

General Terms and Conditions of Delivery and Sale Agreements of Silgan Metal Packaging Tczew Spółka Akcyjna

1. INTRODUCTION

- 1.1. These General Terms and Conditions of Delivery and Sale Agreements (hereinafter referred to as "GTCD&SA") apply to all deliveries of products (hereinafter referred to as "Products") carried out by Silgan Metal Packaging Tczew Spółka Akcyjna (hereinafter referred to as "SMPTC") as Supplier or the Seller on behalf of the Recipient or Acquirer (hereinafter referred to jointly as: "**the Buyer**") who is not a consumer within the meaning of the Act of May 30, 2014 on consumer rights.
- 1.2. The General Terms and Conditions currently in force apply to a given agreement concluded by SMPTC.
- 1.3. The terms and conditions (of sale or delivery) may be specified in a contract signed, in order to be valid, by SMPTC and the Buyer (hereinafter referred to as the "**Sales Agreement**") or in an offer accepted by the other party (hereinafter referred to as the "**Order**").
- 1.4. Regulations referring to the terms and conditions of the Buyer's commercial activity and information referring to its price lists and price offers are not binding for SMPTC until, in order to be valid, they are expressly accepted by SMPTC in writing.
- 1.5. The conditions specified in the Sales Agreement or in the Order shall prevail over the provisions of these GTCD&SA.
- 1.6. Whenever the GTCD&SA refer to working days, it means working days from Monday to Friday that are not public holidays in Poland.

2. PAYMENT OF THE PRICE

- 2.1. The Buyer shall pay SMPTC the price for the Products via bank transfer, on the basis of a VAT invoice issued by SMPTC within the time limit agreed upon separately with SMPTC, indicated in the VAT invoice, calculated from the date of sale indicated in the VAT invoice.
- 2.2. Making a set-off by the Buyer against mutual receivables of SMPTC will be allowed only in the scope of receivables of the Buyer that have been legally awarded or expressly acknowledged.
- 2.3. In the event of any delay in payments, SMPTC will charge statutory interest for delay in commercial transactions.
- 2.4. SMPTC has the status of a large entrepreneur in the meaning of the Act of 08th March 2013 on counteracting excessive delays in commercial transactions (consolidated text: Journal of Laws of 2023, item 1790).

3. COMPLETION DATES

- 3.1. The time limits for completion (manufacture) of the Products are:
 - 3.1.1. for Products without any lithography: up to 21 business days,
 - 3.1.2. for Products with approved lithography: up to 30 business days,
 - 3.1.3. for Products with lithography, other than those mentioned in point 3.1.2. above: up to 40 business days- and all deadlines begin to run from the date specified in the Sales Agreement or the Order, and if not specified there - from the date of confirmation of the Order, but not earlier than from the date of acceptance by the Buyer of the lithography design developed by SMPTC.

4. DELIVERY OF PRODUCTS

- 4.1. Delivery dates are determined separately.
- 4.2. The delivery deadline will be deemed met if, before its expiry, the Products have left the SMPTC factory or warehouse, or the Buyer has been notified that the Products are ready for collection. The Buyer cannot refuse to accept the shipment of the Products in parts (batches).
- 4.3. The delivery of the Products takes place on the basis of so-called delivery requests made by the Buyer.
- 4.4. If the Buyer does not collect the Products on the agreed date, SMPTC will be entitled to charge the Buyer with the costs of their storage. This does not exclude SMPTC's rights to withdraw from the agreement (in whole or in part) and to claim compensation as provided for in the Civil Code.
- 4.5. Products decorated or otherwise marked exclusively for the Buyer (e.g. with lithographs) must be collected no later than within six months from the date of their manufacture. After this date, the Products may be scrapped by SMPTC at the Buyer's cost. Scrapping does not exclude SMPTC's rights and claims for compensation specified in 4.4. above.
- 4.6. The Products will be packed in accordance with the principles set out in separate specifications for Products packaging.

5. DELIVERY CONDITIONS

- 5.1. The shipment of the Products as well as moment for the passing of profits and burdens connected with the Products and the transfer of the peril of their accidental loss or damage will be determined in accordance with the provisions of the latest incoterms and their annexes.

6. SUSPENSION OF DELIVERIES

- 6.1. SMPTC is entitled to suspend its delivery of Products if:
 - 6.1.1. the Buyer is late with payment,
 - 6.1.2. the Buyer exceeds the merchant limit granted to him by the SMPTC insurer.
- 6.2. The term a trade limit should be understood as the amount of the Buyer's total maximum debt with SMPTC, as determined by the SMPTC's insurer, including both due and undue debts for deliveries of Products specified in Sales Agreements or the Orders.
- 6.3. If, as a result of force majeure or in any other case when the production or delivery of the ordered Products has become objectively impossible, the delivery date will be extended by the period of interruption in production or delivery. If the above circumstances occur, SMPTC will also be released from its liability if they occur at a time when the production or delivery of the ordered Products is already delayed.

7. QUALITY GUARANTEE AND WARRANTY

- 7.1. The warranty regulated in these GTCD&SA together with the Complaint Procedure (point 9 of GTCD&SA) constitutes a contractual modification of liability under the warranty for defects in goods regulated by the provisions of the Civil Code. The Buyer's rights and the corresponding obligations of SMPTC are regulated exhaustively in these General Terms and Conditions. The ancillary application of the provisions of the Civil Code regarding warranty for defects in goods to SMPTC's liability is excluded.
- 7.2. SMPTC will be liable to the Buyer if the Products have defects that reduce their value or usefulness with respect to its intended use or if the delivered Products do not have the properties referred to in the specifications of SMPTC, or if the Products are delivered to the Buyer incomplete (warranty for physical defects).
- 7.3. The properties of the Products (e.g. type of materials used, their dimensions, etc.) are specified in separate specifications. Colour tolerances will be maintained as best as possible. In the case of presentation of coloured versions in the form of paper proof, SMPTC shall indicate that it is an illustrative print and differs in the substrate used and printing inks, which are intended to simulate printing on metal sheets. If coloured versions are presented in the form of colour metal proof, test colour samples are made in small batches as test prints and as precisely as possible. In an industrial (target) batch, optical density differences of +/- 10% may occur. If production of Products is based on drawings, specifications, samples, etc. provided by Buyer, the Buyer shall be responsible for their suitability for a given application. The Buyer shall be also held responsible for compliance with laws and government regulations referring to the Products' use.
- 7.4. The delivered Products shall meet the specifications and standards of the Silgan group and the requirements of the applicable Polish Standard (within the meaning of the Standardisation Act of 12th September 2002 or legal acts amending or replacing it). The Buyer is entirely responsible for the use of the Products.
- 7.5. SMPTC will be liable to the Buyer for legal defects of the manufactured Products (warranty for legal defects).
- 7.6. SMPTC shall be liable on account of warranty for defects if the physical defect has been discovered prior to the lapse of one year from the day when the Products was released to the Buyer. If the Products are filled during this period, the warranty period is counted anew and amounts to twenty-four months from the date of filling.
- 7.7. Liability period for legal defects is one year from the day when the Products was released to the Buyer.
- 7.8. SMPTC's liability under guarantee or warranty for physical defects of the Products covers only defects resulting from reasons inherent in the Products, and does not cover defects and their effects resulting from inappropriate or improper use of the Products, including:
 - 7.8.1. inappropriate or improper filling, closing, storage and transport of the Products,
 - 7.8.2. inappropriate or improper thermal treatment of the Products.

8. STORAGE OF PRODUCTS

The Buyer shall store the Products in the manner described in the guidelines for the Product storage.

9. COMPLAINTS PROCEDURE

- 9.1. The Buyer has the right to submit complaints regarding the quantity and quality of the purchased Products.
- 9.2. The Buyer shall perform quantitative acceptance upon delivery of the Products and immediately submit a complaint to SMPTC referring to quantitative defects. Later in time reporting of quantity deficiencies is ineffective.
- 9.3. The Buyer shall perform a quality inspection upon delivery of the Products and, if any discrepancies are found, immediately submit a complaint to SMPTC citing quality defects.

- 9.4. In the event of defects identified during filling, closing, heat treatment or storage of the Products, the Buyer is obliged to notify SMPTC of this fact immediately. Defective Products must be secured by the Buyer to enable their inspection by SMPTC.
- 9.5. For each batch of the Products delivered, the Parties allow for a 0.5% level of defects, in particular regarding their external appearance, size, scratches, tightness, capacity, and strength of lacquered and lithographic coatings.
- 9.6. SMPTC shall consider a complaint provided that the Buyer meets the following conditions:
- 9.6.1. the Buyer submits the label from the packaging in which the Product under complaint was delivered,
 - 9.6.2. the Buyer submits the Product under complaint for inspection,
 - 9.6.3. the Buyer provides all necessary information to determine the cause of the defect and take corrective actions to avoid similar complaints in the future.
- 9.7. SMPTC undertakes to inform the Buyer within 14 days about the manner of considering the complaint, otherwise the complaint will be deemed to have been accepted by SMPTC in full.
- 9.8. If the complaint is recognised as justified, the Parties will jointly determine how to end it. In particular, the Parties may decide to:
- 9.8.1. replace the defective Product with the one free from any defects,
 - 9.8.2. return the Product refunding the entire price or its part,
 - 9.8.3. the Buyer will sort the Products and cover the sorting costs in the amount mutually agreed between the Parties; The Buyer has the right to decide to sort the Products if the Products were used in the production process, and then immediately notify SMPTC of any detected defects; sorting may be performed by selected SMPTC employees, provided that they have tests for sanitary and epidemiological purposes
- and all these must be done within 7 days from the date of informing the Buyer that the complaint is accepted by SMPTC, while the sorting will take place at the date and place agreed with the Buyer.
- 10. RETURNABLE**
- 10.1. Packaging and accessories, except disposable packaging, will be returned in good condition to the SMPTC plant or warehouse within 60 days. After this time limit, SMPTC will be entitled to charge the Buyer's account with the costs of unreturned pallets or other packaging at the rates set in the Sales Agreement, in the Order or in the last commercial offer from SMPTC.
- 11. INTELLECTUAL PROPERTY RIGHTS**
- 11.1. The Buyer shall be held responsible for infringing the property rights, intellectual property rights, copyright of any third parties, compliance with the requirements given on the labels, etc. also in relation to the lithography project or other Products-related projects provided by SMPTC, if they are based on the Buyer's specifications and requirements. The Buyer shall be responsible for any consequences of violating such rights and provisions and shall release SMPTC from any claims of any third parties.
- 12. LITHOGRAPHY, AUXILIARY MATERIALS, TOOLS**
- 12.1. The preparation of the first lithography project or other auxiliary projects, as well as its change once per calendar year is at the expense of SMPTC. SMPTC also bears the costs of preparing a lithography design for retail chains, regardless of the number of changes. The costs of preparing paid lithography designs will be agreed separately between the Parties.
- 12.2. SMPTC will store auxiliary materials (e.g. matrices and plates) to produce subsequent batches, insure them against effects of fire and secure them from damage or theft. The above obligation to store auxiliary materials expires within two years from the last production day unless the auxiliary materials are reused within this time under the Sales Agreement or the Order.
- 12.3. If the Buyer provides SMPTC with tools used in the production process, SMPTC will not be responsible for their proper operation and usefulness. The tools will be provided to SMPTC free of charge and will be stored at the Buyer's risk.
- 13. FORCE MAJOR**
- 13.1. The Parties are not liable for non-performance or improper performance of their obligations arising from the Sales Agreement or the Order if this results from force majeure.
- 13.2. Force majeure means events beyond the control of the Parties, such as, in particular, war, natural disasters (including flood, fire, drought, earthquake), epidemics and pandemics, general strikes or other labour interruptions, embargoes imposed on Poland or any other country and which prevent the performance of obligations by one of the Parties.
- 13.3. The force majeure events may be invoked by the Parties only after the date of conclusion of the Sales Agreement or the Order.
- 13.4. The Party invoking force majeure circumstances shall notify the other Party of their occurrence within 14 days from the date of their occurrence, otherwise null and void, indicating the impact of the event on its inability to perform the obligations.
- 13.5. The Buyer may not invoke force majeure events in order to avoid its payment obligation under the terms provided for in the Sales Agreement or the Order.
- 14. PERSONAL DATA**
- 14.1. Personal data of representatives, proxies, associates and employees, including contact persons designated by the Buyer, will be processed in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to personal data processing and on the free movement of such data and repealing Directive 95/46/EC (hereinafter referred to as the "GDPR Regulation").
- 14.2. The rules for the personal data processing are specified in the SMPTC Information Clause.
- 14.3. The Buyer shall provide the information referred to in 14.2. above to all persons indicated in 14.1. above, and whose personal data will be made available to SMPTC in connection with the implementation of the Sales Agreement or the Order.
- 15. SALVATORY CLAUSE**
- 15.1. If any of the provisions of the Sales Agreement, the Order or these are or will become invalid or ineffective, the validity of the remaining provisions of the Sales Agreement, the Order or GTCD&SA will not be affected.
- 15.2. Invalid or ineffective provisions will be replaced by valid provisions that most closely serve the original economic purpose of the invalid or ineffective provisions.
- 16. FINAL PROVISIONS**
- 16.1. However, SMPTC's liability related to the conclusion of the Sales Agreement or Order or the sale or delivery of Products, regardless of the title of this liability, does not include compensation for damage related to expected benefits, lost profit, production losses, loss of market reputation, etc., up to the limits of damage caused intentionally.
- 16.2. The limitation of SMPTC's legal liability also applies to SMPTC's employees, agents, and support staff.
- 16.3. SMPTC has the right to transfer claims against the Buyer to third parties. The Buyer does not have the right to transfer claims against SMPTC to third parties.
- 16.4. In matters not regulated in the Sales Agreement or the Order, the provisions of Polish law will apply, in particular, the provisions of the Civil Code.
- 16.5. Any disputes, discrepancies and claims that may arise between the Parties in connection with the Sales Agreement or the Order will be resolved by a Polish court. The competent court will be the court based in Kraków, competent for the area of operation of the Krowodrza District (Poland).
- 16.6. Pursuant to Article 6 of the United Nations Vienna Convention of 11th April 1980 on contracts for the international sale of goods, the Parties unanimously declare that this convention does not apply to either the Sales Agreement or the Order.