

## **GENERAL COMMERCIAL TERMS AND CONDITIONS VALVEA s.r.o. – for Customers**

### **Proclamation**

1. The Seller declares that the goods pursuant to the purchase agreement meet technical and normative requirements imposed on it by the respective norm or generally binding legal regulation and that the goods are fit to be used for the purpose mentioned in the so-called "data-sheet" being a part of the Seller's offer.

2. These General Commercial Terms and Conditions (hereinafter also as GCTC), together with particular sales terms and conditions contained in the purchase agreement, constitute a complete agreement of the parties on the sales terms and conditions and replace any and all previous oral or written arrangements. Should any divergent arrangement of the parties follow from the purchase agreement compared to these GCTC, this divergent arrangement of the purchase agreement shall prevail.

3. The Seller is bound by the draft purchase agreement, of which these GCTC constitute an inseparable part, for the period of 10 days from the date of this draft, unless another deadline for its approval has been explicitly fixed in the draft purchase agreement. The purchase agreement is concluded in case the Seller has received during this fixed option period the draft purchase agreement with the Purchaser's indicated approval free of any conditions, reservations or other changes or amendments to the draft. The purchase agreement shall commence even if the Purchaser accepts the draft purchase agreement after the mentioned option period and the Seller confirms that this acceptance was made timely within 10 working days from its receipt.

4. The Seller excludes in advance the possibility to accept the draft purchase agreement with amendments or derogations, though not substantially changing the proposed conditions.

### **Delivery Terms**

5. The goods shall be delivered on the delivery clause EXW VALVEA s.r.o., Třinec pursuant to INCOTERMS 2010, unless agreed otherwise in the purchase agreement. If the Purchaser does not take delivery of the goods on the basis of a written request from the Seller within the specified period, the Buyer is entitled to invoice the goods.

6. A takeover of the goods by the Purchaser shall be confirmed by signature of an authorized carrier (or another authorized subject) in the delivery note or by signature of the taking-over certificate should the Purchaser's competent person be present on site and at the moment of the goods delivery. The Seller shall not be obliged to release the goods to the carrier (or person, as the case may be) other than the authorized person and shall not be in default on delivery of the goods due to such non-release.

7. The Seller may deliver the goods to the Purchaser before the agreed delivery date without the Purchaser's consent and the Purchaser shall be obliged to overtake such goods. In this case the Seller shall also notify the Purchaser by an email (fax) notice of a cut-off date by which the Purchaser is obliged to overtake the goods.

8. Should the Seller deliver the goods to the Purchaser with delay, it shall be obliged to pay the Purchaser a contractual penalty amounting to 0.05 % of the purchase price of the undelivered goods without VAT for each completed day of delay, but not exceeding 10 % of the purchase price of the undelivered goods without VAT.

9. The Purchaser shall become an owner of the goods upon its takeover and completed payment of its purchase price. Immediately upon takeover of the goods, the Purchaser shall be entitled to treat the goods in accordance with its agreed designation and purpose, unless reserved otherwise by the Seller in the purchase agreement, but always so as to be able to perform properly a settlement of mutually provided performances for a case of rescission of the agreement or its termination in another way. Danger of damage to the goods shall pass to the Purchaser at the moment of the goods takeover from the Seller.

### **Payment Terms**

10. The Parties have agreed on payment of the purchase price of the goods on the basis of a proper tax document. The invoice shall be issued within 15 days from the day of effectuation of the taxable performance and shall be delivered to the Purchaser by post or electronic mail. The invoice due date is 30 days from the date of its issue, unless stipulated otherwise in the agreement. A payment of the purchase price means to credit an amount equal to the purchase price and the relevant VAT at the Seller's account.

11. The Seller is entitled to demand from the Purchaser an advance on payment of the purchase price, up to the amount of 100 % of the total purchase price VAT included. The Purchaser is obliged to comply with this request of the Seller and remit the required advance payment comprising the respective VAT to the Seller's account within 10 days from the notification date of such requirement, unless stipulated otherwise in the purchase agreement. The Seller is obliged to issue a tax document for the Purchaser,

including statement of the advance payment and the respective VAT, within 15 days from the date of receipt of the advance payment.

12. Any payment connected with the purchase agreement shall be executed by a bank transfer to the account mentioned in the relevant tax document (statement).

13. In case of default on performance of the Purchaser's payment obligation towards the Seller, the Seller shall be entitled to require from the Purchaser a contractual penalty amounting to 0.05 % of the outstanding amount for each even commenced day of default.

14. The Seller is entitled to suspend the delivery of the agreed goods in case the Purchaser has outstanding overdue obligations from other business relations towards the Seller until complete settlement of such obligations. In such cases the Seller is not in arrears with delivery of the goods until a complete settlement of such obligations. Should the Purchaser be on default in payment of the advance, the Seller may also extend the deadline for fulfilment by the default period.

15. The Purchaser shall not be entitled to retain the purchase price or its part on account of any counterclaims towards the Seller even on account of a complaint and shall not be entitled to carry out any one-sided set-off of its any counterclaim against the invoiced purchase price for the goods or other payment claims of the Seller arising from this purchase agreement. In case of breach of the said arrangement a contractual penalty has been agreed in the amount of unlawfully retained or set-off amount which the Purchaser is obliged to pay upon the Seller's request.

### **Termination of the Purchase Agreement**

16. The purchase agreement may be rescinded in case of a material breach of contractual obligations, under which the following is to be understood, leaving aside statutory cases:

- the Purchaser's default on payment of the purchase price (advance) lasting more than 30 days,
- the Seller's default on the goods delivery lasting more than 30 days,
- the Purchaser's default on the goods takeover lasting more than 21 days,
- the Purchaser's treating the goods in a manner contrary to its purpose and intention.

17. The Seller shall be entitled to rescind the purchase agreement also in case that:

- the Purchaser is wound down with liquidation, or
- the Purchaser becomes insolvent, or
- an insolvency proceeding has been instituted against the Purchaser.

18. The rescission from the purchase agreement shall become effective at the moment of delivery of a written notification of the rescission from the agreement to the addressee. A written notification shall be considered as delivered on the fifth working day after it was sent.

19. The parties shall be obliged to make settlement of the performances mutually provided within 15 days from the date by which the rescission from the agreement has become effective, unless another period was agreed. Unless agreed otherwise, such settlement shall mean the following fulfilment of:

- the Seller's obligation to return the Purchaser an amount equal to the paid purchase price, contrary to
- the Purchaser's obligation to provide the Seller the delivered goods on the delivery clause DAP VALVEA s.r.o. Třinec according to INCOTERMS 2010 or pay a financial compensation in the amount of the purchase price of the unreleased goods and
- the obligation to compensate the party which has rescinded from the purchase agreement the incurred property and non-property loss, including cancellation costs and loss of profit.

20. In the event of rescission of the purchase agreement due to breach of the agreement by the Purchaser or other cancellation of the purchase agreement by the Purchaser for reasons not attributable to the Seller, and if the Purchaser has made an advance payment of the purchase price, the Seller has the right to be paid a contractual penalty, the amount of which is equal to the advance payment of the purchase price. This is without prejudice to the right to compensation for pecuniary and non-pecuniary damage and lost profits. The Seller shall be entitled to offset the contractual penalty against the obligation to return the advance payment of the purchase price. If the Buyer has not paid the advance payment of the purchase price and if the purchase agreement is rescinded due to a breach of contract by the Purchaser or other cancellation of the purchase agreement by the Purchaser for a reason not attributable to the Seller, the mutual settlement, in addition to the settlement according to paragraph 19 of these GCTC, shall also be made by way of payment to the Seller of any cancellation costs. Cancellation costs shall mean all costs incurred by the Seller in connection with the provision of the subject matter of this purchase agreement.

### **Assignment**

21. The Purchaser is not entitled to assign any receivables incurred from performance of the purchase agreement or in connection therewith or pledge such receivables in order to ensure meeting its own obligations or obligations of third parties, without the Seller's prior written consent. Should this obligation be breached, the Purchaser shall be obliged to pay the Seller a contractual penalty amounting to 20% of the nominal value of such unlawfully assigned or pledged receivable.

22. An assignment of this Agreement or its part shall be subject to previous written consent of the assigned party.

### **Warrantees**

23. The warranty period for delivered goods is twenty-four (24) months and shall commence by the date of signature of the protocol on handover and takeover of the subject of performance or upon signing the delivery note by both parties.

24. The warranty period for spare parts is six (6) months and shall commence by the date of signature of the protocol on handover and takeover of the subject of performance or upon signing the delivery note by both parties.

25. The warranty shall not cover quickly worn-out parts, such as gaskets and membranes.

26. Defective parts shall be delivered by the Seller to the Purchaser free of charge during the warranty period.

27. Any complaints regarding defective goods shall be made in writing and shall contain identification data of the delivery in respect of which the complaint was raised (number of the purchase agreement, date of the goods handover, delivery note number, invoice number etc.) and a description of the discovered defects with presentation of evidence to prove the defects (a defect impeding – not impeding using the goods). The Purchaser shall be obliged to enable the Seller access to the goods in respect of which the complaint was raised in order to verify the legitimacy of the complaint.

28. Apparent defects of goods which were possible to discover during the inspection upon the goods takeover shall be announced by the Purchaser to the Seller without undue delay, not later than within 3 days after the goods takeover. The Purchaser shall otherwise lose the entitlement to claim apparent defects of the delivered goods. Other hidden defects which were impossible to discover during the inspection shall be announced by the Purchaser to the Seller immediately upon their discovering, but not later than by the end of the agreed warranty period.

29. The Seller shall not bear any liability for defects in the goods particularly in cases where the goods:

- were not brought into operation in compliance with installation instructions,
- were used or operated in conflict with the agreed purpose or in conflict with operation and maintenance instructions,
- were placed, stored or operated in an inappropriate environment,
- were overloaded or damaged by violent, improper or negligent treatment.

30. Upon the Seller's request, the Purchaser shall be obliged to enable an inspection of the defective goods for the purpose of identifying causes of defects and verifying the state of the defective goods, including observance to principles of it's using according to installation, operation and maintenance instructions.

31. The Seller shall be obliged to ensure separated storage of the goods in respect of which the complaint was raised, namely until the date of the complaint settlement. Free treatment of the mentioned goods which would hamper or prevent the complaint handling proceedings is not permitted without the Seller's previous consent. Should the Purchaser breach the mentioned obligations and at the same fail to allow the Seller to check the existence of the defect or fail to allow the Seller access to the goods, fail to provide the Seller at its request samples of the goods in respect of which the complaint was raised or fail to deliver by sufficient documents to enable the Seller to calculate an adequate discount on the goods price by the deadline fixed by the Seller in its standpoint on the complaint, such facts shall constitute a ground for denying the complaint and shall lead to loss of the Purchaser's claim due to defective performance.

32. Should the Purchaser fail to enable the Seller a proper familiarisation with the state of the defective goods and assessment of causes of the defects, such facts shall constitute a ground for denying the complaint and shall lead to loss of the Purchaser's claim due to defects of the delivered goods.

33. Any complaint regarding defective goods shall not entitle the Purchaser to suspend (withhold) payment of the goods price or refuse takeover of next delivery of the goods.

### **Other Covenants**

34. The Contracting Parties have agreed that they shall settle possible disputes arising from the Purchase Contract in an amicable way. If such a settlement is not reached, the Contracting Parties have agreed that all disputes, which may arise from the Purchase Contract, including disputes about its validity, interpretation or cancellation, shall be finally settled under jurisdiction of the Czech courts.

35. Should any provision of the purchase agreement become invalid or ineffective due to a circumstance which occurred after the conclusion of the purchase agreement and the occurrence of which or the effect of which could not have been envisaged by either party, this fact shall be without prejudice to the validity and effectiveness of the remaining provisions of the purchase agreement and the parties undertake to observe them.

36. The parties have agreed on limitation of the Seller's liability for damage incurred by the Purchaser through a breach of obligations from the purchase agreement or as a consequence of defects on the goods provided that the Seller's total liability shall be limited by an amount equal to the net purchase price of the goods.

37. For the purposes of the purchase agreement as a force majeure (and at the same time as liability excluding circumstances) are considered the facts mentioned in Section 2913(2) of the Civil Code of the Czech Republic, namely extraordinary, unforeseeable and insurmountable obstacles arising beyond the control of any party which are temporarily or permanently impeding it in performance of its contractual obligations. An obstacle arising from economic conditions of any party or arising at the time when the party was in default on performance of its contractual obligations or an obstacle which the party is obliged to overcome, are not of the nature of force majeure. As obstacles of the nature of force majeure shall be considered, should all these conditions be met, in particular:

- natural disasters – fire, flood, etc.
- strikes,
- measures taken by public authorities,
- criminal offences,
- failures of or damages to production equipment,
- other unforeseeable and unavoidable obstacles.

The Seller does not bear any responsibility for breach of contract / order in terms of damages, penalties, etc. in case the breach was caused by a delay in the supply chain in the local and global market, i.e. unavailability of materials, components, parts, etc., delays in local or international transport or other events of a similar nature, making it impossible to meet the terms of the contract / order for reasons beyond the Seller's control.

38. The parties are obliged to notify each other of any force majeure obstacle provided that for the duration of this obstacle no party is in default on performance of its obligations affected by such force majeure obstacle. Should this notification not be executed within three working days from the date in which the force majeure obstacle has occurred, the party affected by the said obstacle shall lose the right to refer to its existence. Should the force majeure obstacle last for more than 3 months, the party affected by the force majeure obstacle shall be entitled to rescind the purchase agreement and the parties shall carry out a settlement as mentioned in paragraphs 19 and 20 of these GCTC (excepting compensation for damage and the loss of profit). Should the reasons of force majeure for which the performance of this purchase agreement was suspended come to an end, the parties undertake to notify immediately each other of this fact and renew fulfilment of their obligations, being obliged to proceed in mutual cooperation so that the impact of the force majeure obstacle is minimised.

39. Each party undertakes that should there occur with them any facts hampering proper performance of the purchase agreement or making such performance difficult, though not of the nature of force majeure according to the previous paragraphs of these GCTC, it shall notify of these facts the other party without undue delay and shall seek renegotiation aimed at adapting the contractual relation to the changed conditions.

40. Rights and obligations of the parties arising from the purchase agreement and these GCTC shall be governed by the laws of the Czech Republic, namely by the provisions of Act No. 89/2012 Coll., the Civil Code, as amended. The language of the purchase agreement is the English language. Application of Sections 1799 to 1800 of the Civil Code on adhesion agreements is excluded. The application of the Convention on Contracts for the International Sale of Goods to the relationship between the contracting parties is excluded.

41. Purchaser undertakes to handle all personal data of natural persons made available to him by the Seller in written form (usually in legal, technical or other documentation submitted) or in any other form, in accordance with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (so-called GDPR) and other legislation on the protection of personal data. Purchaser is obliged to pay a contractual fine of 10.000 EUR for each case of breach of this provision; this does not affect the right of the seller to demand payment of damages in full.