

GENERAL TERMS AND CONDITIONS OF SALE

Fabryka Elementów Złącznych S.A.

Siemianowice Śląskie

effective from 01 July 2020

I. SCOPE OF GENERAL TERMS AND CONDITIONS OF SALE

1. These General Terms of Sale (further referred to as GTCS) apply to all sale contracts of goods and services the party of which is a company Fabryka Elementów Złącznych S.A. (further referred to as the Seller). These GTCS constitute an integral part of every Contract and Order, any alteration must be done in writing, otherwise shall be null and void.
2. The Buyer is obliged to become acquainted with the GTCS before placing an order. Placing the order means accepting the GTCS by the Buyer at the moment of placing the order. When the Buyer states that he/she does not accept the present GTCS, the Seller is entitled to suspend handing over the goods until the Buyer provides a written statement stating the acceptance of the GTCS.
3. Any alterations of GTCS, and also any other decisions of the parties concerning deliveries require a written form, otherwise shall be null and void. In case of oral arrangements, they shall be valid only when both parties confirm them in writing, not later than in the following working day.
4. In case of discrepancies between the terms established by the parties in the contract and the present GTCS, the terms established in the contract apply as priority and then GTCS.

II. DEFINITIONS

Whenever the following are mentioned in the General Terms and Conditions of Sale it means:

The Seller - FEZ S.A. Company

The Buyer – each time it means a contractor of the Seller

Order – an order placed by the Buyer on the grounds of a trade offer. Such an order is not binding for the Seller until the Order Confirmation has been placed.

Contract – an individual contract concluded between the Seller and the Buyer concerning the products or services of the Seller.

Order Confirmation – a written confirmation by the Seller of the order placed by the Buyer.

Trade Offer – it is an invitation from the Seller to the Buyer to negotiate and conclude a contract. Trade offer does not constitute an offer in the meaning of Civil Code.

Subject of sale – products and services defined in a contract or in an Order Confirmation.

III. ORDERS

1. The Buyer is obliged to deliver to the Seller a written order of goods or services (letter, fax, electronic mail). Placing an order in the meaning of the regulations of GTCS means placing an offer of concluding a purchase contract by the Buyer.
2. Confirmation of accepting the order by the Seller, or signing the contract by both parties is equivalent to concluding a sale contract. In case of any alterations concerning prices or a date of delivery, which were defined in an order confirmation, the contract is concluded at the moment of confirmation by the Seller and the Buyer of those alterations.
3. Where appropriate the Seller has the right to refuse accepting an order, especially when the Buyer has been delayed in settlement of his financial liabilities towards the Seller.

IV. PRICES

1. Prices defined in the Order Confirmation are contract prices and do not include VAT tax which shall be added on the invoice due to valid regulations and costs of final commissioning by Classification Associations (ex. TÜV, MK etc.) in accordance with the Buyer's choice.
2. In case of the change of costs and payments appearing at the time between concluding the contract and delivery which do not depend on the Seller and influence the price, the Seller has the right to change the price within appropriate scope. The change of price requires the Buyer's agreement. When the Buyer does not agree for the change of price, the Seller is entitled to withdraw from the contract without bearing the responsibility and costs connected with the withdrawal from the contract.
3. The Seller reserves the right to change the prices in case of changes of currency rates, increase of prices of products and electricity conditions, changes in legal regulations and others, which the Seller has no influence on.
4. The prices of goods and products given in foreign currency are transferred into PLN according to the sale rate of these currencies of the Seller's bank valid on the day of sale.
5. Cost of delivery to the Buyer and other additional services are decided individually during placing an order. In case of no such decisions means that the collection of the goods shall take place in the seat of the Seller.
6. Fees for collection documents PN-EN ISO 10204 : 2006 are taken in accordance with a price list of FEZ S.A. which constitutes an annex to GTCS.

V. DELIVERY TERMS

1. The parties agree upon the date of delivery in an order and order confirmation.
2. If the order concerns the goods which are not in the Seller's warehouse, the Seller shall immediately inform the Buyer about the nearest possible order delivery date.
3. The order delivery date is a date when the goods are ready to be delivered from the storage place of the Seller, unless the parties decide about other method of delivery.
4. The order delivery date is considered to be met by the Seller if the Seller informed about the goods to be ready to deliver at the due date, in spite of the fact that the actual delivery of the goods took place later due to the reasons beyond the Seller's control.
5. The Seller is may deliver the goods to the Buyer to the address indicated in the order by means of services of transport companies.
6. The costs of delivery to the address indicated in the order are covered by the Buyer.
7. The Buyer is obliged to unload the goods immediately. The costs of unjustified delays shall be covered by the Buyer.
8. In case of annulment or withdrawal of the order, the Buyer shall be obliged to cover all the costs which were paid by the Seller resulting from annulment or withdrawal of the order by the Buyer.
9. The following circumstances releases the parties from any obligations due to damage incurred: force majeure and any other circumstances which cannot be controlled by any of the parties, such as workers' conflicts, strikes, production downtime, customs, currency and electricity restrictions, general shortage of goods, special decisions of the authorities and shortages and delays of orders realization by the suppliers of the Seller. The party which is affected by these circumstances is obliged to immediately notify in writing the other party about these circumstances.

VI. TERMS OF PAYMENT

1. The Buyer shall settle the due payment for the goods in accordance with the method indicated in the confirmation of order. In case of bank transfer the date of payment commences on the date of invoice issue.
2. When there is a payment delay for the delivered goods the Seller has the right to stop next deliveries or to withdraw from the contract without any legal or financial consequences. In such a case the Seller has the right to withdraw from any other, earlier confirmed orders.

3. The Seller has the right to demand from the Buyer an advance payment, down payment or prepayment for the ordered goods or to present a satisfying payment security, ex. bank or insurance guarantee.

4. In case of a payment delay the Seller has the right to demand payment of interests in the amount of maximum interests (art. 359 § 2¹ civil code) or in the amount of statutory interests, depending on which ones are higher.

4. The Seller has the right to change the prices during realization of the order. Further realization of the order requires in such a case a written approval of the Buyer.

5. In case of a payment delay longer than 30 days from the due date of payment, the Seller has the right to dispose of such liabilities for third parties.

6. Fabryka Elementów Złącznych has the right to transfer economic information concerning the liabilities of the Buyer to the National Register of Debts, in accordance with the conditions defined in a regulation from 9 April 2010 concerning disclosure of economic information and exchange of economic data (Journal of Laws No 81, item 530 with further changes).

7. In case of failure to pay, concerning the customers who are subjects to entry in the register of insolvent debtors of National Court Register, Fabryka Elementów Złącznych has the right to submit a motion to enter such a customer to this register.

VII. TRANSFER OF RISK AND OWNERSHIP

1. The transfer of risk connected with delivery of goods appears:

- when the Buyer transports the goods by means of his own transport – at the moment of the goods leaving the area of the Seller,
- when the goods are transported to the place indicated by the Buyer – at the moment of delivering the goods to the established place of delivery.

2. Unless provided otherwise by the parties in the contract, at the moment of handing over the sold goods all the advantages and obligations connected with the goods and a risk of loss or damage are transferred to the Buyer in accordance with art. 548§1 of the civil code.

3. In case of own transport the Buyer is obliged to make a delivery within 7 days from the date of receiving the notification.

VIII. FINAL COLLECTION OF GOODS AND GUARANTEE

1. The final collection of goods is considered completed, and the goods released to hand over to the Buyer at the moment of confirmation of collection documents due to Order Confirmation – Terms of collection according to PN-EN ISO 10204:2006 by the authorized persons.
2. The Seller, in accordance with these GTCS and the contract, issues for the Buyer the quality guarantee for the delivered goods, with the exclusion of the regulations of the civil code.
3. The guarantee is issued for the time defined in the sale contract, starting from the day of handing the goods over to the Buyer. The SELLER issues the guarantee for the part of delivered goods for the time of 2 (two) years, not longer than up to 31 of December of the year following the production year marked on the goods.
4. The Seller is responsible only for the faults which appeared during the period of the guarantee, and of which the Buyer informed the Seller within the period of the guarantee, immediately after noticing them, but not later than 7 days after noticing the faults. In case of the lack of such a notification by the Buyer within this period any claims shall be excluded.
5. Notification concerning the faults shall include the appropriate documentation proving the existence of the faults.
6. The Buyer is obliged to make it possible for the Seller to inspect the claimed goods, including taking samples and carrying out technical examinations, under pain of loss of guarantee claims.
7. The guarantee includes the hidden faults of the goods which may appear during the usage of the goods and crucial discrepancies from the established in this Order Confirmation terms of performance and collection, which may cause their uselessness or making their lifespan much shorter.
8. The guarantee does not include the faults of the goods resulting from inappropriate storage or usage of them. The faulty goods as defined herein shall be made available for the Seller to estimate them within 7 (seven) days from the moment of noticing the fault and than – in case of acknowledging their defectiveness by the Seller – they shall be exchanged for the goods free from faults.
9. Due to the granted guarantee the parties agree that the Seller shall not be responsible for the warranty in case of faulty products delivered to the Buyer.

IX. SETTLEMENT OF THE DISPUTES, CLAIMS

1. Any disputes concerning the terms and execution of this contract that may not be settled amicably shall be brought before the ordinary competent court appropriate for the Seller.
2. All quality and quantity claims shall be submitted immediately when the faults or shortages have been discovered, not later than within 7 (seven) days from the discovery of the above.
3. The claim shall be submitted in writing.
4. The Buyer delivers claimed goods to the Seller at his own expenses and risk.

The Seller shall pay back those expenses only if the claim has been admitted. If the claim has been rejected the Buyer shall bear the expenses of transport and any other costs which were paid by the Seller, including the costs of selection and laboratory examinations.

5. The Seller considers the claim within no longer than 14 days from the date of receiving the samples of pictures of the claimed goods. While considering the claims and their legitimacy the statutory technical and good practice standards are taken into consideration.
6. When the claim is considered legitimate, The Seller shall, at his own discretion, either remove the fault or exchange the goods for the new ones, free from any faults, or decide about appropriate decrease of price.
7. Settling the claim in the above-mentioned way shall exclude the possibility of requiring further compensations.
8. If the claimed goods have not been sent to the Seller, the Buyer is obliged to storage it until the time of considering the claim, in an appropriate way, making it impossible to damage it or to cause any faults.
9. Submitting the claim does not entitle the Buyer to withhold payment for the delivery of goods.

X. RETURN OF THE GOODS

1. The Seller shall not accept any returns of the goods due to the reasons depending on the Buyer (ex. a wrong decision, resigning from the purchased item, a mistake made during ordering). In special cases, the Seller may withdraw from the above rule and admit the returned goods. In such a situation the Seller shall buy back the goods from the Buyer at the selling price, and the Buyer shall bear the handling and transport costs.
2. Return of the goods shall take place only on the grounds of previous arrangements and having been approved in writing by the Seller under pain of nullity.

3. The goods may be returned only when they are not damaged and may be identified as far as the parameters included in certification are concerned. In case of packed goods, they must be returned in original and not damaged packages.

4. Return of the goods may take place within one month from the date of delivering them.

XI. EXCEPTIONS

1. When the goods have not been collected within 7 days from a notification, the Seller has the right:

- to issue and send to the Buyer an invoice and preparing the goods for the Buyer's disposal,
- to send the goods by own transport or by means of other carriers without previous negotiating the terms of transport, on the Buyer's costs,
- to charge the costs of storage in the amount of 0,5 % of the delivery value for each day of storage and incurring those costs on the Buyer,
- to withhold the realization of other contracts up to the time the goods have been collected by the buyer.

2. The Seller has the right to pursue the contractual penalties in the amount of 20% of the value of the ordered goods, and to pursue covering the loss exceeding the amount of the penalty in accordance with the Civil Code, unless the penalty covers the loss, in case when the Buyer withdraws from the contract when it has been signed and the Seller executed, is during the execution of the contract, or he bore the costs of executing the contract.

3. The Buyer shall be responsible for a failure to meet the terms of the contract or improper performance of the contract only in accordance with the regulations of civil code.

XII. FORCE MAJEURE

1. The parties do not bear the consequences resulting from breaching the contract if the sole reason for such an infringement was force majeure, and the party affected by it immediately notified the other party about it and immediately took all the measures to limit the contract infringement, and to remove the effects of such circumstances as quickly as possible.
2. What is understood by the force majeure are sudden and unpredicted, due to reasons beyond the parties' control events, which cannot be prevented and counteracted, which make it impossible to meet all or some terms of the contract, and especially:
 - natural disasters (ex. Fires, floods, etc.)
 - acts of national authorities (ex. martial law, etc.)
 - strikes – with the exception of strikes of the workers of the parties,
 - long-term problems with transport services

3. The parties are obliged to confirm the existence and period of such obstacles by a registered letter within 7 days, otherwise they shall not be able to rely on the event of force majeure.
4. The dates of delivery shall be prolonged of the period of delay caused by the force majeure.
5. When the force majeure causes objective inability to perform the contract as a whole or a part of it, each of the parties has the right to terminate the contract, with a seven-day time of notice.

XII. FINAL PROVISIONS

1. The goods delivered to the Buyer by Fabryka Elementów Złącznych remain the property of the company until the whole payment has been settled, which means transfer of the payment to the Seller's account.
2. The provisions of these GTCS concerning deliveries of the goods by the Seller apply to providing services by the Seller.
3. To all matter not settled herein provisions of Civil Code apply.
4. All alterations of terms of executing the contract of delivery established in the Order Confirmation require the written agreement of both parties, under pain of nullity.
5. In correspondence you are to refer to the number of our confirmation.
6. The Buyer by accepting these GTCS agrees for the processing of his data by the Seller in order to execute the order, as well as for marketing purposes connected with his activities.