

**GENERAL TERMS AND CONDITIONS OF SALE
OF 30 SEPTEMBER 2019
(REFER TO SALE EFFECTED BY THE CONSORTIUM:
HUTA POKÓJ PROFILE SP. Z O.O. IN ORGANIZATION AND
WĘGLOKOKS S.A.)**

1. DEFINITIONS

- 1.1. The General Terms and Conditions of Sale are hereinafter referred to as "GTCS".
- 1.2. **The Seller** - the Consortium of: "Huta Pokój Profile" Sp. z o.o. in organization with its registered office in Ruda Śląska, ul. Niedurnego 79 pok. 106, 41-709 Ruda Śląska; entered in the Register of Entrepreneurs of the National Court Register ("KRS"), whose registration documents are kept by the District Court in Gliwice; NIP (Tax Id. No.): 6412547857, with a share capital of PLN 1.000.000,00 paid up in full, and WĘGLOKOKS S.A. with its registered office in Katowice, ul. Mickiewicza 29, 40-085 Katowice; entered in the Register of Entrepreneurs of the National Court Register ("KRS"), whose registration documents are kept by the District Court Katowice-Wschód in Katowice; KRS number: 0000095342; NIP (Tax Id. No.): 6340017095, with a share capital of PLN 558,818,830.00, paid up in full. "Huta Pokój Profile" Sp. z o.o. in organization is the manufacturer of the Products, while Węgłokoks S.A. is the direct seller of the Products to the Buyer, on behalf of whom "Huta Pokój Profile" Sp. z o.o. in organization is acting under appropriate powers of attorney.
- 1.3. **The Buyer** - a legal or natural person, as well as organisational units without legal personality, but with legal capacity, being entrepreneurs.
- 1.4. **Products** - steel mill products and services offered by the Seller.
- 1.5. The provisions relating to the signing of agreements (contracts) shall apply accordingly to order acceptance and its Confirmation (i.e. a two-document agreement).

2. GENERAL TERMS AND CONDITIONS OF SALE – SCOPE OF APPLICATION

- 2.1. These General Terms and Conditions of Sale set out the standard terms and conditions under which the Seller manufactures and sells Products to the Buyer and apply to all sales offers, unless otherwise agreed in writing.
- 2.2. By placing an order, the Buyer or a person authorised by the Buyer certifies that the GTCS of the seller are known to and accepted by them. Fulfilment of this requirement is necessary to conduct business cooperation.
- 2.3. The Buyer's contract performance conditions contrary to these GTCS are not accepted by the Seller.
- 2.4. The Seller allows concluding individual commercial agreements and contracts by way of mutual negotiations between the parties. The so adopted contractual solutions contrary to those included in the GTCS shall take precedence over the provisions of these GTCS.
- 2.5. The GTCS shall become a part of a contract binding on the parties.

3. OFFERS AND ORDERS

- 3.1. Offers made by the Seller with respect to the Products are valid for the period specified by the Seller in the offer, unless agreed otherwise. An offer shall cease to be valid if the Buyer does not accept the offer unconditionally.

- 3.2. An order sent to the Seller by the Buyer and signed by representatives or authorised persons in accordance with the National Court Register or an appropriate power of attorney must contain:
- details of the Buyer,
 - detailed information about the Product ordered in a scope necessary for its identification (e.g. reference to the Seller's offer, if placement of an order was preceded by the submission of an offer),
 - details concerning the terms and conditions of order performance expected by the Buyer.
- 3.3. Placing of an order does not bind the Seller and does not imply its unconditional acceptance, while absence of a response does not imply tacit acceptance of the order. Acceptance of an order for its performance requires its written confirmation by the Seller, which is done by "Huta Pokój Profile" Sp. z o.o. in organization on behalf of Węglokoks S.A. In the case when the Seller accepts an order with reservations, the Buyer shall be bound by the content of such reservations, unless the Buyer immediately submits its possible comments. Immediate submission of comments shall be deemed to be the placement of a new order, and the mutual arrangements preceding the new order must be taken into account. An order will be accepted for processing after the delivery of a written acceptance of the conditions of order performance within 3 business days from the date of receipt of such confirmation. Failure to accept the conditions within the specified period of time shall be treated as confirmation of the conditions of order performance (Article 682 of the Civil Code).
- 3.4. The fact of accepting an order shall not bind the Seller in the following situations:
- 3.4.1. When, for reasons beyond its control, in particular due to force majeure, it is impossible or excessively difficult to sell the Products.
 - 3.4.2. When the Seller holds a Product ready for acceptance, made to the Buyer's previous order, and the Buyer does not accept it despite being requested to do so.
 - 3.4.3. When the total liabilities of the Buyer towards the Seller have exceeded the amount of trade credit (debt limit) granted to the Buyer by the Seller.
 - 3.4.4. When the Buyer is late with the payment to the Seller of any amounts due or fails to make payment despite being called upon to do so, including in the event of arrears in payment in the circumstances referred to in clause 6.8.
 - 3.4.5. When the Buyer fails to establish the required security at the Seller's request or the security has expired in whole or in part.

4. TERMS AND CONDITIONS OF DELIVERY: DELIVERY TIME, TRANSPORT, INSURANCE, TRANSFER OF RISK

- 4.1. The parties to an agreement shall agree on the delivery terms based on INCOTERMS 2010.
- 4.2. The delivery date specified in the order confirmation shall be treated as agreed between the parties. Failure to meet the delivery date by the Seller entitles the Buyer to assert its rights only if the Seller, despite the new dates agreed upon in writing, still fails to deliver.
- 4.3. The Buyer shall be obliged to collect the ordered Product or to accept it within 5 business days after notification of its availability. In the event of a delay in acceptance, the Buyer may be charged with storage costs.
- 4.4. Each partial delivery is a separate transaction and may be invoiced separately.
- 4.5. The Buyer may amend or cancel a confirmed order only with the consent of the Seller. The terms of such changes or cancellations shall be set out in the order confirmation.
- 4.6. Any withdrawal of a confirmed order in whole or in part by the Buyer may take place with the Seller's consent only.

5. PRICE

- 5.1. The price for the Product shall be fixed on the basis of the arrangements binding as of the order confirmation date.
- 5.2. The unit price of the products resulting from an order confirmation may increase accordingly, depending on the increase in the manufacture costs which are beyond the control of the Seller (stock price, power costs, taxes and fees, etc.) and affect the cost of manufacture of the Product.

6. PAYMENT

- 6.1. The Buyer shall pay the Seller's invoices issued by Węglokoks S.A. with its registered office in Katowice to the bank account of Węglokoks S.A. specified in the invoice. Unless otherwise agreed by the parties, any bank charges related to the payment shall be paid by the Buyer. Payment should be made on the terms and conditions specified in the order confirmation (in the agreement). In the event of a delay in payment, regardless of the interest to which it is entitled, the Seller has the right to withhold and cancel the remaining deliveries and charge the Buyer with documented costs of commencing the delivery or manufacture.
- 6.2. The Seller reserves the title in the Products sold until receiving payment of the full price. After ineffective expiry of the payment due date, the Seller may demand that the Buyer immediately release all or part of the Products. The release shall be effected at a place specified by the Seller, at Buyer's expense. If Products are used by the Buyer in such a way that its release would be associated with excessive difficulties or costs, the Seller may demand that all the things, for the manufacture of which all or part of the Products have been used, should be handed over to the Seller.
- 6.3. In the case when the content of arrangements between the parties does not indicate whether the prices are net or gross, the prices shall always be deemed to be net prices to which the Value Added Tax (VAT) will be added at an amount and rate applicable for the Product in question.
- 6.4. Payment shall be made on the date indicated in the agreement or invoice, as agreed between the parties.
- 6.5. It is not allowed to pay the Seller the amounts due under an order by deducting the Buyer's receivables from the Seller without a prior written consent of the latter.
- 6.6. The Seller has the right to dispose of receivables from the Buyer if the Buyer fails to settle the liabilities on time and after ineffective expiry of an additional period specified in the demand for payment.
- 6.7. The date of crediting the Węglokoks S.A.'s bank account with the given amount shall be deemed the date of effecting the payment. In the case of a delay in payment, Węglokoks S.A. is entitled to claim statutory interest from the Buyer for the delay in commercial or contractual transactions.
- 6.8. If there is a reasonable basis to assume that the Buyer will not fulfil its payment obligation, the Seller has the right to demand, prior to the release of the Product and regardless of the previously agreed payment date, the payment of the entire amount due in cash or by bank transfer, or to demand specific guarantees or payment securities, and may also unilaterally change the payment due date.
- 6.9. The Buyer's submission of a complaint does not suspend the payment period.

7. QUANTITY AND QUALITY

- 7.1. The Product is sold in quantities according to a contractually agreed unit (running metre, kg, item or other).
- 7.2. All the technical information concerning steel grades, dimensions, conversion rates and quality resulting from catalogues, prospectuses, brochures and other advertising materials prepared by the Seller are approximate data. They shall only apply to the extent agreed by both parties.
- 7.3. The Buyer is responsible for the content of the placed order, i.e. where the technical details and information concerning the quality and quantity of the ordered Product correspond to the Buyer's requirements.
- 7.4. If an order does not specify compliance of the Product with a standard or does not contain a description of the desired quality of the Product, the Product shall be delivered as an ordinary Commercial Product, without liability for special quality requirements.
- 7.5. The Parties agree on the quantitative tolerance: $\pm 10\%$ for each item and the whole order volume.

8. COMPLAINTS

- 8.1. The Buyer is obliged to inspect the Product in terms of quantity and quality immediately upon receipt.
- 8.2. If, having examined the received Product, the Buyer finds any shortages or defects that occurred during transport, the Buyer is obliged to draw up a report in the presence of the carrier and send it to the Seller within 7 days from the delivery date together with other required documents. The above rule applies to deliveries of Products carried out according to conditions other than EXW, FCA and CPT specified in INCOTERMS 2010.
- 8.3. Complaints regarding hidden quality defects, which cannot be verified upon receipt despite exact examination of the Product, should be submitted to the Seller in writing (along with a detailed description and, if possible, photos and samples of the Product subject to complaint) immediately after detecting them, however, no later than within 1 year from date of sale. After this date, the Seller's liability shall expire.
- 8.4. The Seller has the right to have the Product subject to complaint inspected by its representatives. In such cases, the Buyer is obliged to make the Product available for inspection and ensure all the conditions necessary to carry out the inspection and determine the merits of the complaint.
- 8.5. Until the final consideration of a complaint, the Buyer is obliged to separate and store separately the batches of the Product subject to the complaint in an appropriate way, so as to prevent its possible damage or shortage.
- 8.6. Upon approval of the complaint, the Seller shall complete the delivery, repair or replace the Product in question, or reduce the price accordingly. In no case shall the value of the complaint exceed the value of the Product subject to the complaint.
- 8.7. The Seller shall not be liable for any indirect losses or lost profits as a result of a complaint made by the Buyer.
- 8.8. Should the Buyer fail to make available to the Seller the Product subject to the complaint in the manner described in clause 8.4, the Seller will consider the complaint as unfounded.

9. FORCE MAJEURE

Pursuant to the provisions of the ICC (Paris) "Force Majeure Clause 2003" and the ICC (Paris) "Hardship Clause" 2003".

ICC FORCE MAJEURE CLAUSE 2003

(Texto da cláusula)

1. *Unless otherwise agreed in the contract between the parties expressly or impliedly, where a party to a contract fails to perform one or more of its contractual duties, the consequences set out in paragraphs 4 to 9 of this Clause will follow if and to the extent that that party proves:*
 - a) *that its failure to perform was caused by an impediment beyond its reasonable control; and*
 - b) *that it could not reasonably have been expected to have taken the occurrence of the impediment into account at the time of the conclusion of the contract; and*
 - c) *that it could not reasonably have avoided or overcome the effects of the impediment.*
2. *Where a contracting party fails to perform one or more of its contractual duties because of default by a third party whom it has engaged to perform the whole or part of the contract, the consequences set out in paragraphs 4 to 9 of this Clause will only apply to the contracting party:*
 - a) *if and to the extent that the contracting party establishes the requirements set out in paragraph 1 of this Clause; and*
 - b) *if and to the extent that the contracting party proves that the same requirements apply to the third party.*
3. *In the absence of proof to the contrary and unless otherwise agreed in the contract between the parties expressly or impliedly, a party invoking this Clause shall be presumed to have established the conditions described in paragraph 1 [a] and [b] of this Clause in case of the occurrence of one or more of the following impediments:*
 - a) *war (whether declared or not), armed conflict or a serious threat of same (including but not limited to hostile attack, blockade; military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilisation;*
 - b) *civil war, riot, rebellion and revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience;*
 - c) *act of terrorism, sabotage or piracy;*
 - d) *act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalisation;*
 - e) *act of God, plague, epidemic, natural disaster, such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, blizzard, earthquake, volcanic activity, landslide, tidal wave, tsunami, flood, damage or destruction by lightning, drought;*
 - f) *explosion, fire, destruction of machines, equipment, factories and of any kind of installation, prolonged break-down of transport, telecommunication or electric current;*
 - g) *general labour disturbance, such as but not limited to boycott, strike and lock-out, go-slow, occupation of factories and premises.*
4. *A party successfully invoking this Clause is, subject to paragraph 6 below, relieved from its duty to perform its obligations under the contract from the time at which the impediment causes the failure to perform if notice thereof is given without delay or, if notice thereof is not given without delay, from the time at which notice thereof reaches the other party.*
5. *A party successfully invoking this Clause is, subject to paragraph 6 below, relieved from any liability in damages or any other contractual remedy for breach of contract from the time indicated in paragraph 4.*
6. *Where the effect of the impediment or event invoked is temporary, the consequences set out under paragraphs 4 and 5 above shall apply only insofar, to the extent that and as long as the impediment or the listed event invoked impedes performance by the party invoking this Clause of its contractual duties. Where this paragraph applies, the party invoking this Clause is under an obligation to notify the other party as soon as the impediment or listed event ceases to impede performance of its contractual duties.*
7. *A party invoking this Clause is under an obligation to take all reasonable means to limit the effect of the impediment or event invoked upon performance of its contractual duties.*
8. *Where the duration of the impediment invoked under paragraph 1 of this Clause or of the listed event invoked under paragraph 3 of this Clause has the effect of substantially depriving either or both of the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party.*

9. *Where paragraph 8 above applies and where either contracting party has, by reason of anything done by another contracting party in the performance of the contract, derived a benefit before the termination of the contract, the party deriving such a benefit shall be under a duty to pay to the other party a sum of money equivalent to the value of such benefit.*

ICC HARDSHIP CLAUSE 2003

(Texto da cláusula)

1. *A party to a contract is bound to perform its contractual duties even if events have rendered performance more onerous than could reasonably have been anticipated at the time of the conclusion of the contract.*
2. *Notwithstanding paragraph 1 of this Clause, where a party to a contract proves that:*
 - a) *the continued performance of its contractual duties has become excessively onerous due to an event beyond its reasonable control which it could not reasonably have been expected to have taken into account at the time of the conclusion of the contract; and that*
 - b) *it could not reasonably have avoided or overcome the event or its consequences, the parties are bound, within a reasonable time of the invocation of this Clause, to negotiate alternative contractual terms which reasonably allow for the consequences of the event.*
3. *Where paragraph 2 of this Clause applies, but where alternative contractual terms which reasonably allow for the consequences of the event are not agreed by the other party to the contract as provided in that paragraph, the party invoking this Clause is entitled to termination of the contract.*

10. SCOPE OF LIABILITY

- 10.1. Any liability of the Seller related to the conclusion of an agreement or to the sale of goods (except for wilful negligence), irrespective of the liability title, does not include the repair of damage related to anticipated benefits, lost profit, production losses, loss of market reputation, etc.
- 10.2. The Seller is liable for specific features of the Product or for its suitability for the purpose desirable by the Buyer, only provided that the Seller has submitted to the Buyer a written assurance that the Product has such specific features or that it is suitable for such purposes.
- 10.3. Apart from the above described liability for defects of the Product, the Buyer is not entitled to a compensation for any damage caused by the Product (including a hazardous Product) or in connection with its possession or use, with the exception of mandatory liability arising directly from strictly applicable provisions of law.
- 10.4. If a third party addresses the Buyer with any claims that may be possibly related to the Product(s) sold to the Buyer by the Seller, for the manufacture of which the Products sold to the Buyer by the Seller were used, the Buyer should immediately notify the Seller thereof, enabling the latter to participate in proceedings related to the claim of such a party, otherwise the Seller's liability relating to such claims shall be excluded.
- 10.5. The Seller reserves the right to claim damages to the extent in which the damage suffered by the Seller exceeds the value of the reserved contractual penalties.

11. OTHER

- 11.1. Any disputes which may arise between the parties and to which these General Terms and Conditions of Sale would apply, shall be resolved exclusively by a Polish common court of law having jurisdiction over the place where Węglokoks S.A. has its registered office in Katowice (KRS: 0000095342).
- 11.2. Any sales agreement under which the Seller sells any Products to the Buyer shall be governed by these General Terms and Conditions of Sale (if the Buyer has been informed about these GTCS in any form and at any time, or could have easily become acquainted with their content, and if the parties have not excluded the application of all

or some of the GTCS in writing), as well as, to the extent not provided for in these GTCS, the relevant provisions of the Civil Code and other obligatory Polish legal acts.

12. APPLICATION OF GTCS FOR INTERNATIONAL CONTRACTS

- 12.1. In the case of international sales agreements (contracts), the application of the Convention on Contracts for the International Sale of Goods of 11 April 1980 is excluded.
- 12.2. Agreements (contracts) are concluded based on the laws of Poland and the parties shall choose the Polish law as applicable to this contract, subject to the mandatory provisions of law.
- 12.3. In matters not regulated by the agreement (contract) and the provisions of the GTCS or in accordance with clause 12.2, the Polish laws shall apply. Any disputes between the parties shall be settled by Polish courts.
- 12.4. If a Product leaves the borders of Poland, the Buyer shall, no later than on the 15th day after the end of the month to which the shipment relates, provide the Seller with documents confirming the intra-Community supply or confirming the export of the goods outside the borders of the European Union. Otherwise, the Seller shall issue a note to the Buyer for a deposit of 23% of the value of the Products sold in accordance with this order confirmation, to which the Buyer irrevocably authorises the Seller. The deposit shall be paid by the Buyer within 7 days from the date of issue of the deposit note. The deposit shall be returned to the Buyer upon delivery of the required documents. The deposit paid may be credited towards future deliveries after a mutual written agreement by the Parties.
- 12.5. Unless otherwise agreed in an agreement (contract) in writing, any kinds of fees, including bank charges, taxes, customs duties and any other such liabilities shall be charged to the Buyer, with a proviso that the Seller is obliged to settle and pay its liabilities for the acts it performs under an agreement (contract) in the territory of the Republic of Poland and which, according to the law, should be paid in the Seller's country.
- 12.6. Any statements or correspondence should be drawn up in the language of the contract agreed upon in writing, and in the absence of such a provision, either the Polish or English language shall be applicable.

13. CONFIDENTIALITY CLAUSE

During the term of an agreement, the parties undertake not to disclose to third parties any information received from each other and relating to the agreement or its implementation, or other confidential information shared with each other, except where the obligation of its disclosure to authorised state bodies results from legal regulations.

14. PERSONAL DATA PROTECTION

1. If the performance of an agreement involves any operations on personal data, the Parties undertake to act in this respect in accordance with the applicable provisions on the protection of personal data, i.e. in particular with the provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation - GDPR), as well as in accordance with the provisions of the Act of 10 May 2018 on the protection of personal data, and in the event of its replacement by another act, with such an act.

2. In connection with the conclusion, implementation and monitoring of the Agreement, each Party shall process personal data of persons employed by the other Party or cooperating with the other Party or a subcontractor of the other Party on a different basis (in particular the first name, surname, e-mail address, telephone number, place of employment), which will be shared by the parties.
3. Important information about the principles of processing personal data of the persons referred to above by the Parties and about the rights of such persons in connection with the processing of their personal data is available on the following websites of the Parties / appendices to this Agreement:

Węglokoks S.A.: <https://weglokoks.com.pl/images/RODO/Klauzula-informacyjna-dla-kontrahentw-WKS.pdf>

„Huta Pokój Profile” Sp. z o.o. <https://www.hutapokoj.eu/en/contact/sale-of-steel-products/>

The parties are obliged to inform such persons of the place where the information referred to in the previous sentence is made available or to ensure the provision of such information.

4. Mutual disclosure of the aforementioned personal data by the Parties shall not take place for the purpose of entrusting the processing of such data to the other Party. The Parties acknowledge that if they further process personal data provided by the other Party or collect or process other personal data from the aforementioned persons, they shall become the data controller in this respect and shall be obliged to fulfil all obligations of a data controller arising under the personal data protection regulations. The Parties shall not be liable for acts or omissions of the other Party that are contrary to the provisions of law.