

# GENERAL TERMS AND CONDITIONS OF SALES JONIEC® COMPANY



VALID FROM 01.04.2018

## I. TERMS USED IN THE GENERAL TERMS AND CONDITIONS OF SALES SHALL BE CONSTRUED IN THE FOLLOWING MANNER:

1. GTCs – General Terms and Conditions of Sales of the Producer.
2. Price List – current standard price list of Goods, prepared by the Producer.
3. Products – goods produced by the Producer and products of commerce.
4. Producer – the company PUH „JONIEC”, Mieczysław Joniec, 34-650 Tymbark 109, NIP 7371000914, REGON 490711307, phone/fax No.: 18 332 53 90, e-mail address: [joniec@joniec.pl](mailto:joniec@joniec.pl), website address: <http://www.joniec.pl>
5. Seller – Producer or any other entity providing sales of the Products,
6. Buyer – a natural person, legal entity, organizational unit having no legal personality placing an order or buying the Seller's Products.
7. Parties – the Producer, the Seller and the Buyer.
8. Consumer – within the meaning of Article 22<sup>o</sup> of the Act specified in point 9 - the Buyer being a natural person who carries out, with the Seller, legal transaction which was not directly related to the business or professional activity of the Buyer.
9. Polish Civil Code – the Act of 23 April 1964 Civil Code (Journal of Laws of 2016.380 consolidated text).
10. Consumer regulations – the Act referred to above in point 9, as well as the Act of 30 May 2014 on Consumer Rights (Journal of Laws of 2014,827 as amended), legal acts issued on the basis of Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on Consumer Rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.
11. Polish Code of Civil Procedure – Act of 17 November 1964 Code of Civil Procedure (Journal of Laws of 2016.1822 consolidated text).

## II. THE GENERAL TERMS AND CONDITIONS OF CONCLUSION AND PERFORMANCE OF SALES AGREEMENTS, FULFILLMENT OF ORDERS AND PRINCIPAL RULES OF THE PARTIES' RESPONSIBILITY

The GTCs shall constitute the general terms and conditions of the agreement within the meaning of Article 384 of the Polish Civil Code and shall constitute an integral part of agreements concluded by the Seller and are binding the Parties, unless the Parties decide otherwise.

As regards the agreements with participation of the consumers, the provisions of the GTCs shall apply, as well as provisions of the consumer regulations, provided that if the absolutely binding consumer regulations contain more favorable solutions to the consumer - these provisions shall be binding.

1. The GTCs shall be publicly announced through its publication on the website and in the sales office of the Seller.
2. Conclusion of an agreement shall take place through placing an order by the Buyer in writing and electronically, and thereafter the acceptance and confirmation of an order by the Seller. Order fulfillment dates are dependent of the production schedule and availability of the Products on stock.
3. Any amendments to the agreements implemented by the Parties in relation to the performance of the agreement shall be made in writing to be valid.
4. Products' price shall be determined based on the Seller's price list as at the sales day. The Seller reserves the right to voluntary granting of discounts, rebates as well as to organize promotion.
5. Products' price shall cover the loading with a forklift by the Seller on the means of transport adjusted to the loading and transportation of the Products.
6. Sales document (an invoice or a bill) shall be issued by the Seller to the Buyer together with indication of a payment date and payment method of a due amount for the Products. The Parties agree that payment date shall be the day when the Seller's bank account is credited or payment is made in cash at the Seller's cashier desk.
7. Should the payment be delayed, the Seller is entitled to accrue the statutory interests for the delay, and if an entity in delay is an entrepreneur, the Seller has the right to accrue statutory interests for the delay in the business transaction.
8. After the lapse of payment date, the Seller is entitled to cease the delivery of the Products to the Buyer covered by the sales agreement, and any and all payments not made to the benefit of the Seller shall become immediately payable. The Seller shall bear no responsibility for any damage that may take place in the property of the Buyer, his contracting parties or third parties in case of suspension of the delivery of the Products, fulfillment of further orders, the receivables shall be due or making the use by the Seller of any other entitlement envisaged in the GTCs or due to him under the binding provisions of law.
9. The Product shall become the property of the Buyer upon payment of the total price. If the Buyer fails to pay the price within the specified period, then the Seller shall be entitled to demand a return of the Product from the Buyer for which the total price has not yet been paid. The Seller may also claim compensation if the Products have been installed, used or damaged.
10. The Seller may refrain from the performance of the benefit, if after the conclusion of the sales agreement he knew about a wrong financial condition of the Buyer which may justify an assessment that the Buyer will not make a payment for the delivered Products or payment will be made with a delay. The Seller may also demand to make a pre-payment for the ordered Products amounting to 100% of the goods price, or withdraw from the agreement, and also reject to conclude an agreement with the Buyer if the Buyer failed to fulfill obligations under previous agreements, in particular if:
  - a) The Buyer previously failed to make timely payments,
  - b) There exist bases for the Seller to initiate a legal action against the Buyer for payment or the Seller initiated the court proceedings against the Buyer for payment in connection to failure to fulfill contractual obligations towards the Seller,
  - c) The Buyer submitted a bankruptcy petition with the common court, or a recovery proceedings is conducted towards him,
  - d) The Buyer's property was put in liquidation.
11. Upon the Buyer's receipt of the Products, the Products should be checked by the Buyer in terms of quantity and quality and the Buyer is obliged to immediately report any visible deficiencies or defects of the Products or their packaging under the pain of loss of guarantee rights referred to in Chapter III.
12. Where the Products are supplied by the Seller to the place indicated by the Buyer and the place of delivery of the Products is different than registered office of the Seller, the Buyer shall be obliged to collect the Products with respect to the quality and quantity after completion of the transport and any unloading performed by the Seller.
13. The Buyer who collects the Products by means of an own transport or an external carrier is responsible for any accidental damage or loss of the Product at the time of delivery of a thing to the Buyer performing the transport with his own endeavor or to such a carrier. The Buyer being a consumer is responsible for accidental damage or loss of the Product at the time of delivery of the goods to the carrier, on the selection of which the Seller had no influence. In such a case, the Buyer shall be responsible for the proper protection of the load by using the pallet stops and clamping belts. Any damage resulting from improper transportation, unloading and storage shall not burden the Seller.
14. The Buyer who shall not collect the Products personally by means of his own transport and do so through a carrier selected on his own, shall be obliged to provide the Seller, prior to the collection, with a signed collection authorization, containing the following data: driver's name and surname, ID number, vehicle registration number and date of the order. The driver should be warned of the obligation to present the identity card at the Seller's request or possibly to present also the authorization.
- The authorization should be signed by the Buyer or a person authorized to make statements of will in the name of the Buyer. The Seller has the right to refuse to deliver the Products to a person not having the required authorization, thereby releasing him from any responsibility for damage suffered by the Buyer or third parties in connection therewith.
15. Where the Producer or the Seller assumes an obligation to deliver the Products to the place indicated by the Buyer, the Buyer shall ensure that a person holding an authorization granted by the Buyer to collect the Products is present in the place indicated by him, and, if there is no such a person, the Producer or the Seller shall have the right to deliver the Products to a person who will undertake to accept them in the name of the Buyer at his expense and danger. The risk associated with the delivery of Products in this situation burdens the Buyer.
16. At the moment of collection of Products by the Buyer any risk an danger of an accidental loss or damage of the Products shall be transferred to the Buyer. The Seller shall bear no responsibility for inappropriate storage of the Products.
17. Ordered and delivered Product which is free of defects shall not be subject to a return.
18. In the case of sales with participation of a consumer performed outside the premises of the Seller's enterprise or by means of the distance sales, the Buyer shall have the right to withdraw from the agreement without giving any reason for his decision within 14 days of the Product delivery date, and when the agreement relates to the performance of the service - within 14 days as of the day of conclusion of the agreement. If the subject of the agreement is delivered separately, in lots or in parts, the consumer shall exercise his right from the date of delivery of the last batch of the Product. In order to keep the above time limit, it is sufficient to send a declaration on withdrawal before its lapse. A return of receivables for the Product paid by the consumer shall take place within 14 days of delivery of a notification on withdrawal. The consumer shall incur direct costs of returning the item.
19. In the case of sales with participation of a consumer performed outside the premises of the Seller's enterprise or by means of the distance sales, the Buyer shall lose his right to withdraw from the agreement if the Seller has fully performed his service upon an explicit consent of the consumer who has been informed prior to commencement of performance of the benefit that the consumer will lose the right to withdraw from the agreement once the benefit is performed.
20. The Parties hereby exclude warranty within the meaning of Article 556 and subsequent of the Polish Civil Code.
- This shall not refer to the sales performed with participation of a consumer.
- In case of concluding an agreement with the Buyer being a consumer, if the Product is inconsistent with the agreement or defective, in particular if:
  - a) it does not have features which Product of this type should have owing to the purpose indicated in the agreement or resulting from circumstances or purpose,
  - b) it does not have features on the existence of which the Seller ensured the Buyer (e.g. presenting a sample or pattern),
  - c) it is not suitable for the purpose on which the Buyer informed the Seller whilst the conclusion of the agreement, provided that the Seller have not reported objectives as to such purpose,
  - d) was delivered to the Buyer in an incomplete state,
- The Buyer may make a statement on price reduction or withdrawal from the agreement unless the defect is insignificant or the Seller immediately and without excessive inconvenience to the Buyer will replace the defective Product with the one free from defects or will remove the defect unless the Product has previously been replaced or repaired by the Seller or the Seller has not fulfilled the obligation to exchange the Product for the one free from defects or to repair defects.
- The Buyer may also, instead of the Seller's proposed removal of the defect, request the exchange of the Product for the one free from defects or instead of replacing the Product request removal of a defect, unless it is impossible for the Product to conform to the agreement in a way selected by the Buyer or require excessive costs in comparison with the way suggested by the Seller. The Seller shall be responsible for any inconsistency of the Product with the agreement concluded with participation of a consumer or for defects of the Product sold and delivered to the Buyer being a consumer, if inconsistency or defectiveness has been stated prior to the lapse of 2 years of the Product was delivered to the Buyer, provided that the Buyer may report a claim for removal of defect or exchange of the Product for the one free from defects or make a statement on withdrawal from the agreement no later than prior to the lapse of one year of the defect was stated. The 1-year time limit cannot end prior to the lapse of 2 years as of the date of the Product's delivery.
- In order to keep the deadline it is sufficient to submit a notification before its expiry in any form. The lack of Seller's respond within 14 days of the date of receipt of the notification together with the specific consumer request for the replacement of the item or removal of the defect, the price reduction specifying the amount for which the price is to be reduced shall be deemed as request was recognized. If the agreement was concluded with participation of a consumer outside the premises of the Seller or by means of distance sales, the time limit for responding to the complaint amounts to 14 days. This time limit shall start running afresh from the date of exchange of the Product. The lapse of this time limit shall not exclude the exercise of rights if the Seller knew about the defect but have not notified the Buyer or the defect was secretly concealed. A warranty claim can also be raised after the expiry of the above deadline, if before its expiry the Buyer the Seller has notified the Seller of the defect.
21. The Buyer being a consumer prior to the conclusion of the agreement shall be provided with necessary explanations regarding the Product in relation to its actual and legal relationships and shall be informed on the terms and conditions for performance of the agreement, total cost of order, terms and conditions of full and appropriate use of the Products and shall be instructed on his rights and obligations under the consumer regulations.
22. The agreement concluded by the Buyer shall, at the same time, constitute the acceptance of the General Terms and Conditions of Sales. Any and all information about the Product and the Terms and Conditions of Sales is available at the Seller and on the Producer's website. In case of doubt, the consumer may request the Producer for clarification regarding the GTCs as well as legal and actual consequences relating to the performance of terms and conditions of the agreement, and the Producer shall be obliged to deliver them without undue delay.
23. Provisions of Chapter III points 11 – 17 shall apply with respect to the Seller's responsibility on account of warranty as well as a complaint reported by the Buyer being a consumer.

### III. GUARANTEE AND COMPLAINTS WITHIN THE SCOPE OF THE GUARANTEE

1. The guarantee period for the Products of the Seller shall be amounting to 5 years as of the purchase date by the Buyer. After the lapse of that period the guarantee shall expire.
  2. The Buyer shall acquire the rights under the guarantee provided that he made a full and timely payment for the Products, subject to provisions of Chapter II point 11.
  3. The Buyer shall no later than within 7 days of detecting a defect, make a complaint in writing in the place of purchase. Reporting of a complaint shall take place through sending, electronically to the following address [rekamacje@joniec.pl](mailto:rekamacje@joniec.pl) or by post labelled COMPLAINT to the address of the Producer, of the guarantee cards as well as complaint protocol along with relevant appendices. A complaint protocol can be downloaded at [www.joniec.pl](http://www.joniec.pl).
  4. As regard the complaint, its reporting may occur:
    - a) with regard to the quantity complaints resulting from a wrong loading of the Product – at the latest on the day following the Product's unloading,
    - b) with regard to the quality complaints resulting from the damage which occurred during transportation – at the latest on the day of Product's unloading.
  5. Checking of the goods shall take place in the presence of a courier or a supplier. Should any damage be stated, a photo documenting the damage should be immediately taken.
  6. Subject to provision set forth in point 3 of this Chapter, should any defect or shortage in supply be stated whilst unloading – it is necessary to place by the Buyer a remark on the waybill which should specify the type and number of defects or missing Products, their elements or shortcomings in the purchased Product in relation to the content of an order (stating of shortage or damage). A remark placed on the waybill require to be confirmed by a driver who performed the delivery.
  7. In the case where the Buyer accepted the goods without checking its state and quantity in the presence of a carrier, or without reporting any reservation to the carrier regarding the type of shortage or damage – it shall be presumed that he received goods in the state described on delivery note.
  8. The complaint shall be considered on the condition that the Buyer shall present:
    - a) a complaint prepared in writing, by electronic mail or on-line form available at [www.joniec.pl](http://www.joniec.pl),
    - b) the guarantee card of the Products,
    - c) photos presenting the defects or damage of the Products,
    - d) purchase document of the Products,
    - e) labels or manuals attached to the Products containing the date of production and packaging, purchase documents of materials used to development and installation of the Producer's Products (refer to developed Products).
  9. A complaint procedure of the complained Products shall be commenced within 14 days as of receiving by the Seller of a complaint protocol. Should the complaint be recognized, the terms and conditions for its removal shall be determined in a bilateral arrangement drawn up in writing.
  10. Should the Seller recognize the complaint, he shall repair the Products, and if this is impossible – shall exchange the Products. In case of the exchange, the exchanged Products shall become his possession. Should the exchange or repair of the Products be impossible or is connected with significant expenditures, and the defect is insignificant, the Seller may lower the price of the defective Products – in such a case the Buyer may demand for a return of the amount constituting the difference between the Products free of defects and the defective Products.
  11. The Seller shall bear no responsibility for the defects and damage of the Products resulting from:
    - a) inappropriate and contrary to the principles of building art installation of the purchased Products,
    - b) inappropriate designing of the fence or installation of the Products contrary to the manuals prepared by the Producer,
    - c) use of inappropriate materials as well as technology to install the Products,
    - d) failure to follow the Producer's Manual on Building the Fence, recommendations of the Seller as to the installation, isolation, impregnation, care and protection of the Products
    - e) application of de-icing agents directly on the Product,
    - f) application of inappropriate concrete exposure class which was used to install the Products;
- As regards CONCRETE EXPOSURE CLASS the Parties shall understand concrete of exposure class at least XF1. Environment impact is classified as exposure class. The selection of exposure class is dependent of the conditions occurring in the place where concrete was used. According to the Polish PN-EN 206-1:2003 standard, concrete used to development of the Products produced by the company JONIEC® should at least correspond with concrete class XF1;
- g) cracks of the Products as a result of using inappropriate concrete exposure class as referred to hereinabove,
  - h) inappropriate use, contrary to the purpose and features of the purchased Products,
  - i) inappropriate storage or transport of the purchased Products,
  - j) force majeure i.e. in particular natural disasters and other unforeseeable misfortunes of fate,
  - k) inappropriate selection of the Products to the type of terrain and the size of loads.
12. The Seller shall bear no responsibility for the cracks of the Products which appeared after their development, as a result of:
    - a) performance of building-installation works in a way contrary to the building art principles,
    - b) failure to follow the Producer's Manual on Building the Fence or any other departure from provisions of the Manual,
    - c) failure to follow the recommendations of the Seller as to the quality and way of transport of concrete or departure from these recommendations if concrete is delivered from the factory,
    - d) production of concrete in the factory or at the building site contrary to PN-EN 206:2014-04 standard Concrete -- Requirements, features, production and compliance,
    - e) failure to follow the recommendations as to the time of use of concrete delivered from the factory or prepared at the building site,
    - f) failure to follow recommendations as to the way of pouring with concrete the Products used to build the fence,
    - g) failure to perform or inappropriate performance of the process of care with regard to the concrete used to pour the Products, in particular in the initial phase of its curing.
  13. Should the defects be stated in the Products before installation, the Buyer shall not commence installation works, but he should immediately inform the Seller about this fact. Should the defects of the Products be stated whilst installation, the Buyer shall be obliged to suspend further development, as well as to protect the Products against deterioration and immediately inform the Seller.
  14. Should the visible defects of the Products be detected after unloading and development by the Buyer, the Seller shall incur no expenditure related to the re-installation and re-development of the Products.
  15. The Seller shall be exempt from responsibility for the defects of the Products, if the Buyer at the moment of their purchase or delivery knew about the defects.
  16. Products sold as off-spec shall be not covered by the guarantee.
  17. The following references, allowed by appropriate standards and documents, shall not be treated as defects:
    - a) measurement and look uncertainty of the Products in accordance with standards binding at the purchase date,
    - b) efflorescence in the form of infiltration stains on the Products' surface;

INFILTRATION STAINS - efflorescence are a natural and temporary phenomenon in concrete, which should disappear over time. The way of Products' installation is very important. The use of the appropriate concrete exposure class as well as the appropriate composition of the concrete (materials used for its production), which will pour the Products and to protect them against dampness (horizontal isolation, caps protection, impregnation), reduces the possibility of efflorescence that are not the basis for complaints.

- c) natural color changes of the Products because of using them;
- Minor color changes caused by conditions of the Products curing, variability of components, i.e. cement, aggregates, their color, variable water-cement ratio do not form basis for complaint;
- d) potential hairline surface micro-cracks which occurred as a result of shrinking process related to curing of the Products,
  - e) loss occurred as a result of uncured Products,
  - f) deviations in structure and color are contingent upon the Products' production process and a natural variability of granulation and colors of aggregates and other resources, applied to produce products within a different period of time;
- Split elements are subject to splitting process of concrete. Each element is unique and its diverse surface is a natural element of this process and shall not be the basis for a complaint;
- g) color differences of single MULTI-COLOR® elements resulting from the intended production objective to obtain discoloration effect; shall not be the basis for complaint (building in accordance with manual is recommended),
  - h) color and texture difference caused by the application of various production technologies for certain.
18. Should the complaint be recognized by the Seller, the Parties shall equally incur costs of return of the Products to the registered office of the Producer or any other purchase place, as well we cost of Product's exchange to the one free of defects.
  19. Provisions regarding the guarantee shall be without prejudice to the entitlements of the Buyer being a consumer resulting from warranty within the meaning of Article 556 of the Polish Civil Code and also other related legal regulations, including consumer regulations.

### IV. PACKAGING

Products are packed on the transport palette being a reusable or one-off packaging.

1. Cost of one-off palettes shall be calculated in the Products price. The Buyer cannot resell them to the Seller.
2. Cost of reusable pallets shall be calculated to the amount resulting from a sales document issued by the Buyer.
3. The Seller has the right to repurchase from the Buyer not damaged pallets referred to in point 3 within the time limit up to 150 days of their release date. Pallets in such a case have to be returned to the warehouse of the Seller. Should the return deadline be exceeded, the Seller shall have the right to reject collection of the pallets.

### V. TERMINATION OF THE AGREEMENT

1. Subject to case referred to in Chapter II points 18 and 20 of GTCs, as well as resulting from provisions of the Polish Civil Code and other related legal regulations, including consumer regulations, the Buyer is entitled to withdraw from the agreement in case of a delay in the fulfilment of an order exceeding 30 days and which results from reasons attributable to the Seller, if the Buyer at least once called the Seller in writing to fulfill an order within additionally granted time limit not shorter than 14 days.
2. The Seller has the right to withdraw from the agreement in case of the Buyer's delayed payment or a delay in the Products' collection exceeding 14 days.
3. The Parties may withdraw from the agreement without appointment of an additional time limit to fulfill the benefit, if one of them represent that will not fulfill the benefit.

### VI. FINAL PROVISIONS

1. As regards any disputable issues, the Polish law shall apply.
2. In any issue not regulated in the GTCs, provisions of Polish Civil Code shall apply, and other related legal regulations, and in case of agreements concluded with participation of consumers, provisions of consumer regulations.
3. Any amendment to the GTCs shall be made in writing to be valid.
4. The Seller shall bear no responsibility for the effects resulting from the wrong data given by the Buyer when placing an order preventing from or impeding a correct fulfillment of an order.
5. Any potential disputes resulting from the performance of the agreement, the Parties shall endeavor to settle amicably through the way of mutual informal negotiations. Should it be impossible to settle the disputes in the aforesaid manner, the dispute shall address the common court having jurisdiction over the registered office of the Producer or Seller. This shall not apply to the disputes which occurred to the extent of an agreement concluded with participation of a consumer. In such a case, if there is no amicable solution in the above said manner, the consumer shall be entitled to refer the dispute to the common court relevant at own discretion based on principles specified in provisions of the Polish Civil Code.