

# General Terms and Conditions for the Sale of Goods by "BOWIM" S.A.

## §1. General Provisions and Definitions.

These General Terms and Conditions are applied to all the contracts of sale and delivery of goods where "BOWIM" S.A. is the seller or supplier (hereinafter jointly referred to as the „Contracts of Sale"), with the exception of the contracts of sale and delivery of prefabricated reinforcement, which Contracts of Sale are concluded in particular on the basis of offers submitted by "BOWIM" or/ and accepted Buyer's orders, unless the contents of the Offer or the Contract of Sale concluded in different procedure:

- a) state clearly that their application is excluded entirely, and the exclusion is concluded in writing,
- b) the Parties agreed in writing terms and conditions different to these General Terms and Conditions,
- c) the Vendor specified in the Offer terms and conditions (e.g. the payment deadline, price term) different to the ones specified in these General Terms and Conditions.

In cases specified in item b) and c) hereinabove, these General Terms and Conditions are applied as far as statements included in writing in the contract or the Offer do not agree otherwise or to the extent where their specific provisions are not expressly waived.

### Definitions:

„**Subject of the Contract**" – sale (delivery) of the Goods specified in the Contract of Sale.

„**Goods**" – all goods that are covered by the Subject of the Contract.

„**Offer**" – a binding sales offer within the meaning of the provisions of the Civil Code addressed by the Vendor to the potential Buyer, specifying at least the Subject of the Contract and the price, whose remaining terms and conditions are applied from these General Terms and Conditions, delivered in writing by fax or electronic means of communication (e-mail).

„**Force Majeure**" – any external event, not attributable to human activity, beyond human control, not influenced by the Party affected by it, that prevents fulfilling the obligations related to this agreement and which could not been foreseen or which could not been prevented or overcome in full or partially assuring the highest degree of professional care and conduct. Force Majeure encompasses especially the following events: an earthquake, a flood, a natural disaster, a widespread disease, acts of war, invasions, acts of terror, a sabotage etc.

„**Vendor**" – "BOWIM" S.A.

„**Buyer**" – a natural or legal person, private or commercial partnership other than a consumer as defined by the valid legal provisions, to whom the Order to execute the Subject of the Contract is addressed.

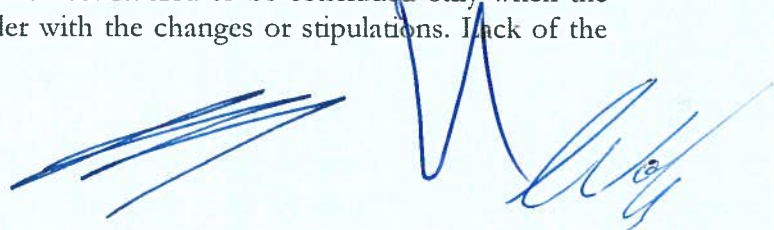
„**Price**" – the total net price resulting from the contract of sale or delivery

„**Parties**" – the Vendor and the Buyer

„**Order**" – an offer from the Buyer to the Vendor for the purchase of Goods by the Buyer.

## §2. Concluding the Contract.

1. The Contract of Sale is concluded on the basis of the Buyer's Order submitted with reference to a Vendor's Offer or a Buyer's Order submitted without a prior Vendor's Offer and accepted by the Vendor for execution. Implied acceptance of the Order pursuant to Art. 68<sup>2</sup> of the Civil Code is excluded whereas conclusion of the Contract pursuant to Art. 69 of the Civil Code is permissible if the Vendor starts to execute the Order without the formal acceptance of the Order. In case of any change to the Offer or introduction of any stipulations to the Offer in the Buyer's Order, the Contract of Sale shall be considered to be concluded only when the Vendor confirms the acceptance of the Order with the changes or stipulations. Lack of the



acceptance of such Order means that the Contract of Sale was not concluded, except for the cases specified in Art 69 of the Civil Code, if the Vendor started to execute the Order.

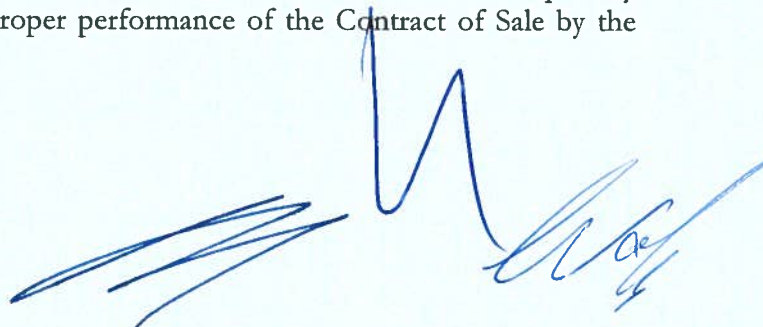
2. The Order can be accepted for execution in writing by fax or electronic means of communication.
3. All settlements, confirmations, promises and warranties given verbally by the employees or other representatives of the Vendor, concerning terms and conditions of any agreement are null and void.
4. If the Vendor is prevented from executing the Contract of Sale following its provisions (especially concerning the date of delivery) in full or partially due to reasons beyond the Vendor's control and concerning the manufacturer or the supplier of the Goods, the Vendor is contractually entitled to terminate the Contract of Sale in full or partially within 14 days of the date when it was concluded. The Vendor is not liable for any and all damages resulting from the termination.
5. The Orders placed after 3:00 p.m. are considered to be placed on the next working day.
6. Any day from Monday to Friday except for the statutory holidays is considered a working day.

### **§3. Retention of Title and Release of the Goods.**

The risk of a loss or damage of the Goods shall be transferred from the Vendor to the Buyer on the release of the Goods to the Buyer, whereas if the Goods are handed over to a carrier delivering this type of goods acting at the order of the Buyer, the Vendor or an entity who is a supplier (vendor) of these Goods acting as ordered by the Vendor, the release of the Goods and the acquisition by the Buyer of the right to dispose of the Goods as an owner (following the provisions of the Value Added Tax) takes place at the hand-over of the Goods to the carrier, notwithstanding which party covers the costs of transport.

### **§4. Price and Payment.**

1. The price for the Goods to be sold is defined in the Offer or in the Order Confirmation. If the Offer was modified, the price in the most recent modification is the valid price.
2. The Buyer is obliged to pay the Price (with VAT if applicable) to the date defined in the Contract of Sale. If the payment is late, the Buyer shall pay to the Vendor the statutory interest for late payment in business transactions at the rate of the maximum interest following the provisions of Art. 481§2<sup>1</sup> of the Civil Code.
3. If any external circumstances beyond the control of the Vendor, particularly an increase of customs duties and/ or other customs charges or introduction of any other regulatory charges directly influencing the cost of purchase or sale of the Goods, occur after the conclusion of the Contract of Sale and before the release of the Goods to the Buyer, then the Vendor is entitled to respective unilateral increase of the Price, indicating the reason of the increase. The increase cannot be higher than the actual increase of the price determinants. In such case the Buyer is entitled to terminate the Contract of Sale within 3 (three) days of the date of receipt of the statement presenting the price increase, concerning the Goods covered by the price increase.
4. The Goods shall be sold in the units of measurement in which it is offered. If the Goods are sold by weight (the unit of measurement is a ton or a kilogram), the Goods can be sold according to the actual weight, theoretical weight or commercial weight, depending on the offer of the Vendor.
5. The Vendor declares that the quantity of the Goods defined in the Contract of Sale can differ for the given goods item (product) by +/-10% of the quantity that shall be released because of the quantity tolerance estimated by the manufacturers. The release of the Goods of the quantity covered by this tolerance is considered proper performance of the Contract of Sale by the Vendor.

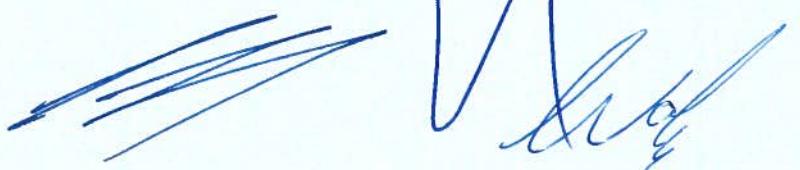




6. The prices quoted by the Vendor are net prices and they shall be increased by the Value Added Tax according to the valid rates or this tax will not be added in case of the so-called reversed VAT according to the mandatory provisions of law.
7. If the Buyer is late with making a payment to the Vendor for any liability on any account, the Vendor shall be entitled to abstain from the performance of the Contract of Sale until the Buyer meets the outstanding liabilities which were the reason for the suspension of the performance of the Contract of Sale.
8. If the performance of the Contract of Sale is suspended for the reasons defined in the item hereinabove for more than 30 days, the Vendor is entitled to contractual termination of the Contract of Sale within the next 60 days and this termination shall be considered to be due to reasons attributable to the Buyer.
9. The fees for issuing the material certificates are charged by the Vendor according to the tariff used by the Vendor.
10. The Vendor can sell the Goods to any given Buyer with deferred payment within the trade credit limit granted by the Vendor or/ and granted by the insurer for the Vendor's receivables.
11. If the Vendor grants a trade credit limit without the insurance coverage specified in item 10 hereinabove, the Vendor shall be entitled to reduce or cancel this limit at their sole discretion, providing that such reduction or cancellation does not concern the previously concluded Contracts of Sale.
12. If the Vendor grants a trade credit limit within the insurance coverage specified in item 10 hereinabove, the Vendor shall be entitled to reduce or cancel this limit respectively to the decision of the insurer concerning the reduction or cancellation of the trade credit limit, whereas this reduction or cancellation concerns also the previously concluded Contracts of Sale in the scope of the Goods not released to the Buyer.
13. If the contractual gross price for the Goods to be released is not covered by the trade credit limit granted to the Buyer, the Vendor shall be entitled to abstain from the release of the Goods until the respective release of the trade credit limit (particularly by the payment for the previously sold Goods), making an advance payment or establishing by the Buyer a security approved by the Vendor.

#### **§5. Collection and Properties of the Goods.**

1. The Buyer is obliged to inspect the Goods during its collection concerning the quantity, conformance to the Contract of Sale as regards the type of product, potential visible defects and the submitted technical and qualitative documentation related to the Goods with assurance of the highest professional care and conduct.
2. Approval of the goods receipt document with no reservations, such as a delivery note/ a warehouse issue confirmation, irrespectively of its particular name, shall be considered the confirmation of the conformance of the Goods to the Contract of Sale, particularly concerning its quantity and the lack of visible defects.
3. The costs of loading of the Goods into the means of transport used to deliver the Goods to the Buyer shall be covered by the Vendor, but all the costs related to the unloading of the Goods shall be covered by the Buyer. The Vendor is entitled to charge the demurrage for the late unloading to the Buyer, providing that the Vendor advised the delivery in advance, arranged the delivery of the Goods and the time of unloading exceeded 4 (four) hours. The fee shall be equal to the demurrage costs that the Vendor shall be obliged to pay for the late unloading to the carrier or the forwarder.
4. All certificates, approvals, attestations, certificates of conformity or any other documents concerning the quality of the Goods, specifying its parameters and technical properties, submitted potentially by the Vendor, shall not constitute a confirmation by the Vendor of the data covered by these documents, therefore they are not a declaration that the goods fulfil the criteria defined in the documents. The submitted documents are solely the Vendor's



information that according to the statement of the manufacturer the Goods were produced according to the criteria defined in these documents.

5. The Vendor do not bear responsibility for the goods described as second grade, even in case of submitting technical documentation related to the goods. The Vendor is also exempt from the warranty for defects in this case.
6. If the Vendor undertook to provide to the Buyer the documents confirming the technical properties or quality of the Goods, the Vendor can do it within 21 (twenty one) days from the date of the release of the Goods, whereas the delivery of copies or transmission of scans of the documents is allowed.

#### **§6. Liability for Defects of the Goods and Compensation.**

1. Concerning the latent defects, i.e. the defects that could not have been detected within the procedure of release of the Goods with assurance of the highest professional care and conduct, the Buyer is obliged to inform the Vendor immediately (within 3 days) after the detection of these defects under the pain of the forfeiture of the rights and claims from the warranty for defects.
2. The notification of the defect of the goods should be submitted in writing for its validity, by fax or electronic means of communication, with submitting a scan of the claim document, whereas the Buyer is obliged to make the defective goods available for inspection, as delivered, on every request of the Vendor.
3. The claim should be promptly processed, whereas the Vendor can order the inspection and testing of the Goods by an independent expert or laboratory, which can result in prolonging the period of processing the claim. If this inspection does not confirm the claim of the Buyer, the costs of this professional evaluation can be recharged by the Vendor to the Buyer. The Vendor is entitled to request samples of the Goods covered by the claim as well as making the Goods available for inspection by a representative of the manufacturer.
4. Recognition of the claim should be done in writing or else null and void. In this case the Vendor is obliged to replace at their cost the defective Goods with Goods free of any defects within a reasonable period of time. If the replacement of the goods is not possible or it imposes additional costs on the Vendor, the Vendor is entitled to refuse the replacement of the goods and to reimburse the appropriate price or its relevant part to the Buyer.
5. The Vendor is free from any liability for a failure to perform or improper performance of the contract if it resulted from defects of the goods related to improper performance by the manufacturer. The liability of the Vendor concerning the warranty for defects is excluded if the Buyer repaired the goods without a prior consent of the Vendor in writing.
6. The rights of the Buyer related to the warranty for defects expire after half a year from the release of the Goods.
7. The Vendor does not ensure the usability of the Goods for certain application. The risk of intended use and application of the goods covered by the Contract of Sale is taken solely by the Buyer. Any potential information shared by the Vendor concerning this scope cannot be treated as the basis for particular application and it is not binding for the Vendor.
8. Submitting a claim does not discharge the Buyer from the obligation to pay the price for the Goods covered by the claim and it does not suspend this obligation.
9. The Vendor is discharged from any obligation related to late release of the goods if the reason of the failure to perform or improper performance of the Contract of Sale (particularly concerning the date of delivery or release) is the failure to perform or improper performance by their supplier, e.g. the manufacturer (particularly concerning the date of delivery) of the contract concluded by this supplier with the Vendor for the sale or delivery of goods for further re-sale by the Vendor to the Buyer.

#### **§7. Delays in Release or Collection of the Goods.**

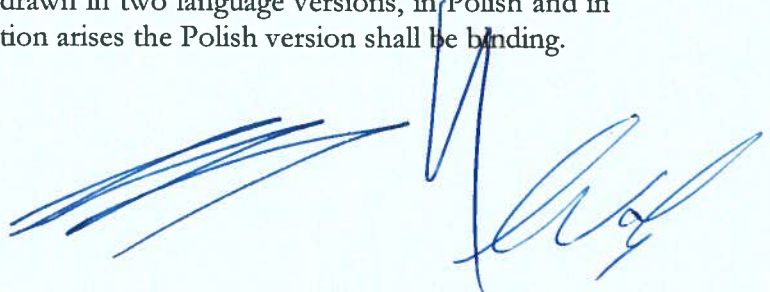




1. If the Buyer is late with the collection of the Goods for more than 7 days, the Vendor is entitled to claim from the Buyer liquidated damages of 0.2% of the price of the Goods not collected on time for every day of the delay calculated from the date of delivery or release agreed in the Contract of Sale, with the right to claim supplementary damages. The damages shall be also due if the reason of the failure to collect the Goods are the circumstances defined in §4 item 7 and 13.
2. If the Buyer is late with the collection of the Goods for more than 30 days, irrespectively from the right described in item 1, the Vendor is entitled to charge the Buyer with liquidated damages of 25% of the gross price for the Goods not collected on time. If the damage exceeds the agreed contractual penalty, the Vendor is entitled to pursue the damages on a general basis.
3. Notwithstanding the right described in the item hereinabove, in case of the delay in the collection of the Goods described there, the Vendor is entitled to the contractual right to terminate the Contract of Sale concerning the sale of the Goods that were not collected, whereas the Vendor can exercise this right within the next 60 days, after the date described in the item hereinabove. In the case of the termination, the Vendor is entitled, irrespectively of the damages defined in the item hereinabove, to claim contractual damages of 15% of the gross price for the Goods not collected on time. If the damage exceeds the agreed contractual penalty, the Vendor is entitled to pursue the damages on a general basis.
4. Potential payments due to the Buyer from the Vendor for the damage incurred to the Buyer following the failure to perform or improper performance of the Contract of Sale, as well as the damage related to the defects of the Goods are limited in all cases to the amount of the net price for the Goods covered by the Contract of Sale which were affected by the failure to perform or improper performance or which were defective.
5. Contractual penalties that the Seller may be required to pay for the delay in releasing the Goods shall not exceed in any case 10% of the net price of the Goods not released on time, and in the event of withdrawal from the Agreement by the Buyer due to circumstances for which the Seller is responsible, contractual penalties shall not exceed 10% of the net price of the Goods affected by such withdrawal.
6. Any assignment or encumbrance of the liabilities of the Buyer due to the Vendor can be done after a prior consent of the Vendor in writing.

#### **§8. Court Jurisdiction, Governing Law and Severability Clause.**

1. These General Terms and Conditions are applied to the Contracts of Sale concluded with Buyers who have their official seat on the territory of the Republic of Poland or in other countries.
2. In case of circumstances subject to the provisions of art. 385<sup>4</sup>§1 of the Civil Code, the Contract of Sale is not concluded solely in the event when the Buyer immediately after the receipt of the offer notifies to the Vendor that they do not intend to conclude an agreement at conditions taking into account the provisions of the regulation hereinabove.
3. Pursuant to the provisions of art. 3854 §1 of the Civil Code, the Vendor is not bound by the provisions of any templates, regulations or general terms and conditions used by the Buyers as far as they conflict with these general terms and conditions of sale. In such case appropriate dispositive or semi-dispositive provisions of the Civil Code shall be applied.
4. Any disputes arising out of or in connection with the Contracts of Sale, shall be settled before a competent court at the domicile of the Customer.
5. The governing law for the contracts subject to these General Terms and Conditions is Polish law, whereby the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 shall not be applicable.
6. These General Terms and Conditions were drawn in two language versions, in Polish and in English. In the event any interpretation question arises the Polish version shall be binding.



7. The polish version of these General Terms and Conditions shall be binding for the contracts concluded in the Polish language until they are published in the English version.
8. These General Terms and Conditions are valid as of the day they are published on the Vendor's website.
9. If any particular provisions of these General Terms and Conditions should prove null and void or ineffectual, it will not influence the validity or effectiveness of any other provisions.
10. These General Terms and Conditions do not limit or exclude other rights of the Vendor resulting from the provisions of law, particularly the Civil Code.

Sosnowiec, 20.12.2019.....

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