

## GTCS - GENERAL TERMS AND CONDITIONS OF SALE OF HUTA ŁABĘDY S.A.

(effective from February 23, 2022.)

### 1. GENERAL PROVISIONS

- 1.1.** These General Terms and Conditions of Sale ("**GTCS**") shall apply to any contracts to which Huta Łabędy S.A. is a party as a seller ("**Seller**"), and its counterparties as purchasers ("**Purchasers**"). The Seller and the Purchaser are hereinafter individually referred to as the "**Party**" and jointly as the "**Parties**".
- 1.2.** The terms used in these GTCS shall have the following meaning:
  - 1.2.1. Order** - a document issued by the Purchaser in written or electronic form containing an offer to conclude a sales/delivery contract with the Seller;
  - 1.2.2. Good(s)** products and goods covered by the Order;
  - 1.2.3. Order Confirmation** - a declaration of will made by the Seller in written or electronic form confirming acceptance of the Purchaser's offer contained in the Order and signifying conclusion of a binding agreement between the Parties;
  - 1.2.4. working days** - days from Monday to Friday with the exception of public holidays.
- 1.3.** The subject of GTCS is to define in detail the terms and conditions on the basis of which the Seller undertakes to sell the Goods, i.e. to define the method of making orders by the Purchaser, dates and principles of execution of deliveries, possibility of complaints, dates of payments.
- 1.4.** Any other purchase terms and conditions than those provided for in GTCS, regardless of the form and manner in which they have been accepted and communicated, shall not apply to the Seller, unless expressly confirmed in writing by the Seller.
- 1.5.** GTCS constitute an integral part of the Seller's offer and a contract concluded with the Purchaser. In case of discrepancies between GTCS and provisions of the contract, the contractual provisions are decisive.
- 1.6.** Contradictory terms and conditions of purchase included in the Purchaser's documents shall not be binding for the Seller, even if they have not been explicitly rejected by the Seller.
- 1.7.** If individual provisions of GTCS cannot be applied for any reason, all other terms and conditions specified in GTCS remain unchanged and are considered binding.
- 1.8.** All correspondence of the Parties shall be made in writing or in electronic form (hereinafter referred to as: e-mail) and shall be delivered to the addresses of the Parties indicated respectively in the Order or the Order Confirmation.
- 1.9.** The Parties undertake to inform each other of any change of address for correspondence. If the above obligation is not fulfilled, the correspondence sent to the current address shall be deemed to have been correctly delivered.
- 1.10.** Any amendment or supplement to the Agreement, the Purchase Order or the Order Confirmation shall be made in writing or electronically in order to be valid.

## 2. TERMS AND CONDITIONS OF SALE

### 2.1. ORDERS

- 2.1.1.** The Purchaser places an Order in written or electronic form, which is then confirmed by the Seller within 3 working days of its receipt.
- 2.1.2.** The Order should be signed by persons authorised to represent the Purchaser. If the Order is placed by a representative, it is necessary to attach a power of attorney to the Order.
- 2.1.3.** Placing an Order by the Purchaser is tantamount to accepting GTCS .
- 2.1.4.** The order should include:
- a)** A detailed description of the Goods, including type, dimensions, quantity, grade, standard, additional options, marking;
  - b)** Additional requirements of the Purchaser concerning the Goods or documentation related to the Goods;
  - c)** Type of transport, place and base of delivery according to Incoterms 2020;
  - d)** Declaration of the Purchaser:
    - i.** as to whether it is a taxable person for the purposes of value added tax (VAT), together with an indication of its VAT number;
    - ii.** as to whether it is a natural person pursuing business activity, whether it enters into an agreement with the Seller directly related to the pursued business activity, indicating whether the agreement is of professional nature for that person (resulting in particular from the subject of the pursued business activity made available on the basis of the provisions of the Central Register and Information on Business Activity) in connection with Article 385<sup>5</sup>, 556<sup>4</sup>, 556<sup>5</sup>, 576<sup>5</sup> of the Civil Code.
- 2.1.5.** The Seller shall confirm the Order within 3 working days of its receipt. In the event of incomplete data in the Order or failure to provide proper authorisation of the Purchaser's representatives, the deadline for confirmation of the Order shall not run. The Seller shall confirm the Order within the above-mentioned time limit after the Purchaser has supplemented the missing information in the Order.

### 2.2. ORDER CONFIRMATION

- 2.2.1.** The Order Confirmation should include at least:

- a)** price of the Goods ordered;
- b)** date(s) of payment for the Goods;
- c)** delivery date(s);
- d)** confirmation of the place and base of delivery;
- e)** other terms and conditions agreed between the Parties, including:

- i. information about the Goods being ordered;
- ii. additional options and additional requirements of the Purchaser;
- iii. labelling and packaging information;
- iv. information on quality documents, delivery notes.

- 2.2.2.** An agreement between the Seller and the Purchaser shall be deemed concluded upon receipt by the Purchaser of the Order Confirmation, unless the Parties agree otherwise.
- 2.2.3.** The Seller shall not be obliged to carry out unconfirmed Orders.
- 2.2.4.** The Seller may modify the Order Confirmation, in which case the Purchaser is obliged to accept the proposed amendment or to reject it within 2 working days from the date of receiving the amendment to the Order in the form provided for in the Order (item 2.1.1.). Failure to accept the amendment shall be deemed equivalent to rejection of the proposed amendment by the Purchaser.

### **2.3. CANCELLATION OF AN ORDER**

- 2.3.1.** The Purchaser's cancellation of the Order after its confirmation by the Seller shall constitute the Purchaser's withdrawal from the agreement.
- 2.3.2.** In the aforementioned case, the Seller shall be entitled to charge the Purchaser a contractual penalty:
- a) of 20 % of the net price of the ordered Goods, provided that the costs incurred by the Seller up to the moment of the Purchaser's cancellation are not higher;
  - b) in the amount corresponding to the amount of actual costs incurred in connection with manufacture or purchase of the Goods, including the amount corresponding to up to 100% of net value of the Ordered Goods, together with transport costs, if the Goods have been manufactured or purchased and collected from the supplier before the Purchaser cancels the Order.
- 2.3.3.** In the case of failure to collect the Goods at the date agreed by the Parties, the Seller shall specify to the Purchaser an additional term no longer than 30 working days. After its ineffective lapse, the Seller shall have the right to withdraw from the agreement and claim a contractual penalty in the amount of 100% of net price of the ordered Goods.
- 2.3.4.** The Seller may seek from the Purchaser compensation in the amount exceeding the value of reserved contractual penalties on general terms.

### **3. PRICES, PAYMENT TERMS, INVOICING**

- 3.1.** All prices quoted in the Order Confirmation are fixed and not subject to change. Prices are in Polish zloty excluding value added tax (VAT), unless otherwise stated.
- 3.2.** Unless otherwise specified in the Order Confirmation, the price does not include the costs of transport of the Goods to the place indicated in the Order or the Order Confirmation.
- 3.3.** After delivery of the Goods, the Seller shall send to the Purchaser original VAT invoices issued in accordance with the requirements specified in relevant provisions of law.
- 3.4.** The Purchaser shall pay for the Goods at the time specified in the Order Confirmation. The date of payment shall be the date of crediting the Seller's bank account specified in the Order Confirmation.
- 3.5.** Failure to pay on time will result in:
  - 3.5.1.** charging statutory interest for delay in commercial transactions;
  - 3.5.2.** may suspend deliveries and execution of orders of the Purchaser until all overdue payments to the Seller have been settled.
- 3.6.** The Seller declares that he is a large entrepreneur within the meaning of the Act of 08.03.2013 on counteracting excessive delays in commercial transactions.
- 3.7.** The Seller may grant the Purchaser the right to make a deferred payment. Postponement of the payment date may be subject to the presentation of adequate security by the Purchaser. The Parties shall agree in writing any modification of the payment dates and rules, together with a proposal for securing the Seller's claims.
- 3.8.** The Seller shall have the right to transfer receivables due to him from the Purchaser to third parties without the need to obtain the Purchaser's prior consent, unless the Parties agree otherwise.
- 3.9.** The Purchaser is not entitled to:
  - 3.9.1.** withhold payment for the Goods purchased in the event of complaints as to quantity, quality or compliance with other requirements set out in the Order;
  - 3.9.2.** deduct any of his liabilities towards the Seller with the Seller's liabilities towards the Purchaser;
  - 3.9.3.** transfer the rights and obligations resulting from the agreement concluded with the Seller to third parties without prior written consent of the Seller.

### **4. DELIVERY, PACKAGING, TRANSPORT**

- 4.1.** In the Order Confirmation the Seller specifies in detail the date and place of delivery of the Goods. If the Parties have not specified the place of delivery, it is assumed that the delivery of the Goods shall be executed based on the delivery base FCA warehouses Huta Łabędy S.A. according to Incoterms 2020.
- 4.2.** The Goods shall be delivered to the place specified by the Parties in the Order Confirmation.

- 4.3.** The delivery is confirmed by a Stock Issue Confirmation [*IC*] document signed by the Parties.
- 4.4.** At the moment of transfer of the Goods to the Purchaser or to a forwarder or carrier appointed by it, or at the moment of release of the Goods from the Seller's warehouse, risk of its loss or damage shall pass onto the Purchaser.
- 4.5.** Any liability related to loading, fastening and securing of the Goods shall be borne by the Seller.
- 4.6.** In the event that the Goods are collected by the Purchaser with its own transport or by means of a designated carrier or forwarder, a person acting on behalf of or upon the order of the Purchaser shall present an appropriate authorization to collect the Goods, signed by persons authorized to act on behalf of the Purchaser.
- 4.7.** The Goods shall be delivered unpackaged and unprotected against corrosion, unless the Parties agree otherwise. Any form of packaging of the Goods agreed by the Parties shall be made at an additional charge.
- 4.8.** Upon delivery of the Goods, the Purchaser shall inspect the Goods for:
  - 4.8.1.** compliance with the Order;
  - 4.8.2.** quality, weight, dimensions, absence of damage;
  - 4.8.3.** proper designation;
  - 4.8.4.** complete and properly drawn up documentation accompanying the Goods.
- 4.9.** The Seller reserves that within the scope of delivery of the quantity of Goods specified in the Order, a tolerance of +/- 5% in relation to the total quantity of the Goods delivered is permitted, unless otherwise agreed by the Parties.

## **5. QUALITY/TECHNICAL DOCUMENTATION**

- 5.1.** The Seller shall deliver to the Purchaser within the agreed time limit, quality documentation concerning the Goods and other agreed technical documentation in accordance with the order confirmation.

## **6. GUARANTEE**

- 6.1.** The Seller guarantees usable properties of the Goods that meet technical requirements specified in standards or technical conditions and their performance in accordance with the binding legal regulations.
- 6.2.** The Purchaser is obliged to inspect the quality and quantity of the Goods at his own expense during acceptance. In the event of a defect in the Goods, the Purchaser is obliged to make a complaint in writing or electronically pursuant to Clause 7.4. The Purchaser is obliged to store the material properly.

- 6.3.** All Goods of the Seller are covered by a 12-month warranty, counting from the date of acceptance/delivery, unless otherwise agreed by the Parties in writing.
- 6.4.** The Seller shall only be liable under the warranty if the Purchaser has transported, stored, handled and used the Goods in accordance with their intended use, generally accepted standards and information provided to the Purchaser by the Seller.
- 6.5.** Detection of defects in the Goods or commencement of the complaint procedure by the Purchaser shall not relieve it from the obligation to pay for the Goods delivered.
- 6.6.** For Purchasers who are not consumers, the warranty is excluded.
- 6.7.** Unless otherwise specified the goods may have surface corrosion - surface condition B or C according to ISO 8501-1 without corrosion pitting.
- 6.8.** Damage or deletion of data identifying the Goods in question may lead to non-recognition of claims under the warranty.
- 6.9.** The warranty does not apply to:
  - 6.9.1.** mechanical damage caused by the Purchaser, e.g. due to improper transport, unloading, storage and other transport or assembly activities;
  - 6.9.2.** products repaired arbitrarily by the Purchaser or incorrectly used;
  - 6.9.3.** welding, assembly joints, alterations or corrosion caused by the medium carried out by the purchaser.

## **7. COMPLAINTS**

- 7.1.** The Purchaser shall be obliged to duly inspect the delivered Goods in respect of quantity, quality and defects not discovered upon receipt of the Goods.
- 7.2.** If the Purchaser fails to identify defects in the Goods to be delivered upon their acceptance due to a failure to inspect or a lack of due diligence in inspecting the Goods, his claim to rectify the defects shall be excluded.
- 7.3.** If a complaint is found justified, the Seller may remove the defect or supply the Purchaser with a new product free from defects or offer a price reduction.
- 7.4.** The Seller accepts complaints in writing or electronically at adres:reklamacje@hutalab.com.pl. The condition of timely consideration of a complaint is the delivery or notification to the address [-] of the "Karta Zgłoszenia Potencjalnej Reklamacji" [*Potential complaint notification form*] available on the website: <https://www.hutalab.com.pl/pl/kontakt/reklamacje>.
- 7.5.** Notification of quality defects that could not be detected during delivery must be given to the seller immediately upon detection, but in any case no later than 365 days after delivery.
- 7.6.** Notification of quantitative defects or defects which are not hidden defects must be made at acceptance or delivery of the Goods no later than 3 days after delivery.

- 7.7.** The Seller shall not be liable for losses resulting from a delay in reporting a defect by the Purchaser.
- 7.8.** The Purchaser is obliged to make available all data enabling proper consideration of the complaint, including transmission of all data enabling, among others, full identification of the Goods, and, upon the Seller's request, to enable access to the place where the Goods are located and to arrange a place for potential repair.
- 7.9.** The data enabling the correct handling of the complaint include:
  - 7.9.1.** notification of a complaint together with a description and photos of the defects in the defective batch of Goods,
  - 7.9.2.** order confirmation,
  - 7.9.3.** delivery number of the delivery note or consignment note,
  - 7.9.4.** evidence that the complaint is justified.
- 7.10.** Whenever defects in Goods are identified, any processing of the Goods shall be stopped and the defective Goods shall be stored separately and marked as Goods under complaint delivered by the Seller.
- 7.11.** The Purchaser shall be obliged to provide the Seller with an opportunity to inspect the Goods complained of and to store the Goods complained of in a proper manner, preventing its damage and occurrence of shortages, until the complaint is finally considered.
- 7.12.** If only part of the Goods is defective, only that part shall be replaced or repaired or the price reduced.
- 7.13.** The Seller shall refuse to consider a complaint when the Goods have been improperly transported, used or stored by the Purchaser, as well as in the situation of a breach of this complaint procedure.
- 7.14.** In each case of a complaint, the basis for its recognition or non-recognition is the appropriate documentation, including, among others, notification of the complaint, opinion of the Quality Department, photographic documentation, test reports.
- 7.15.** Within 30 working days from the date of receipt of a complaint, the Seller shall inform the Purchaser in writing or in an electronic form about his decision on considering or rejecting the complaint. Any possible objections to the Seller's position, the Purchaser is obliged to report in writing or in electronic form, pursuant to Section 7.4, no later than within 7 working days from the date of receipt of the Seller's decision, or else the Purchaser shall be deemed to recognise the Seller's position.
- 7.16.** The Seller reserves the right to extend the time limit for processing the complaint if, for reasons beyond the Seller's control, it is impossible or considerably difficult to meet the deadline.
- 7.17.** If the complaint is recognised, the Seller shall, at his own discretion, repair or replace the defective Goods with Goods free from defects as soon as possible.

- 7.18.** In the situation when, for reasons beyond the Seller's control, replacement or repair of the Goods is impossible or would be connected with disproportionate costs in relation to the value of defective Goods, the Seller shall reduce the price by the value established by the Parties, but not higher than the value of defective Goods, deducting the price of scrap metal according to current market prices or established by the Parties.
- 7.19.** In the event of determining that a complaint notification is unjustified, the Seller may charge the Purchaser with costs connected with verification of the notification, including quality control, transport, reloading, costs of travel, accommodation and work of persons investigating the complaint and other costs justified during investigation of the complaint.
- 7.20.** The Seller shall not be liable for the losses and lost profits of the Purchaser resulting from the fact of submitting and recognising the complaint, and the Seller's total liability is set out in Section 9. Any expert's reports made without the Seller's consent shall be performed at the Purchaser's risk and expense.

## **8. RETENTION OF TITLE**

- 8.1.** The title to all Goods of the Seller shall pass to the Purchaser upon payment of the full price under the agreement. Goods may not be subject to pledge, registered pledge or other encumbrance until the title passes to the Purchaser.
- 8.2.** In the event of breach of agreement terms and conditions by the Purchaser, in particular in the event of delay in payment, the Seller shall be entitled to set an additional deadline for payment to the Purchaser, which shall not be longer than 30 working days, and if the deadline expires ineffectively, the Seller shall be entitled to make a declaration of withdrawal from the agreement. In the above situation, the Seller shall be entitled to demand immediate return of the Goods.
- 8.3.** In the period before transferring the title to the Goods to the Purchaser, the Purchaser is obliged to store the Goods properly and insure them against all risks. The Purchaser will submit to the Seller a copy of the insurance policy covering risks related to the Goods. The sum insured should in each case cover the value of Goods being the subject of the agreement.
- 8.4.** In the case of processing the Goods by the Purchaser or mixing them with other objects, the retention of title by the Seller shall be transferred to the processed or mixed objects. In the case of processing, combining or mixing the Goods with other items, the Seller shall acquire the right of co-ownership in the newly created item in such proportion as results from the ratio of the value of the new item to the value resulting from the sales invoice. Retention of title shall apply to the processed item to the same extent as to the original item. If the item is combined or mixed with the main item, it shall be deemed agreed that the Purchaser shall transfer the co-ownership of the item to the Seller and shall secure this right.

## **9. INSURANCE, LIMITATION OF LIABILITY**

- 9.1.** The Seller has a third party insurance policy for his business activities.
- 9.2.** The Seller shall only be liable for losses resulting exclusively from his fault in connection with non-performance or improper performance of the agreement or the Order.
- 9.3.** The Seller shall not be liable in the event of a serious fault not resulting from the fault of the Seller.
- 9.4.** To the extent that the Seller is held liable for the product vis-à-vis a third party, the Purchaser shall indemnify the Seller to the extent that such liability goes beyond the scope of liability set out in this section.
- 9.5.** The Seller shall not be liable for any lost profits, indirect losses or losses of any nature whatsoever incurred by the Purchaser, including losses, contractual penalties that the Purchaser will have to pay to a third party, nor for the operational losses of the Purchaser.
- 9.6.** The total scope of the Seller's liability towards the Purchaser, irrespective of its basis, is limited to the net value of the Goods delivered. The Seller shall not be liable for indirect losses, consequential damages, losses incurred by third parties and lost profits.

## **10. CONFIDENTIALITY**

- 10.1.** All information obtained by the Purchaser in connection with performance of the Order, including in particular organizational, commercial and technical information concerning the Seller and not made available to the public shall be considered by the Parties as confidential information and shall not be disclosed to third parties. This obligation does not apply to situations in which the obligation to provide information results from mandatory legal regulations.
- 10.2.** In particular, the Purchaser undertakes to treat as confidential information concerning the volume of trade, prices applied by the Seller and their discounts, specification of Goods, logistic agreements, technological data, content of concluded contracts and agreements.
- 10.3.** The Purchaser declares that it shall not use confidential information for purposes other than those for the performance of the Order and that it shall ensure due protection of such information in accordance with its confidential nature.
- 10.4.** The Purchaser undertakes to inform all persons having access to confidential information contained in contracts with the Seller of their obligation to keep it confidential and of the legal consequences of disclosing confidential information.
- 10.5.** In the event of breach of confidentiality provisions by the Purchaser, the Seller shall be entitled to charge a contractual penalty of PLN 5,000.0 for each case of breach.
- 10.6.** The Seller may seek from the Purchaser compensation in the amount exceeding the value of the aforementioned contractual penalty on general terms.

## **11. FORCE MAJEURE**

- 11.1.** Force majeure within the meaning of GTCS shall mean a sudden, unpredictable event, independent of the Parties' will, preventing execution of a confirmed Order in whole or in part, permanently or for a certain period of time, which cannot be prevented or counteracted with due diligence. Manifestations of force majeure include in particular:
- 11.1.1.** natural disasters such as fire, flood, earthquake, epidemics and similar natural disasters;
  - 11.1.2.** terrorism, insurgency, strike;
  - 11.1.3.** action by state authorities such as the issuance of a legal act or an administrative decision, embargo, martial law, state of emergency, requisition;
- 11.2.** The Parties mutually undertake to promptly, however not later than within 7 days, inform each other of the occurrence of circumstances constituting force majeure, at the same time furnishing evidence thereof as well as information on the anticipated duration thereof, effect on the completion of the Order, in particular the date by which they anticipate that the completion of the Order will be delayed.
- 11.3.** The obligation to notify shall not be required where the occurrence of force majeure is commonly known.

## **12. APPLICABLE LAW AND JURISDICTION**

- 12.1.** The agreement shall be governed by Polish law.
- 12.2.** Any disputes concerning contracts arising in connection with the application of these GTCS shall be settled by the court competent for the place of the Seller's registered office.
- 12.3.** Each Party irrevocably submits itself to the exclusive jurisdiction of the Polish courts in relation to any cases or disputes arising in connection with the performance of contracts arising in connection with the application of these GTCS .
- 12.4.** The application of the United Nations Convention on Contracts for the International Sale of Goods, signed in Vienna in 1980, shall be excluded.

## **13. PROTECTION OF PERSONAL DATA**

- 13.1.** The Parties acknowledge that, for the proper performance of the Agreement, there may be processing and mutual sharing of personal data within the meaning of 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), hereinafter referred to as "GDPR".
- 13.2.** Each Party independently decides on the purposes and means of the processing of personal data referred to in the paragraph above, and therefore each Party acts as an independent

controller of personal data and is responsible for the processing of personal data in connection with the performance of the Agreement to his own extent.

- 13.3.** The Parties undertake to protect personal data made available to each other in connection with the performance of the Agreement, including the implementation and application of technical and organisational measures to ensure an appropriate level of security of personal data in accordance with the relevant legislation.
- 13.4.** The Purchaser undertakes to inform the persons authorised to represent him in contacts with the Seller during the execution of the agreement, whose business data he has made available, that:
  - 13.4.1.** their personal data (such as first name, surname, position, company telephone number, or e-mail address) may be processed by Huta Łabędy S.A. with its registered office in Gliwice as a data controller on the basis of the legally justified interest (Article 6 (1)(f) GDPR) to the extent that it is necessary for the performance of the agreement, including in particular contacting them in order to perform the concluded agreement, as well as for the purpose of possible determination, investigation and defense of claims - until the expiry of the period of claims limitation;
  - 13.4.2.** their personal data may be transferred to entities that support the Seller in the implementation of the above objectives, e.g. to advisory entities, including, upon request, to state authorities for the purposes of proceedings conducted by these authorities;
  - 13.4.3.** have the right to access, rectify, delete, restrict processing, lodge an objection and lodge a complaint to the supervisory authority, which in Poland is the President of the Office for Personal Data Protection;
  - 13.4.4.** the controller has appointed a Data Protection Officer (DPO) who can be contacted about the processing of personal data electronically at adres:iod@hutalab.com.pl

