invoice separately for each installment, which invoices Customer must pay in accordance with Article J.
5. Unless Moser Baer India Ltd. agrees otherwise in writing, indicated delivery times shall not be considered as a deadline but as an approximate date of delivery. The non-observance of the delivery date by Moser Baer India Ltd. cannot be invoked by Customer to enter a claim for damages, interests or cancellation of the Agreement or the order unless Moser Baer India Ltd. has agreed to deliver the goods on a specific delivery date.
6. Customer shall take delivery of the goods in accordance with the agreed upon INCOTERMS. If Customer fails to take receipt of the goods when such goods are presented for delivery by Moser Baer India Ltd. or a representative of Moser Baer India , then the goods will be stored (for Customer's account and risk) while being available to Customer, notwithstanding the right of Moser Baer India Ltd. to claim damages or cancel the Agreement. After a period of four (4) weeks, Moser Baer India Ltd. may sell these goods in a manner it deems appropriate. Any deficiency between the proceeds of such sale, less additional costs related to such sale, and the amount due from Customer under the Agreement will be for Customer's account and risk without prejudice to Moser Baer India's rights.

#### E. Transport/ Risk of Loss

1. If Customer has not provided Moser Baer India Ltd. with any specific instructions, the manner of transportation, forwarding, packaging and the like, then these terms will be determined by Moser Baer India. Any specific instruction of Customer concerning the manner of transportation, forwarding, packaging and the like will only be used by Moser Baer India Ltd. if Customer confirms that Customer will bear any additional costs thereof.
2. Risk with respect to all goods supplied to the Customer, shall pass to Customer upon delivery.

#### **F. Force Majeure**

1. Neither party shall be liable to the other for its failure to perform any of its obligations under the Agreement during any period in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to fire, flood, war, embargo, strike, act of God, inability to secure materials and transportation facilities, continued default on the part of suppliers, or the intervention of any governmental authority, in each case not otherwise invoking a breach of the Agreement.
2. If a party's performance is delayed as described under article F.1. for more than sixty (60) days the other party may terminate the Agreement immediately upon written notice.

#### **G. Limited Warranty and Liability**

1. Moser Baer India Ltd. warrants that its goods (excluding data recorded on it) are free from defects in the material and the workmanship at the time of delivery.
2. Unless otherwise specified in writing by Moser Baer India, if within ninety (90) calendar days from the date of delivery, Moser Baer India Ltd. is notified by Customer of goods that are found to be defective in material or workmanship, Moser Baer India's entire liability shall be limited to, at Moser Baer India's option, either:
  - a. repair,
  - b. replacement of the defective good(s), or
  - c. refund of the purchase price of each defective good within a reasonable time after Moser Baer India's receipt of written notification of the defect and the returning of the defective good to Moser Baer India.
3. This warranty does not apply to failure of the goods resulting from Customer's misuse, abuse, neglect or mishandling, improper adjustments, incorrect environments, or normal wear from ordinary use.
4. Except for mandatory laws with respect to liability, Moser Baer India Ltd. shall not under any circumstances be liable for any indirect, incidental, special or consequential damages, including, but not limited to, loss of profits, revenue or business or any damages whatsoever.
5. In the event of any levies of importation /Sale etc including 'music levies' on sale of goods in countries, e.g. levy in Netherlands and GEMA levy in Germany, the Purchaser shall have the sole responsibility of obtaining the required clearances, and pay taxes or charges.
6. Consignee/Buyer is liable to provide proof of custom clearance within the validity of the issued T1/EX A document, latest ten working days after pick up from named MBIL warehouse. In case of non compliance, Moser Baer India Ltd., Den Haag is bound by law to clear the goods for import, pay any import duty or carry out any import customs formalities. The levied tax and all incurred charges will be for consignee's /buyer's account and invoiced accordingly. MBIL, Den Haag reserves the right to refrain from succeeding DAP / FCA MBIL bonded warehouse sales.
7. It is the Customer's responsibility to ensure that the goods are suitable for the purpose to which they are intended to be used. No representation or warranty is given as to the suitability or fitness of the goods for any particular purpose and the Customer shall satisfy itself in this respect and shall be totally responsible therefore. If the Customer has any specific requirements for the use of the goods the Customer must notify these requirements to Moser Baer India in writing before purchasing the goods. If the Customer is unsure as to the suitability of any goods for a particular purpose it should consult the Moser Baer India prior to purchase.

#### **H. Complaints**

1. Without prejudice to other provisions in these General Sales Conditions, all complaints shall be lodged with Moser Baer India Ltd. in writing within ninety (90) days after delivery of goods. Any complaint(s) must accurately describe the nature and the grounds for the complaint(s). For invoices, a term of fourteen (14) days after the invoice date shall apply.
2. After the expiry of the above terms, the Customer is deemed to have accepted the delivered goods or the invoice as the case may be. Any complaints after the expiry of the above terms, will not be handled by Moser Baer India.
3. Pending any investigation to be carried out by Moser Baer India, the Customer shall store the goods or, if Moser Baer India Ltd. should request, return such goods to Moser Baer India. The goods shall be stored or transported at the Customer's risk unless agreed otherwise by Moser Baer India Ltd. in writing.

#### **I. Retention of title**

1. Customer will not receive title to any good until Customer has paid, in full, the purchase price and all other related charges with respect to such good.
2. As long as legal title has not been transferred to Customer, Customer is prohibited from granting to a third party any security or other interest in the goods, except to the extent that the sale or transfer of the goods is conducted in the normal course of business.
3. If Customer should fail to fulfill his payment obligations towards Moser Baer India, or if Moser Baer India Ltd. reasonably fears that Customer will fail to fulfill such obligations, Moser Baer India Ltd. shall be entitled (and irrevocably authorized by Customer) to repossess the delivered goods subject to retention of title. After repossession, Customer will be credited for the market value of the repossessed goods, which will not, at any rate, be higher than the original purchase price, less any costs involved in the repossession.

#### **J. Payment by the Customer**

1. Payment for the goods shall be effected within thirty (30) days after date of invoice in net cash, or by a transfer to a bank (without any deduction, set-off, or settlement of debt) or by any other method of payment indicated by Moser Baer India. The date of actual cash payment or the date of payment indicated in Moser Baer India's bank, shall be considered as the payment date of the applicable invoice. Customer is not entitled to set-off.
2. Any payments effected by Customer shall always first serve to settle any interest and costs payable, and then the oldest invoices outstanding even if Customer claims that the payment relates to a later invoice.

#### **K. Default by Customer**

1. Notwithstanding Moser Baer India's rights arising under the Agreement, or arising from law, Moser Baer India Ltd. is at any time entitled to consider the Agreement to be dissolved, without the need for declaring Customer in default or the need for any judicial intervention, or to suspend its obligations or to fully demand any amount payable by Customer and to repossess or cause to be repossessed anything that has been delivered but not yet been paid for:

- a) if Customer is declared bankrupt or initiates bankruptcy proceedings; cedes its property; applies for or is granted a moratorium of payment; or loses a considerable portion of his property by seizure or forfeiture;
- b) if Customer should cease or be placed under legal restraint;
- c) if Customer does not perform any of its material obligations arising under the Agreement, or arising from law;
- d) if Customer should cease or transfer his business or a considerable part thereof including contributing his business towards a company to be formed or already existing, or should change the purpose of his business.

**L. Interest and Costs**

1. If payment has not been effected within the terms as set forth in Article J.1., then Customer is legally in default and owes interest in the amount of 1.5% of the outstanding amount per month (or part thereof) as from the due date.
2. In the event that Customer fails to comply with any obligation under the Agreement, Customer shall, in addition to any other remedy sought, be required to pay all collection costs, including legal fees and expenses for internal and external advise, which collection costs shall be deemed to be equal to at least fifteen percent (15%) of the outstanding invoice amount. Customer shall pay the actual collection costs in the event such actual collection costs are higher than fifteen percent (15%) of the outstanding invoice amount.

**M. Indemnification**

1. Customer shall indemnify Moser Baer India Ltd. for any damage Moser Baer India Ltd. may suffer as a result of the claims of third parties that pertain to goods delivered by Moser Baer India , including, but not limited to:
  - claims of third parties or employees of Moser Baer India Ltd. pertaining to damages suffered in the performance of the Agreement that are a result entirely or part of the misfeasance or nonfeasance of Customer or of unsafe conditions in its company;
  - claims of third parties or employees of Moser Baer India Ltd. suffering damages that are the result of a defect in goods delivered by Moser Baer India Ltd. which Customer has used, modified or resold with additions or in connection with the goods of Customer, unless Customer proves that such defect is not a result of the aforesaid use, modification or re-sale.

**N. Intellectual property rights**

1. Moser Baer India Ltd .is entitled to all intellectual property rights related to Moser Baer India's goods, by ownership or by license, and nothing in the Agreement or under these General Sales Conditions may be construed as the granting of a license to the Customer under any intellectual property right, directly or indirectly.
2. Without the prior written approval of Moser Baer India, the Customer shall not modify or alter the goods or their packaging and shall not add its own trademarks or trade names or make other modifications to Moser Baer India's packaging or goods or otherwise infringe or harm Moser Baer India's intellectual property rights.

**O. Miscellaneous**

1. Customer shall not assign or delegate its rights or delegate this Agreement or any of its rights or duties under this Agreement without Moser Baer India's prior written consent, which consent shall not be unreasonably withheld.
2. If any article, term, provision or clause in this Agreement is found or held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, the remainder of this Agreement shall be valid and enforceable and Moser Baer India Ltd. and Customer shall negotiate in good faith, a substitute, valid and enforceable provision that most nearly reflects the original intent of Moser Baer India Ltd .and Customer in entering into this Agreement.
3. All Moser Baer India's offers and Agreements, and the performance thereof, and any questions, claims, disputes or litigation concerning or arising from the Agreement, shall be governed and construed in accordance with and subject to the laws of India, excluding the International Convention on the Sale of Goods.
4. With respect to the interpretation of international commercial terms, the latest confirmed "INCOTERMS". All disputes that might arise between Customer and Moser Baer India Ltd. shall be settled by the Courts of New Delhi. Any dispute, controversy or claim arising out of or relating to the goods validity, interpretation, breach thereof ("Dispute"), including claims seeking redress or asserting rights under applicable law, shall, be resolved and finally settled in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 as may be amended from time to time or its re-enactment (the "Arbitration Act").
5. Unless Moser Baer India Ltd. otherwise agrees in writing, all prices are exclusive of V.A.T., sales tax, or any other levies imposed by the authorities.

**Accepted:**

**Date:**.....

**Place:**.....

**By:**.....

**Name - - Designation -**

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**Authorised Signature - - company stamp -**