

## **BISLY OÜ GENERAL TERMS AND CONDITIONS CONCERNING THE SALE OF HARDWARE**

Version HWGTC-030325-V1, effective from 03.03.2025

These Bisly OÜ General Terms and Conditions concerning the Sale of Hardware ("**Hardware Sale Terms**") apply to all sales of Hardware (as defined below) by Bisly OÜ, a limited liability company organised under the laws of the Republic of Estonia with registry code 12198160 and with its registered address at Volta 1, 10412 Tallinn, Republic of Estonia ("**Bisly**") to a buyer ("**Buyer**") under a relevant accepted purchase order or other contract for the purchase of Hardware ("**Contract**"). These Hardware Sale Terms only govern sales to entities, and do not govern sales to consumers.

These Hardware Sale Terms are incorporated into and form an integral part of all Contracts (as defined below) between Bisly and the Buyer.

These Hardware Sale Terms only apply towards entrepreneurs [*Unternehmer*] as defined in § 14 German Civil Code [*BGB*], legal entities under public law [*juristische Personen des öffentlichen Rechts*] or special funds under public law [*öffentlich-rechtliche Sondervermögen*]. By purchasing Hardware from Bisly, the Buyer acknowledges and agrees to be bound by these Hardware Sale Terms.

Notwithstanding any terms and conditions of the Buyer that may be in conflict with or contrary to these Hardware Sale Terms, the Hardware Sale Terms set forth herein shall prevail and supersede any and all such conflicting or contrary terms and conditions of the Buyer. This includes, but is not limited to, any terms and conditions that may be contained in any purchase order, confirmation of order, or other documentation provided by the Buyer. The acceptance of any order by Bisly does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Hardware Sale Terms.

### **1. DEFINITIONS**

For the purposes of these Hardware Sale Terms and each Contract, the following terms shall have the meanings set forth below:

- 1.1. **Affiliate** – any person, firm or corporation which directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of or with Bisly or the Buyer accordingly, whereas control shall be defined as having the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the relevant person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto;
- 1.2. **Bisly** – Bisly OÜ, a limited liability company organised under the laws of the Republic of Estonia with registry code 12198160 and with its registered address at Volta 1, 10412 Tallinn, Republic of Estonia;
- 1.3. **Buyer** – any person (excluding consumers) purchasing Hardware from Bisly under a Contract;
- 1.4. **Contract** – an agreement in respect of an individual order of Hardware, governed by these Hardware Sale Terms and the specifications agreed upon either in a purchase order or in an Order Form. A Contract is deemed formed as regulated in Section 2.1 of these Hardware Sale Terms;
- 1.5. **Force Majeure** – as defined in Section 11 of these Hardware Sale Terms;
- 1.6. **Hardware** – any products offered for sale by Bisly in relation to its building automation system, including hardware, accessories, components, and devices;
- 1.7. **Hardware Sale Terms** – These General Terms and Conditions for the Sale of Hardware;
- 1.8. **License** – as defined in Section 8.1 of these Hardware Sale Terms;
- 1.9. **Order Form** – a form for ordering Hardware, as established by Bisly;

- 1.10. **Party and Parties** – the Buyer and Bisly, individually each a "**Party**" and collectively the "**Parties**;"
- 1.11. **Reseller Agreement** – a framework agreement between Bisly and the Buyer under which the Buyer acts as Bisly's authorised reseller of Hardware, Licenses, and associated services;
- 1.12. **Software** – as defined in Section 8.1 of these Hardware Sale Terms;
- 1.13. **Warranty Period** – as defined in Section 9.1 of these Hardware Sale Terms.

## **2. FORMATION OF CONTRACT**

- 2.1. A Contract for the sale of Hardware between Bisly and the Buyer is deemed formed and in force if the Buyer has (i) presented Bisly with a filled out and signed Order Form, and Bisly has at least in e-mail form confirmed accepting the order contained in the Order Form; or (ii) the Buyer has in the framework of a Reseller Agreement issued a purchase order to Bisly including Hardware, and Bisly has accepted such purchase order in compliance with the terms and conditions of the Reseller Agreement. To avoid confusion, the lack of confirmation by Bisly is in no case regarded as acceptance of the order contained in the Order Form. The signing of an Order Form by the Buyer, and the subsequent acceptance of the Order Form by Bisly, or the acceptance by Bisly of a purchase order in the framework of a Reseller Agreement, is regarded as an acceptance by both Parties of these Hardware Sale Terms as the governing document over any other conflicting or additional terms and conditions of the Buyer. Each Contract is governed by these Hardware Sale Terms and the specifications agreed upon in the Order Form or the accepted purchase order. In case of Conflict between these Hardware Sale Terms and the agreements in an Order Form or the purchase order, the terms in the Order Form or the purchase order prevail.
- 2.2. Bisly reserves the exclusive right to determine the range and type of products offered for sale, including the right to add, modify, or discontinue any of the Hardware at its sole discretion. Furthermore, Bisly retains the sole authority to establish and modify the terms of sale for the Hardware. This includes, but is not limited to, pricing, payment terms, delivery conditions, warranties, and any other terms pertinent to the sale and distribution of the Hardware. Bisly may revise these terms at any time, and such revisions will be applicable to any orders placed subsequent to the date of revision.
- 2.3. The content presented in Bisly's materials (e.g. catalogues, brochures, and any other forms of advertising or promotional materials) is intended for general informational purposes and does not constitute a binding offer, unless explicitly referenced or incorporated in the Contract.
- 2.4. The Buyer bears full responsibility for the precision and accuracy of any information and materials (e.g. dimensions, plans, drawings) provided to Bisly. Additionally, the Buyer is responsible for ensuring that these materials comply with technological requirements and applicable laws and regulations. In the event of any inaccuracies, errors, technical flaws, or non-compliance with applicable laws and regulations in the information provided by the Buyer, it shall solely bear the consequences and any adverse effects arising from such incorrect or flawed information. The Buyer's responsibility extends to all aspects of the provided specifications, including but not limited to their accuracy, technical viability, and suitability for the intended purpose.
- 2.5. Bisly assumes and the Buyer undertakes to ensure that the persons presenting themselves as the Buyer's representatives in the context of the conclusion and performance of a Contract have all the necessary authorisations to carry out the relevant actions on behalf of the Buyer (including the conclusion of the Contract, acceptance of the Hardware, etc.). The Buyer shall be liable for the acts and omissions of its agents as if they were its own acts and omissions.
- 2.6. By entering into a Contract, each Party warrants to the other that: (i) It is a duly incorporated, validly existing, and good standing business under the laws of its jurisdiction of incorporation; (ii) it possesses all necessary corporate power, financial capacity, and authority to execute, deliver, and fulfil its obligations thereunder; (iii) the execution, delivery, and performance of its obligations therein are legally valid,

binding, and enforceable for the Party; (iv) there is no litigation, arbitration, or dispute involving the Party that, if resolved unfavourably, could materially affect its ability to meet its obligations thereunder; (v) no external consent, approval, or non-objection is needed from any party, including government entities, for the Party to enter into a Contract.

### **3. PAYMENT TERMS**

- 3.1. The Buyer is obligated to pay for the Hardware as agreed in the relevant Contract. Unless agreed otherwise, all payments for Hardware shall be made in advance, i.e. prior to any shipments.
- 3.2. The Buyer is responsible for all costs associated with the delivery of the Hardware, including but not limited to transportation, packaging, freight, insurance charges, customs duties, fees, and other charges, unless agreed otherwise by the Parties under the relevant Contract. The Hardware will be insured only upon Buyer's express request and at its expense.
- 3.3. The payment for the Hardware shall be due on the date indicated on the invoice issued by Bisly. A payment is considered received when credited to Bisly's account.
- 3.4. All payments shall be made in Euros, via bank transfer to the account indicated on the invoice. All prices on the invoice are exclusive of VAT and any other applicable taxes or charges. The Buyer shall bear all bank charges associated with the transfer.
- 3.5. If the Buyer fails to make payment under a Contract by the due date, Bisly may in addition to other remedies provided by applicable law: (i) charge interest on the overdue amount of 9 percentage points above the base interest rate of the ECB; (ii) demand the reimbursement of costs related to debt collection; (iii) suspend the delivery of the Hardware until full payment is received; (iv) terminate the Contract with immediate effect as set out in Section 11.1.1 of these Hardware Sale Terms, and seek compensation for any losses incurred.
- 3.6. The Buyer is obligated to make all payments in full without any deductions, set offs, or counterclaims, unless such claims are acknowledged in writing by Bisly or finally determined by a competent court.
- 3.7. Bisly reserves the right to assess the Buyer's creditworthiness. Based on this assessment, Bisly may modify the payment terms, require additional advance payment, or request other forms of security prior to entering into a Contract. In the event that there is a considerable deterioration in the Buyer's financial situation subsequent to the execution of a Contract, Bisly reserves the right to declare all outstanding invoice amounts as immediately payable, require the Buyer to make advance payments, provide security deposits for any pending or future transactions, or to unilaterally terminate the relevant Contract and all other Buyer's Contracts with regard to such pending or future transactions.

### **4. DELIVERY**

- 4.1. Bisly shall make all reasonable efforts to meet the estimated delivery period, however any delivery dates provided by Bisly are non-binding and only indicative, unless agreed otherwise. In any case, Bisly may extend these delivery dates by up to 8 weeks beyond the initially agreed or estimated delivery time without incurring any liability. Bisly will notify the Buyer of any changes to the delivery date as soon as practicable. Bisly shall not be liable to the Buyer, nor be deemed to be in breach of a Contract, for any delay in delivery of the Hardware that is caused by events of Force Majeure.
- 4.2. The delivery of Hardware may be suspended until all technical and commercial delivery issues have been resolved and Bisly has provided all information required for the delivery.
- 4.3. In the event that delivery of the Hardware or performance of any Contract becomes impracticable or impossible due to challenges such as difficulties in delivery, price increases from suppliers, or issues at the production level, Bisly reserves the right to terminate such Contract.

4.4. Bisly may, at its discretion, make partial deliveries of the Hardware and invoice each partial delivery separately. The Buyer shall accept such partial deliveries and pay for them in accordance with the terms of the relevant Contract.

4.5. The risk of loss or damage to the Hardware shall be transferred from Bisly to the Buyer at the moment the Hardware are dispatched from Bisly's premises or picked up by the Buyer (or their agent or courier).

## **5. RETENTION OF TITLE AND OWNERSHIP**

5.1. Title and ownership to the Hardware shall remain with Bisly until Bisly has received full payment for the Hardware.

5.2. The Buyer assumes all risks for the Hardware under retention of title, particularly risks of destruction, loss, or damage. The Buyer is required to adequately insure the Hardware against all standard business risks until transfer of ownership to the Buyer.

5.3. During the period of retention of title, pledging or transferring the Hardware as security to third parties without Bisly's explicit written consent is prohibited. Bisly must be immediately informed of any third-party seizures.

5.4. The Buyer may use the Hardware in the ordinary course of business. However, until full payment is made to Bisly, the Buyer assigns to Bisly all rights and claims arising from such use (e.g. any fees in relation to resale of the Hardware or the provision of services with the Hardware).

5.5. If the Hardware are processed, combined or mixed with items from third parties, Bisly shall acquire co-ownership of the resulting product in the ratio of the value of Bisly's Hardware to the third-party Hardware. Should the Hardware become an inseparable part of a third party's property, the Buyer will assign all resultant claims against the third party to Bisly, to the extent of the value of Bisly's Hardware.

5.6. In case the retained Hardware are returned to Bisly, Bisly will be reimbursed the price of the Hardware, taking into account their depreciation. Minimum depreciation shall no case be deemed less than 20% of the price of the Hardware.

5.7. The Buyer agrees to notify Bisly before initiating any insolvency proceedings, enabling Bisly to retrieve the retained Hardware.

## **6. ACCEPTANCE OF HARDWARE AND INSPECTION**

6.1. Upon delivery, the Buyer is obligated to promptly accept the Hardware. Acceptance shall be deemed to have occurred when the Hardware have been delivered to the designated location and the Buyer has confirmed receipt, either in writing or through conduct implying acceptance. In any case, the Hardware shall be deemed accepted as of the passing of 14 days from the dispatch of the Hardware in case the Buyer has not notified Bisly of the non-receipt of the Hardware.

6.2. If the Buyer fails or delays to accept delivery of the Hardware as per the agreed terms, Bisly is entitled to store the Hardware at the Buyer's risk and expense. Any additional costs arising from the Buyer's failure or delay in acceptance, including but not limited to repeated delivery attempts or alternative transportation arrangements, shall be borne by the Buyer. Should the Buyer fail to accept the Hardware within a reasonable remedy period of 10 days, Bisly may terminate the Contract as set out in Section 11.1.1 of these Hardware Sale Terms and as a contractual penalty retain any payments made by the Buyer as compensation for incurred costs.

6.3. The Buyer is expected to inspect the Hardware immediately upon receipt. Any claims for defects or discrepancies must be reported to Bisly in writing within 7 days of delivery, or, in case of hidden defects, immediately after such hidden defects should have been discovered but not later than within 2 months as of delivery. Any notification of defects by the Buyer must be substantiated with a detailed explanation and supported by relevant evidence, such as certificates, reports, or other documentary proof that

adequately demonstrates the nature and extent of the defects. Failure to duly notify within the above periods constitutes acceptance of the Hardware.

## **7. INTELLECTUAL PROPERTY**

- 7.1. All intellectual property rights in and to the Hardware, including but not limited to any designs, inventions, discoveries, patents, trademarks, copyright material, or trade secrets contained in or related to the Hardware, are and shall remain the sole and exclusive property of Bisly or respective third parties. This includes any intellectual property developed, created, or modified by Bisly in the course of fulfilling this Contract.
- 7.2. The Buyer agrees to refrain from any activities that may infringe upon Bisly's intellectual property rights, including unauthorized use, reproduction, or disclosure of any related intellectual property. The Buyer shall promptly notify Bisly of any unauthorized use or infringement of Bisly's intellectual property rights of which the Buyer becomes aware.

## **8. INTEGRATED USE OF HARDWARE AND SOFTWARE, LICENSE REQUIREMENTS**

- 8.1. The Buyer acknowledges and agrees that the functionality and performance of the Hardware purchased under a Contract are inherently dependent on and subject to the Buyer obtaining and maintaining a valid software and server infrastructure license ("**License**") for Bisly's proprietary building automation software platform ("**Software**"). This License and use of the Software is governed by a separate Software as a Service (SaaS) Agreement provided by Bisly, whereas Bisly shall also act as the licensor. The SaaS Agreement outlines the terms and conditions under which the Software and server infrastructure access is licensed to the Buyer and is essential for the operational functionality of the Hardware. Depending on the nature of the Buyer, the License may be provided for either personal use only or for resale if purchased in the framework of a Reseller Agreement.
- 8.2. If not otherwise agreed, the Buyer shall be liable for securing a License prior to the purchase of the Hardware or concurrently with the purchase of the Hardware. The operational functionality of the Hardware is contingent upon the activation and continued validity of the License. Failure by the Buyer to secure or maintain the License may render the Hardware inoperable and shall therefore not be deemed a defect in the Hardware, nor relieve the Buyer of their payment obligations under a Contract.

## **9. WARRANTIES**

- 9.1. Unless explicitly stipulated otherwise in the Hardware Sale Terms, Bisly provides the Hardware "as is", without any representations, warranties, or conditions of any kind. Bisly, along with its licensors and/or suppliers, expressly disclaim any representations, warranties, or conditions, whether express, implied, statutory, or otherwise, concerning the Hardware. This specifically includes disclaimers of any implied representations, warranties, or conditions related to merchantability, quality, non-infringement, durability, title, and fitness for a particular purpose.
- 9.2. Bisly warrants to the Buyer that all Hardware sold under Contracts will be free from defects in materials and workmanship for a period of 24 months ("**Warranty Period**") from the date of receipt of the Hardware by the Buyer. The warranty covers all defects in materials and workmanship in the Hardware that may arise under normal use and service conditions during the Warranty Period. During the Warranty Period, as an exclusive and sole remedy in case of defects in the materials and/or workmanship of the Hardware, Bisly will, at its discretion, repair or replace any Hardware proven to be defective due to materials or workmanship. Bisly may also decide to refund the purchase price of the Hardware if repair or replacement is not feasible or offer partial credit proportional to the extent of the defects.
- 9.3. The following cases are expressly excluded from the warranty coverage and shall not be considered defects in the Hardware:
  - 9.3.1. Normal wear and tear. Damages or defects resulting from ordinary usage over time;

- 9.3.2. Improper installation, use and maintenance. Any damages or defects arising from improper installation, use, mishandling, or failure to follow Bisly's care and maintenance instructions. This also includes damages resulting from accidents or negligence;
  - 9.3.3. Unauthorized alterations. Defects or damages caused by unauthorized modifications or repairs made by individuals or entities not approved by Bisly. The warranty becomes void in the event of such unauthorized alterations;
  - 9.3.4. Non-compliance with local standards. The Buyer is responsible for ensuring that the Hardware complies with standards and regulations in their location of use. Issues in compliance due to differing standards are not considered defects;
  - 9.3.5. Interoperability with third-party products. Bisly does not guarantee the interoperability of the Hardware with third-party products or systems, except for selected items which are procured exclusively through Bisly's cloud platform together with Bisly's hardware. Issues arising from such interoperability are not deemed defects;
  - 9.3.6. Technical and aesthetic variations. Minor technical deviations and aesthetic variations from specified dimensions, weight, quality, or colour that do not materially impact the Hardware's intended functionality are expected and not considered defects. This includes variations that may occur during the manufacturing process;
  - 9.3.7. Manufacturing tolerances. Variations within manufacturing tolerances that do not materially affect the performance or utility of the Hardware are not considered defects.
- 9.4. Any refunds (if applicable) to the Buyer will be calculated based on the original purchase price of the Hardware, adjusted for a reasonable fee for usage and diminished in value due to wear, damage, or any other factors that have reduced the Hardware's value since the time of purchase.
- 9.5. In case of a warranty claim, the Buyer is required to notify Bisly immediately in writing as of discovery of the defect and send the Hardware, at its own risk and expense, to Bisly with all relevant information regarding the relevant Contract and defects. The Buyer is solely responsible for any circumstances preventing the dispatch of Hardware to the Buyer and therefore hindering the processing of warranty claims (e.g. in case Hardware are located or part of third-party property).
- 9.6. The Buyer is required to notify Bisly in writing of any defects discovered in the Hardware within 30 days from the date the defect is discovered or should have reasonably been discovered by the Buyer. Failure to provide such notification within this 30-day period will result in the automatic voidance of the warranty.
- 9.7. In the event of entrepreneurial recourse (§ 445a German Civil Code *[BGB]*), it shall be presumed that there were no defects at the time of the transfer of risk to the Buyer if the Buyer has dutifully inspected the goods in accordance with this Section 6 but has not notified any defects, unless this presumption is incompatible with the nature of the item or the defect. If the Buyer asserts recourse claims, he must allow himself to be treated towards Bisly as if he had implemented all legally permissible contractual options towards his contractual partner (e.g. refusal of subsequent performance due to disproportionality or limitation of the reimbursement of expenses to a reasonable amount). Bisly is entitled to reject any of the Buyer's claims for recourse for defective goods with the exception of requests for new delivery of repaired or replaced goods, provided that Bisly grants the Buyer equivalent compensation for the exclusion of his rights. Bisly shall only be liable for compensation for consequential damage caused by a defect if Bisly is (jointly) responsible for the occurrence of the defect due to intentional or grossly negligent conduct. However, such recourse claims only exist insofar as the Buyer has not made any agreements with his customer that go beyond the statutory claims for defects. Claims from entrepreneurial recourse are excluded if the defective goods have been further processed by the Buyer or another entrepreneur, e.g. by incorporation into another product. The provisions of Section 10 shall apply to the extent of the recourse claims.

## **10. LIMITATION OF LIABILITY**

- 10.1. Bisly is not liable for damage caused by unsuitable or improper use, operation and/or installation, natural wear and tear, incorrect or negligent handling and/or storage of the Hardware.
- 10.2. Claims for damages and reimbursement of expenses by the Buyer (hereinafter "Claims for Damages"), irrespective of the legal grounds, in particular due to breach of obligations arising from the contractual obligation and from tort, shall only exist if Bisly or Bisly's vicarious agents have acted with intent or gross negligence. In the event of other negligence ("slight negligence"), Bisly shall only be liable for the breach of cardinal obligations (as defined below). In the event of a breach of cardinal obligations, liability shall be limited to the respective net purchase price of the relevant Hardware. In this context, a cardinal obligation is an obligation the fulfilment of which makes the proper performance of the contract possible in the first place and the observance of which the contractual partner regularly relies on and may rely on. In any case, in the event of slight negligence, liability for unforeseeable damage, indirect damage not relating to the delivered goods, consequential damage caused by defects, loss of profit and financial loss shall be excluded. This shall also apply in the event of a grossly negligent breach by simple vicarious agents (i.e. not legal representatives or executive employees).
- 10.3. Liability for injury to life, limb and health which is based on an intentional or negligent breach of duty by Bisly, one of Bisly's legal representatives or vicarious agents is expressly not excluded.
- 10.4. If Bisly has fraudulently concealed defects or has given guarantees irrespective of fault, the aforementioned limitation of liability shall also not apply. Mandatory claims under the Product Liability Act [*Produkthaftungsgesetz*] are also not excluded.
- 10.5. Any further liability for damages is excluded. Insofar as liability for damages against Bisly is excluded or limited, this shall also apply with regard to the personal liability for damages of Bisly's employed workers, employees, representatives and vicarious agents.
- 10.6. Except for the warranty set forth in Section 7 of these Hardware Sale Terms with regard to the materials and workmanship of the Hardware, Bisly disclaims all other warranties, express or implied, including, but not limited to, any implied warranties of merchantability or fitness for a particular purpose. The Buyer acknowledges that they have not relied on any representations or warranties regarding the Hardware other than those explicitly set forth herein.
- 10.7. In the case of § 438 para. 1 no. 3 German Civil Code [*BGB*], claims for defects of the Buyer shall become statute-barred within one year from the statutory commencement of the limitation period, unless Bisly has acted fraudulently. Claims under a right of recourse pursuant to Section 445b para 1 of the German Civil Code [*BGB*] shall become statute-barred within one year of acceptance of delivery. The suspension of the statute of limitations according to § 445b para. 2 German Civil Code [*BGB*] remains unaffected and ends at the latest five years after delivery. The aforementioned provisions on the limitation of recourse claims and on the suspension of expiry shall not apply if the last contract in the supply chain is a consumer goods purchase. The limitation period for claims for damages not resulting from claims for defects shall also be one year from delivery.
- 10.8. Bisly may refuse remedying defects until all outstanding obligations of the Buyer have been duly performed.

## **11. TERMINATION**

- 11.1. In addition to termination rights set out in other parts of these Hardware Sale Terms, Bisly may terminate a Contract with written notice to the Buyer under the following conditions, whereas Bisly shall not be liable for any loss, damage, or penalty as a result of exercising any of its right to terminate a Contract in accordance with the terms of the Contract:

- 11.1.1. If the Buyer fails to comply with any material terms of a Contract, including, but not limited to, failure to make timely payments if such delay exceeds 10 days or accept delivery of Hardware, and any such breach is not remedied within 10 days after receiving written notice from Bisly;
  - 11.1.2. If the Buyer becomes insolvent, declares bankruptcy, or enters into receivership;
  - 11.1.3. If continuing under a Contract would place Bisly in violation of any applicable laws, regulations, orders, or sanctions imposed by governmental authorities or international bodies. This includes, but is not limited to, changes in trade regulations, sanctions laws, or other legal restrictions that materially impact Bisly's ability to perform under a Contract;
  - 11.1.4. If a Force Majeure event as defined in Section 12 of these Hardware Sale Terms prevents Bisly from fulfilling its obligations under a Contract for a continuous period of 60 days;
- 11.2. The Buyer may terminate a Contract with written notice to Bisly:
- 11.2.1. If Bisly fails to deliver the Hardware within 75 days after the agreed delivery date, and such failure is not due to Force Majeure events as defined in Section 12 of these Hardware Sale Terms or the Buyer's actions or inactions or circumstances otherwise attributable to the Buyer, by which periods the delivery date shall be postponed;
  - 11.2.2. If Bisly becomes insolvent, declares bankruptcy, or enters into receivership;
- 11.3. Upon termination of a Contract for any reason: (i) all outstanding orders or deliveries shall be immediately cancelled, and, unless otherwise prescribed by the terms of the Contract, any prepayments made by the Buyer for undelivered Hardware shall be refunded, less any costs incurred by Bisly related to the preparation or production of such Hardware; (ii) the Buyer shall immediately pay all outstanding invoices and any other amounts owed to Bisly under the terms of the relevant Contract up to the date of termination. The termination of a Contract shall not affect any rights or obligations of the Parties that have accrued up to the date of termination.
- 11.4. The termination of a Contract under this Section 11 of these Hardware Sale Terms or any other Section of a Contract shall be without prejudice to any other rights or remedies a Party may have under a Contract or applicable law, e.g. claims for compensation of damages, subject to possible limitations arising from the relevant Contract.

## **12. FORCE MAJEURE**

- 12.1. For the purposes of the Contract, an event of "Force Majeure" refers to any occurrence beyond the reasonable control of either party, which prevents or substantially hinders the fulfilment of their contractual obligations. This includes, but is not limited to, natural disasters (such as earthquakes, floods, hurricanes), wars, terrorist acts, government actions or interventions, epidemics, pandemics, and other significant unforeseen events. An event of Force Majeure shall also include issues arising from Bisly's subcontractors that are beyond Bisly's control; interruptions or delays in transportation, including logistics constraints, shipping blockades, or transport network breakdowns, which affect the delivery of Hardware; unplanned stoppages or slowdowns in production processes, whether due to equipment failure, supply chain issues, or labour disputes, that delay or impede the manufacturing of Hardware.
- 12.2. The Party affected by a Force Majeure event shall promptly notify the other Party, detailing the nature of the event and its potential impact on their obligations.
- 12.3. Upon the occurrence of a Force Majeure event, the affected Party's performance under the Contract shall be suspended for the duration of the event. The time for performance will be extended for a period equal to the duration of the Force Majeure event.



### **13. CONFIDENTIALITY**

- 13.1. Confidential information refers to any non-public information disclosed by either Party to the other, whether orally or in writing, which is designated as confidential or that reasonably should be understood to be confidential given its nature and the circumstances of disclosure. This includes, but is not limited to, business and marketing plans, technical and technological information, product designs, customer and supplier information, and other proprietary knowledge.
- 13.2. Both Parties agree to maintain the confidentiality of all confidential information received from the other Party. They shall not disclose such information to any third parties without the prior written consent of the disclosing Party, except as required by law or to their employees, agents, or subcontractors who need to know such information for the purpose of performing their obligations under a Contract and who are bound by similar confidentiality obligations.
- 13.3. Each party agrees to take all reasonable steps to protect the other's confidential information from unauthorized use or disclosure.
- 13.4. Confidential Information does not include information that: (i) is or becomes publicly known through no fault of the receiving Party; (ii) is already in the possession of the receiving Party without confidentiality restrictions at the time of disclosure; (iii) is independently developed by the receiving Party without use of or reference to the disclosing party's confidential information; (iv) is rightfully received from a third Party without confidentiality obligations.
- 13.5. The obligation of confidentiality shall survive the termination of a Contract and remain in effect for a period of 3 years from the date of disclosure of the confidential information. Upon termination of a Contract, or upon the disclosing Party's written request, the receiving Party shall return or destroy all copies of confidential information, except as required to be retained by law.

### **14. PERSONAL DATA**

- 14.1. The processing of personal data in connection with the sale and purchase of Hardware under a Contract and with regard to matters related thereto is regulated in Bisly's current valid privacy policy available on Bisly's website.

### **15. NOTICES**

- 15.1. Unless specified otherwise in this Contract, all notices related to this Contract must be in English and made in writing which included e-mail form. The delivery of such notices is considered effective: (i) 5 business days following dispatch through registered mail; (ii) 1 business day after email transmission, or; (iii) immediately upon personal delivery or delivery by courier. Notices must be sent to the address or email designated by each Party for the relevant type of communication, subject to changes in contact details that have been duly communicated in line with the above. A "business day" within the meaning of this clause refers to any day other than a Saturday, Sunday, or a public holiday in Germany.

### **16. AMENDMENTS**

- 16.1. Bisly shall have the unilateral right to amend these Hardware Sale Terms at any time at its sole discretion. Bisly shall endeavour to notify the Buyer of any such amendments in a timely manner. Notification shall be deemed sufficient if provided through Bisly's website, general e-mail notification, or any standard communication method used in the ordinary course of business between Bisly and the Buyer. The Buyer acknowledges and agrees that it is their responsibility to review any updates or changes to the Hardware Sale Terms, ensuring they are informed of the latest terms governing their purchase.
- 16.2. Any amendments made to these Hardware Sale Terms after the conclusion of a Contract will not retrospectively affect the terms and conditions of such Contract. Any amendment to a Contract which has

entered into force shall only be valid and enforceable if it is made in writing and duly signed by authorized representatives of both the Parties.

#### **17. ENTIRE AGREEMENT**

17.1. A Contract constitutes the entire agreement and understanding between Bisly and the Buyer and supersedes all prior negotiations, discussions, agreements, and understandings, whether oral or written, between the Parties regarding the subject matter thereof. In case the Buyer is a resale partner of Bisly, such reseller agreement may foresee additional regulation concerning the sale and purchase of Hardware, whereas the regulation in such reseller agreement shall prevail over these Hardware Sale Terms.

#### **18. ASSIGNMENT**

18.1. A Contract and the rights and obligations thereunder are binding on the Parties. The Buyer may not, without prior written consent of Bisly, transfer or assign any of its rights and/or obligations hereunder to a third person. Bisly may transfer or assign a Contract or any rights or obligations hereunder to its Affiliates without consent of the Buyer.

#### **19. SEVERABILITY**

19.1. Should any provision of a Contract, or any part thereof, be declared void, invalid, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity or enforceability of the remaining provisions of the Contract. The remainder of the Contract shall continue in full force and effect, unaffected by such declaration.

19.2. In the event of any such determination, the Parties agree to negotiate in good faith to replace the invalid, void, or unenforceable provision with a valid and enforceable provision that most closely matches the economic intent and purpose of the original provision. If a mutually acceptable replacement provision is not agreed upon within a reasonable period of time, the provision that most closely approximates the economic effect and intent of the void or invalid provision shall automatically apply.

#### **20. GOVERNING LAW AND JURISDICTION**

20.1. These Hardware Sale Terms and all Contracts shall be governed by and construed in accordance with the laws of the Federal Republic of Germany with excluding the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the provisions of private international law. All parties agree to submit to the jurisdiction of the laws of the Federal Republic of Germany for the interpretation and enforcement of this these Hardware Sale Terms and all Contracts. The courts of Berlin, Germany shall have jurisdiction for any dispute arising out of or in connection with these Sale Terms or a Contract.