

## **General Commercial Terms and Conditions of Purchase Contracts**

These General Commercial Terms and conditions are commercial conditions for the purpose of Section 1751 of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter only "the CC"). Divergent provisions laid down in a purchase contract are given precedence over these commercial terms and conditions. A purchase contract is governed by Section 2079 et seq. of the CC.

### **1. Purchase Price**

The Contracting Parties have agreed upon the prices of the individual items of the purchased subject matter (hereinafter also "the Subject") under the purchase contract providing that the price includes freight to the Buyer and other related costs (e.g. packaging).

### **2. Place of Supply**

Unless the purchase contract provides for otherwise, Koksovna Svoboda in Ostrava – Přívoz is the supply site.

### **3. Packages, Labelling**

The Seller shall pack and furnish the subject of purchase for transport in a customary manner. If an unsecured chemical or mixture is concerned, the Seller shall respect the labelling and packaging of the subject for transport under the regulation of the European Parliament and Council (EC) 1272/2008 (CLP), as amended.

### **4. Documents**

- a) Along with the Subject of the purchase, the Seller shall hand over all documents necessary for its acceptance and due utilisation, corresponding to its character and purpose.
- b) The Seller shall provide a safety data sheet of a hazardous chemical or mixture prepared under the regulation of the European Parliament and Council (EC) No. 1907/2006 (REACH), as amended. The safety data sheet of a hazardous chemical shall include an exposure script / scenario for intended uses.
- c) The Seller shall provide information on subjects that contain a substance on the Candidate List of Substances of Very High Concern in the concentration higher than 0.1% mas. Information shall include at least the name of the substance (REACH Regulation, Article 33). The Candidate List is available at the website of the European Agency for Chemical Substances (ECHA).
- d) If the subject of the purchase is supposed to fulfil the requirements of Act No. 22/1997 Coll., as amended, the Seller declares that the subject of the purchase fulfils such requirements. If a government regulation specifies so, an EC declaration of conformity or another document shall be issued or attached to the product at the date of delivering the Subject.
- e) The Seller shall present information on the method of use or removal of unused parts of the products (Section 10(3) of Act No. 185/2001 Coll., as amended) on the package, instruction for use or any other form of information.

### **5. Risk of Damage**

Risk of damage is assumed by the Buyer immediately upon acceptance of the Subject. If the purchase price including freight is agreed, or the transport of the Subject is arranged by the Seller, the signature of the Buyer's authorised person on the shipment document shall be the reference document for the acceptance of the Subject.

## **6. Payment and Invoicing**

The Buyer shall pay to the Seller the agreed purchase price on the basis of the invoice. The Seller may invoice the purchase price after the delivery of goods or after delivery to the first carrier for carriage to the Buyer on condition that the carrier has a duly agreed carriage contract with the Buyer. The invoice shall be sent to the Seller in two counterparts.

- a) The Buyer reserves the right to exercise the institute of securing tax according to Section 109a of Act No. 235/2004 Coll., as amended, and execute the VAT payment (of the purchase price) – directly to the tax account of the Seller’s tax administrator in the case that the Seller has become or might have become a guarantor for the outstanding tax for the purposes of Section 109a of Act No. 235/2004 Coll., as amended.
- b) One invoice may not be related to multiple contracts. The invoice shall comprise:
  - purchase order or purchase contract number as per the Buyer’s contracts register
  - particulars of a common tax document according to Section 29 of Act No. 235/2004 Coll. as amended; (or particulars of a tax document according to Section 11 of Act No. 563/1991 Coll.)
  - the Seller’s bank account (stating the bank code as per the Bank Identifier Codes Register issued by the Czech National Bank) is identical with the account specified in the contract;
  - price details in accordance with the contract.
- c) Unless the invoice meets all the conditions specified above, this fact shall cause non-payment of the invoice and its return to the Seller for correction. A new time limit shall start for the new invoice from its repeated delivery to the Buyer.
- d) The day of debiting the paid amount from the Buyer’s account shall be considered the payment day.

## **7. Contractual Penalty and Default Interest**

- a) The Seller undertakes not to pledge receivables arising from this contract without the Buyer’s prior written consent. A contractual penalty amounting to 10% of the nominal amount of the receivable that has been pledged is agreed for the breach of this obligation.
- b) Assignment of a receivable arisen from this contract without the Buyer’s prior written consent to the assignment is null and void.
- c) The Seller may not set off unilaterally its receivables due from the Buyer.
- d) If the Seller appears in default with the delivery of goods or part thereof, the Buyer may charge the Seller a contractual penalty of 0.1% of the purchase price of the goods which is related to the default (VAT inclusive) for each day.
- e) If the Seller delivers to the Buyer different goods or any part thereof, than it is defined in the contract, the Buyer may charge the Seller a contractual penalty. Height of the contractual penalty is depended on price of the goods.
  - If the price of the goods is less than 100 000 Kč than contractual penalty is 50% from the price; minimum is 5 000 Kč
  - If the price of the goods is from 100 000 Kč till 500 000 Kč than contractual penalty is 30% from the price; minimum is 50 000 Kč
  - If the price is higher than 500 000 Kč than contractual penalty is 20% from price; minimum is 150 000 Kč
- f) The Buyer may require compensation of damage caused by a breach of the obligation to which a contractual penalty is related. The Buyer may require damages in addition to the contractual penalty.
- g) If the Buyer appears in default with the payment of the invoice, the Seller may charge a default interest in the statutory amount.

## **8. Material Breach of the Contract**

The Contracting Parties have agreed that, in accordance with Section 2106 of the CC, the following situations shall be particularly considered a material breach of the contract:

- default with the delivery of a Subject or part thereof for the period longer than 10 calendar days
- delivery of a defective Subject (Section 2099 et seq. of the CC)

In the case of the Seller's material breach of the contract, the Buyer may, in accordance with Section 2106(2) of the CC, select the law that shall be applied in the case of defective performance.

### **9. Quality Guarantee**

The Seller undertakes that the delivered Subject shall be capable of being used for common purpose or it shall maintain common properties and the Seller assumes the guarantee for the quality of goods in accordance of Section 2113 et seq. of the CC in the period of 24 months from delivering the Subject to the Buyer.

### **10. Complaint**

The Seller shall be responsible for any defects that the goods showed immediately when the risk of damage of goods is passed to the Buyer.

The Buyer shall be bound to file a written complaint with the Seller with respect to quantity discrepancies within 10 days and with respect to any other defects within 30 days from the date of their ascertainment, respectively; no later than until the end of the warranty period.

As soon as it receives the complaint, the Seller shall commence an investigation so that, no later than within 30 calendar days from the date of receiving the complaint, it would give its position / opinion to the Buyer.

If the complaint is justified, the Seller shall, subject to agreement with the Buyer, be bound to:

- a) Replenish the missing goods.
- b) Execute the delivery under the original terms and conditions.
- c) Provide a discount.

### **11. Third Parties' Rights**

The Seller declares that the subject of the purchase is not encumbered by any third-party rights.

### **12. Anti-Bribery Provisions**

The Contracting Parties have agreed that in order to prevent any dealings that would be in conflict with good manners, they will not require or offer any advantages, benefits, gifts, hospitality, settlement of expenses, directly or indirectly, to a person or from a person in the position of any employee or a member of a statutory body of a private individual or legal entity in the private or public sector (including persons that in any position decide for the Seller or works for the Seller) in order to obtain, maintain or influence a transaction or ensure any other advantage in the process of a tender procedure or concluding and executing a contract.

The Buyer reserves the right to withdraw from this contract if it determines that the Seller, directly or through its representative, has acted in conflict with the previous paragraph and has failed to adopt a satisfactory remedy in a satisfactory time limit.

### **13. Force Majeure**

- a) A force majeure event means an unforeseeable or unavoidable event that has occurred irrespective of the Contracting Parties' will and that prevents, for the period of at least 5 days, partial or full performance of the obligations of either of the Contracting Party. Events that

occurred after the execution of this Contract and the case where the Contracting Party concerned could not have prevented are acknowledged as force majeure events.

- b) The Contracting Party with respect to which a force majeure event occurs shall immediately notify the other Contracting Party in writing by registered post of the occurrence of this event, as well as of its termination, in the period of no more than 5 days from its occurrence or termination. Failure to meet this time limit shall cause the extinction of the right to refer to the force majeure event.
- c) The performance of the Contracting Parties during the occurrence of force majeure event shall be suspended temporarily and it shall be recovered automatically after its termination.
- d) If a force majeure event lasts more than 60 days, the Contracting Parties may agree to terminate the Contract. The Contract shall cease to exist upon the delivery of the written pronouncement of the will to terminate the Contract delivered to the other Contracting Party.

#### **14. Miscellaneous Provisions**

- a) If the Seller is a private individual, with the execution of this Contract he/she gives consent that for the purpose related to this Contract the Buyer shall be entitled to collect, process and maintain written documentary and automated / computerised Seller's personal details (in accordance with Act No. 101/2000 Coll., on Protection on Personal Data, as amended).
- b) This Contract or these General Commercial Terms and Conditions (hereinafter only "GCTC") may be altered or amended solely by the the Contracting Parties' written agreement in the form of numbered amendments.
- c) Accepting an offer with a supplement or deviation is excluded – if the Seller confirms the contract or GCTC with a supplement or deviation, it shall be deemed that the contract has not been concluded and that it is therefore a new proposal of purchase contract.
- d) In the cases that are not regulated by the Contract, the relevant statutory provisions of the Czech Republic, particularly the CC, and supplementing and related provisions, as amended, shall be applied.
- e) The Contracting Parties shall attempt to resolve all disputes in an amicable manner. Unless an amicable solution of a dispute is reached, the Contracting Parties have agreed that the disputes arising from this Contract shall be resolved at any competent court according to the Buyer's registered office.

Ostrava, 17. 3. 2016