

## GENERAL TERMS OF SALE ZAKŁADY AZOTOWE CHORZÓW S.A.

### Article 1: GENERAL TERMS

#### 1. Definitions:

**GTS:** these General Terms of Sale. If there are no other terms expressed directly in writing, these General Terms of Sale shall constitute an integral part of every Agreement and shall be applied with respect to all other activities between the Parties.

**Agreement:** agreement in a written form, along with schedules forming its integral part, including the General Terms of Sale concluded between Zakłady Azotowe Chorzów S.A. and the Buyer in relation to the sale of goods.

**Seller:** Zakłady Azotowe Chorzów S.A. ul. Narutowicza 15, 41-503 Chorzów, entered in the register of entrepreneurs maintained by the District for Katowice – Wschód in Katowice, 8<sup>th</sup> Economic Division, KRS 0000070509, State Statistical No. (REGON) 271515599, VAT Reg. No. (NIP) PL 627 001 16 43 BDO: 00011393, share and paid-up capital PLN 94,700,000.

**Buyer:** a domestic or foreign entity, i.e. a natural person conducting business activity, a legal person or an organisational unit without legal personality purchasing goods from the Seller.

**Goods:** movables, services or goods which are to be sold on the basis of the Agreement/ Order.

**Party, Parties:** means the Seller, the Buyer or both parties.

**Order:** a document in which the Seller and the Buyer determine the subject matter of the Agreement, its price and payment terms.

- Provisions of the Order/ Agreement inconsistent with these GTS require observance of a written form under pain of nullity.
- If any of the General Terms of Sale turns out to be inconsistent with the provisions of the Agreement, the provisions of the Agreement shall be binding.
- In case any of these General Terms of Sale turns out to be inconsistent with the documents other than the Agreement (e.g. General Terms of the Buyer), these General Terms of Sale shall take precedence.
- In case of application of other language versions of the GTS than the Polish language version and potential discrepancies between such versions, the Polish version shall take precedence.

### Article 2: OFFERS

- The offer is a formal proposal for conclusion of an agreement, performance of a transaction and presents general terms of sale of a product (quantities, prices, payment terms).
- Terms contained in the offer enter into force after the Seller has received the Order and sent it back via e-mail or fax, or in case of system confirmation of an Order by the Seller.
- The offers shall be sent electronically, via fax or via post.

### Article 3: GOODS AND PRICES

- The Seller delivers the Goods in line with the terms of the Agreement, yet the Seller bears no liability for their further use.
- The price for the sold Goods shall be determined each time in the offer or in the Agreement.
- The price for the Goods is determined on the basis of the arrangements binding on the day of written confirmation of the Order.
- All prices are net prices, excluding VAT. The Seller shall calculate the necessary taxes in line with the requirements of the applicable law.

#### **Article 4: PRE-SALE DETERMINATIONS**

1. Sale terms (i.e. the product, packaging, net price, quantities, payment terms, discounts) shall be agreed and confirmed by both Parties, i.e. the Seller and the Buyer.
2. Confirmation of sale terms shall be made via e-mail in the form of an Order Confirmation in case the Parties have not concluded an Agreement.
3. The confirmed sale terms are fixed and binding during the term of the Offer, unless the Parties determine otherwise.

#### **Article 5: ORDER**

1. Sale of Goods can be made on the basis of an Order submitted by the Buyer in written form (which is also understood by the Parties as fax or e-mail) or in line with Art. 6.1.
2. The condition of efficient submission of an Order is submission of the Order by the Buyer and written Order confirmation by the Seller (including via fax or e-mail). Order confirmation means that the Seller received the Order and accepted it for processing. Order submission is not binding for the Seller and the absence of confirmation does not entail tacit acceptance of the Order.
3. An individual Order shall contain the following elements:
  - a) Buyer's data, including address;
  - b) detailed address of delivery, if the address of delivery is different than the Buyer's address;
  - c) legible first name, surname and telephone number of a person authorised for contacts with the Seller with respect to the performance of the Agreement;
  - d) detailed information pertaining to the ordered Goods (technical specification, quantity, etc.) or reference to the submitted offer and specification;
  - e) delivery terms in compliance with Incoterms 2010;
  - f) type of packaging;
  - g) date of delivery;
  - h) price;
  - i) payment terms;
  - j) Buyer's signature or signature of a person/ persons authorised to submit an Order;
  - k) quantity.
4. Order confirmation is made in writing (which is also understood by the Parties as fax or e-mail) in the course of 5 business days from receipt of the Order and means conclusion of an agreement on sale of Goods specified in the Order.
5. The date of Order processing is the date of release of every subsequent batch of the Goods to the Buyer or the Carrier from the Seller's warehouse.
6. The Seller authorises employees of the trade office to confirm individual orders.
7. An Order shall not be binding for the Seller if it was not accepted by the Seller, whereas absence of the Seller's response in no case shall be understood as acceptance of the Order for processing.

#### **Article 6: CONCLUSION OF AGREEMENT**

1. Sale of Goods may also be performed on the basis of an Agreement concluded in written form, agreed and signed by both Parties.

#### **Article 7: TERMS OF DELIVERY**

1. The Goods may only be delivered to the Buyer or its representative designated by a person authorised to represent the Buyer.
2. Deliveries shall take place in compliance with INCOTERMS 2010 indicated in the Agreement/ Order, unless the Parties decided otherwise in writing. If there is a change in terms of delivery specified in the Agreement, provisions contained in the Buyer's Order confirmation prepared by the Seller shall be applicable.

3. In case of own transport, the Buyer guarantees cleanness and technical quality of means of transport in line with the standards regulating transport of Goods which are the subject matter of the Order, whereas the Seller shall be released from liability for damages resulting from failure to comply with the provisions above; what is more, the Buyer shall release the Seller from any obligation of checking and notifying that the means of transport of the Buyer are inappropriate.
4. The quantity of delivered Goods may differ from the ordered quantity by +/- 10%, whereas such delivery shall be deemed proper performance of provisions of the Agreement and the Buyer shall be required to accept the Goods.
5. The Seller may change the previously agreed dates of delivery due to reasons other than force majeure, in particular in case of existence of logistic difficulties or reduction in the carriers' capacity. In such case, the Seller shall immediately notify the Buyer, not later than within 2 business days from the emergence of such difficulties, specifying a new delivery deadline, which shall take place not later than within 14 days from the initial delivery date.
6. In case of deliveries in multiple-use containers, the Buyer shall return the containers at own cost (unless the Parties made different written arrangements) to Zakłady Azotowe Chorzów S.A. within 90 days from the date of collection of the purchased Goods. After the lapse of the deadline specified above, Zakłady Azotowe Chorzów S.A. reserve the right to deem the packaging sold and charge the Buyer with the amount of PLN 700.00 net per piece.

#### **Article 8: PAYMENT TERMS**

1. The Buyer authorises the Seller to issue invoices without the Seller's signature.
2. The Parties declare that they are VAT payers. The declaration in question does not refer to natural persons who are not VAT payers.
3. If the delivery is an intra-community transaction in line with the definition contained in Art. 138 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, the Buyer shall notify the Seller in writing before the delivery processing about VAT Reg. numbers (NIP) for every transaction and in case the Seller does not provide transport, the Buyer shall also certify that the Goods are transported by the Buyer or on its behalf to another EU member state. In the situation described above, the Seller shall issue an invoice to the Buyer charging 0% VAT, whereas the Buyer shall present to the Seller, as quickly as possible, documents confirming that the Goods were transported to another EU member state. The Buyer shall be liable for VAT and any penalties due from/ settled by the Seller in case the aforementioned documents fail to reach the Seller on time or contain incorrect, imprecise or erroneous data. If the VAT Reg. No. (NIP) cannot be verified on time with tax authorities or when verification has not been confirmed, a delivery shall be deemed domestic delivery and the price shall be increased by due VAT. If the Goods are transported by the Seller or on the Seller's behalf, and the tax authorities do not accept the proof that the Goods were transported to another EU member state, the Buyer shall exercise any effort to provide the Seller with additional information and assist the Seller in procuring acceptance for the proof.
4. The Buyer shall pay the amounts due/ paid by the Seller in line with Section 8.3 above (including VAT). In case of the Buyer's delays in settlement of payments, the Seller shall deduct the aforementioned amounts from payments made by the Buyer.
5. The invoices shall be sent to the Buyer after the dispatch of Goods, unless the Parties agree otherwise.
6. The Buyer shall pay the amounts due for the delivered Goods via a wire transfer, to the bank account of the Seller specified on the invoice, within a deadline specified on the invoice, unless the Parties agree otherwise in writing.
7. Payment shall be deemed made on the date when the amount due is credited on the Seller's bank account. If payment for the Goods is made before the delivery, the payment shall be treated as an advance payment which, as of the moment of delivery of the Goods, shall be deemed payment for the delivered Goods.
8. In case of any delays in payments, the Buyer shall settle the maximum default interest specified in Art. 481 of the Polish Civil Code. Such interest, as well as other amounts may be deducted from the Buyer's future payments.
9. The Parties shall immediately inform each other about any significant changes in the form of the conducted business activity and shall provide, upon the request of the other Party, documents which testify to their current financial standing. In particular, each of the Parties shall immediately inform the other Party about the filing of an application for announcement of bankruptcy, about amounts due to the Social Insurance Company and the Tax Office.

10. In case of lack of payment of the amount due for delivered Goods or in case of exceeding the insurance limit, the subsequent deliveries may be suspended until payments have been settled. The Seller has a right to suspend a delivery also if the Buyer is late with settling payments referred to in Section 7.7 or amounts resulting from Section 8.3 above.

#### **Article: RESERVATION OF OWNERSHIP RIGHT**

1. Transfer of the ownership right to the Goods shall in no case take place prior to making full payment. If the Buyer fails to settle payment within a stipulated deadline, the Seller shall be vested with a right to demand return of the Goods within 3 days from sending a written request to the Buyer.
2. Accepting the return of Goods does not solve and does not nullify the Agreement/ Order or any of its clauses, unless a clear declaration was delivered by the Seller in written form.
3. If the Goods in relation to which the Seller reserves the ownership right are processed into other products, the Seller's ownership right shall automatically extend to products resulting from such processing.

#### **Article 10: COMPLAINTS**

1. The guarantee encompasses a period of 1 year from the date of collection of the Goods by the Buyer.
2. If it turns out that the quality and/ or quantity of delivered Goods does not comply with the specification in the Agreement/ Order, then the Buyer shall immediately - yet not later than within five (5) business days - notify the Seller about it.
3. The Buyer shall verify the quantity of delivered Goods until the completion of unloading, and shall notify the Seller about any claims related to the quantity of delivered Goods within 5 business days from the unloading of the Goods. The incompliance/ difference report shall be certified by the Carrier.
4. The scales proper for examining complaints are the scales located in Zakłady Azotowe Chorzów.
5. In line with Section 1 above, every complaint with respect to the quality shall be sent by the Seller along with samples of Goods considered defective.
6. The Seller shall notify the Buyer about the decision pertaining to the lodged complaint within fourteen (14) business days from the date of receipt of the Buyer's complaint.
7. The Parties shall try to solve any differences in opinions resulting from the Seller's decision amicably. Should amicable solution be impossible, any disputes resulting from or pertaining to the quality requirements shall be examined by SGS (formerly Société Générale de Surveillance). The SGS decision shall be binding for both Parties. The costs of the above-mentioned expertise shall be borne by a Party whose claims were not acknowledged.
8. If terms specified in the Agreement/ Order pertaining to quantity or quality have been violated, which was evidenced in line with sections 1 - 4 as the Seller's fault, then the Seller shall - at its own discretion - deliver Goods without defects or remove the existing defects at own cost. The Buyer hereby acknowledges that the compensation specified in this section is the sole and exclusive legal measure with which the Buyer is vested with respect to the Seller.
9. The Seller shall not be liable for the effects of applying the Goods inconsistently with the intended use.

#### **Article 11: FORCE MAJEURE**

1. The Parties shall not bear reciprocal financial liability if, due to reasons which are outside of their control, such as natural disasters, fires, floods, earthquakes, war activities, local conflicts, riots, terrorist acts, sabotage, accidents, employee misunderstandings (strikes), disruptions in supplies of raw materials, collapse of production or distribution, introduction of embargo or another decision of state or local authorities which limits import or export, failures of production installations, etc. in case the above-listed circumstances directly or indirectly affect the performance of the Agreement/ Order, performance of this Agreement/ Order shall be partially or fully suspended or delayed. Each of the Parties shall notify the other Party in writing about the occurrence of the events above immediately, however not later than within 7 days, calculating from the date of the event.
2. Lack of notification shall result in the fact that the Party cannot be released from the obligations resulting from the content of the Agreement/ Order. In case force majeure lasts longer than 30 days, the Parties shall meet with the aim of finding a solution satisfactory for both Parties.

## **Article 12: FINAL PROVISIONS**

1. The Buyer shall not be vested with a right to assign its rights or obligations resulting from the Agreement/ Order to a third party without the Seller's written approval.
2. Any schedules, amendments and supplements to the Agreement shall be valid only when they were prepared in writing and signed by both Parties.
3. If any of the General Terms of Sale or the Agreement becomes invalid, such invalidity shall not affect other terms. In line with the content of this section, if any of the General Terms of Sale or the provisions of the Agreement becomes invalid, the Parties shall initiate negotiations to agree on substitute terms.
4. The Seller's full liability resulting from or related to the Agreement/ Order in no case shall exceed the purchase price of the Goods covered by a complaint, unless the damage was directly caused by gross negligence or an intentional act. The Parties hereby expressly exclude the Buyer's right to seek supplemental damages, including consequential or indirect damages, loss of income or profits.
5. The Agreement and the General Terms of Sale shall be subject to and shall be interpreted in line with the law of the country of the Seller's seat.
6. Any disputes resulting from or related to the Agreement or the General Terms of Sale shall be examined by a court competent for the Seller's seat.
7. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to the General Terms of Sale or the Agreement.
8. Issues not regulated by the General Terms of Sale shall be governed by the relevant provisions of the Polish Civil Code.
9. The Seller does not guarantee quality or utility of the Goods for any specific purpose.
10. In a scope permitted by the law, any guarantees and declarations with respect to the quality of the Goods are hereby excluded, unless they were clearly agreed by the Parties in writing.
11. The Seller hereby expressly declares that it does not provide the Buyer with any licences or sub-licenses and does not transfer the intellectual property rights pertaining to the Goods. If the Buyer uses the Seller's Goods for production purposes or for processing the Goods into other products, the Buyer shall not be vested with a right, without the Seller's prior approval expressed in writing, to use markings of the Seller's goods, in particular the Seller's trademarks on the resulting products and packaging or any other advertising materials.
12. These General Terms of Sale may be revised and changed by the Seller. The most recent version of these General Terms of Sale is available at the Seller's website: [www.azoty.chorzow.pl](http://www.azoty.chorzow.pl)  
<http://www.azoty.chorzow.pl>

## **Article 13: DATA PROTECTION AND CONFIDENTIALITY**

1. Trade terms agreed between the Parties constitute the Seller's and the Buyer's trade secret.
2. Each of the Parties shall keep the information that is not known publicly secret (hereinafter referred to as the Confidential Information), which was received from the other Party in relation to conclusion or performance of this Agreement (hereinafter referred to as the Confidentiality Obligation).
3. The Supplier shall not inform any other company or a private person about the trade terms, in particular the prices, quantities, specifications, etc. of the Goods.
4. The Confidentiality Obligation shall not be applicable if the necessity of disclosing Confidential Information results from a demand of authorised state bodies, including courts and in particular when any of the Parties is seeking, from the other Party, claims resulting from this Agreement in court.
5. Disclosure of Confidential Information by any of the Parties to its employees or subcontractors shall not violate the Confidentiality Obligation, provided the necessity of disclosing such information is justified by the performance of this Agreement and the Party disclosing Confidential Information guarantees that the employees or subcontractors who receive such information will also observe the Confidentiality Obligation with respect to such information.
6. The Buyer shall inform all persons who have access to the Confidential Information resulting from the trade terms agreed by the Parties about the Confidentiality Obligation with respect to them and the legal effects of disclosing Confidential Information, i.e. civil and criminal liability foreseen in the Act referred to in Section 14.2 above.
7. As of the moment of termination of the Agreement irrespective of the cause, documentation shall be returned to the owner in line with relevant guidelines or alternatively, on the condition of such Party's prior approval, destroyed whereas all confidentiality obligations shall remain in force for a period of

three (3) years from termination of the Agreement, unless the Parties agreed otherwise observing a written form.

#### **Article 14: TERM**

1. These General Terms of Sale shall be binding as of 01.10.2016 until revoked by the Seller.

#### **Article 15: GDPR**

Pursuant to Art. 13.1 and 2 of Regulation 2016/679 of the European Parliament and of the Council (EU) 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 (GDPR), we hereby indicate that:

1. The data controller is Zakłady Azotowe Chorzów S.A. 41-500 Chorzów, ul. Narutowicza 15, entered in the District Court Katowice Wschód in Katowice, 8th Economic Division of the National Court Register under entry No. KRS 0000070509, VAT Reg. No. (NIP) 627-001-16-43, share capital PLN 94,700,000 (fully paid-up).
2. ZACH designated a Data Protection Officer. With respect to all issues related to the processing of personal data of persons responsible for the performance of the goods transport services by the Data Controller, as well as in the case of exercising rights specified in this clause, you can contact us by sending a relevant application in written form to the following address: Zakłady Azotowe Chorzów S.A., 41-500 Chorzów, ul. Narutowicza 15, with a note "Personal Data Protection", to e-mail address: [iod@azotychorzow.pl](mailto:iod@azotychorzow.pl), or via telephone at: No. +48327362000,
3. The processing shall encompass data of persons responsible for the performance of the concluded Agreement or activities prior to the conclusion of the Agreement (GDPR, Art. 6.1b), including first name, surname, telephone number, e-mail address, for the purpose of:
  - a. performance, for the benefit of Zakłady Azotowe Chorzów S.A. of: goods transport services and shall be stored for a period preceding the conclusion of the Agreement and the period of Agreement performance;
  - b. servicing complaints and notifications and shall be stored for a period of 3 years from the completion of a case.
4. Data of persons responsible for performance of the Agreement may be processed on the basis of the Data Controller's legitimate interest (GDPR, Art. 6.1f), for the purpose of:
  - a. performance of audit and control activities and shall be stored for a period of 5 years from the end of an activity;
  - b. determination and seeking of potential claims or defence against potential claims and shall be stored for the duration of the proceedings or a period of expiration of potential claims;
  - c. debt recovery and performance of seizures of receivables and shall be stored for a period of 10 years from the end of a calendar year in which the receivable was settled.
5. Data of persons responsible for the performance, for the benefit of Zakłady Azotowe Chorzów S.A. of goods transport services may be processed in relation to performance of obligations imposed by legal provisions on the Data Controller (GDPR Art. 6.1c) for the purpose of and within the scope necessary to perform the obligations resulting from tax provisions, accounting provisions and the mandatory rule of law regulating the issues of domestic and international transport of goods.
6. Data of persons responsible for the performance, for the benefit of Zakłady Azotowe Chorzów S.A., of goods transport services, may be made available to:
  - a. companies providing accounting, invoicing and contract settlement services, service quality audits, receivables recovery, legal and analytical services;
  - b. suppliers of IT systems and IT services;

- c. postal operators and couriers;
  - d. entities authorised to receive data of persons responsible for the performance of transport services for the benefit of Zakłady Azotowe Chorzów S.A. on the basis of legal provisions.
- 7.** Persons responsible for the performance, for the benefit of Zakłady Azotowe Chorzów S.A., of goods transport services shall have a right to access the content of data and to demand data rectification, removal of data, limitation of processing, a right to transfer data and a right to file an objection against data processing, as well as a right to withdraw the consent at any moment without affecting the compliance with the law of the processing made on the basis of a consent prior to its withdrawal.
- 8.** Persons responsible for the performance, for the benefit of Zakłady Azotowe Chorzów S.A., of goods transport services shall be vested with a right to file a complaint to the President of the Personal Data Protection Office, handling personal data protection issues if they decide that the processing of personal data violated the GDPR provisions.

Contact data of supervisory authority:

Personal Data Protection Office

ul. Stawki 2, 00-193 Warsaw

Tel. No. 22 531 03 00, <https://www.uodo.gov.pl/pl/p/kontakt>

- 9.** Data of persons responsible for service provision shall not be subject to profiling.

Provision of personal data of persons responsible for performance of the agreement/ service provision is voluntary, yet failing to provide personal data required by Zakłady Azotowe Chorzów S.A. entails no possibility of implementing the subject matter of the agreement.