

GENERAL TERMS AND CONDITIONS OF SALE

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Zakłady Magnezytowe
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§ 1 General Provisions

1. This document constitutes the General Terms and Conditions of Sale (hereinafter referred to as "GTCS") applicable to any sales contracts, the subject matter of which are goods, products, articles or services sold by Zakłady Magnezytowe "ROPCZYCE" S.A., with the registered office in Warsaw, ul. Postępu 15C, 02- 676 Warszawa (mailing address: Zakłady Magnezytowe "ROPCZYCE" S.A, ul. Przemysłowa 1, 39-100 Ropczyce), registered with the District Court for the Capital City of Warsaw in Warsaw, the 13th Commercial Division of the National Court Register under number KRS 000036048, hereinafter referred to as "**ZMR**" or the "**Seller**".
2. Zakłady Magnezytowe "ROPCZYCE" S.A. (ZMR) is a big entrepreneur within the meaning of Art. 4c of the Act on counteracting excessive payment delays in commercial transactions (Consol. text Dz.U.2021.424).
3. Any diverse general terms and conditions of sale/purchase of ZMR's customers (hereinafter referred to as **the "Buyer"**), that are not expressly accepted by ZMR in writing, shall not be binding on ZMR, even if ZMR does not clearly object to them.
4. Any diverse decisions made by middlemen or agents of ZMR shall be valid only if they are made by such persons based on relevant authorisation or when they are expressly confirmed by ZMR in writing.
5. These GTCS shall constitute an integral part of each price offer, as well as of each Contract concluded by ZMR with the Buyer, and purchase order confirmations sent to the Buyer.
6. Taking into account that in commercial relations in ZMR's line of business the use of contract patterns in the form of GTCS is customarily accepted, these GTCS:
 - (i) are made available to the Buyer in the electronic form at: www.ropczyce.com.pl in such a way as to make it possible for the Buyer before the conclusion of the Contract to download, store, copy and reproduce them in the ordinary course of business;
 - (ii) may be made available in a written form at the Buyer's request – in each case before the conclusion of the Contract.
7. If the Buyer remains in permanent commercial relations with ZMR, the Parties to the Contract agree that the acceptance of the GTCS at their first Contract shall be also deemed accepted for the future, i.e. for any other Contracts between these Parties.

§ 2 Offers and Purchase Orders

1. Offers and Purchase Orders must be placed in written or electronic form, by registered mail, courier service, fax, e-mail or directly on the internet platform indicated by the Buyer. Oral declarations shall not be binding on the Parties, unless they are confirmed in one of the above-mentioned ways.
2. Offers placed by ZMR for products or services included in the statutory activity of the Company shall be valid for a period indicated in an offer, counting from the date they are presented to the Buyer, unless otherwise agreed by the Parties.

If the Buyer places a written purchase order during the offer period, in which there are deviations from the terms and conditions presented in the ZMR's offer, a final determination of the Contract terms and conditions shall be necessary in order to make it binding on ZMR.
3. In reply to a purchase order, ZMR shall submit to the Buyer an "Order Confirmation" or a sales contract. The contract shall be concluded at the moment of providing the Buyer with the Order Confirmation or the Sales Contract signed by both the Parties.
4. The lack of any reaction of the Buyer as to the contents of the Order Confirmation or Sales Contract within 3 working days of the date of its receipt shall imply its acceptance.
5. The date of "providing" the Order Confirmation or Sales Contract shall mean the date of sending a scan of the original document to the Buyer by e-mail.
6. Order Confirmations shall be sent by ZMR in an electronic form to the e-mail address indicated by the Buyer in their order, in a form of a PDF file, by electronic mail from the following e-mail address: orders@ropczyce.com.pl.
7. ZMR shall be bound only by those orders which have been confirmed by him, unless otherwise agreed by the Parties.
8. It is hereby agreed that all and any written documentation, including drawings, cost estimates, offers etc. may not be made available to any third parties and is intended exclusively for the Buyer.

§ 3 Delivery Terms

1. The Parties make ICC INCOTERMS 2020 an integral part of these GTCS. The terms of delivery for all the contracts shall be EXW Ropczyce, unless otherwise agreed by the Parties.

In case of failure to perform or improper performance of the obligations under the said formula, the Party in default shall be obliged to pay all the costs arising therefrom.

The Parties allow the possibility of making changes in the orders made and confirmed on the basis of ICC Incoterms 2020, including their scope, value, date, payment terms and terms of delivery. The Parties' arrangements in this regard shall become binding only with the written consent of both the Parties, expressed accordingly by the Buyer by means of changing their order and by ZMR by means of providing the Buyer with the Order Confirmation by e-mail, courier service or by registered mail. In case of changing the terms of delivery, the obligations that arise between the Parties are the ones relevant to the newly agreed terms of delivery based on ICC Incoterms 2020.
2. ZMR shall notify the Buyer by e-mail that the ordered products are ready for collection or delivery, waiting for an acknowledgement of receipt for no longer than 5 working days from the date of sending the notification.

In case the delivery of the goods or their collection on the date agreed by the Parties in writing turns out impossible, ZMR or the Buyer shall immediately inform the other Party about the occurring hindrance, giving a new possible date of delivery/collection. The above provisions shall also apply to partial deliveries.
3. If the delivery of the products is delayed due to reasons attributable to the Buyer or if the products are not collected by the Buyer from the Seller's warehouse within the agreed time limit, it is hereby agreed that the Seller shall have a right to present a deadline to the Buyer for the collection/delivery of the ordered products, and when the deadline is not accepted by the Buyer, and in case of the terms of delivery other than EXW Ropczyce acc. to ICC Incoterms 2020, ZMR shall have a right to change unilaterally the terms of delivery to EXW Ropczyce and to issue an invoice for the ordered products with the payment term agreed before. At the same time, ZMR shall provide a separate area in the warehouse for the sold products, so that the Buyer has a possibility to monitor them and to assess them in terms of quality. At the same time, it is hereby agreed that in such a case a storage contract is concluded between the Seller and the Buyer, based on which the Seller shall charge the Buyer with the storage costs in the amount of 0.5% a month of the value of the products acc. to the gross prices EXW Ropczyce, provided for in the Contract/Order Confirmation for each commenced month of the products storage. After the expiry of six (6) months from the date of the invoice issued for the sold products, when the collection of the products still falls through, the Seller shall have a right to organise their transport to the Buyer's warehouse. The Buyer shall be charged with the costs of such delivery.
4. The Buyer shall not be entitled to demand any contractual penalties from the Seller for any delay in the delivery, unless the Parties have individually agreed otherwise in the purchase order/contract.
5. In the cases where the sale is carried out on the principle of 100% prepayment, it is hereby agreed that ZMR shall start the production of the ordered products upon the Buyer's payment of at least 30% of the agreed price of the products. The time for the order fulfilment shall be counted then from the date on which this amount is credited to the Seller's bank account. The Parties agree that the collection of the ordered products in such cases is possible only after the payment of their total price by the Buyer. The Buyer's failure to collect the products or to pay the remaining part of the prepayment within the time limit agreed by the Parties shall entitle ZMR to withdraw from the contract and to charge the Buyer with a contractual penalty in the amount of 30% of the agreed price of the products for the costs incurred by ZMR and arising from the withdrawal from the contract, including the production costs – provided that the Buyer has been previously called on by ZMR to collect the products or to pay the remaining part of the prepayment within an additional time limit, not shorter than 3 days and not longer than 14 days. ZMR shall be entitled to unilaterally set off the above contractual penalty with any potential dues of ZMR against the Buyer.
6. Unless the Parties agree otherwise, the Buyer shall be obliged to purchase, apart from the ordered quantities, also the machining allowances of not more than 3% of the quantity of the ordered products and to pay the amount due for them, where such an amount is calculated according to the base price agreed by the Parties under the Contract.
7. ZMR undertakes to attach a relevant specification to each product delivered to the Buyer.

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§ 4 Packaging and Marking

1. Unless the Parties agree otherwise, it is hereby assumed that the products should be packed in accordance with the applicable regulations and standards in force at ZMR (standard packaging).
2. The price of the goods includes the cost of standard packaging. Non-standard packaging – at the Buyer's request – shall be charged extra.
3. In case of delivering the products together with reusable packaging, e.g. pallets or containers, such packaging shall remain the property of ZMR and should be returned by the Buyer to ZMR intact, without undue delay – at the Buyer's cost and risk, unless the Parties agree otherwise in the Contract.

§ 5 Prices and Payments

1. Unless otherwise agreed by the Parties, it is hereby assumed that the prices of the products are net prices (without VAT) EXW Ropczyce acc. to Incoterms 2020, to which VAT shall be added according to the rate in force on the day of issuing a VAT invoice by ZMR.
2. By concluding a sales contract with ZMR based on these GTCS, agrees that ZMR can issue sales invoices, including corrective invoices, in an electronic form and send them to the Buyer by e-mail from the address zmr@ropczyce.com.pl. The Buyer's explicit objection expressed in written form shall be exclusively considered as the lack of consent. The sending of invoices in electronic form excludes the possibility of sending them in paper form.
3. The date of the inflow of the message with the attached invoice to the server shall be considered as the date of delivering an invoice in electronic form by ZMR and, at the same time, the date of receiving such an invoice by the Buyer. In the case when after having sent an invoice by e-mail, ZMR receives a response message about non-delivery of the message containing an invoice to the indicated e-mail address (like: "delivery failure"/"problem with delivering the message"), ZMR shall contact the Buyer in order to clarify the reason of the error, and shall make another attempt to send the message.
4. When placing the first purchase order to which these GTCS apply, the Buyer shall be obliged to provide their e-mail address to which ZMR should send electronic invoices. Any change of the e-mail address, to which invoices are to be sent, should be notified to ZMR in written form.
5. If the Buyer does not question a VAT invoice in writing within 5 working days of its delivery, it is hereby assumed that the Buyer accepts the VAT invoice and does not make any comments to it.
6. In case of issuing a corrective invoice by ZMR, the Buyer shall be obliged to cooperate with ZMR in order to enable the latter one to fulfil the conditions to decrease the tax base defined in Art. 29a(13) of the Goods and Services Tax Act of 11 March 2004 (Consol. text Dz.U.2020.106 as amended).
7. The Buyer shall be obliged to make payments in the currency specified in the VAT invoice, except in the case of transactions covered by the obligatory split payment mechanism, where VAT should be paid in the Polish currency.
8. The Buyer shall be obliged to pay the full value of the invoice, by bank transfer, within 14 days of its issue, unless the Parties have agreed otherwise.
9. In case the Buyer gets behind with the payment of the amounts due as based on the VAT invoice:
 - (i) If the Contract refers to commercial transactions within the meaning of the provisions of the Act on counteracting excessive payment delays in commercial transactions (Consol. text Dz.U.2021.424), ZMR shall be entitled to interests pursuant to Art. 7 thereof;
 - (ii) If the Contract does not refer to commercial transactions within the meaning of the provisions of the above-mentioned Act, ZMR shall be entitled to maximum statutory interests for delay pursuant to Art. 481 § 2¹ of the Civil Code.
10. The Seller may send demand letters to the Buyer by e-mail, to the Buyer's e-mail address, to which the latter one gives their consent.
11. In case of the Buyer's payment arrears, ZMR reserves the right to suspend subsequent deliveries until the Buyer settles all the outstanding invoices and any other amounts due together with any additional costs, an, accrued interests.
12. If the products are not collected by the Buyer for reasons not attributable to ZMR, within the time limit agreed by the Parties, this shall not release the Buyer from the obligation to pay the price.
13. In case of overdue receivables, ZMR reserves the right to transfer the receivables – assignment to third parties, without the Buyer's consent.

14. In case of justified concerns that the Buyer will not meet their contractual obligations, all the claims of ZMR against the Buyer, resulting from the previously concluded contracts, shall become payable. ZMR may make the release of the goods to the Buyer conditional on the payment of the liabilities or presentation of appropriate guarantees or collaterals. If the Buyer refuses to undertake the above actions, ZMR shall have the right to withdraw from the contract immediately.
15. Until the payment of all the liabilities under the Contract by the Buyer, ZMR shall remain the owner of the delivered products. If the delivered products have been processed, mixed, combined with other things at the Buyer's, it is hereby assumed that the Seller has become a co-owner of the thing arising from the above processing, mixing or combining.
16. The Buyer shall not be entitled without ZMR's consent to unilaterally deduct, compensate, count off any amounts which the Buyer claims from ZMR, from the amount which the Buyer is obliged to pay to ZMR under the contract.
17. ZMR shall immediately notify the Buyer of any changes in the applicable prices of the sold products and payment due dates. It is hereby assumed that no response from the Buyer within 14 days following the receipt of new prices and payment due dates shall mean their acceptance by the Buyer.
18. All the costs of the Buyer's bank (including the costs of the intermediary bank when making payments for the delivered products) shall be borne by the Buyer, and all the costs of ZMR' bank shall be borne by ZMR.
19. The date of crediting the Seller's bank account shall be considered as the date of payment.

§ 6 International Transactions

1. Within the meaning of these GTCS, international transaction shall mean any transactions in goods and services, in which one of the Parties is an entity not established in Poland or in which the goods are transported from Poland to another country or from another country to Poland or the services are rendered in the territory of a different country than Poland.
2. In case of international transactions the trading partner of ZMR shall be obliged to cooperate with ZMR, so as to enable the latter one to properly settle the taxes of international transactions.
3. If there is a chain transaction, as defined in Section 4 below, in an international transaction, the Buyer shall be obliged to inform ZMR about that at the stage of a request for proposal, not later, however, than before the conclusion of a contract. In such a case the Buyer shall be obliged to provide all and any support to ZMR in order to make it possible to tax such deliveries by 0% VAT rate, if pursuant to the binding legislation this rate is applicable to the deliveries carried out by ZMR, and to give full information about the conditions of delivery between the Buyer and subsequent entities taking part in such transactions.
4. A chain transaction shall mean a transaction in which several entities (more than two) make deliveries of the same goods in such a way that the first of them releases the goods directly to the last buyer in order.
5. When the goods are transported under the Contract to other member states of the European Union as part of the intra-community supply of goods as defined in the Goods and Services Tax Act of 11 March 2004, the Buyer shall be obliged to provide all and any support to ZMR in order to make it possible to tax such deliveries by 0% VAT rate. Especially, ZMR may request a signed and dated confirmation that the goods have been exported from Poland to the territory of another member state of the European Union, or other documents or declarations referred to in Art. 45a of Council Implementing Regulation (EU) No. 282/2011. The confirmation referred to in the preceding sentence should contain at least: name and address of the recipient, quantity and description of the products making their identification possible and place and date of the receipt of the goods.
6. The Buyer shall be obliged to notify ZMR before the conclusion of the Contract about the planned export of the goods under the Contract from Poland outside the market of the European Union in carrying out export within the meaning of the Goods and Services Act of 11 March 2004 (Consol. text Dz.U.2020.106 as amended) and to make available to ZMR customs documents or their copies, giving entitlement to tax the said deliveries with 0% VAT rate. This obligation shall also apply to chain transactions.
7. In case of failure to fulfil the obligations referred to in Sections 2, 3, 5 and 6, the Buyer shall be liable for resulting damages which would not have arisen if the Buyer had fulfilled the said obligations. Especially, the Buyer shall be obliged to pay compensation in the amount equal to the public and legal fees, including interests, and penalty fees imposed on ZMR or their employees.

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§ 7 Product Testing

1. The produced goods shall be subjected to tests and inspections according to the standards applied by ZMR, and confirmed by Quality Certificates.
2. Other specifications and quality control plans shall be applied only when agreed in writing by the Parties.

§ 8 Complaints

1. The Buyer shall be obliged to inspect the delivered products, especially with regard to the condition of the shipment, quality, quantity, and assortment of the products, immediately after their delivery, but not later than within 14 days of delivery.
2. The liability of ZMR for warranty is hereby excluded to the fullest extent possible allowed by the relevant universally applicable provisions of law, and the complaint procedure described herein shall constitute the only basis for lodging claims by the Buyer for non-conformity of the goods with the Contract.
3. The Buyer shall be obliged to inform ZMR immediately in writing about any losses, damages, or shortages in the delivered products.
4. In base of disclosing any quality defects, the Buyer shall be obliged to lodge a complaint in writing within 14 days of delivery.
5. The Buyer shall make it possible for ZMR to carry out an inspection and to take samples of the delivered batch of the products complained about.
6. In case the Buyer reports any defects of the products, ZMR shall be obliged to make a decision on admitting or rejecting the complaint within 21 days following the filing of the complaint.
7. In case of admitting the complaint, ZMR shall decide to remove the defect or to replace the products. The Buyer shall be obliged to take actions to enable the collection of the defective products by ZMR.
8. If ZMR does not make a decision within the above time limit, it shall mean that the complaint has been admitted, unless ZMR proves that it has not been possible to make a decision within that period or it has encountered serious difficulties.
9. If there is no explicitness with regard to the lodged complaint within the time limit specified in Section 6, an expert's report shall be prepared by the Team consisting of the Buyer's representative, ZMR's representative and an independent research unit, agreed on by the parties to the dispute.
10. The costs of the independent expert's report shall be borne by the Seller exclusively when the expert's report confirms the quality defect of the products.
11. For the cases where a guarantee has been provided relating to the parameters of the products, product operation time/lifetime, the Buyer, when asserting claims under the guarantee, shall be obliged to provide the Seller immediately, on each request of the latter one, with all the data relating to the operating conditions, i.e. temperature, chemical composition of feedstock etc., as well as other data, which in the Seller's opinion may allow to diagnose the causes of the bad work of the materials in the device.
12. The Seller shall not be liable for defects resulting from normal use, normal wear and tear, improper storage, misuse or improper assembly and mechanical damage of the products arisen due to the user's fault, as well as resulting from the operation of the products in different conditions than the standard ones or the ones agreed with the product supplier.
13. The liability of ZMR for non-performance or improper performance of the Contract shall be excluded to the fullest extent possible allowed by the relevant universally applicable provisions of law, and it shall be limited only to cases of deliberate action by ZMR.
14. In each case, the liability of ZMR shall be limited to actual loss. ZMR shall not be liable for any indirect damages, especially for consequential damages, loss of profits or benefits, losses caused by business interruption.

§ 9 Force Majeure

1. The Parties shall not be liable for non-fulfilment of their contractual obligations due to force majeure. The cases of force majeure that relieve the Parties from the fulfilment of their contractual obligations for the duration of Force Majeure, are unforeseeable events that occur beyond the Parties' reasonable control and after the conclusion of the Contract, and which cannot reasonably be avoided or overcome by the Affected Party, exercising due diligence, and which impede totally or partially the fulfilment of contractual obligations, such as, for example, epidemic/pandemic, fire, flood, earthquake, war, act of terrorism, mobilisation, hostilities, strike, requisition, embargo (especially on supply of the utilities) or any governmental orders or

amendment of the law setting restrictions of production or causing inability to produce and/or sell.

2. The Parties shall be obliged to notify the other Party immediately of the occurrence of the circumstances recognised as Force Majeure and to cooperate in order to minimize the effects being the consequence of the occurrence of Force Majeure.
3. In case of Force Majeure events, ZMR shall have a right to refuse, decrease, suspend the delivery of the products, in order to distribute in a rational way the possessed reserves among the Buyer and their other customers, if the above events make it impossible for him to deliver all the products and to fully execute the orders. In such a case the Buyer shall have a right to withdraw from the contract.
4. Notwithstanding the foregoing, it is hereby agreed that the duration of a given circumstance (e.g. pandemic / epidemic) at the moment of concluding the contract, about which the Parties have knowledge, shall not make it sudden and unforeseeable, however, the Parties acknowledge as unforeseeable all and any restrictions, stringencies, limitations of production or transport, of the national or international coverage, imposed by relevant public authorities as a consequence of the force majeure circumstances known to the Parties at the moment of concluding the contract (e.g. new restrictions or stringencies imposed in a situation of pandemic / epidemic).

§ 10 Contract Termination and Contractual Penalties

1. The Buyer shall be entitled to withdraw from the contract in case of a substantial change of the circumstances causing that the performance of the contract would not be in their interest, and which could not have been foreseen at the moment of concluding the contract. The withdrawal may take place immediately (not later than within 7 days) on learning of the above circumstances. In such a case ZMR shall be entitled to the remuneration due for the partial performance of the contract, and to the reimbursement of all the costs / expenditure incurred in connection with the commencement of the performance of the contract.
2. In case of the contract termination, the Buyer shall be also obliged to collect the batch of the products produced by ZMR within the time limit set by ZMR, unless otherwise agreed by the Parties. In case of the failure to collect the products by the Buyer within the set time limit, ZMR shall be entitled to send the products to the Buyer, at the Buyer's expense.
3. ZMR shall be entitled to demand from the Buyer the payment of contractual penalty for the Buyer's withdrawal from the contract due to the reasons defined in § 10(1) of these GTCS in the amount of 10% of the value of the subject matter of the contract.
4. In case of damage exceeding the contractual penalty, the Parties allow the possibility of claiming supplementary compensation – on general principles.

§ 11 Additional Provisions

1. All the information, including especially technical, technological, industrial, commercial, and financial information, disclosed to the Buyer by ZMR, their representatives, affiliates, irrespective of the way such information has been provided, shall remain confidential during the implementation and after the termination of the Contract ("Information").
2. Information shall also be information during the implementation of the contract to the Buyer's employees, middlemen, suppliers, subcontractors, representatives, regular or temporary collaborators. The Buyer undertakes to protect the above Information from unauthorised access, loss or use by any third parties, unless such information is generally available.
3. The Seller reserves the right of ownership, copyrights and other rights pertaining to technical documentation concerning the products, as provided to the Buyer, including, for example, photographs, technical documentation, drawings, descriptions, calculations. Such documents cannot be made available to any third parties without ZMR's explicit consent in writing. After the completion of an order or after the cessation of trade relations, they must be returned by the Buyer to ZMR if requested by the latter one.
4. Confidential information provided to the Buyer shall constitute a trade secret of ZMR, and the Buyer shall be entitled to use it exclusively to execute the contract. The Buyer undertakes to exercise utmost diligence to the extent relating to the prevention of making the Confidential Information obtained from ZMR available to any third parties. The above shall not apply to the situation when the disclosure of such Confidential Information takes place in performance of the legal obligation, about which the Buyer shall each time inform ZMR, indicating at the same time the scope of information thus

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disclosed. The Buyer acknowledges that the breach of the confidentiality obligation shall give rise the Buyer's liability for damages.

5. If, to the extent in which, as a part of the cooperation between the Parties, it comes to the processing, by any of the Parties, of the personal data provided by the other Party, the Parties undertake to fulfil all the obligations resulting from the applicable provisions on the protection of personal data, especially with regard to 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, "RODO").

§ 12

Dispute Settlement and Governing Law

1. Any disputes that may arise between the Parties during the implementation of sales contracts or other contracts by the Parties, to which these GTCS apply, shall be settled amicably within the framework of the International Mediation Centre, functioning at the International Chambers of Industry and Commerce in Poland.
2. In case of failure to reach an agreement and impossibility to resolve the dispute in mediation proceedings within 60 days following the filing of a request for mediation or within another period agreed in writing by the Parties, each of the Parties may refer the dispute to be resolved by a competent court – the common court having jurisdiction over the City of Rzeszów. The applicable law shall be the substantive law of Poland.
3. The relevant provisions of the Polish law shall be applicable to all matters not settled in the contract and these GTCS. The Parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 in respect to the Contract and GTCS.
4. Incoterms 2020 shall be considered as an integral part of these GTCS, if they are not contrary to the provisions of GTCS.

§ 13

Final Provisions

1. Each appendix to these GTCS shall constitute an integral part of GTCS.
2. The Terms and Conditions have been drawn up in Polish, English, German, Russian and French versions. The English version shall prevail in case of any doubts arising from the interpretation of these GTCS.
3. These GTCS shall come into effect as of 01 April 2021.