

## **COMMERCIAL TERMS AND CONDITIONS OF PURCHASE**

**No. 02/2017**

### **CONTRACT CONCLUSION**

1. A draft purchase contract (hereinafter also the „Purchase Order“ („PO“)) submitted by the Buyer in writing, shall be accepted by the Seller also in writing in the period of 10 days from the PO delivery, however not later than within 15 business days from the PO sending by the Buyer. The Seller may confirm the PO acceptance to the Buyer also by facsimile or an e-mail, whereat the Seller shall be obliged to send also the original written PO acceptance signed by the Seller to the address of the Buyer's registered office within 3 business days from the facsimile or e-mail sending.
2. A Purchase Contract (hereinafter only the „Contract“) shall be concluded on the day of the written PO acceptance, signed by the Seller, delivery to the address of the Buyer's registered office not later than on the last day of the period specified in the PO for its acceptance. Any late receipt shall have the effect of the acceptance if such a fact is confirmed by the Buyer to the Seller in writing.
3. Acceptance of a PO containing any addenda or variations, even if not significantly changing the terms and conditions of the PO, shall not lead to the Contract conclusion. In such a case the Contract shall be concluded only if such a new draft is accepted by the Buyer and delivered back to the Seller.
4. Any changes, amendments or cancellations of Contracts concluded by the Buyer and the Seller (hereinafter jointly also the „Contracting Parties“) are possible exclusively in writing. Any amendment to the Contract becomes effective for the Contracting Parties on the day of its signing by the Buyer and the Seller, otherwise as of the day of the Addendum signed by the last Party delivery to the address of the registered office of the other Party.
5. An exception from the previous rule shall be applicable to cases, in which the Seller, who received a PO from the Buyer, expresses the PO acceptance, whereat in the period stipulated for the PO acceptance it passes the requested object, which forms the subject-matter of the Purchase (hereinafter only the „Goods“) to the Buyer.
6. Any deviating provisions of the Contract shall prevail over the wording of these Commercial Terms and Conditions of Purchase (hereinafter only the „Terms and Conditions“).

### **DELIVERY CONDITIONS**

7. The Seller undertakes to hand over to the Buyer all tangible movable items and their parts (hereinafter only the „Goods“), as well as all documents related to the Goods, enabling acquisition of the title by the Buyer in compliance with the Contract and these Terms and Conditions. The Buyer undertakes to take over the Goods and pay for them the agreed upon Purchase Price to the Seller.
8. The Goods in the meaning of the preceding rule shall not be tangible movable objects that are to be manufactured, if the Buyer undertook to hand over to the Seller a significant part of objects necessary for the Goods production or a significant part of the Seller's obligation is based on performance of activities.
9. The Seller shall hand over the Goods to the Buyer in the quantity, quality and design agreed upon in the Contract. If the quality or design of the Goods are not stipulated in the Contract, the Seller is obliged to hand over the Goods in the quality and design in accordance with the relevant technical standard or in the quality and design fit for the agreed upon purpose or the purpose, for which such Goods are usually used and/or for the purpose resulting from the Buyer's PO, and at the same time in compliance with all generally binding legal, technical, safety and other regulations applicable to the Goods.
10. The Seller is obliged to hand over to the Buyer, on its own costs and risks, all documents related to the Goods, in the time and place agreed upon in the Contract. Unless agreed upon otherwise in the Contract, the place of delivery shall be the Buyer's registered office.

11. Unless agreed upon otherwise in the Contract, the Goods delivery shall be governed by the DDP the Buyer's registered office per INCOTERMS 2010.
12. Should the Seller be handing over the Goods to the Buyer directly in the Buyer's registered office, the Report on the Goods Hand Over and Take Over /Acceptance Report/ shall be drawn on the Goods delivery and signed by the representatives of both parties. In other cases the proof of the Goods hand over shall be a delivery note confirmed by the Buyer's representative.
13. Should the Seller deliver more Goods than provided in the Contract, the Contract shall not be concluded for such excessive goods, unless the Buyer informs the Seller in writing that it accepts such excessive quantity. Otherwise, the Seller shall be obliged to transport the Goods back on its own costs.
14. Partial deliveries shall be permissible only in cases expressly agreed upon by the Parties in the Contract.
15. The Seller is obliged to inform on each delivery (even partial) in a timely manner in advance. All deliveries must be always marked by the Buyer's name, registered office and the Contract number also on the external side of the packing. Should the Seller combine deliveries per more Contracts concluded with the Seller in one delivery of the Goods, the Seller shall announce each delivery separately and invoice it using a separate invoice, unless agreed upon otherwise.
16. The Goods must be packed in a manner suitable for the agreed upon type of the Goods and the agreed upon manner of transport, so that any damage to the Goods during transportation into the agreed upon place of delivery, would be prevented and safe handling of the Goods and the Goods storing secured. Used packing and fastening materials shall be returned only if its is expressly stipulated in the Contract. In such case the returnable packing must be marked by the packing number, packing owner and a visible character of the packing returnability, otherwise it shall be deemed non-returnable packing. All packing must be environment friendly and must fulfill the legal requirements of the relevant generally binding legal regulations.
17. All costs associated with the object transportation and handing over in the place of performance, including the costs of packing, packaging and Goods securing for transport, their returning respectively, shall be borne by the Seller.
18. In a timely manner, not later than at the Goods delivery, the Seller is obliged to hand over to the Buyer the documents necessary for the Goods take over and free handling. The documents must be well legible, clear, free of any mistakes and must bear the Contract number. Unless requested otherwise by the Buyer, the documents must be elaborated in Czech language.
19. The title to the Goods passes from the Seller to the Buyer simultaneously with the transfer of the risk of damages to the Goods.
20. The Seller acknowledges the potential risk of significant changes in the circumstances based on origination of disproportional increase of the costs of performance and hereby adopts such a risk of changes in the circumstances on itself.
21. The Seller hereby expressly declares that as of the day of this Contract signing and the Goods delivering to the Buyer the Goods are not a subject to any lien or third person's rights and that the Goods are free of any legal defects.

#### **QUALITY WARRANTY, RIGHTS ARISING FROM DEFECTIVE PERFORMANCE**

22. The Seller provides the Buyer with the quality warranty for the delivered Goods in the period individually agreed upon in the Contract, otherwise in the period of 24 months from the duly delivery of the Goods to the Buyer.
23. Should the warranty period provided in the Contract and in the Warranty Certificate differ, the longer warranty period shall prevail. In the Event of any difference between the period in the Contract and the time provided in the packing, the Contract shall prevail. Should a different warranty period be

provided in the warranty certificate and in the packing, the longer warranty period provided in the packing shall prevail.

24. The Buyer shall be entitled to claim discovered quantity or visible defects not later than within 14 days from the Goods delivery to the Buyer. The Buyer shall be entitled to claim all other defects within the claim period of the same length as the warranty period. Any defect claim shall be submitted in a timely manner, if sent by the Buyer on the last day of the warranty period.
25. The Buyer shall be obliged to notify/claim the defects in writing, by a letter, fax or e-mail. The Buyer shall describe the discovered defect or state, how it is demonstrated, and notify the Seller on its chosen right arising from defective performance, as well as on the lead-time, by which such defect shall be removed. The manner chosen by the Buyer shall be binding for the Seller.
26. Within 7 days from the notice delivery the Seller shall be obliged to remove the discovered defects of the Goods per the right arising from the defective performance chosen by the Buyer. Should the Buyer choose removal of defects or delivery of new defect-free Goods, the Buyer shall provide the Seller with an adequate period for such performance. If new Goods are to be delivered, the Buyer shall return the defective Goods per the instructions regarding transportation notified by the Seller, on the Seller's costs. If requested by the Buyer the Seller shall be obliged to send its representative, without any undue delay, to inspect the claimed defects for the purposes of their evaluation.
27. Should the Seller be in a delay with removal of the claimed defect in the period stipulated by the Buyer or agreed upon by the Contracting Parties, the Buyer shall be entitled to remove the defect on its own or by a third person on the Seller's costs, which the Seller shall be obliged to pay to the Buyer within 30 days from their invoicing. Should the defect be of an irremovable nature or should disproportional costs be associated with its removal, the Buyer shall be entitled to withdraw from the Contract, choose another right arising from the defective performance respectively.
28. The Seller shall be obliged to remove the claimed defects also should it not accept such defects. In case of warranty claims the Seller shall be obliged to always use new and original spare parts.
29. Until the defect removal the Buyer shall not be obliged to pay the part of the Purchase Price (unless paid already), proportionally corresponding to the Buyer's right to a discount. The Buyer shall withhold such part of the Purchase Price until the defect removal.
30. Exercising the right from defective performance shall have no effect on the Buyer's right to claim performance arising from any other legal titles.
31. Besides the rights from defective performance the Buyer shall be entitled to claim from the Seller the damages incurred by the Buyer due to any breach of the Seller's obligations, including the costs of any potential defective Goods disassembling, new assembling, potentially any other costs related to the defective Goods. The Buyer shall be authorized to charge such damages and the Seller shall be obliged to pay such damages to the Buyer within 30 days from the invoice receipt by the Seller.

## **PAYMENT CONDITIONS**

32. The Buyer is obliged to pay the Purchase Price stipulated in the Contract, which shall include all costs associated with the Goods, including packing, transport, etc., to the Seller. The value added tax in the value corresponding to the provisions of the Act No. 235/2004 Coll., on value added tax (hereinafter only the „VAT Act“), as amended, shall be added to the Purchase Price. The Purchase Price shall be paid to the Seller by a bank transfer based on an original tax document – an invoice (hereinafter only the „invoice“). The invoice must be delivered to the Buyer and must contain namely:
  - Buyer's Contract number;
  - scope (quantity) and subject-matter of the Contract performance with SKP character;
  - the contract unit of measure price and total price in the agreed upon currency;
  - the account number and bank code, to which the payment shall be sent;
  - the invoice maturity period, which shall commence as of the day of the invoice delivery to the Buyer;

– all details of a tax document per the VAT Act.

33. A document evidencing duly delivery of the Goods (a delivery note or the Goods Hand Over and Take Over Report) must form an attachment to the invoice.
34. The Buyer reserves the right to return the invoice to the Seller for correction or amendment, should the invoice fail to contain the details stipulated by the law or the above attachment. In such a case the above stipulated maturity period shall commence on the day of the amended invoice delivery to the Buyer.
35. The Buyer shall pay the Purchase Price by a bank transfer to the account number provided in the Seller's invoice and the obligation to pay the Purchase Price shall be fulfilled on the day of the relevant amount deduction from the Buyer's bank account for the Seller's bank account provided in the invoice.
36. Should an express maturity period of the Purchase Price not be agreed upon in the Contract, the Buyer shall be obliged to pay the Purchase Price within 90 days from the duly invoice delivery by the Seller.
37. The Seller's right to receive payment of the Purchase Price arises by duly fulfillment of the Seller's obligation to hand over the Goods to the Buyer.
38. In the event of any delay with payment of the Parties' financial obligations within the maturity period, the Parties agree on a delay payment interest amounting to 0.02% of the due amount for each day of the delay.
39. If the Buyer was repaying the principal sum first, the interest on costs and interests are not charged (under section 1932 subs. 2 of the Civil Code).
40. Should a tax administrator in compliance with the Art. 106a of the VAT Act decide, that the Seller is an „unreliable tax payer“ the Seller shall be obliged to immediately inform the Buyer on such a fact in writing, not later than within 48 hours from such decision effectiveness. The written notice must contain namely the tax administrator's decision effectiveness, the bank account name and number, together with the variable symbol of the relevant revenue office. Should a decision on an unreliable tax payer pursuant to the Art. 106a of the VAT Act be issued or should a payment be requested to a bank account provided in the invoice, which the Seller failed to provide in the list kept by the tax administrator, pursuant to the provisions of the Art. 109a – the Special Manner of Tax Securing per the VAT Act, the Buyer shall be entitled to pay the VAT amount provided in the invoice, to the account of the relevant tax administrator.
41. The Seller shall not be entitled to unilaterally setoff any of its receivables from the Buyer.
42. The Seller shall be entitled to pledge the receivables from the Buyer for the benefit of any third person, use them to secure transfer of any right or as a guarantee or for assignment, only based on a prior written agreement of the Contracting Parties, based on the Buyer's prior express written consent respectively.

### **PROTECTION OF INDUSTRIAL PROPERTY RIGHTS AND INTELLECTUAL RIGHTS**

43. All and any technical documents (drawings, technical documents, calculations, procedures, instructions, etc.), handed over by the Buyer to the Seller as underlying documents for the Goods production (hereinafter only the „Technical Documentation“) shall be the exclusive intellectual property of the Buyer. All technical solutions and other solutions, procedures displayed in the Technical Documentation, which are appropriately labeled as such, shall be the Buyer's exclusive intellectual property.
44. Without the Buyer's express written consent the Seller shall not be entitled to publish the Technical Documentation or make it available to any third person or use it for its own benefit or for the benefit

of any other third person. The Seller is entitled to use the Technical Documentation only in relation to the Goods production. Such an obligation shall not be applicable to administrative or other public bodies or authorities, if they conduct audits or other supervisions in accordance with the relevant rules and stipulated by the law.

45. Should the subject-matter of performance delivered based on the Contract be a tangible result of activities (hereinafter only the „Tangible Result“), protected by the industrial property rights or any other intellectual property rights, by the Contract signing the Seller provides the Buyer with a free of charge license to use such Tangible Result also for other purposes than provided in the Contract. Such license shall contain the Buyer's right to use the Tangible Result without any time or territorial limitations and also to grant a sub-license for such use to any third person.

### **CONTRACTUAL PENALTIES**

46. In the event of the Seller's delay with the Goods delivery to the Buyer in the period stipulated in the Contract, the Buyer shall be entitled to charge to the Seller and the Seller shall be obliged to pay to the Buyer, the contractual penalty amounting to 0.5% of the total Purchase Price of the Goods (VAT excluded) for each day of the delay.
47. For each discovered or reported defect of the Goods, including any defects in documents necessary for the Goods using, not remedied by the Seller within the period stipulated by the Buyer, the Buyer shall be entitled to claim and the Seller shall be obliged to pay to the Buyer the contractual penalty amounting to 0.5% of the Purchase Price (VAT excluded) for each individual defect and each day of the delay with the defect removal.
48. Should the Seller incorrectly or incompletely elaborate the documents necessary for the Goods take over, the Buyer shall be entitled to claim from the Seller the contractual penalty amounting to CZK 5,000.- for each incomplete or incorrectly filled in document.
49. In the event of any breach of the obligation to inform provided in the Art. 40 hereof, the Buyer shall be entitled to charge to the Seller the contractual penalty amounting to 20% of the Purchase Price.
50. The Contractual penalty for any breach of the Seller's obligations stipulated in the Art. 43 hereof amounts to 20% of the amount of the receivable, which was supposed to be the subject of such breach.
51. The contractual penalty payment or charging shall have no effect on the Buyer's right to compensation of damages. The Buyer shall be entitled to raise such claims separately, besides each other, regardless to the contractual penalty charging or payment by the Seller.
52. The invoiced contractual penalties and receivables arising from compensation of damages, shall be mature within 30 days from the invoice or any other notice to pay delivery to the other party.

### **WITHDRAWAL FROM THE CONTRACT**

53. Any of the Contracting Parties shall be entitled to withdraw from the Contract should the other Contracting Party commit a significant breach of the Contract. Withdrawal from the Contract must be made in writing.
54. Namely the breach of the Seller's obligation to hand over the Goods to the Buyer duly and in timely manner and any delays with removal of defects of the Goods shall be deemed a serious breach of the Contract.
55. The Buyer shall be entitled to retain parts of the Goods delivered before withdrawal from the Contract. The Goods retained by the Buyer shall be communicated to the Seller in writing at least within five (5) days from the notice on withdrawal from the Contract delivery by the Seller or the Buyer. The Seller shall be entitled to a relevant part of the Purchase Price for the retained Goods. The

Seller undertakes to take over the remaining handed over Goods from the Buyer on the Seller's own costs, if the withdrawal occurs based any breach of the obligations by the Seller.

56. Withdrawal from the Contract shall terminate all rights and obligations of the Parties, except for the contractual penalties, delay payment interests, compensation of damages, rights resulting from damages, rights resulting from security and other provisions, which shall, from their nature, survive and be of a binding nature also after withdrawal from the Contract (e.g. the confidentiality obligation, rights of industrial and intellectual property, etc.).

## **FINAL PROVISIONS**

57. Any legal acts between the Buyer and the Seller shall always be done in writing. Any other forms of demonstrations of will shall not be binding for any of the Parties and must not be interpreted in a conflict with the provisions of the Contract or its Addenda.
58. The Seller and the Buyer declare that they shall not infer any rights or obligations in excess of the scope of the concluded Contract and these Terms and Conditions from the current or future practice established between them or from customs followed in general or in the relevant branch, in which the Goods are being delivered.
59. No obligation arising from the Contract or these Conditions shall be a fixed obligation, unless stipulated otherwise in the Contract.
60. The rights and obligations of the Contracting Parties, as well as any legal relationships arising from or in relation to the Contract, shall be governed by the concluded Contract, these Terms and Conditions, the Civil Code (the Act No. 89/2012 Coll., as amended) and other generally binding legal regulations of the Czech Republic.
61. Any disputes arising from or in relation to the Contract, shall be resolved by a mutual agreement of the Contracting Parties. Should the disputable matters not be resolved amicably, the relevant court of the first degree shall be the local general court per the Buyer's registered office.
62. Should any provision of these Terms and Conditions or a particular Contract be or become void or ineffective, it shall be disregarded from the legal viewpoint and it shall have no effect on the validity, effectiveness and legal perfection of the remaining provisions. In such a case the Contracting Parties are without any undue delay obliged to enter into an amendment, the contents of which shall be replacement of such void or invalid provision by a provision reflecting the original purpose and meaning as much as possible.

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These Commercial Terms and Conditions of Purchase are valid and effective as of March 2, 2017