



BMZ Polska

## **General Terms and Conditions of Delivery Goods and Payment BMZ Polska Sp. z o.o.**

English version

### **1. GENERAL PROVISIONS**

These “**General Terms and Conditions of Delivery Goods and payment BMZ Polska Sp. z o.o.**” regulate conditions of goods delivery and payment directed to BMZ Sp. z o. o’ s (hereinafter referred to as the "Seller “) customers (hereinafter referred to as the "Buyer”) with their registered seat in European Union.

### **2. PURCHASING PROCEDURE**

Buyer placed an order. Order should include the following :

description of the goods, its quantity and price, delivery conditions, terms of payment

The Seller is not obliged to confirm the order. No confirmation of the order is not a confirmation of order.

Seller send by e-mail confirmation of order for execution. Order Confirmation should include the following :

description of the goods, its quantity and price, delivery conditions, terms of payment

Order Confirmation must be signed bilaterally by the persons authorized to represent the Buyer and Seller. The Buyer is obliged to send the Seller a duly signed Order Confirmation by fax or by e-mail.

Price, currency and terms of payment are set in the Order Confirmation. The fixed price is unchanged during the period of validity of the Order Confirmation. Bank for payment will be specified in Invoice. Invoice shall be issued on the weight basis of the actual delivered goods. The Seller stipulates for himself the ownership of the goods until the payment of the full price of the delivered goods. In the case of an unpaid by Buyer of goods processing obtains the right of the new goods in proportion to the unpaid value of goods in the total value of new goods.

All expenses for Beneficiary's bank operations - for the Seller's account, for Payer's bank - for Buyer's account.

### **3. QUALITY, PACKING AND MARKING.**

Quality, packing and marking of the goods sold under the Order Confirmation shall be in conformity with technical conditions stated in the appendix. The quality of the goods should be confirmed by the Mill's' Quality Certificate.

### **4. DELIVERY AND DELIVERY TERM**

Delivery terms are determined in the Order Confirmation . Rescheduling BMZ smelter production is the basis to agree new delivery dates . Buyer is not entitled to do claim against the Seller. If in the Order Confirmation is specified customer pick up , the Buyer is obliged to collect the goods promptly, within 7 days from the date of notifying him of its availability. In case of delay in the Buyer may be charged storage costs.

In the case of supply wagons, Buyer is obliged to deliver to Seller the railway instructions SMGS till the 20th day of the month preceding the dispatch of the mill.

### **5. ACCEPTANCE OF THE GOODS**

The goods being sold under the Order Confirmation are considered to be delivered by the Seller and accepted by the Buyer:

**a)** in respect of quality - acc. to the Quality Certificate issued by the Mill;

**b)** in respect of quantity - acc. to the weight and/or the number of pieces stated in Railway bills or WZ/CMR. The Buyer has the right to arrange control weighing of the wide-gauge wagons or cars by the independent party on Polish territory at the Buyer's expense. All additional costs that may result from control weighing including over-time detention of wagons are at Buyer's expenses.

### **6. CLAIMS**

Should the quantity or quality of the goods not conform to the conditions of the Order Confirmation the Buyer has

**BMZ Polska Sp. z o.o.**

40-568 Katowice, ul. Ligocka 103, Poland; Tel:+48 32 205 01 33; Fax: +48 32 781 99 90; www.bmzpolska.pl; e-mail: bmz@bmzpolska.pl

Sąd Rejonowy Katowice-Wschód Wydział VIII Gospodarczy Krajowego Rejestru Sądowego Nr KRS: 0000294698 NIP: PL6342657404 REGON: 240761865



BMZ Polska

the right to submit a claim to the Seller:

In respect of quality:

For visible defects - not later than 90 days from the date of delivery according to Incoterms 2010. For invisible defects (non-metallic inclusions, macrostructure) - not later than 180 days from the date of delivery according to Incoterms 2010. In respect of quantity - not later than 30 days from the date of delivery according to Incoterms 2010. Should the Buyer fail in submitting the claim within the above mentioned period they have no right to appeal to the court.

#### **7. RESPONSIBILITY OF THE PARTIES**

In case of delay in payment against the dates stipulated in the Order Confirmation the Buyer pays a fine. The Seller is entitled to charge statutory interest. The common liability of the Seller in accordance with the Order Confirmation is limited by sum equal with the goods price which the complaint was accepted. The Seller shall not compensate the Customer for indirect losses or not-received earnings.

In case of refusal by the Buyer of the goods ordered a charge penalty equal to 30% of the Order Confirmation.

#### **8. FORCE MAJEURE.**

Should any circumstances arise preventing either Party from whole or partial fulfillment of its obligations under the Order Confirmation, namely fire, acts of chemical elements, war, military operations of any nature, blockade of prohibition of export or import, government actions et.c., within the period of time stipulated, the Order Confirmation shall be extended accordingly. The Party unable to fulfill its obligations under the Order Confirmation shall immediately advise the other Party of the commencement and termination of the circumstances preventing performance of the Order Confirmation. A certificate issued by the Chamber of Commerce of the Seller or Buyer country shall be sufficient proof of the operation and the duration of such circumstances as well as copies of the government documents enforcing the restrictions that prevent either Party from fulfilling its obligations. In the event the force-majeure circumstances last longer than 3 (three) months, the Party under the influence of such circumstances, shall be entitled to terminate the Order Confirmation by notifying the other Party in writing 1 month prior to the actual termination, hence, the period of the beginning of the force majeure circumstances till the termination of the Order Confirmation shall be 4 (four) months. In this case the Parties shall effectuate settlements for the goods actually delivered at the day of the termination of the Order Confirmation.

#### **9. APPLICABLE LAW**

Any possible disputes arising out of or in connection with the Order Confirmation, shall be settled as far as possible by means of negotiations between the Parties.

In the event the Parties fail to agree the dispute shall be submitted for settlement to the economic court, being in Katowice on the basis of the Polish laws. Seller reserves the right to submit a claim to the court competent for the Buyer.

#### **10. OTHER CONDITIONS**

- a) All taxes, fees and custom duties are payable at the moment of the Order Confirmation signing and connected with the fulfillment of the Order Confirmation payable according to INCOTERMS 2010
- b) Any amendments and changes of the Order Confirmation as well as of the appendixes are valid only if made in writing and signed by both Parties.
- c) The Buyer has no right assign their rights and obligations under the Order Confirmation to any third Party without prior written consent of the Seller.
- d) The Seller retains legal ownership of goods until they are paid in full.
- e) After signing the Order Confirmation all the preceding negotiations and correspondence relative to the Order Confirmation are to be considered null and void and should be destroyed.
- f) Our Order Confirmations are made in two originals in English and in Polish. In case of a dispute, the Polish version shall prevail.
- g) A copy of the Order Confirmation signed by fax or e-mail has full legal effect.

**The General Terms and Conditions of Delivery Goods and Payment BMZ Polska Sp. z o.o.** are made in two originals in English and in Polish. In case of a dispute, the Polish version shall prevail.

**BMZ Polska Sp. z o.o.**

40-568 Katowice, ul. Ligocka 103, Poland; Tel: +48 32 205 01 33; Fax: +48 32 781 99 90; www.bmzpolska.pl; e-mail: bmz@bmzpolska.pl

Sąd Rejonowy Katowice-Wschód Wydział VIII Gospodarczy Krajowego Rejestru Sądowego Nr KRS: 0000294698 NIP: PL6342657404 REGON: 240761865