

General Terms and Conditions of Sale

SMAY sp. z o. o.

§ 1. General provisions

1. These General Terms and Conditions of Sale apply to all contracts of sale of Goods and provision of Services concluded by **Smay Sp. z o. o.** with its registered office in Podłęże 678, 32-003 Podłęże, registered in the Register of Entrepreneurs of the National Court Register (KRS) under number 000000007764, District Court for Kraków-Śródmieście, 12th Economic Division of the National Court Register, share capital PLN 50 000, NIP (tax number): 678-282-18-88, REGON: 356295933, hereinafter referred to as the Seller.
The terms used in these General Terms and Conditions of Sale mean:
 - a) GTCS – these General Terms and Conditions of Sale;
 - b) Seller – SMAY sp. z o. o. with its registered office in Podłęże 678, 32-003 Podłęże;
 - c) Purchaser- the Seller's contractor concluding an agreement with the Seller on the basis of GTCS, not being a consumer;
 - d) Goods - goods in the Seller's commercial offer; depending on the context in which they are used, the term "Goods" also includes Services or Work provided by the Seller;
 - e) Working hours - a period of 60 minutes on Mondays to Fridays between 8 a.m. and 4 p.m., except on bank holidays.
 2. The Parties may depart from the provisions of the GTCS or modify them by way of an "individual agreement" concluded in writing. The conclusion of the aforementioned agreement shall result in the exclusion of relevant provisions of the GTCS, in place of which the provisions of the new agreement between the Parties shall apply. The Parties shall remain bound by the provisions of GTCS in the remaining scope.
 3. Smay sp. z o. o. pursues its business objectives by concluding contracts with contractors who are not consumers within the meaning of Article 22¹ of the Polish Civil Code.
 4. Before placing an order, the Purchaser should provide the Seller with copies of registration documents confirming his status as an entrepreneur or another institution conducting business activity in order to demonstrate the possibility of concluding agreements with the Seller (entry in the business register or extract from the National Court Register, tax number certificate, and if the right to represent the Purchaser does not result from registration documents - also a document confirming the authorization of the person placing the order to represent the Purchaser in relations with the Seller, incurring obligations on his behalf and receiving the Goods).
 5. The parties of the Purchase Contract may agree that the sale of Goods offered by the Seller shall be carried out via the B2B Internet platform. The condition for using this form of shopping is signing a "Trade cooperation agreement via the B2B On-line Procurement System" with the Seller.
- b) Purchaser's designation, including tax number,
 - c) detailed description of the type and quantity of ordered Goods,
 - d) name, surname and signature of the Purchaser's representative, authorized to place orders.
2. The Seller sends an order confirmation by e-mail or fax within 48 hours (two working days). The Seller shall be entitled to make modifications and changes in relation to the order placed by the Purchaser, which shall be included in the order confirmation. The Purchaser shall accept an order confirmation received from the Seller within 24 hours (one working day) of receiving it. Failure by the Purchaser to respond to an order confirmation within 24 hours (one working day) of its dispatch by the Seller shall be deemed acceptance of the terms and conditions of the order as specified by the Seller.
 3. Acceptance of the order confirmation by The Purchaser or issuing an invoice by the Seller shall be tantamount to concluding by the Parties a purchase-sale agreement on the terms specified in GTCS and with the content specified in the order confirmation.
 4. Making changes to the accepted order confirmation or cancelling it on the Purchaser's demand is possible only when the production process of the ordered Goods is not that advanced to make the demanded changes impossible. The Seller first verifies the level of advancement of the production process and then informs the Purchaser about the possibility of changing the order. The minimum price for changing the accepted order confirmation is PLN 300.00 net and shall be borne by the Purchaser. The price may be higher depending on the type of change(s) made by the Purchaser and the stage of its implementation. The Seller informs the Purchaser about the final price for change(s) and, after its acceptance, will charge it to the Purchaser. The order delivery date starts anew after changes being made to the order. The above mentioned conditions do not apply to the orders carried out via the B2B Internet platform for which changes to the order are permitted within 30 minutes of placing the order.
 5. The Seller is entitled to change agreed sales dates and conditions and to withdraw from the sale, even after the order confirmation has been issued, but that is possible only in exceptionally justified cases, such as force majeure and other exceptional circumstances beyond the control of the Seller, resulting in the Seller's inability to comply with the terms of sale. In such a case, the Seller shall inform the Purchaser about his inability to complete the order and shall indicate new order delivery date or change other terms of sale.

§ 3. Price list and prices

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1. The Purchaser is obliged to deliver to the Seller the order of the Goods in writing - the fulfilment of this condition is also deemed to be met by sending the order by fax or e-mail. An order within the meaning of these GTCS constitutes an offer to conclude a purchase-sale agreement by the Purchaser.
The order should include:
 - a) order number,
1. Prices of Goods offered by Smay sp. z o. o. are determined by the Seller.
 2. All prices listed in the "Price List" are net prices (excluding VAT) in the Seller's warehouse (LOCO prices - Seller's warehouse).
 3. The Seller reserves the right to correct the "Price List" without the need to inform the Purchaser of this fact in advance. Current Price List shall be verified by the date of its establishment or the date of the last change.
 4. The current "Price List" is always available in the Seller sales office or in his B2B On-line Procurement System.
 5. Upon the entry into force of a new "Price List", the previously binding "Price List" shall become invalid, unless the Parties have

agreed otherwise in an "individual agreement" confirmed in writing. The new "Price List" shall apply to the Purchaser with respect to the Goods covered by orders placed not earlier than on the effective date of the new "Price List".

6. The Seller reserves the right to change the price adopted in the order and the order confirmation in the event of a sudden increase in prices of steel or aluminium by more than 10% in relation to the price of these materials from the date of transaction confirmation.
7. If the order value does not exceed PLN 300.00, the Seller adds a handling fee of PLN 25.00 to the invoice which the Purchaser accepts when placing the order.

§ 4. Delivery dates

1. The order delivery date is always specified in the order confirmation.
2. The Purchaser shall be obliged to collect the ordered Goods from the Seller's warehouse within 10 working days from the date of the originally planned realization of the order. Failure to collect the Goods within the specified time limit may result in charging the Purchaser with a handling fee of 0.5% of the net order value for each day of delay in collecting the Goods, but not less than PLN 50.00 net for each day of delay in collecting the Goods; in case of failure to collect the Goods within the specified time limit the Seller shall also be entitled to deliver the Goods to the seat of the Purchaser at his expense and risk.

§ 5. Delivery of Goods and delivery by mail order

1. The place of performance by the Seller, i.e. delivery of the Goods, is the Seller's warehouse in Podłęże 678, 32-003 Podłęże.
2. The Seller may deliver the Goods to the Purchaser to the address indicated in the order, using for this purpose the services of a forwarding company with which it cooperates on a regular basis. Upon the Purchaser's explicit request the Seller shall use the services of another forwarding agent. The Purchaser shall include such information in the order.
3. The costs of delivery of Goods to the address indicated in the order shall be borne by the Purchaser, unless the Parties have agreed otherwise.
4. The Seller shall bear full responsibility for the Goods until they are released from the warehouse. Liability, including the risk of accidental loss or damage to the Goods shall be borne by the Purchaser from the moment of handing over the Goods to him from the Seller's warehouse, excluding mail order delivery, when the liability shall pass to the carrier referred to in paragraphs 2 and 3. The responsibility of the carrier begins with the moment of handing over the consignment with the Goods for transport and ends with the moment of its handing over to the Purchaser. The carrier's liability shall be governed by the provisions of the Civil Code, including in particular those governing the contract of carriage and determining the carrier's liability rules (see Article 788 §1 et seq. of the Polish Civil Code). The Seller shall not be liable for any damage to the Goods during transport, especially if the Purchaser fails to meet all formal requirements for the receipt of damaged shipment, and in particular does not file a complaint directly to the carrier.
5. The Purchaser shall be obliged to immediately report complaints concerning damage to shipments, but not later than 24 hours from the date of receipt of the Goods by the Purchaser.
6. All visible defects, shortages and damage of the consignment delivered by the carrier must be noted by the Purchaser on the

consignment note. Shortages, damage and defects which could not be detected with due diligence during delivery shall be reported to the Purchaser immediately after detection, or else the Warrantor shall lose their rights under the warranty.

7. In the case of cancellation or postponement of the delivery of Goods at the request of the Buyer or due to the Buyer's fault, the Seller has the right to charge the Purchaser a handling fee of PLN 100 net with VAT and the costs charged by the forwarder, if such costs occur.
8. In case where the Goods is Service or Work the Buyer is obligated to immediately examine the subject of contract and to raise any objections within a maximum of 5 working days from the date of delivery of the Goods. Failure to comply within this period will be considered as the positive receipt of the Goods.
9. In case where the Goods are delivered to another European Union country as part of the intra-community delivery of goods procedure and at the same time the transport is on the Buyer's side: the Buyer shall provide the Seller, no later than by the tenth day of the following month, with documents confirming the export of the Goods outside the territory of the Poland, i.e. together:
 - written statement of the Buyer confirming that the Goods have been sent or transported by the Buyer,
 - written declaration of the Buyer about intention to export ordered Goods outside of Poland,
 - a signed CMR international waybill.
 If above conditions are not met, the Seller reserves the right to charge the Buyer a fee representing 23% of the net price of the Goods.

§ 6. Payment

1. If the Seller grants the Purchaser a trade credit, the Seller may demand from the Purchaser a security of payment of the amount due for the sold Goods, among others in the form of a credit:
 - a) blank promissory note issued by the Purchaser, without protest, together with a promissory note declaration,
 - b) bank guarantees,
 - c) trade receivables insurance.
2. The choice of the form of security of payment shall be made by the Seller in agreement with the Purchaser.
3. The payment should be made in the form of a transfer to the bank account of the Seller indicated in the invoice or in cash at the cash desk.
4. The date of payment shall be deemed to be the date of crediting the full amount to the Seller's bank account or depositing cash at the cash desk.
5. Until the payment of the full amount due constituting the price for the Goods, the Seller shall retain the ownership right to the Goods handed over or delivered to the Purchaser. Only when the full settlement of payments resulting from the contract, including due contractual penalties and interest for delay in payment of the price, the ownership of the Goods to the Purchaser takes place.
6. In the event of a delay in the payment of the price, the Purchaser shall be obliged to pay statutory interest without notice unless the Seller voluntarily resigns from such interest. The declaration of renunciation of interest must be submitted by the Seller in writing in order to be effective.
7. Failure to pay on time or justified concern about the Purchaser's financial liquidity entitles the Seller to change the terms of sale, demand immediate payment of any liabilities towards the Seller and suspend the execution of remaining orders until the payment of any arrears, also justifies the withdrawal by the Seller from unrealized sales contracts due to the fault of the Purchaser.

8. If the balance of settlements between the Seller and the Purchaser exceeds the agreed amount (the agreed credit limit), for making further purchases the Purchaser undertakes to establish an agreed security of payment for the Seller or will make purchases in cash.

§ 7. Returns

1. Return of the Goods may take place only after prior arrangement and written approval of the Seller.
2. Returned Goods must be unused, undamaged, free from defects and in original packaging.
3. Transport of the returned Goods shall be carried out entirely at the Purchaser's expense.
4. As compensation for the costs incurred by the Seller, 10% of the net value of the returned Goods shall be deducted.

§ 8. Complaints and warranty

1. The warranty terms and conditions are set out in the General Terms and Conditions of Warranty - SMAY sp. z o. o., which are an integral part of these General Terms and Conditions of Sale. General Terms and Conditions of Warranty - SMAY sp. z o. o. are available www.smay.pl.

§ 9. Confidentiality

1. In cases where the Seller transfers to the Purchaser the technical documentation of the subject matter of the agreement, in particular constituting the commercial or technical secret of the Seller (Trade Secrets), the Purchaser shall be obliged to ensure special care in ensuring the confidentiality of such documents.
2. If the Seller suffers losses caused by the Purchaser's failure to ensure the confidentiality of the received documentation, the Seller shall have the right to seek compensation from the Purchaser, without any limits in this respect.
3. The confidentiality clause does not apply to offices issuing the necessary approvals, certificates, etc., but they must be informed of the need for confidentiality.

§ 10. Force majeure

1. The Parties shall allow the possibility of extending the term of performance of the agreement in the event of the occurrence of circumstances beyond the Seller's control preventing or significantly hindering the commencement or performance of contractual obligations, including cases of force majeure, in particular those caused by:
 - a) decisions of authorities, courts, administrative bodies prohibiting or ordering the suspension of an investment,
 - b) disasters, natural disasters, epidemics, fires, floods, etc.,
 - c) weather conditions which, in accordance with the construction standards or applicable regulations, make it impossible to carry out the investment,
 - d) actions of third parties for which the Seller is not responsible,
 - e) obstacles arising exclusively from reasons attributable to the Purchaser or assembly work carried out by other companies for which the Purchaser is responsible.
2. The parties also have the right to suspend the performance of the subject of the agreement in the event of force majeure.
3. The Party invoking force majeure should notify the other Party of the fact of the occurrence of force majeure within 3 days from the date of the occurrence of force majeure, or else it will not be

accepted, and at the same time provide evidence of its occurrence.

4. In the event of force majeure, the Parties shall agree on new dates for the performance of the subject of the agreement.

§ 11. Final provisions

1. Any disputes that may arise between the Parties in connection with the performance of the agreement, the content of which is shaped by the provisions of these GTCS, will be resolved as far as possible amicably, and ultimately in court.
2. The Seller shall not be liable for damages resulting from non-performance or improper performance of sales contracts consisting in the loss of benefits. The Seller's liability for actual damage resulting from non-performance or improper performance of agreement is limited to the sales price of the Goods on the basis of non-performance or improper performance of the agreement.
3. The Purchaser assures that the data referred to in § 1 item 4 indicated by him are current and true, and that he will place Orders only if he has sufficient financial resources to perform the proper performance of individual contracts.
4. All cases submitted to court shall be settled by the Court with jurisdiction over the Seller's registered office.
5. The Seller reserves the right to make changes to the General Terms and Conditions of Sale. Amendments to the provisions shall become binding on the other Party once they have been delivered to it in a manner customary among the parties in their business relations so that it may become acquainted with them, i.e. by posting them on its website www.smay.pl
6. In matters not regulated by the provisions of these GTCS, the relevant provisions of the Act of 23 April 1964 Polish Civil Code (Journal of Laws of 1964, No. 16, item 93 as amended) and the Act of 15 September 2000 – Polish Commercial Companies Code (Journal of Laws from 2000, No. 94, item 1037 as amended) shall be used.
7. Failure to familiarize the Purchaser with GTCS of Smay sp. z o. o. does not release the Purchaser from their validity.
8. The agreements concluded on the basis of these GTCS exclude the use of templates of agreements used by the Purchaser, in particular the general terms and conditions of purchases.
9. In the event of conflict between the provisions concerning the guarantee contained in the GTCS and the provisions contained in the warranty card handed over to the Purchaser, the provisions of the warranty card shall prevail.
10. These GTCS shall apply accordingly to delivery contracts, work orders or provision of services contracts.
11. These GTCS shall enter into force on 01.01.2024.
12. Attachments to these GTCS: General Terms and Conditions of Warranty SMAY sp. z o. o. – also available at www.smay.pl.