

GENERAL TERMS AND CONDITIONS OF SALE of ALIPLAST EXTRUSION Sp. z o.o.

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I. General provisions and Definitions

1. These General Terms and Conditions of Sale (hereinafter, GTCS) shall apply to all contracts of sale/delivery concluded by Aliplast Extrusion Sp. z o.o.
2. Provisions of GTCS shall be amended in writing, or else they shall be null and void. Conclusion of an individual contract of sale, framework contract or agreement shall exempt application of these GTCS to the extent expressly stated therein otherwise. These General Terms and Conditions shall govern all issues not governed in the a/m documents.
3. The following terms used herein shall mean:
 - Seller – Aliplast Extrusion Sp. z o.o. with its registered office in Lublin;
 - Buyer or Contractor – an entity acting as a party to a contract of sale/delivery (customer of Aliplast Extrusion Sp. z o.o.);
 - Parties – Seller and Buyer;
 - Contract – an individual contract of sale/delivery concluded between the Parties;
 - General Terms and Conditions of Sale, or GTCS – these General Terms and Condition of Sale of Aliplast Extrusion Sp. z o.o.;
 - Product Offer – an offer prepared for the Buyer by the Seller containing specification of a given batch of Goods, selling price or rules of its calculation, as well as any additional arrangements made between the Parties, including delivery dates;
 - Order – an order document submitted to the Seller by the Buyer after having received the Product Offer or in circumstances set out in paragraph II section 2;
 - Order Confirmation – Seller's confirmation of acceptance of an Order submitted by the Buyer, as well as approval of delivery terms contained therein;
 - Goods – commercial goods constituting the subject matter of a contract of sale/delivery concluded with a Contractor.

II. Contract Conclusion

1. The basis for concluding an individual Contract is the Buyer's submission of an Order in response to the Seller's Product Offer, approved by the Seller with an Order Confirmation. In case of any changes in the Product Offer or any reservations thereto made in the Buyer's Order, the Contract shall be concluded only after the Buyer receives the Order Confirmation stating approval of the order with amendments or reservations, which shall constitute confirmation of contractual terms binding for the Parties. The lack of such order confirmation shall mean that the individual Contract referred to above had not been concluded. In such a case, the Parties exclude an option of a tacit (implied) conclusion of a Contract.
2. The Parties admit the option of possible placing of an Order by the Buyer without prior receipt of a written offer. Should that be the case, in order to conclude a Contract, the Seller shall send to the Buyer an Order Confirmation containing approval of contractual terms binding for the Parties. Provisions of section 1, sentence 3 and 4, shall apply accordingly.
3. If the Parties conclude an agreement referred to in paragraph V, section 3 or 4 hereof, or any other written agreement, setting out the following delivery terms: specification of Goods, selling price or rules of its calculation, as well as any additional arrangements made by the Parties, including delivery dates, such terms shall be binding for the Parties and they shall constitute grounds for placing and delivering Orders without the need of separate sending of the Product Offer to the Buyer. An agreement referred to in the preceding sentence and Buyer's Order subsequently confirmed by the Seller with Order Confirmation, shall serve as the basis for concluding an individual Contract. Should the Buyer make any amendments or reservations in the Order pertaining to conditions of the agreement referred to in sentence 1 of this section, the Contract shall be concluded only after the Buyer is sent an Order Confirmation, stating acceptance of the Order with amendments or reservations and including contractual terms binding for the Parties. Provisions of section 1, sentence 3 and 4, shall apply accordingly.
4. Any oral agreements, assurances, promises and guarantees made by Seller's employees in relation to conclusion of a contract or submission of an offer, shall not be binding for the Parties.
5. Any declarations exchanged by the Parties in relation to conclusion of or amendment to any individual Contract, shall be delivered to the other Party in writing, that is sent by post, by e-mail or by fax, or else such Contract shall be null and void. This provision especially applies to the Product Offer, Order and Order Confirmation. Orders sent by e-mail from the Buyer's internet domain or fax number shall be deemed by the Seller as authorized by the Buyer, and the Buyer shall have the right to restrict authorization of orders to specific persons (e-mail addresses) and send a written notice in this respect to the Seller.

III. Price

1. Price for the Goods sold shall be each time specified: in the Product Offer, in the agreement referred to in paragraph II section 3 hereof, or in the Order Confirmation.
2. Prices given by the Seller are net prices and they shall be increased by a proper rate of tax on goods and services.
3. The Buyer shall pay the gross price in a currency set out for the Goods by the Buyer in the Product Offer or Order Confirmation. If the price is given in a foreign currency, the Buyer shall not be allowed to settle the payment in Polish zloty (PLN), unless the Seller had made a provision in the Product Offer or Order Confirmation that payment for the Goods shall be made in Polish zloty and set out rules of converting foreign currency to PLN.
4. The Buyer shall pay the price within time period provided in the Product Offer or, if the date is not set out therein, by the date indicated in the invoice issued by the Seller. Payment shall be deemed as settled at the time of crediting the Seller's bank account.

5. The Seller makes a reservation that during sale of the Goods, their quantity (weight) shall be determined according to their theoretical weight and the price shall be calculated on this basis as well. Theoretical weight is calculated according to the volume of Goods and specific gravity of aluminium of 2.70 kg/dm³.
6. Goods may be delivered by the Seller considering quantity (weight) tolerance of +/-20% for order quantity from 500 to 1000kg and tolerance +/-10% for order quantity above 1000kg, in relation to the quantity specified in the Order Confirmation. In case of recording a difference not exceeding the tolerance set out in the preceding sentence, an order shall be deemed as properly delivered, and the Buyer shall accept such delivery without reservation. In such case, the Buyer shall pay the price for the actually delivered quantity of the Goods. The basis for determining actual quantity of delivered Goods provided in Goods handover documents and in the VAT invoice, is a measurement made at Seller's premises before uploading of Goods.
7. In case of Buyer's delay in payment of any liability to the Seller, the Seller shall have the right to suspend delivery of all concluded Contracts (including: handover of Goods as well as acceptance and delivery of subsequent orders) until Buyer's payment of all amounts due including interests. If delay in payment of any amount to the Seller exceeds 30 days, the Seller shall have the right to withdraw from any individual Contract binding for the Parties, without fixing any additional deadline. The Seller shall not be liable for any damage incurred for the abovementioned reason.
8. Charges for issuing any certificates for materials shall be collected according to Seller's rates.
9. If the Seller grants a trade credit to the Buyer (deferred payment for the Goods), the Seller is allowed to amend its terms or cancel it at any time by unilateral decision, especially in case of delayed payment for the Goods by the Buyer or in case of instigating liquidation or recovery proceedings in relation to the Buyer, or if the Seller shall have well-grounded reasons to suspect that the Buyer's financial standing is difficult. This right shall apply to all Contracts the subject matter of which had not been handed over to the Buyer. In case of lack of available limit, the Seller shall have the right to hold back handing over of the goods until the Buyer provides a security deposit approved by the Seller.
10. If the price was to be paid in the form of a prepayment or advance payment, then the Buyer's delay with the payment shall entitle the Seller to withdraw from the Contract in whole or in part, without any extra notice.

IV. Deliveries, receipt of Goods and defects in Goods sold

1. Deliveries shall be performed in line with DAP (delivered at place) rule according to Incoterms, with a reservation that the Seller may charge the Buyer with transportation costs, if the delivered quantity is smaller than the minimum delivery quantity set out in the Product Offer. Place of delivery shall be the registered seat of the Buyer, however the Buyer shall have the right to change the place of delivery by a written notice submitted to the Seller. Terms of delivery set out in two preceding sentences refer to deliveries in the territory of the Republic of Poland, whereas terms of any deliveries abroad shall be settled on a case by case basis.
2. The Buyer shall inspect the Goods with utmost care during their receipt in terms of quantities, compliance with technical specification included in the contract and for any visible defects. Technical specification attached to the Goods shall also be subject to inspection. After inspecting the Goods, document of their handing over shall be signed. Signing of the handover document shall be tantamount to confirmation of compliance with parameters set out in the contract and of the lack of defects that might be detected during inspection of the goods with utmost care during receipt. The Buyer cannot release itself from obligations set out in this section and from results of their non-performance, by referring to the adopted trading and receipt practices. Persons receiving the Goods on behalf of the Buyer at the place of delivery are assumed to have been authorized to receive them for and on behalf of the Buyer.
3. The Parties agree that uploading to transportation costs shall be paid by the Seller, whereas unloading costs shall be borne by the Buyer, irrespective of which party incurs the transportation costs.
4. The Buyer shall report (make a complaint) on any material defects in the Goods immediately after detecting thereof, however not later than within 7 days of the delivery date and prior to commencing any actions interfering with the defective material, whereas defects that cannot be detected despite inspection performed with utmost care during receipt (latent defects) should be reported by the Buyer immediately (not later than within 7 days) after their discovery, otherwise any rights or claims related to Goods defectiveness, including warranty claims, shall be lost.
5. All reports and notices referred to in section 5. shall be submitted in writing, or else they shall be null and void, submission being understood as delivery by post or by electronic mail, with confirmation of receipt. The Buyer shall provide the defective Goods as delivered, for inspection by the Seller at any request of the Seller. If the Goods are interfered into, Seller's liability for defects in the Goods is absolved.
6. If in the Seller's opinion, confirmation of defects requires provision of a technical expert opinion, the Seller shall take a stance concerning the goods being defective or not after a relevant opinion is obtained.
7. Any complaint shall be recognized in writing, or otherwise be null and void, after Seller's inspection of a batch of goods complained about, or alternatively after issuing of an expert opinion. In case of positively recognized complaint, the Seller shall accept returned defective goods and replace them with goods of full value, at its own cost. The Seller's obligation to compensate for the losses and pay any indemnity to the Buyer for any defects in delivered materials cannot exceed the value of a given delivery and it may be covered with a new delivery of non-defective goods. If goods cannot be replaced or if replacement involves incurring any additional costs by the Seller, the Seller shall have the right to refuse replacement of the goods and partially reimburse a relevant part of the price.
8. The Seller shall not ensure fitness of specific goods for a specific purpose. The risk of improper fitness for intended use and purpose of goods delivered under the contract, is borne by the Buyer exclusively. Any possible information provided by the Seller in this respect are of a general nature and shall not be treated as grounds for a specific use.
10. Instigation of any complaint procedure shall not release the Buyer from its obligation to pay the price for goods handed over.

V. Property rights, additional agreements between the Parties

1. The Seller makes a reservation that property rights to the Goods sold shall be transferred to the Buyer only after the whole price has been paid to the Seller.
2. The risk of losing or damaging the Goods shall be transferred from the Seller to the Buyer the moment the Goods are handed over to the Buyer.
3. If, at the Buyer's request, manufacture of a shape is implemented, whose anticipated quantities to be purchased shall not, according to the Seller, cover the implementation costs (die preparation) or in order to secure the Seller against non-performance by the Buyer of declared purchase quantities of this shape, the Parties shall make an agreement concerning coverage of implementation costs incurred by the Seller or concerning calculation of the selling price and rules of calculating compensation to be paid by the Buyer to the Seller for non-performance of declared purchase quantities.
4. The Buyer shall have the right to request the Seller to secure the price of aluminium and/or EUR to PLN conversion rate, in order to guarantee a fixed purchase price for the Goods in EUR or PLN over a longer period of time (hereinafter: "hedging"). If the Parties shall agree on hedging terms, they shall enter into a separate agreement ensuring a fixed price for the Buyer and securing the Seller against any potential losses in case of Buyer's withdrawal from or failure to perform such an agreement.
5. The solutions for design of special profiles which are made according to the Buyer's drawings (hereinafter referred to as "design patterns", "designs") are the property of the Buyer, whereas the dies as the physical material made by the Seller, are the property of the Seller. The Seller may produce aluminium profiles by using these dies only for the Buyer and shall not be entitled to sell profiles produced by using these dies to third parties without the Buyer's written consent under the penalty of infringement of copyright or patent rights.

VI. Delays in payments and handing Goods over. Liability

1. If the Buyer is late with payment of the whole or part of the price for the goods, he shall pay statutory interests to the Seller as required by law.
2. If the Seller hands the Goods over with delay exceeding 1 week, he shall pay a contractual penalty to the Buyer of 0.2% of the price of the Goods handed over with delay, for each day of delay. The penalty however, cannot exceed 10% of the price of Goods handed over with delay.
3. In case of delayed collection of the Goods by the Buyer, the delay exceeding 1 week, the Buyer shall pay to the Seller a contractual penalty of 0.2% of the value of Goods uncollected in time, per each day of delay, starting from the handover date set out in the Contract. The penalty however, cannot exceed 10% of the price of Goods collected with delay. If the Seller holds back handing over of the Goods due to emergence of premises referred to in paragraph III section 9 or 10 hereof, the Buyer shall be assumed to have collected the Goods with delay, and contractual penalty shall be calculated.
4. If the Buyer's delay in collecting the Goods exceeds 30 days calculated from the handover date set out in the Contract, the Seller shall also have the right to withdraw from the Contract. The Seller's withdrawal from the Contract shall not release the Buyer from payment of the contractual penalty. Provision of section 3 sent. 3 shall apply accordingly.
5. If the damage exceeds the reserved contractual penalties, the Seller shall seek damages according to general rules.
6. Compensation for damages incurred to the Buyer due to non-performance or improper performance of the Contract, shall be limited to the net price for the Goods set out in the Contract, and the Seller shall only be liable for foreseeable and typical damage suffered by the Buyer.
7. The Buyer shall not have the right to withdraw from the Contract in relation to the performed extent thereof.
8. The Parties shall have the right to abandon calculation of contractual penalties referred to in this item.

VII. Final considerations, applicable law and jurisdiction

1. The headings of sections and paragraphs herein are included solely for convenience or reference, and they shall not control the meaning or interpretation of any of the provisions hereof.
2. If provisions hereof shall entitle the Seller to withdraw from the Contract, it is assumed that he shall enforce this right in an unrestricted manner, i.e. at any time, as from emergence of any circumstances providing reasons for the withdrawal. This right shall not be waived by the fact of the Seller performing the Contract after emergence of circumstances providing grounds for withdrawal from the Contract.
3. If any provision hereof shall be held invalid or ineffective, other provisions shall remain valid and effective. Upon such determination, the Parties shall adopt provisions remaining as close as possible to the Parties' original intent for the provision.
5. Any disputes arising in relation hereto shall be settled by a competent common court of law having jurisdiction over the registered office of the Seller.
6. The contracts shall be governed by provisions of the Polish law only.

Aliplast Extrusion Sp. z o.o.