

Terms and Conditions for the Supply of Products

Valid as of August 1, 2020

I.

Preamble

- 1.1. These Terms and Conditions for the Supply of Products (hereinafter referred to as T&CP) are issued under §1751 and consequently Act. No. 89/2012, the Civil Code (hereinafter referred to as the Civil Code) and regulate the relations in delivering Products between the company VAE Prosys s.r.o., Identification No. 64084761, Tax Identification No. 64084761, with registered office at Technologicka 429, Ostrava, incorporated at Ostrava Regional Court, section C, file 8633 (hereinafter referred to as the Supplier) and the Purchaser. Any and all deviations from the T&CP must be agreed upon in writing in the respective Purchase Contract or make a part of a concrete offer of the Supplier to the Purchaser. Supplier's performance under the Contract is to be performed exclusively for the benefit of the Purchaser.
- 1.2. In these T&CP the mentioned terms shall have the following meaning: "Contract" means a purchase agreement concluded between the parties, including all its annexes and amendments or a Purchaser's Order. "Offer" and "Order" specify particular business conditions, under which the Supplier delivers products to the Purchaser. "Products" means the movable things specified individually or in kind and quantity according to the specification mentioned in the Contract.
- 1.3. An Offer is always revocable and may be revoked if the revocation is delivered to the Purchaser before the acceptance of the Offer is delivered to the Supplier. The acceptance of the Offer in the form of an Order shall respect the Supplier's Offer.
- 1.4. All the data concerning the weight, dimensions, power output parameters, prices and other information mentioned in catalogue and price lists shall be binding only to the extent that they are by reference expressly mentioned in the Contract or in the Supplier's Offer.
- 1.5. The Supplier may deliver products with a different order no. than mentioned in the Order in case, that it is a new production version of the ordered Products in accordance with the producer's documentation and the Supplier guarantees identical function with the original version of the Product. This case shall not constitute a change of Order from the Supplier.
- 1.6. All drawings and technical documents relating to the Products submitted by one party to the other shall remain exclusive property of the submitting party and can only be used for the purpose of production, assembly, commencement of operation and maintenance of the Products.
- 1.7. The receiving party is not allowed to use such documents otherwise as stated in the Contract or in the Offer, to procure copies thereof, to reproduce and to disclose them to a third party without a verifiable consent of the submitting party. The end user of the Products shall not be deemed as a third party, if he is not identical to the Purchaser.

II.

2. Passing of Risk, Delivery of Products and Supplier's Delay

- 2.1. The risk of damage to the Products shall pass to the Purchaser in accordance with the agreed delivery terms according to INCOTERMS in force at the formation of the Contract. If not agreed otherwise, the **INCOTERMS 2020** delivery term Ex works (EXW) shall apply. If, in case of delivery Ex works, the Supplier, at the Purchaser's request, undertakes to send the Products to the place determined by the Purchaser, the risk of loss of or damage to the Products shall pass to the Purchaser no later than when the Products are handed over to the first carrier.

2.2. Shall no Contract be concluded, the delivery and payment terms are regulated by an Offer. Unless otherwise determined in the Offer, the delivery time shall start to run when the Supplier has accepted the Order or after the payment of the pro-forma invoice by the Purchaser, if it has been agreed.

If the time of delivery of the Products is not determined as a particular date, but is determined as a term in weeks, months or years, then such term shall start running when the last of the following conditions is met:

- a) Formation of the Contract or delivery of the Order to the Supplier
 - b) Issue of all the licences for delivery or import of the Products that shall be obtained by the Purchaser.
 - c) Crediting the first advance payment to the Supplier's account, if an advance payment is agreed in the Contract or in the Offer.
 - d) Granting all the guarantees and fulfilment by the Purchaser, especially handing over the necessary documentation, if it was required in the Contract or Offer.
- 2.3. As due and timely delivery of the Products is also regarded delivery of the Products with minor deficiencies, which do not prevent the Products from being used for the determined purpose or prevent safe operation of the Products. This does not affect the Supplier's duty to remedy minor deficiencies. Partial shipments of the Products shall be permitted.
- 2.4. The Supplier's delay with delivery of the Products entitles the Purchaser to contractual penalties against the Supplier, from the agreed date of delivery of the Products.
- 2.5. The contractual penalty shall be payable at a rate of 0.05% of the total price of the Products excl. VAT for each day of delay. The aggregate amount of all contractual penalties is limited by the maximum amount of 10% of the total price of the Products, excl. VAT.

III.

3. Payment Conditions

- 3.1. Unless otherwise agreed in the Contract, the price of the Products is VAT exclusive. The payment conditions are determined in the Contract or in the Supplier's Offer.
- 3.2. The Purchaser's delay with payment of his monetary obligations entitles the Supplier to a contractual penalty against the Purchaser amounting to 0.05% of the outstanding amount for each day of delay. The Purchaser's delay with payment of his monetary obligations resulting from the Contract or any other legal relationships between the Purchaser and the Supplier entitles the Supplier to suspend the delivery of the Products according to the Contract, until full payment. The time of delivery of the Products shall be extended at least by the time of the Purchaser's delay with payment of his financial obligations.
- 3.3. Ownership of the Products passes on the Purchaser when paid for in full. The retention of title shall not affect the passing of risks.

IV.

4. Warranty and Liability for Defects

- 4.1. The Supplier guarantees the Purchaser that the Products are free from defects at the take-over. The Supplier especially guarantees the Purchaser that at the time of the Purchaser's take-over of the Products:
 - The Products have qualities described by the Purchaser or the producer.
 - The Products correspond with the quality or execution to the agreed sample or a template, provided that the quality or execution have been determined by the agreed sample or a template.
 - The Products are in corresponding quantity, measurements or weight.

- The Products comply with the laws of the Czech Republic.
- 4.2. The Supplier provides a warranty for the Products corresponding to the warranty conditions provided by the producer of the Products. The warranty conditions are determined in the Offer or the Contract. This provision shall not be applied for the Products sold for the decreased price, for the defect for which the decreased price was agreed, for common wear-and-tear of the Products, with used Products for the defect corresponding to the level of use or wear-and-tear that the Products had at the time of their take-over by the Purchaser, or if it results from the nature of the Products. The Purchaser shall notify the Supplier, in writing, of any defects of the Products (including latent defects) without undue delay after the defect could have been discovered and within the warranty period. As for the defects of the Products that may cause damage, the Purchaser shall notify the Supplier immediately with a subsequent written confirmation. Notification of a defect of the Products shall contain description of the defect and, as the case may be, specification of how the defect is shown. The Purchaser shall bear the risk of the damage arisen as a result of breach of his obligations under this Article.
 - 4.3. On receipt of the notice the Supplier shall remedy the defects without undue delay and at his own costs. If the Purchaser has notified the Supplier and no defects are found for which the Supplier is liable, the Supplier shall be entitled to compensation for the costs he has incurred in connection with the notice.
 - 4.4. The Warranty shall not cover the defects of the Products caused by encroachment by the Purchaser or a third party, and the defects of the Products where it is not possible to prove that they occurred due to defective material used, faulty construction, especially the defects of the Products occurred due to faulty installation and maintenance, non-compliance with operation manuals, overvoltage, undervoltage, interference, excessive strain, mechanical damage, use of inadequate operation media, chemical and electrolytic influences, construction and assembly works by other persons than the Supplier and all other reasons without the Supplier's default. In connection with its liability for defects and warranty obligations, the Supplier shall not be obliged to remedy defects for free elsewhere than in its designated premises or at a delivery place of the Products agreed in the Contract.

V.

5. Force Majeure

- 5.1. Both parties are entitled to suspend performance of their obligations under the Contract for the time of duration of the Force Majeure. The Force Majeure is deemed to be the obstacle which arose independently of the liable party's will and that prevents this party from performing its obligation, provided that it cannot be reasonably expected that the liable party could avert or overcome such an obstacle or its consequences, and further that the occurrence of such an obstacle was unpredictable at the time of formation of the Contract. Examples of the Force Majeure include especially: strike, epidemic, fire, natural disaster, mobilisation, war, insurrection, seizure of goods, embargo, blockade, prohibition on exportation or importation of products, material or services, ban of foreign exchange transfer, electric power taking regulation that is not culpable or any other obstacle caused by actions or omissions by any public authority, terrorist attack etc. The Force Majeure makes it impossible to claim contractual penalties against the party affected by the Force Majeure. The party claiming to be affected by the Force Majeure shall notify the other party of this event without delay in writing and to take all reasonable measures to reduce the consequences of non-performance of the contractual obligations. Should the Force Majeure last for more than six months, both parties are entitled to withdraw from the Contract.

VI.

6. Compensation for Damage and Limitations of Products Sale

- 6.1. The Supplier's liability for any indirect and consequential damages and/or losses with respect to any and all claims arising out of the performance or non-performance of obligations in connection with the Contract shall be excluded. The indirect and consequential damages and/or losses shall mean in particular, but not limited to: loss of profit, energy loss, loss of use, costs of capital, costs connected with delay, non-fulfilment of the guaranteed parameters etc. The total aggregate liability of the Supplier in respect of any and all damages including the contractual penalties and other claims in connection with breach of one or more obligations of the Supplier under this Contract shall not exceed the maximum amount 10% of the total price of the Products supplied excl. VAT. None of the above limitations of the compensation for damage shall apply to the damage caused by the Supplier intentionally or by gross negligence.
- 6.2. The Purchaser acknowledges that the Products may be subject to Czech and/or foreign statutory provisions and regulations regarding export control, and, without export or re-export permits from the competent authorities may not be sold, leased or otherwise transferred or used for a purpose other than agreed upon. The Purchaser agreed to comply with current provisions and regulations. The Purchaser acknowledges that such provisions and regulations may change and are applicable to the Contract according to the wording valid at the time. Should these regulations be changed, the Supplier is entitled to reimbursement of all costs related to unrealized deliveries of goods to the Purchaser for these reasons.
- 6.3. The Products may neither directly nor indirectly be used in connection with development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices or the development, production, maintenance or storage of missiles capable of delivering such weapons. In the event of a breach of this Article by the Purchaser, the Supplier is entitled to withdraw from the Contract or the Offer and the Purchaser is obliged to reimburse all costs arisen to the Supplier associated with the delivery of Products, from which the Supplier withdrew for this reason.

VII.

7. Final Provisions

- 7.1. The delivery of Products is governed by the laws of the state of the Supplier's registered office. The Parties exclude the application of UN Agreement on Contracts for the International Sale of Goods concluded under these T&CP. Any and all disputes arising from this Contract or Offer, including but not limited to the disputes in connection with execution and validity thereof, shall be settled by the courts of the Czech Republic and under Czech law.
- 7.2. None of the parties is entitled to assign any of its claims arising in connection with the delivery of the Products without the written consent of the other party. The parties have agreed that any and all rights under this Contract or Offer shall be subject to the statute of limitation of three years. The parties have agreed that the section §1978 (2) and 2173 of the Act No. 89/2012 Coll., the Civil Code, as amended, shall not apply in respect of the delivery of Products under these T&CP.