

## **1. Range of Application**

- 1.1 Whenever a reference is made in the present General Terms and Conditions of Deliveries and Services to:
- a) **AALBERTS** – it shall mean AALBERTS SURFACE TECHNOLOGIES HEAT spółka z ograniczoną odpowiedzialnością [English: limited liability company] with its corporate office in Dzierżoniów (address: ul. Strefowa 5, 58-200 Dzierżoniów), entered into the register of entrepreneurs of the National Judicial Register kept by the District Court for Wrocław-Fabryczna IX Commercial Department of KRS under number 0000500660 with the total share capital amounting to: PLN 2,600,000.00 (say: two million six hundred thousand zlotys), REGON: 022370518, NIP: 8822119671, BDO: 000044840, acting as a supplier of the Goods and Services which are referred to in the present General Terms and Conditions of Deliveries and Services,
  - b) **Offer** – it shall mean the offer which is issued by AALBERTS in a written form or via e-mail (in response to the Ordering Party's request or on the AALBERTS's own initiative) for the Ordering Party and which determines the essential conditions of the proposed cooperation between AALBERTS and the Ordering Party, inter alia: goods and services to be delivered and remuneration to be paid by the Ordering Party as a result of the offer acceptance as well as all additional conditions of the cooperation between the Parties,
  - c) **Subject of Agreement** – it shall mean the subject of the Agreement, depending on the legal nature of the Agreement; the Subject of Agreement may particularly mean Goods, Services, sold items, artwork;
  - d) **Parties** – it shall collectively mean AALBERTS and the Ordering Party,
  - e) **Goods** – it shall mean the goods which are mentioned in the Offer and which AALBERTS is to deliver, sell or have treated (processed in a surface treatment process) for the Ordering Party – pursuant to the Agreement with the Ordering Party,
  - f) **Agreement** – it shall mean the agreement concluded between the Parties and defining the principles governing the delivery of the Goods and the provision of Services by AALBERTS to the Ordering Party; the integral part of the Agreement is the Offer, the Order and the present General Terms and Conditions of Deliveries and Services,
  - g) **Services** – it shall mean the services (if there are any) provided by AALBERTS to the Ordering Party according to the Agreement,
  - h) **AALBERTS Plant** – it shall mean AALBERTS's production plant located at AALBERTS's head office in Dzierżoniów at ul. Strefowa 5,
  - i) **Ordering Party** – it shall mean the entrepreneur within the meaning of art. 43<sup>1</sup> of the Civil Code Act of 23 April 1964 (Journal of Laws, 1964, no 16, item 93 as amended) to the extent that it purchases Goods or Services from AALBERTS for a purpose associated with its commercial or professional activity,

- j) **Order** - it shall mean a statement made by the Ordering Party about acceptance of the Offer for delivery of Goods and/or Services by AALBERTS.
- 1.2. The present General Terms and Conditions of Deliveries and Services are applicable to all supply, sale or service provisions contracts concluded by AALBERTS and form an integral part of these contracts unless otherwise agreed by the Parties. The Ordering Party's terms and conditions which contradict or diverge from the present General Terms and Conditions of Deliveries and Services do not apply unless the Parties have explicitly agreed otherwise in writing. The present General Terms and Conditions of Deliveries and Services are also particularly applicable when AALBERTS is aware of the Ordering Party's existing terms and conditions which contradict or diverge from the present General Terms and Conditions of Deliveries and Services but performs a specific delivery or service for the Ordering Party without objections.
- 1.3 The present General Terms and Conditions of Deliveries and Services do not apply to natural persons who are consumers within the meaning of the meaning of art. 22<sup>1</sup> of the Civil Code Act of 23 April 1964 (Journal of Laws of 1964, no 16, item 93 as amended)
- 1.4 The document containing the Terms and Conditions of Deliveries and Services is stored in AALBERTS's office and made accessible upon each request to the Ordering Party or an entity which is going to become an Ordering Party in the future. Moreover, AALBERTS publishes the Terms and Conditions of Deliveries and Services on its website so that an entity which is going to become an Ordering Party while concluding a contract with AALBERTS is able to keep and reproduce this model in an ordinary course of operations.

## **2. Conclusion of Agreements**

- 2.1 The Agreement shall be concluded when AALBERTS receives the Order from the Ordering Party in writing or by e-mail to respectively AALBERTS's correspondence address or e-mail address, as specified in the Offer, subject to sections 2.2 - 2.4 below.
- 2.2 If the Ordering Party, after submitting the Offer to him, through his action, performs a will to conclude an agreement for the goods or services described in the Offer, in particular by submitting / delivering to AALBERTS materials to be processed, such action of the Ordering Party is deemed to perform acceptance of the Offer on the terms indicated therein. The Parties are bound by the Agreement concluded in this way and further negotiations of its terms have no effect towards AALBERTS and the concluded Agreement, unless AALBERTS explicitly (in writing / by e-mail) agrees to change the terms of the Agreement.
- 2.3 In the case of Ordering Parties with whom AALBERTS remains in permanent business relations, lack of immediate response to the AALBERTS's Offer in the manner referred to in section 2.1. or 2.2. above is also considered to perform acceptance of the Offer.
- 2.4 AALBERTS's Offer may be accepted by the Ordering Party only without any reservations. Making any changes or supplements to the Offer by the Ordering Party, in particular in

terms of its subject, method of implementation or remuneration by the Ordering Party constitutes an offer of the Ordering Party, which requires explicit (written or by e-mail) acceptance by AALBERTS. If the Ordering Party's offer is submitted to AALBERTS in accordance with the previous sentence and AALBERTS remains with the Ordering Party in permanent business relations, Article 68<sup>2</sup> of the Civil Code shall not apply (exclusion of the silent acceptance of the offer by AALBERTS).

- 2.5 An Offer submitted by e-mail shall cease to be binding to AALBERTS if it is not immediately accepted upon its receipt by the Ordering Party, unless the Offer specifies its different validity period.
- 2.6 At the request of the Ordering Party, the conclusion of the Agreement may be confirmed by an order confirmation issued by AALBERTS.

### **3. Prices - Terms of Payment**

- 3.1 Unless otherwise stated in the Agreement, the prices given shall be observed as EXW prices according to Incoterms 2010 - ex works AALBERTS Plant" without packaging; the packaging shall be settled as a separate item on the invoice. The prices given do not include the costs related to the production of racks and tools which are referred to in section 6.8 of the present General Terms and Conditions of Deliveries and Services, These costs shall be settled separately on the invoice.
- 3.2 The prices provided are net prices and do not include the VAT tax. The VAT tax shall be added to the given prices according to the statutory rate applicable on the day when the invoice is issued. The VAT tax shall be included in the invoice as a separate item.
- 3.3 Unless otherwise stated in the Offer, the amount indicated in the invoice issued by AALBERTS becomes immediately due when this invoice is received by the Ordering Party. The date of payment shall be the date when the receivables are received into AALBERTS's bank account specified on the invoice received by the Ordering Party. If the Ordering Party has failed to comply with the payment terms, AALBERTS shall be entitled to charge the Ordering Party with interest on late payments.
- 3.4 The Ordering Party shall not be entitled to withhold payments by reason of any counter-claims towards AALBERTS that result from other contractual relationships or to set off payments from such counter-claims unless these claims have been accepted by AALBERTS or are indisputable or have been confirmed by a final judgement.
- 3.5 The Ordering Party's failure to fulfil the obligation to timely pay for services provided by AALBERTS or the goods delivered entitles AALBERTS to withhold the provision of further Services or the delivery of further Goods until the day when the Ordering Party has made all due payments. If these circumstances arise, AALBERTS's liability for any damage suffered by the Ordering Party for this reason shall be excluded. Within the same boundaries, the contractual tort liability for damages is excluded.

3.6. The Ordering Party guarantees that any rights directly or indirectly related to the Agreement, including the Ordering Party's receivables for non-performance or undue performance of the Agreement and additional receivables related to them (incl. interest) shall not be transferred to third parties without AALBERTS's prior consent preceding such a transfer whereas the consent should be expressed in writing or it will otherwise be invalid. The Ordering Party shall refrain from carrying out any actual or legal actions which would directly or indirectly result in replacing the Ordering Party with another entity as a creditor. The restriction especially covers the transfer, contractual and statutory subrogation, mortgage, collateral and remittance.

**4. Ordering Party's Liabilities for State of Delivery - Semi-Products Ready for Heat Treatment**

4.1 The Ordering Party shall enclose an order document containing the following data with all semi-products which are provided by the Ordering Party for heat treatment:

4.1.1 Marking, quantity of pieces, net weight, value of parts and packaging procedure applied to the semi-products provided to AALBERTS;

4.1.2 Material quality (designation of the standard or the steel grade, the steel maker and recommendations concerning its treatment);

4.1.3 Required thermal processing, especially:

4.1.3.1. In case of steel grades to be carburised - in accordance with PN - ISO 2639:2005 or extended carburisation with a specific carbon content (e.g. At 0,35 = 0.8 + 0.4 mm) or a prescribed hardening depth with a specific value of the layer hardness and the surface hardness (e.g. Eht 550 HV1 700 HV5);

4.1.3.2. In case of non-alloy steels - the required hardness (the Brinell, Vickers or Rockwell method). Strength shall be reliably provided by determining the same parameter by means of the Brinell, Vickers and Rockwell surface testing methods unless agreed otherwise.

4.1.3.3. In case of carbon or high-speed steels - the required hardness level according to the Rockwell or Vickers method;

4.1.3.4. In case of nitrided steel - the required nitriding rate;

4.1.3.5. In case of flame or induction hardening - the required edge hardening depth including the specification of the layer hardness value and the surface hardness value and the layer of the area to be hardened;

4.1.3.6. In case of salt bath for gaseous nitrocarburizing and nitriding - or the treatment duration or the required strength of the connecting layer, the diffusion zone and / or the nitriding zone.

- 4.1.4 Data regarding the ordered verification procedure, verification place and weight (see: PN-82/H-04550, PN-EN 10085:2002);
- 4.1.5 Data referring to the contracted state of delivery such as e.g. „zabezpieczony przed korozją” [“protected against corrosion”], „wolny od pozostałości po obróbce lub myciu” [“free from post-treatment or washing residues”], „wypiaskowany” [“sandblasted”], „wolny od zgorzelin” [“free from scale”] etc.;
- 4.1.6 Other data and regulations necessary to achieve the required result (see: PN - ISO 2639: 2005, PN-EN 10085:2002, PN-EN 10052-1999P, PN-M-01147:1989).
- 4.2 The Ordering Party shall undertake to dispatch the semi-products qualified for treatment in an adequate state - this means that the semi-products qualified for treatment should be free from scale, rolled or forged surfaces, greases, lubricants, cooling and lubricating fluids and grinding burns.
- 4.3 When a partial hardening service is ordered, it is necessary to enclose designations and / or drawings which indicate places which are to be hardened or to remain soft. If semi-products of the same kind have been made of different steel alloys, this should be indicated. The Ordering Party should also indicate if the semi-products are welded or soldered or if they contain empty surfaces and supply unambiguous specifications and / or drawings concerning fittings of soldering joints. positioning, soldering methods, choice of solder and solder-free zones.
- 4.4 The Ordering Party should ensure that heavy or large parts are provided with adequate securing and transport instructions.
- 4.5. All additional requirements of the Ordering Party must be agreed with and approved by AALBERTS.
- 4.6. AALBERTS is not obliged to check the grade or the quality of the material used to manufacture the products made delivered by the Ordering Party.
- 4.7. AALBERTS shall not be liable for the results of the Services provided or the quality of the Goods supplied if the Ordering Party has supplied AALBERTS with improper material or material that is different from the one indicated in the order document, or if there are hidden material defects in the material supplied, or if the production or treatment process of the material supplied by the Ordering Party employed the use of chemicals, residues of which could have had adverse effect on the quality of treatment done by AALBERTS and the Ordering Party has not made it unambiguously clear in the order document.
- 4.8. AALBERTS inspects the submitted order document and the data contained therein only to check if they meet formal requirements.

## **5. Time and Date of Delivery**

- 5.1 The time of delivery starts not earlier than on the day when all technical issues related to

the delivery of the Goods or the provision of Services are explained, including the Ordering Party's delivery of semi-products which are referred to in section 3.1. of the General Terms and Conditions of Deliveries and Services.

- 5.2 AALBERTS is obliged to perform a delivery only if the Ordering Party fulfils its obligations towards AALBERTS in a correct and timely manner.

AALBERTS reserves the right to bring charges and claims, including claims for damages, against the Ordering Party in case of non-performance or improper performance of the Agreement, including the content of section 6 of the present General Terms and Conditions of Deliveries and Services.

If the Ordering Party's fails to fulfil its obligations within a specific time limit, AALBERTS may renounce the Agreement without setting an additional time limit for the Ordering Party.

- 5.3 If unpredictable circumstances which could not have been avoided despite exercising due care have occurred in course of the performance of the terms of the Agreement and prevented timely delivery or in case of force majeure, strikes, riots, governmental actions, lack of deliveries from AALBERTS's sub-suppliers, problems hindering the proper operation of AALBERTS's enterprise that are beyond AALBERTS's control or problems hindering the proper operation of enterprises of AALBERTS's sub-suppliers which have obvious influence on the performance of the terms of the Agreement, the dates of delivery shall be adequately postponed by the duration of the problem even when the delivery has already been delayed. If the delivery has become impossible as a result of the aforementioned obstacles hindering timely delivery, AALBERTS's obligation is extinguished and the Ordering Party shall not be entitled to any claims for damages resulting from non-performance or delayed performance of the agreement by AALBERTS. AALBERTS is obliged to keep the Ordering Party informed about any events which have made it impossible to perform a delivery. AALBERTS reserves the right to make partial deliveries. If AALBERTS's fulfilment of an obligation after an indicated date was irrelevant due to a property of the obligation or an intended purpose of the agreement known to AALBERTS, the Ordering Party may renounce the agreement apart from more far-reaching claims. If the obstacles to the timely delivery last for more than three months, each of the Parties to the agreement may renounce the agreement within its unperformed part.
- 5.4 If AALBERTS has delayed the performance of its obligation for reasons attributable only to AALBERTS, the Ordering Party may fix an adequate additional period of time for the performance of the obligation in writing and then, when it expires ineffectively, the Ordering Party may renounce the Agreement in writing. The Ordering Party may renounce the agreement in writing without fixing the adequate additional period of time when AALBERTS unambiguously and ultimately refuses to perform the obligation or when, due to AALBERTS's delay, the performance has lost the economic importance for the Ordering Party within the meaning of art. 492 of the Civil Code whereas AALBERTS

has been aware of the purpose of the Agreement as intended by the Ordering Party or when there exist other special reasons which, after weighing the interests of the Parties, justify an immediate withdrawal from the Agreement. Other statutory rights of the Ordering Party, particularly the right to substitute performance, the right to redress a damage and the right of retention, are excluded.

- 5.5 AALBERTS shall be liable for a damage caused by a delay or impossibility of the performance only if the damage was caused intentionally or by gross negligence of AALBERTS, persons representing it in accordance with the law or persons whose services AALBERTS uses to carry out the Agreement in accordance with the law or a culpable serious breach of essential contractual obligations. In all other cases, the Ordering Party only has the right to renounce the Agreement. If the breach of the contractual obligations was not intentional, AALBERTS shall only be liable for the ordinary consequences of the action or negligence that resulted in the damage. Within those boundaries, the compensation of damages only covers the losses suffered by the Ordering Party whereas it does not cover the benefits which it might have got if the damage had not taken place. The limitations of liability according to the above first sentence and the above second sentence are not applicable in case of damages which result from a risk of loss of life, body injury and damage to health and which are subject to the statutory principles of liability. AALBERTS shall not be liable for indirect or consequential damages.
- 5.6. AALBERTS may refuse to deliver Goods or provide a Service or delay their performance while not being liable in any way and while keeping its right to claim compensation from the Ordering Party if a formal bankruptcy and liquidation procedure or a bankruptcy procedure including the composition agreement option or a liquidation procedure has been initiated.

## **6. Passage of Risk - Shipment - Packaging**

- 6.1 Unless otherwise stated in the Agreement, the delivery shall be defined as "EXW according to Incoterms 2010 - ex works AALBERTS Plant". The delivery and provision site is Aalberts Plant. This definition shall also apply in case when AALBERTS takes over and pays the transport costs or covers them on behalf of the Ordering Party.
- 6.2 If the Parties have agreed on the shipment of the Goods, the risk of an accidental loss or damage of the Subject of Agreement shall pass to the Ordering Party at the earlier of the following moments: when they are handed over to the forwarder, an entity picking up the shipment, forwarded or sent also in case when AALBERTS takes over and pays the costs of transport or AALBERTS covers them on behalf of the Ordering Party. If the shipment is delayed for reasons for which the Ordering Party is liable or for reasons beyond AALBERTS's control, the risk of an accidental loss or damage of the Subject of Agreement shall pass to the Ordering Party at the moment when the Subject of Agreement is made available for the Ordering Party in AALBERTS's plant.
- 6.3. In the event of the Ordering Party's delay in taking over the Subject of Agreement or the

delivery being delayed for reasons within the Ordering Party's control, AALBERTS has the right, at its discretion, to store the Goods at the cost and risk of the Ordering Party, including the right to re-invoice the storage costs and encumber the Ordering Party with them. The Ordering Party shall be liable for all damages borne by AALBERTS due to the delay in taking over the Subject of Agreement

- 6.4. The transport packages are collected by AALBERTS at its corporate office during normal working hours. The costs of recycling are covered by the Ordering Party.
- 6.5. The Ordering Party shall be obliged to inform AALBERTS in writing if it wants the Goods to be insured against the risk of random events on the site of AALBERTS Plant and/or a special type of return transport and/or to be covered with a transport insurance provided that the Ordering Party bears the costs of the aforementioned changes, also when the transport service is performed with the use of AALBERTS's stock.
- 6.6. Apart from the situation in which unpredictable circumstances occur and which is addressed in section 4.3. of the present General Terms of Deliveries and Services, AALBERTS is entitled to make partial deliveries also in the ordinary course of deliveries of Goods or provision of Services on condition that it may be assumed that the partial deliveries do not affect the Ordering Party's legitimate interest.

## **7. Title Retention**

- 7.1. The goods shall remain the property of AALBERTS until the Ordering Party has paid full remuneration for the all supplied Goods (the so-called reserved Goods).
- 7.2. The Ordering Party has the right to resell the reserved Goods in course of its ordinary commercial operation. However, as soon as the Agreement is concluded and without having to conclude additional disposing agreements, the Ordering Party passes to AALBERTS all receivables which result or shall result from the resale to its customers or third persons whether or not the Goods have been sold without processing or after processing up to the amount of AALBERTS's receivables resulting from the invoice (including VAT). The Ordering Party is entitled to collect these receivables also following the assignment to AALBERTS. This is without prejudice to AALBERTS's rights to independently collect the receivables transferred by the Ordering Party. AALBERTS shall be obliged not to start actions to collect receivables if cheques and bills of exchange are not objected, the Ordering Party fulfils its payment obligations from the accrued revenues, is not in arrears with payments and, in particular, no insolvency proceedings have been opened against it and payments have not been suspended. In the above case, AALBERTS may demand that the Ordering Party provides AALBERTS with the information about the receivables that have been transferred and the debtors, all information necessary to have the receivables collected through judicial enforcement and all documents and informs debtors (third parties) about the assignment. If this declaration is cancelled after the receivables from the Ordering Party's debtor have come into existence, it means that this the assignment of this receivable to AALBERTS pursuant



to this section has been accepted.

- 7.3 In case when the reserved Goods supplied by AALBERTS have been processed with other objects or materials which do not belong to AALBERTS, AALBERTS acquires the co-ownership right to the new item equal to the ratio of the value of AALBERTS's reserved Goods to the value of the remaining processed objects that these objects had at the moment they became processed. In case of objects produced as a result of the processing, the same rules apply as in case of the reserved Goods which are supplied.
- 7.4 If the reserved goods supplied by AALBERTS have been mixed or merged in a way which makes it impossible to separate them from items that have not belonged to AALBERTS, AALBERTS acquires the co-ownership right to the item that has been merged or mixed according to the value of AALBERTS's reserved Goods and of the merged or mixed items that these items had at the moment they became merged or mixed. If the Ordering Party's item becomes the main item as a result of the merging or mixing process, the Ordering Party shall be obliged to proportionally assign the co-ownership right to that item to AALBERTS. The Ordering Party shall maintain the so formed co-ownership for AALBERTS. In case of objects produced as a result of a merging or mixing procedure, the same rules apply as in case of the reserved Goods which are supplied.
- 7.5 AALBERTS shall release, upon the Ordering Party's demand, the securities to which it is entitled if the realisable value of the securities exceeds the value of the secured receivables by more than 10%. The choice of securities which can be released by AALBERTS is up to AALBERTS.
- 7.6. The Ordering Party's failure to make due payments in whole or in part for a Service which has already been provided entitles AALBERTS to retain the goods entrusted by the Ordering Party until the payment for the Services which have been performed before and for the recently performed Service has been made. AALBERTS shall not be liable for any damages suffered by the Ordering Party regarding the late dispatch of the Subject of Agreement. Within the same boundaries, the contractual tort liability for damages is excluded.
- 7.7. In case when the payment for the Subject of Agreement has not been made and / or the Goods have not been collected by the Ordering Party within 6 months following the date when AALBERTS provided the Service, AALBERTS is entitled, following the expiry of an additional period that the Ordering Party has been given in writing to collect the Goods, to sell the entrusted Goods on behalf of the Ordering Party. AALBERTS shall not be liable for any damages suffered by the Ordering Party in this regard. Within the same boundaries, the contractual tort liability for damages is excluded. Regardless of the above, AALBERTS is entitled to demand the payment for the Services provided, including the contractual interest or, in case when the agreement does not specify the amount of the contractual interest, the statutory interest.

7.8 The amount resulting from the VAT invoice issued to the Ordering Party shall also cover the costs of manufacturing racks and tools necessary to deliver the Subject of Agreement. The racks and tools manufactured or supplied by AALBERTS in relation to the Ordering Party's order shall remain AALBERTS's property. The Ordering Party shall return the tools and racks unaltered at the latest within four weeks following the day of their receipt, without charging AALBERTS with additional costs. The above provisions also apply to containers for chemicals which the Ordering Party is obliged to return to AALBERTS without deterioration, without additional costs being charged to AALBERTS at the latest within four weeks following the date of their receipt.

## **8. Acquisition of Ownership through Treatment or Processing of Provided Objects or Materials**

8.1 If the Ordering Party provides AALBERTS with an object for treatment or processing and the value of the treatment or processing performed by AALBERTS is lower than the value of the object provided, AALBERTS acquires a share in the co-ownership right to the item processed equal to the ratio of the value of the treatment or processing carried out by AALBERTS (the final invoiced amount including VAT) to the value that the objects or materials have during the processing.

8.2 In case when the objects or materials provided to AALBERTS have been mixed or merged with objects or materials owned by AALBERTS in a way which makes it impossible to separate them, AALBERTS acquires the co-ownership right to the items equal to the ratio of the value of AALBERTS's objects or materials to the value that the mixed or merged items had at the moment they got merged or mixed.

8.3 If an object owned by the Ordering Party's became the main item after being merged or mixed, it is agreed that the Ordering Party transfers to AALBERTS the proportional co-ownership right equal to the ratio of the value of the treatment or processing carried out by AALBERTS (the final invoiced amount including VAT) to the value that the object had while being merged or mixed.

8.4 In case of the Ordering Party's objects to which AALBERTS has acquired the co-ownership right according pursuant to the above provisions, sections 6.1 to 6.5 of the General Terms and Conditions of Deliveries and Services shall apply.

## **9. Mandatory Warranty - Liability for Breach of Obligations**

9.1 If the Order is carried out by AALBERTS based on the Ordering Party's drawings, specifications, models, requirements etc., the Ordering Party bears the risk related to the suitability of the delivered documents for the intended use. Regarding the heat/surface treatment performed, the Ordering Party shall also be obliged to ensure that the information required according to section 3. of the General Terms and Conditions of Deliveries and Services is accurate and complete and it shall also be liable for adapting the plans of the treatment designed to the planned use.

- 9.2 If the heat or heat and chemical treatment done for reasons for which AALBERTS is not liable is not successful for reasons for which the Ordering Party is responsible or which were under its influence, and AALBERTS did not know or could not know about the hidden defects or unsuitability of the objects being treated before the heat or heat and thermal treatment or it was not able to discover them, or if the properties of the materials used, the shape, surface finish or condition of the objects supplied and treated made the heat/surface treatment impossible, of which AALBERTS was not aware or could not have been aware, the Ordering Party shall be obliged to make a payment for the treatment. The costs of required additional treatment shall be settled separately.
- 9.3 The mandatory warranty rights resulting from physical defects expire after a year following the day when the Goods were dispatched to the Ordering Party in a way consistent with the Agreement. The above provision does not apply to claims for damages resulting from a risk of loss of life, body injury and damage to health as well as claims for damages resulting from intentional behaviour or gross negligence of representatives or persons whose services AALBERTS uses to carry out the Agreement with the Ordering Party. They are subject to a period of limitations prescribed by law. The beginning date of the limitation is governed by statutory regulations.
- 9.4 The Ordering Party loses its mandatory warranty rights resulting from physical defects if it fails to inform AALBERTS in writing about a defect within one month after the defect is found. In case when quantitative complaints have been made and/or evident defects such as e.g. mechanical damages, cracks or scratches have been found, the information about the defect should be included in the document confirming that the Subject of Agreement has been taken over from AALBERTS, failing which the right to make claims resulting therefrom shall be lost. If it has been agreed with the Ordering Party that samples shall be delivered or tested, a complaint due to defects shall be excluded if the Ordering Party was able to detect them before or during the delivery or testing of the samples with due diligence.
- 9.5. The information about a detected defect should contain an accurate description of a non-conformity or a defect, proven by trustworthy reports on metallographic tests or other documents confirming that the non-conformity or the defect has unambiguously occurred.
- 9.6 The Ordering Party shall be obliged to make it possible for AALBERTS to check the reported defect in place where the object is located at the moment when the defect is reported. The AALBERTS's liability does not cover defects caused by the Ordering Party or third persons if these persons have carried out unauthorised modifications or incorrect repairs.
- 9.7 If the Agreement is a contract for specific work, when physical defects have occurred in the Subject of Agreement that are due to the Subject of Agreement being improperly or incorrectly made by AALBERTS, AALBERTS shall remove the defects free of charge and in case when it cannot be done with the materials supplied to AALBERTS by the Ordering

Party, AALBERTS shall return the amount equivalent to the amount that has been paid by the Ordering Party based on an issued VAT invoice to the Ordering Party. If the Agreement is a contract of sale, when physical defects for which AALBERTS assumes responsibility have occurred in a sold item, AALBERTS shall be entitled to remove the defect or replace the Goods at its discretion. If the Subject of Agreement is neither repairable nor replaceable, the Ordering Party has the right, at its discretion, to reduce the fixed purchasing price or the Service costs (reduction) or to renounce the Agreement.

- 9.8 In case when contractual obligations other than the defects of the Subject of Agreement have been breached, for which AALBERTS is liable, the Ordering Party is entitled to terminate the agreement or renounce the agreement pursuant to the statutory regulations.
- 9.9 AALBERTS shall be liable for damages resulting from a culpable risk to human life, body injury and damage to health in compliance with the statutory regulations.
- 9.10 AALBERTS shall also be liable for damages resulting from intentional behaviour or gross negligence, including the intentional behaviour or gross negligence of its own legal representatives or persons whose services AALBERTS uses to carry out the agreement. AALBERTS shall also be liable for damages resulting from culpable infringement of basic contractual obligations. If the infringement of the contractual obligations was not intentional, AALBERTS shall be liable only for the normal consequences of the action or negligence that resulted in the damage. Within those boundaries, the compensation of damages only covers the losses suffered by the Ordering Party whereas it does not cover the benefits which it might have got if the damage had not taken place.
- 9.11 Unless explicitly stated otherwise, the liability of AALBERTS is excluded. In particular, the statutory warranty provided by AALBERTS shall not cover the quality of production processes and the quality of the final products for which the Goods delivered by AALBERTS shall be used, or the natural wear of the Goods treated by AALBERTS. AALBERTS's liability also does not cover the destruction or damage of the Goods while the Service is being carried out if these damages have been caused by reasons beyond AALBERTS's control, particularly including material defects or non-conformities of the Ordering Party's documentation provided to AALBERTS. The mandatory hazardous product liability regulations shall not be violated.

## **10. Joint and Several Liability**

- 10.1 AALBERTS is jointly and severally liable for damages only if it is required by the mandatory legal regulations. AALBERTS excludes its liability within the remaining scope.
- 10.2 AALBERTS's liability pursuant to section 9.1 shall also be limited when the Ordering Party demands repayment of expenditures in place of the claim for damages.
- 10.3 If AALBERTS's liability for damages is excluded or limited, it shall also apply to the personal liability of AALBERTS's employees and collaborators (including contractors),

legal representatives and persons whose services AALBERTS uses to carry out the agreement.

## **11. Jurisdiction - Choice of Law - Place of Performance - Partial Invalidity**

11.1 The place of performance of the terms of the agreement concluded with the Ordering Party by AALBERTS and the place which determines the territorial applicability relevant to all services, deliveries and payments is the corporate office of AALBERTS.

11.2. In case of disputes arising directly or indirectly from the contractual relationships between AALBERTS and the Ordering Party, the court having jurisdiction for the substance of the matter is the court having jurisdiction over the registered seat of AALBERTS.

11.3 The applicable law is the Polish law and all provisions of the agreement shall be construed under the Polish law. The Hague Convention on the International Sale of Goods and the CISG Convention (the Convention on Contracts for the International Sale of Goods) are excluded.

11.4 Unless otherwise stated in the Agreement, the corporate office of AALBERTS is the place of performance.

11.5 If any of the provisions of the present General Terms and Conditions of Deliveries and Services or a provision under another agreement becomes invalid, this shall be without prejudice to the validity of the remaining provisions.

## **12. Exclusions**

12.1 AALBERTS shall not be liable for the parameters which have not been specified in the heat treatment process requirements, e.g. geometry of parts and thereby for the negative effects at the later product processing stages, e.g. resulting from a welding or assembly operation

12.2 AALBERTS shall not be liable for the transport of parts for treatment and finished products after treatment or for damages caused during transport (including delays).

## **Company Information:**

AALBERTS SURFACE TECHNOLOGIES HEAT spółka z ograniczoną odpowiedzialnością [English: limited liability company] with its corporate office in Dzierżonów (address: ul. Strefowa 5, 58-200 Dzierżonów), entered into the register of entrepreneurs of the National Judicial Register kept by the District Court for Wrocław-Fabryczna IX Commercial Department of KRS under number 0000500660 with the total share capital amounting to: PLN 2,600,000.00 (say: two million six hundred thousand zlotys), REGON: 022370518, NIP: 8822119671, BDO: 000044840.