

# General Terms & Conditions for the Purchase of Goods

## I. General provisions

**1.1.** These General Terms & Conditions for the Purchase of Goods (hereinafter referred to as the "GTC") apply to all contracts, regardless of the form, which SPP - distribúcia, a.s., located at Plátennícka 19013/2, 821 09 Bratislava – mestská časť Ružinov, corporate registration no. 35 910 739, registered in the Commercial Register of the Bratislava III City Court, section: Sa, entry number: 3481/B, concludes for the purpose of purchasing Goods. The application of (general) business terms & conditions of another Contracting Party or any other (general) commercial terms & conditions is hereby expressly precluded, unless the Contracting Parties agree in writing otherwise.

**1.2.** Amendments to or the exclusion of these GTC or any provisions thereof are binding for the Contracting Parties only if the Contracting Parties have agreed on them in writing in the Contract. To the extent that the provisions of the Contract differ from the provisions of the GTC, the derogating arrangements of the Contract shall prevail over the wording of these GTC.

**1.3.** These GTC, in accordance with § 273 of the Commercial Code, form an integral part of the Contract.

### 1.4. Definitions

The capitalised terms used in the Contract, these GTC, or in accompanying documentation related to the Contract, shall have the meaning defined in the Contract, these GTC, or other accompanying documentation related to the Contract. The designation of the Contracting Parties (Seller and Buyer) within the meaning of these GTC applies to the Contracting Parties to the Contract regardless of their lexical designation in the text of the Contract having these GTC as an integral part thereof. Within the meaning of these GTC the following is/are:

**Copyright Act** - Act no. 185/2015 Coll. Copyright Act, as amended;

**Partial Contract** - a Contract concluded under a Framework Contract. For the avoidance of doubt, it is stated that for the purposes of these GTC, where it is not appropriate to differentiate the term Contract and Partial Contract, the term Contract refers collectively to the Contract and the Partial Contract;

**VAT** - Value-added tax

**EU** - European Union

**Buyer** - the company SPP - distribúcia, a.s., registered office Plátennícka 19013/2, 821 09 Bratislava – mestská časť Ružinov, corporate registration number: 35 910 739, registered in the Commercial Register of the City Court of Bratislava III, Section: Sa, file no.: 3481/B;

**Purchase Price** - the price agreed for delivery of the Goods stated in the Contract, excluding VAT;

**Commercial Code** - Act no. 513/1991 Coll. the Commercial Code, as amended;

**Order** - expression of the Buyer's will, exercising the right to delivery of Goods resulting from the Framework Contract pursuant to the conditions agreed in the framework agreement; for the avoidance of doubt, the

Order shall be understood as any proposal by the Buyer to conclude a Contract having these GTC as a component thereof, on the basis of which the Seller supplies Goods;

**VAT payer pursuant to VAT Act** - VAT payer registered under provisions of § 4, § 4a or § 5 of the VAT Act;

**Legal Regulations** - all national or state legislation of the Slovak Republic, including applicable legislation of the European Union, regulations, decrees and other generally binding Legal Regulations of legally established authorities of public power as well as international treaties and conventions to which the Slovak Republic is bound;

**Seller** - the person with whom the Buyer concludes the Contract for the purpose of purchasing the Goods;

**Takeover Protocol** - a protocol on which the Contracting Parties confirm the takeover of the Goods;

**Framework Contract** - a Contract for the repeated delivery of Goods concluded between the Buyer and the Seller;

**SR** - the Slovak Republic;

**Goods** - any materials, things or goods specified in the Contract that the Seller supplies to the Buyer;

**TPP** - technical gas rule;

**GTC** - these General Terms & Conditions of the Buyer for the Purchase of Goods;

**Tender Procedure** is the procedure of concluding the Agreement; based on which the Agreement with the Supplier was concluded;

**VAT Act** - Act no. 222/2004 Coll. on value added tax, as amended;

**Contract** - a purchase contract, a Framework Contract for the repeated supply of Goods or a Partial Contract concluded under a Framework Contract that the Buyer concludes for the purpose of purchasing Goods, regardless of the form of the Contract;

**List of Accounts** - a list of bank accounts of the VAT payers pursuant to VAT Act maintained by the Financial Directorate of the Slovak Republic in accordance with the provisions of § 6(6) of the VAT Act.

**1.5.** Each Contract must contain the basic identification data of the Contracting Parties pursuant to the registration in the Commercial Register or in the Trade Register, or registration in another register as prescribed by Legal Regulations. Each Contracting Party is concurrently also obliged to notify the other Contracting Party forthwith of all changes that are registered to the above records, or it shall otherwise be liable for all damages arising therefrom, or for costs that the other Contracting Party had to outlay in connection therewith.

## II. Subject-matter

**2.1.** The subject-matter of the Contract is the Seller's undertaking to supply Goods to the Buyer and to transfer to the Buyer ownership of the Goods, and the Buyer's undertaking to take over the Goods and to pay the Purchase Price for the Goods.

**2.2.** The Seller is obliged to supply the Goods in the quantity, quality, rendering, deadline and at the price according to the Contract and/or Order.

**2.3.** The Goods, in addition to the properties expressly agreed in the Contract, must conform to requirements

pursuant to Legal Regulations, as well as Technical Gas Rules and technical standards relating to the Goods, or any fulfilment by the Seller.

**2.4.** The Seller declares that at the time of supplying the Goods, it is the owner of the Goods, is entitled to dispose of them, and that the Goods are not encumbered by any third-party rights.

**2.5.** If part of the Seller's performance under the Contract is the result of the author's creative activity protected as an object of intellectual property within the meaning of § 3 and/or § 4 of the Copyright Act, the Seller grants the Buyer a non-exclusive, materially and territorially unlimited license to use the author's work or any of its parts, namely for the entire duration of property rights to the copyrighted work in accordance with the Copyright Act. For the avoidance of doubt, it is stated that the duration of property rights to a copyrighted work is thus determined in accordance with the provisions of § 32 of the Copyright Act, or according to the nature of the author's work in the sense of the special provisions of the Copyright Act and it is not a case of not determining the time for which the license is granted in accordance with the provisions of Section 68 of the Copyright Act. Seller declares that, according to the Buyer's consideration, through granting consent for the use of that part of the performance it does not infringe the copyrights of third parties and that neither will copyrights of third parties be infringed through the use of that part of the performance. Further arrangement of the rights and obligations of Contracting Parties, regarding the granting of this consent (licence) may be set out in the Contract.

**2.6.** The Seller hereby further grants the Buyer explicit prior consent to grant consent to a third party for the use of the author's work (for the grant of a sublicense) within the scope of the granted license, as well as for the transfer of the license. The Buyer is obliged to inform the Seller about the person of the assignee without unnecessary delay.

**2.7.** The payment for the license (sublicense) and consent to the granting of a sublicense according to this article of the General Terms and Conditions is included in the Purchase Price in accordance with the Contract, and the Seller is not entitled to any further compensation for the provision of consents in accordance with the Contract. The seller declares that he considers the method of determining the remuneration (license fee) mentioned in the previous sentence of this point of these GTC to be adequate and corresponding to the purpose of the license (sublicense) and the agreed and foreseeable way of using the author's work.

**2.8.** The contracting parties have agreed that the provisions of this article of these GTC also apply appropriately to other intellectual property and/or industrial property rights, if these will apply to any part of the Seller's performance under the Contract.

### **III. Place of performance and date of performance**

**3.1.** The Seller is obliged to supply the Goods to the Buyer at the place of performance agreed in the Contract as indicated in the Order. If the place of performance is not agreed in the Contract or in the Order, the Seller shall supply the Goods to the place of the Buyer's registered office.

**3.2.** The Seller is obliged to supply the Goods within the agreed performance deadline.

**3.3.** The Buyer is not obliged to takeover the Goods before the agreed performance deadline.

**3.4.** In the event of an impending delay in the supply of the Goods, the Seller shall promptly inform the Buyer thereof in writing after learning of this fact. This notice shall contain the reasons for the delay and the expected delivery date of the Goods.

**3.5.** Through fulfilment of the Seller's notification obligation under the preceding paragraph, other claims of the Buyer arising out of a breach of the Seller's obligation to supply the Goods in time, primarily the claim to contractual penalty and claim to damage compensation remain unprejudiced thereby.

**3.6.** Non-compliance with the performance deadline shall be deemed a material breach of Contract. In the case of the Seller being in delay with supplying the Goods, the Buyer shall have the right to withdraw from the Contract. The Buyer shall also have the right to exercise against the Seller contractual penalties under Clause X of these GTC.

### **IV. Takeover of the Goods and performance of tests on the Goods**

**4.1.** The Seller is not entitled to provide partial fulfilment of the subject-matter of the Contract. The supply of a smaller quantity of Goods or other Goods than that agreed in the Contract shall be deemed a material breach of Contract and shall entitle the Buyer to withdraw from the Contract.

**4.2.** All performances provided by the Seller beyond the framework of the performance specified in the Contract and/or the Order must be approved in advance in writing by the Buyer. The Buyer is not obliged to takeover and pay for, or is entitled to return it without payment any performance whatsoever beyond the framework of the performance set out in the Contract and/Order and provided before such approval.

**4.3.** The Buyer shall allow the Seller access to the place of supplying the Goods for the purpose of supplying the Goods and for the purpose of removing defects, if necessary, within working hours, on the basis of a prior request by the Seller, unless the Contracting Parties agree otherwise. The Seller is obliged to notify the Buyer of a requirement for entering in sufficient advance, where in so doing it is required to define the expected time necessary for performing activities related to performance of the Contract.

**4.4.** The handover and takeover of the Goods shall be confirmed by the Buyer on the Takeover Protocol, on the delivery note or on the relevant transport documents, that are signed by both Contracting Parties, and which shall contain a brief description of the Goods, the legible names and signatures of the signing persons and the date of takeover of the Goods. In the case that the Goods, upon takeover, have patent defects, or the documents that should be supplied with the Goods are not complete, or the Goods are supplied in a smaller quantity, or incomplete, the Buyer is entitled to refuse to take over the Goods. A written record shall be drawn up on the refusal to takeover the Goods, with a description of the defects constituting the reason for the refusal to take over the Goods.

**4.5.** In the event that the Buyer takes over the Goods with defects, the defects shall be described in the Takeover Protocol, delivery note, or in the respective transport documents, specifying a deadline for removing the defects.

**4.6.** The Seller is required, no later than upon takeover of the Goods by the Buyer, to hand over to the Buyer documents relating to the Goods and which are necessary for its takeover and use pursuant to Legal Regulations, Technical Gas Rules, technical standards, customary commercial practices and requirements of the Contract (in particular operating instructions and instructions for maintenance in Slovak, a properly completed warranty card, applicable attestations and certificates, materials certificates, certificates on tests performed or other similar documents for use in the Slovak Republic, etc.).

**4.7.** A part of the performance shall also be the performance of all necessary tests and/or technical control of the Goods pursuant to Legal Regulations, Technical Gas Rules, technical standards, customary commercial practices or requirements of the Contract that must be performed prior to handover of the Goods. The Seller is required to submit no later than upon handover of the Goods the results of tests (e.g. certificate of proof of conformity of the product's technical properties, technical documentation, safety data sheets, etc.).

**4.8.** The Buyer is entitled to take part in the tests on the Goods. The Seller is required to notify the Buyer of the place and date of performing tests on the Goods, and this in sufficient time advance ahead of the planned date of performing the tests.

**4.9.** If the Buyer, or an authorised person thereof does not arrive at the set time for the performance of the tests, the Seller may perform the tests also without the Buyer's presence, which, though, shall not relieve the Seller of the obligation to promptly inform the Buyer of the test results.

**4.10.** Costs associated with the performance of tests Goods shall be borne by the Seller.

**4.11.** Costs associated with the participation of the Buyer or an authorised person thereof at the performance of tests shall be borne by the Buyer. If the tests are not performed at the agreed time through the fault of the Seller, or if the test result is negative, the Seller shall be obliged to compensate the Buyer for all costs that the Buyer incurs through in connection therewith.

**4.12.** The performance of tests in the presence of the Buyer does not relieve the Seller of liability for defects found following the delivery of the Goods and does not replace the Seller's independent output technical control check.

**4.13.** The Seller is obliged to pack the Goods in packaging that is sufficient for protecting the Goods against damage, deterioration or destruction and which fulfil requirements applicable to the Goods or any performance whatsoever by the Seller pursuant to the Contract or Legal Regulations.

**4.14.** For the avoidance of doubt, it is stated that where the Seller and Buyer agree in the Contract and/or the Order on the handover and takeover of the Goods in parts, the provisions of the Contract shall apply accordingly also for the parts of the Goods eligible for separate handover and takeover.

## **V. Risks arising from the Goods and environmental protection**

**5.1.** Where the Goods contain substances that have one or more hazardous properties, the Seller is obliged to describe in the respective documentation the risks resulting from their use, to identify the hazards and to prescribe measures for safe handling, storage and transfer

of these substances, in particular from the aspect of health and environmental protection.

**5.2.** The Seller is obliged to provide the Buyer the respective information on risks resulting from using the Goods in defined operating and user conditions, including information on the manner of protection against these risks and to carry out measures resulting from specific regulations for ensuring safety, health protection, as well as fire prevention.

**5.3.** If the subject-matter of the Contract is the supply of Goods that contain chemical substances or chemical preparations, the Seller is obliged to provide a safety data sheet in accordance with specific Legal Regulations.

## **VI. Purchase price, currency and payment terms**

**6.1.** The Purchase Price is agreed in the Contract and / or Order.

**6.2.** The Purchase Price agreed in the Contract and/or Order is fixed and includes all costs of the Seller associated with performance of the subject-matter of the Contract, such as costs for procurement, materials, production, labour, technical equipment, transport and costs of handling the Goods at the place of delivery, taxes and other import -related fees, product certification fees, administrative and other charges levied by any government authority, waste disposal costs, costs for training persons specified by the Buyer, where such training is provided under the Contract, as well as the price of documentation that is necessary for the takeover and use of the Goods or related thereto, or which is to be supplied under the Contract.

**6.3.** The Purchase Price is payable within the due date of the properly issued and delivered invoice, which the supplier is entitled to issue following signing of the Takeover Protocol, delivery note, or respective transport documents by the Buyer for each performance under the Contract, which must conform to content requirements pursuant to Legal Regulations and this Contract.

**6.4.** The maturity date of invoices issued by the Seller shall be 60 days from the date of their delivery to the Buyer, and the payment shall be made by cashless bank transfer in the currency agreed for the Purchase Price and to the Seller's account stated on the invoice. The day of fulfilment of a payable of the Buyer shall be deemed the day the amount owing is debited from the Buyer's account in favour of the Seller's account. The Contracting Parties have agreed that if the due date falls, according to the Slovak calendar, on a weekend or public holiday, the due date for fulfilling the payable shall be the next working day, and the other Contracting Party shall accept this day as the day of timely fulfilment of the payable.

**6.5.** The Seller is obliged to ensure that the bank account stated on the invoice is notified to the Financial Directorate of the Slovak Republic in accordance with provision of § 6 of the VAT Act. In case that the bank account stated on the invoice is not listed in the List of Accounts and the Buyer pays the invoice to this account, the Seller undertakes to compensate the Buyer for any damage incurred by the Buyer, especially in connection with VAT guarantee for unpaid VAT imposed by the Tax Authority on Buyer. If the Buyer finds that the number of the Seller's bank account to which the invoice shall be paid is not listed in the List of Accounts, he is entitled not to pay the invoice, while the Seller is not entitled to any contractual or legal sanctions, including default interest and contractual penalty and the Seller is not even entitled to impose any sanction on the Buyer for late payment. Payment will be

made by the Buyer after the Seller proves the fulfilment of the notification obligation in accordance with provision of § 6 of the VAT Act.

The Buyer will not apply a special method of VAT payment in accordance with § 69c of the VAT Act.

**6.6.** To each invoice there must be attached a copy of the Takeover Protocol, delivery note or respective transport documents confirming takeover of the Goods by the Buyer and, in the case of import of the Goods from Third Countries (i.e. non-EU member states) also a customs declaration for the release of the Goods.

**6.7.** Besides the particulars pursuant to Legal Regulations, an invoice must contain:

- an indication that it is an invoice;
- corporate registration number and banking details of both Contracting Parties in the form ABO, IBAN and BIC (SWIFT);
- Buyer's Order number (if issued);
- deduction of advances paid (in the case of advance payments);
- the total amount to be reimbursed in the currency in which it is to be reimbursed;
- a specific quantification of the part of the Purchase Price corresponding to the costs for training workers for the constructed operations and facilities, if they are built on the basis of the Contract.

The invoice may further include:

- the Contract number;
- stamp of the invoice issuer;
- place of performance;
- constant symbol;
- agreed form of payment;
- name, signature and telephone / e-mail contact to the invoice issuer's responsible member of staff;
- invoice due date (the invoice due date is calculated from the invoice delivery date).

**6.8.** In the event that an invoice does not contain the required particulars under applicable Legal Regulations or the Contract, or the content is made out incorrectly, the Buyer is entitled to return the invoice within the due date to the Seller, whereupon in such case the Purchase Price shall be payable only within the due term of the issued and delivered corrected (new) invoice, which shall contain the required particulars under applicable Legal Regulations and the Contract, or the content of which will be correct.

**6.9.** The Seller is required to issue the invoice within 15 days from the date of supplying the Goods and to deliver it to the Buyer within two days from the day of this term expiring.

**6.10.** In the event that the Seller fails to deliver an invoice to the Buyer or the correct invoice within the term agreed in the Contract or within the deadline under these GTC, and subsequently the tax administrator imposes a penalty on the Buyer for reason of delayed deduction of VAT pursuant to Act no. 563/2009 Coll. on tax administration (the Tax Code) and on the amendment of certain acts, as amended, the Seller undertakes to compensate the Buyer for any damage in the amount of the penalty imposed which the Buyer may apply also in the form of issuing an invoice payable within 14 days of delivery to the Seller.

**6.11.** The payee's bank details in the form ABO, IBAN and SWIFT (BIC) stated on the invoice must be the same as the bank details agreed in the Contract (notified pursuant to the Contract) and in case the payee is VAT payer pursuant to VAT Act the bank account number has to be listed in the List of Accounts. Otherwise, the Payer shall

be entitled to pay the invoiced amount to the bank account stated on the invoice. In the case of incorrect or different bank details in the form of ABO, IBAN and SWIFT (BIC) being stated in the Contract and in the invoice from the side of the payee, the payer shall not be liable for any damage that may occur in consequence of such incorrectly addressed payment. In the event that the payer incurs damage for such reason, the payer shall be entitled to claim damage compensation from the payee, who caused the damage, and this in the full amount in the form of an issued invoice.

## **6.12. Bank charges**

i. If the Seller has a bank account in Slovakia, the payer's bank fees shall be borne by the payer, the payee's bank fees shall be borne by the payee.

ii. If the Seller has the bank account abroad, bank fees in the SR shall be borne by the Buyer, bank fees abroad shall be borne by the Seller. In the case of a breach of a contractual condition connected with settlement, all bank fees shall be borne by that Contracting Party that caused the breach.

## **VII. Tax matters**

### **7.1. General provisions**

i. In settling their tax liabilities, the Contracting Parties shall proceed according to Legal Regulations, excluding the possibility of taking over a tax liability for a business partner.

ii. The Contracting Parties undertake to respect any legislative changes in the legal code of the Slovak Republic regarding taxes (e.g. the tax rate, change in the method of tax collection, etc.) which affect the Contract, and the Contracting Parties shall respect their application during the period of their application. The Seller undertakes to immediately consult with the Buyer any change in its relationship to tax liabilities toward the Slovak Republic and, upon request, shall submit to the Buyer all documentation necessary for properly arranging its tax liabilities.

iii. The Seller, during the life of the Contract, is required to notify the Buyer in writing of the date of its cancellation of registration as a VAT payer and/or the date of registration as a VAT payer, or the date of a change in its VAT identification number, concurrently with its new VAT identification number, and this immediately after that date.

iv. The Seller is obliged, within 3 days from the commencement / completion of application of a specific arrangement of tax application on the basis of acceptance of a payment for the supply of Goods or services pursuant to the provisions of § 68d of the VAT Act, to notify the Buyer of this fact, and this at the address dph@spp-distribucia.sk. In the event that the Seller fails to fulfil this notification obligation, and the tax administrator imposes a penalty on the Buyer for reason of incorrectly deducted tax pursuant to Act no. 563/2009 Coll. on tax administration (the Tax Code) and on the amendment of certain acts, as amended, the Seller undertakes to compensate the Buyer for damage in the amount of the penalty imposed, which the Buyer may apply also in the form of issuing an invoice payable within 14 days of delivery to the Seller.

v. The Seller as a VAT payer pursuant to VAT Act, is obliged to notify immediately the Buyer of a change in bank accounts notified to the Financial Directorate of the Slovak Republic, i.e. bank account withdrawal or registration of a bank account in the case of bank

accounts to which the payment of invoices issued by the Seller shall be made.

## 7.2. VAT Guarantee

The provisions of this paragraph apply in the case of VAT Guarantee under provisions of § 69b in connection with provisions of § 69 (14) c) of the VAT Act.

i. Seller as a supplier who is a VAT payer pursuant to VAT Act declares that on the day of concluding the Contract he notified the bank accounts specified in the Contract and the bank accounts that will be stated on the invoices to the Financial Directorate of the Slovak Republic in accordance with provisions of § 6 of the VAT Act.

ii. If the tax authority imposes an obligation on the Buyer as guarantor to pay unpaid VAT by the Seller (hereinafter referred to as "Unpaid VAT"), the Buyer shall notify the Seller of this fact. The Seller is obliged to provide the Buyer without delay, but no later than within 3 days from the date of delivery of the Buyer's notification pursuant to the previous sentence, with all information and documents based on which appeal against the decision imposing an obligation on the Buyer as a guarantor to pay Unpaid VAT to the tax authority may be filed. In this case, communication between the contracting parties may be carried out by e-mail to the Seller's address specified in the Contract and the Buyer's address dph@spp-distribucia.sk, while each of the contracting parties is obliged to confirm receipt of the message to the other contracting party upon request. The Seller is obliged to provide documents enabling submitting an appeal against the decision imposing an obligation on the Buyer as a guarantor to pay Unpaid VAT to the tax authority in the original or in a notarized copy. The Buyer is entitled, but not obliged, to file any appeals against the decision of the tax authority, which will require the Buyer as guarantor to pay the Unpaid VAT. In the event of the Buyer's decision to file an appeal, the Seller is obliged to provide the Buyer with full cooperation.

iii. If the tax authority imposes on the Buyer as guarantor an obligation to pay Unpaid VAT, the Buyer is entitled to use any unpaid Purchase Price to pay the Unpaid VAT, as well as unpaid amounts from other invoices issued by the Seller to the Buyer, including those issued on the basis of other contracts concluded between the Buyer and the Seller. The Buyer will inform the Seller about the use of the relevant unpaid amount from the Purchase Price / other invoices for payment of Unpaid VAT. The Seller is not entitled to the payment of the unpaid Purchase Price / Price from other invoices /contracts used by the Buyer under this clause 7.2. of these GTC. The Buyer is entitled to proceed in accordance with this paragraph of the GTC regardless of the execution of notifications under this paragraph of the GTC against the Seller.

iv. If the Buyer as guarantor pays the Unpaid VAT to the tax authority and for any reason it is not possible, appropriate or sufficient for the Buyer to use the unpaid amount from the Purchase Price / other invoices, the Buyer shall have a claim against the Seller in the amount of such VAT paid (hereinafter referred to as the "Debt"). The Buyer will inform the Seller about the payment of VAT as guarantor without the use of the unpaid amount from the Purchase Price / other invoices. The Debt becomes due on the day following the day on which the VAT paid is debited from the Buyer's bank account. The Buyer is entitled to offset unilaterally the Debt against any receivable or receivables of the Seller against the Buyer, regardless of whether they are due or undue. For the

avoidance of doubt, the Seller is not entitled to offset unilaterally the unpaid amount from the Purchase Price / other invoices against the Debt or against any other receivables of the Buyer against the Seller and the Seller is also not entitled to assign a receivable consisting of the unpaid amount of the Purchase Price / other invoices to third party without the prior written consent of the Buyer.

v. The provisions of this paragraph 7.2. of the GTC prevail over any deviating provisions of the Contract and remain in the event of termination of the Contract, hereby the Contracting Parties exclude in relation to this clause 7.2. GTC applicability of the provisions of § 273 (2) of the Commercial Code, as well as the provisions of paragraph 1.2. of these GTC. The Contracting Parties expressly exclude the Seller's right as a debtor pursuant to the provisions of § 309 of the Commercial Code to raise objections against the Buyer as guarantor, if the Buyer as guarantor pays Unpaid VAT without the Seller's knowledge. For the avoidance of doubt the provisions of this paragraph 7.2. of the GTC apply to the regulation of rights and obligations in the case that entities are registered as Payers pursuant VAT Act, regardless of whether it is a foreign or domestic entity.

vi. The Buyer has the right for compensation for any damage caused to him as a guarantor for the VAT payable by the Seller.

## 7.3. Specific tax requirements for contracts with an international element

i. The provisions of this point 7.3. of these GTC shall relate to the arrangement of the rights and obligations of the Contracting Parties only where this concerns a Contract with an international element. For the purposes of these GTC, a Contract with an international element shall mean a Contract in which the Seller features as a foreign entity.

ii. A foreign entity for the purposes of these GTC shall mean a natural person or legal person, or other unit with legal personality whose residence or registered office is outside the territory of the Slovak Republic.

iii. The Contracting Parties, in settling their tax liabilities from a Contract with an international element, shall proceed according to the applicable Legal Regulations of the state in which they are resident and in accordance with applicable international legal standards, without the possibility of taking over a tax liability for a business partner.

iv. The foreign entity shall submit to the Buyer, upon request, a copy of the confirmation from the tax (financial) authority on its tax domicile (residence).

v. The foreign entity shall submit to the Buyer, upon signing the Contract, an affidavit as to whether it has or does not have in the Slovak Republic a permanent establishment pursuant to Legal Regulations or international treaty, as well as an affidavit as to whether it has in the Slovak Republic an establishment pursuant to the VAT Act applicable in the Slovak Republic. In the case that the foreign entity has a permanent establishment in the Slovak Republic, or an establishment for VAT purposes, the affidavit shall contain also information as to whether the subject-matter of the Contract shall be performed by means of this establishment. If the foreign entity comes to have a permanent establishment in the Slovak Republic after signing the Contract, it is obliged to promptly inform the Buyer of this fact.

vi. In the case that the foreign entity is a resident of an EU Member State, or a taxpayer of a state in the European Economic Area and has a permanent establishment in the Slovak Republic, it shall submit to the Buyer a declaration that it is subject to tax in that EU Member State on incomes from a source in or outside of the territory of that EU Member State, whereupon the foreign entity shall not be deemed a taxpayer with unlimited tax liability in the Slovak Republic.

vii. In the case that the foreign entity is not a resident of an EU Member State, or a taxpayer of a state in the European Economic Area, and has a permanent establishment in the Slovak Republic, it shall submit to the Buyer an officially verified copy of the income tax payer registration decree in the Slovak Republic, as well as a legally valid decision of the respective tax administrator that it pays tax advance payments under the Income Tax Act (applicable in the Slovak Republic). Only on the basis of the submission of the aforementioned documents shall the Buyer not withhold an amount for ensuring tax payment, or shall proceed as stated in the respective tax administrator's decision.

viii. In the case where a foreign entity has a permanent establishment in the Slovak Republic and does not submit a decision of the respective tax administrator on the payment of income tax advance payments according to the preceding point, the Buyer shall withhold from the payments an amount for ensuring payment of tax for the performance under the Contract in accordance with the Income Tax Act (applicable in the SR), or in accordance with an international treaty taking precedence over this act, on the day of payment. If the foreign entity pays advance income tax advance payments, though the respective tax administrator has decided otherwise in the matter of withholding advance payments for ensuring tax payment, the Buyer shall proceed according to that decision.

ix. In the event that the foreign entity is a registered VAT payer in the Slovak Republic, or has an establishment in the Slovak Republic for VAT purposes, and where this establishment is a VAT payer and the Contract will be performed by means of its establishment, or under a VAT identification number assigned in the Slovak Republic, the foreign entity shall submit to the Buyer for signing the Contract, also a copy of the decree on registration as a VAT payer. In the case that the foreign entity is a registered VAT payer in a different state and will perform the subject-matter of this Contract as a VAT payer registered for VAT in a different state (the respective state has assigned it a VAT identification number), it is likewise obliged to prove the registration as VAT payer in the country for which it registered as a VAT payer (which assigned it the VAT identification number under which it performs the subject-matter of this Contract) to the Buyer.

x. If the foreign entity after signing this Contract comes to have a permanent establishment in the Slovak Republic, yet does not inform the Buyer of this fact in accordance with this Contract, the foreign entity undertakes to compensate the Buyer for ensuring tax, fees and interest charges that the Buyer may incur in consequence of not deducting the advance payment for ensuring tax, where such failure to deduct arose due to the breach of the notification or other obligation of the foreign entity toward the Buyer; the Buyer may claim the aforementioned compensation no earlier than on the day of receiving the decision issued by the respective tax authority addressed to the Buyer.

xi. If, for whatever reason, the tax administrator returns to the Seller a withheld and deducted advance payment for ensuring tax payment by means of the taxpayer, i.e. by means of the Buyer, this amount of tax shall be remitted to the foreign entity's account in the amount and in the currency stated in the decision of the respective tax administrator, at maximum, though, up to the amount of the withheld tax in the foreign currency.

xii. The Seller is aware of the Buyer's obligation to notify the competent tax authority of the conclusion of a contract with a taxpayer domiciled abroad, based on which to taxpayer domiciled abroad may incur a permanent establishment or tax liability of employees or persons working for him in the territory of the Slovak Republic.

xiii. The Buyer undertakes that, at the request of the foreign entity, it shall submit all necessary documentation for the proper settlement of its tax liabilities.

## **VIII. Transfer of ownership and risk of damage**

**8.1.** Ownership rights and risk of damage pass from the Seller to the Buyer at the moment of takeover of the Goods.

## **IX. Provisions regarding defect liability**

**9.1.** The Seller is liable for defects that the Goods have at the moment of their supply, and this even in the case where the defect becomes apparent only after that moment (latent defects).

**9.2.** The Seller shall not be liable for errors and defects that arose in consequence of improper operation, service and maintenance of the Goods, or through its use in contravention of warranty terms, instructions for use, or other documents supplied by the Seller, or at variance with the customary manner of use. The Seller shall, however, be liable for any other defect, other than normal wear and tear of the Goods, that arises on the Goods even after the moment referred to in the preceding point, if this defect arises in connection with the Buyer's procedure (e.g. defects that arise through damage to the Goods by the Buyer, its staff or another Contracting Party, or in consequence of the conduct of the Buyer, its staff or Contracting Party) that are fully in accordance with warranty terms, instructions for use, or other documents supplied by the Seller, or in accordance with the customary manner of using the Goods.

**9.3.** The warranty period on the Goods is 24 months (hereinafter referred to as the "warranty" or "quality guarantee") and begins to run on the day of the protocol handover and takeover of the Goods, signing of the delivery note or signing of the respective transport documents.

**9.4.** If the warranty period stipulated by the Goods manufacturer or stipulated by Legal Regulations is longer than that agreed in the Contract, this longer warranty shall apply.

**9.5.** In the case where the indicated serviceability or usability of the Goods is longer than the warranty period stipulated, or if the Seller has issued and completed a warranty card, this period or warranty card shall take precedence over the provisions of the Contract, if it confers on the Buyer a greater scope of rights for the provision of guarantee and any warranty fulfilment from the side of the Seller.

**9.6.** If the Goods have defects, the Buyer shall inform the Seller of this in writing (hereinafter simply "notification of defects") together with a brief description of the defects.

**9.7.** The choice of claim that the Buyer exercises in relation to the defect, and the appropriate term in which the Seller shall provide the selected warranty performance shall be communicated to the Seller:

- a) in the notification of defects, or
- b) in writing, within 5 working days of sending this notification to the Seller, or at the Seller's assessment of the nature of the defect, if the Seller's cooperation is necessary for this assessment.

**9.8.** The Contracting Parties have agreed that the Seller is obliged to provide the Buyer the warranty performance selected by the Buyer.

**9.9.** The Seller undertakes to begin removing the defects on the Goods promptly after the notification of the defects by the Buyer, and to remove the defects as soon as possible from the day the Buyer sent the notification of defects. In the event of defects that may limit or prevent the Buyer's operating activity, endanger safety, health, the environment or cause damage to the Buyer's property, it is obliged to begin removing defects immediately after the Buyer sends the notification of defects. The Contracting Parties shall write up a specific record on the removal of the defects.

**9.10.** If, after the choice of claim is made by the Buyer, it proves that:

- a) the defects on the Goods, or parts thereof, are irremovable,
- b) undue costs would be associated with removing the defects,
- c) unduly great cooperation from the Seller would be required in removing the defects,
- d) it would be possible to remove the defects only after the passage of an unduly long time,

The Seller shall be obliged to notify the Buyer of these facts in writing, and the Buyer shall be entitled

- a) to require a discount off the Purchase Price,
- b) to withdraw from the Contract, even if the Buyer, in the notification of defects or in the notification on the choice of claim, did not notify the Seller of its intention to withdraw from the Contract, or
- c) to require the supply of substitute performance, or parts thereof, which the Seller undertakes to supply within 10 days from delivery of the Buyer's demand for substitute performance.

**9.11.** If the Seller fails to remove defects on the Goods even within the additional term set in writing by the Buyer, or if the Seller notifies the Buyer in writing in advance of expiry of the additional term that it will not remove the defects, the Buyer may:

- a) withdraw from the Contract, even if the Buyer, in the notification of defects or in the notification on the choice of claim, did not notify the Seller of its intention to withdraw from the Contract,
- b) require an appropriate discount off the Purchase Price, or

- c) remove the defects itself, or have them removed by a third party and require from the Seller full compensation of costs for such removal of defects.

**9.12.** In the case where under the Contract, the Buyer requires a discount off the Purchase Price, the Contracting Parties have agreed that in determining the level of the discount, the importance of the Goods for the Buyer's economic and business activity shall also be taken into account.

**9.13.** Through the application of claims for defects on the Goods under this clause, other claims of the Buyer set out in the Contract or the claim to damage compensation and a contractual penalty remain unprejudiced.

**9.14.** The Seller is required to compensate the Buyer for any costs the Buyer incurred in connection with the occurrence of the defect (costs for ascertaining, proving the defect), as well as expenditures incurred by the Buyer in connection with providing cooperation to the Seller in removing the defects, as well as costs necessarily outlaid with regard to ensuring the safe operation of the Buyer's facilities, whilst in connection therewith the Buyer may apply a claim for compensation also in the form issuing an invoice payable within 14 days of its delivery to the Seller.

**9.15.** Up until the time the defects are removed, the Buyer is not obliged to pay that part of the Purchase Price that would correspond to its claim for a discount off the Purchase Price, if the defects were not to be removed.

**9.16.** The Buyer may reduce the Purchase Price by the applied discount off the Purchase Price according to the preceding point.

**9.17.** In the case where the Buyer has already paid the Purchase Price or a part thereof, the Buyer shall have the right to:

- a) the return of the Purchase Price up to the amount of the applied discount off the Purchase Price, or
- b) to offset the claim for a discount from the Purchase Price.

**9.18.** In the cases referred to in the preceding point of the Contract, the Seller is obliged within 7 days from delivery of the Buyer's written demand (where the Buyer specifies the amount of the discount off the Purchase Price) for a discount thus specified, to issue and deliver an invoice for correction of the VAT base in favour of the Buyer in the case that a defect is found only after the invoice has been made out and after the Goods have been delivered.

**9.19.** The Buyer can apply a discount off the Purchase Price before paying the Purchase Price, in the form of a written demand to the Seller. In this case, the Seller is obliged, within 7 days from delivery of the Buyer's written demand (where the Buyer specifies the amount of the discount off the Purchase Price) for a discount thus specified, to issue and deliver an invoice for correction of the VAT base in favour of the Buyer.

**9.20.** In the case the Goods or part thereof that the Seller contracted from a third party are covered by a guarantee provided by a third party, the Seller is required to inform the Buyer of all facts that may have an impact on the application of claims from defects on these Goods, or part thereof, in particular it is obliged to notify the Buyer in writing of the day on which the warranty period expires. For the avoidance of doubt, it is stated that this may not be shorter than the warranty agreed by the Contracting Parties in the Contract. Such defects, as well as defects on materials and production defects are applied by the

Buyer directly toward the Seller. For the avoidance of doubt, it is stated that there are hereby in no way prejudiced the rights of the Buyer to exercise any claims whatsoever regarding defects on the Goods directly toward the Seller, and the Seller is directly liable for such defects on the Goods. In the event that the Buyer agrees to assume liability for these defects directly toward a third party, the Seller is obliged, at the Buyer's request, to hand over to the Buyer all documents that it needs to submit to the third party in case of applying defect liability claims.

**9.21.** At the Buyer's request, the Seller is obliged to remove these defects on the Goods, even if it does not acknowledge that it is liable for the defects. In disputed cases, all costs outlaid for removing a defect shall be borne by the Seller, and this up until agreement between the Contracting Parties regarding this claim, or up until a decision on the merits of the defects claim, and this by an independent third party on whom the Contracting Parties agree, or up until the time of the competent court's decision.

## **X. Contractual penalties**

**10.1.** In the case of delay with fulfilling financial obligations, the payee may charge interest on arrears in the amount of 0.02% of the unpaid amount for each day of delay.

**10.2.** The Buyer, in the case of delay in supplying the Goods (including delay in supplying documents relating to the Goods) may charge the Seller a contractual penalty in the amount of 0.2% of the Purchase Price for each commenced day of delay, also in the form of issuing an invoice payable within 14 days of its delivery to the Seller.

**10.3.** The Buyer may, in the case that the Seller breaches obligations arising from the Contract concerning the protection of confidential information (including business secrecy and personal data), charge the Seller a contractual penalty in the amount of EUR 5000 for each individual case of breach separately, also in the form of issuing an invoice payable within 14 days of its delivery to the Seller.

**10.4.** The Buyer may, in the case that the Seller does not provide warranty performance, or does not satisfy the Buyer's claims from defects on the Goods properly and in time, charge the Seller a contractual penalty in the amount of 3% of the Purchase Price for each commenced day of delay and for each defect on the Goods separately, also in the form of issuing an invoice payable within 14 days of its delivery to the Seller.

**10.5.** For the avoidance of doubt, for the purposes of calculating penalties under the Contract, the Purchase Price shall mean the Purchase Price exclusive of VAT.

**10.6.** The application of contractual penalties under this clause shall not prejudice the Buyer's claim for full compensation of damage incurred due to any failure to fulfil the obligation secured by the contractual penalty. Application of contractual penalties under this clause likewise does not prejudice the Buyer's claims arising from defects on the Goods and other rights of the Buyer arising from the Contract.

**10.7.** If, for reason of a breach of an obligation secured by a contractual penalty under these GTC and/or the Contract, there arises to the Buyer a right to payment of a contractual penalty toward the Seller under multiple provisions of these GTC and/or Contract, the right to payment of each of these contractual penalties shall remain preserved for the Buyer, irrespective of whether a contractual penalty for the same breach of obligation has

already been exercised under a different provision of these GTC and/or the Contract.

**10.8.** Taking into account the circumstances of the individual case, the Buyer may, based on his own discretion, decide not to apply the contractual penalty against the Seller in the full amount resulting from Contract or these GTC. Such partial exercise of the right to a contractual fine does not result in the termination of the Buyer's right to later claim the remaining unclaimed part of the contractual fine.

**10.9.** The contracting parties declare that they consider the amount of contractual fines agreed in terms of the Contract and these GTC to be adequate with regard to the obligations secured by these fines.

**10.10.** The Seller hereby, in accordance with the provisions of § 401 of the Commercial Code, declares that he is extending the statute of limitations for the Buyer's rights to contractual fines agreed in the Contract or these GTC, and these rights will not be statute-barred earlier than after 10 years from the date on which the Seller's breach of duty occurred.

**10.11.** In connection with a claim for damage compensation, for the avoidance of doubt it is stated that the Buyer may exercise towards the Seller also a claim for compensation of damage that the Buyer incurs in connection with the imposition of a penalty from the side of any state authority, local authority, or other authority pursuant to Legal Regulations for the breach of any obligation of the Seller arising from this agreement, and this also in the form of issuing an invoice payable within 14 days of its delivery to the Seller.

**10.12.** The Seller undertakes to indemnify the Buyer for all obligations, losses, damages, fines, claims, lawsuits, taxes, obligations, disputes, expenses and costs that the Buyer will have to carry out and/or fulfill and/or suffer and/or incur if they are related or incurred on the basis of a direct or indirect violation of any statement, warranty or obligation of the Seller under the Contract or these GTC.

## **XI. Protection of Confidential Information and Personal data**

### **Confidential Information**

**11.1.** The subject of protection under the Contract includes all and any details, data, background information, blueprints, knowledge, documents or any other commercial and technical information, regardless of the form of their capture:

- a) that concern the Contract and performance thereof (in particular the Contract, information on the rights and obligations of the Contracting Parties as well as price information);
- b) that concern a Contracting Party (in particular information on its activities, structure, economic results, all contracts, financial, statistical and accounting information, information on its property, assets and liabilities, receivables and payables, information on its technical and software equipment, know-how, evaluation studies and reports, business strategies and plans, information concerning subjects protected by industrial or other intellectual property rights and any other information on such Contracting Party;
- c) that concern trading partners of the Contracting Parties;

- d) that are subject to the Legal Regulations concerning a special handling regime (in particular business secrecy, banking secrecy, tax secrecy, telecommunications secret, personal data, classified information);
- e) that were provided to a Contracting Party/obtained by a Contracting Party prior to the entry into force and effect of the Contract insofar as they relate to subject-matter and/or content thereof (in particular a request for a price offer, a price offer);
- f) that are expressly designated by the Contracting Party as "confidential", "proprietary" or are designated with another similar indication from which it is obvious that this is confidential information

(hereinafter referred to as the "Confidential Information" for all types of information subject to protection under the Contract).

**11.2.** The Contracting Parties are required to ensure the confidentiality of information within the meaning of the preceding paragraph in a manner customary for the secrecy of such information, unless expressly agreed otherwise. The Contracting Parties are required to ensure the confidentiality of the Confidential Information also in the case of their employees, representatives, as well as other cooperating third parties, if such information has been provided to them.

**11.3.** The Confidential Information provided, transmitted, communicated, disclosed and/or otherwise obtained by one Contracting Party from the other Contracting Party on the basis of or in any connection with the Contract may be used solely for the purposes of performing the subject-matter of the Contract and in accordance with the regulations governing the handling with such data. The Contracting Parties undertake to keep the Confidential Information as well as any information provided, transmitted, communicated, disclosed or otherwise obtained by the Contracting Parties under the Contract or in any connection therewith in strict secrecy, to keep confidentiality and to protect Confidential Information from misuse, damage, destruction, depreciation, loss or theft.

**11.4.** Without the prior written consent of the other Contracting Party, the Contracting Party shall not be entitled to provide, transmit, communicate, disclose, make publicly available, publish, disseminate, reveal or use the Confidential Information in a manner other than that for performing the subject-matter of the Contract, with an exception for the case of its provision/submission/communication/disclosure to:

- a) professional advisers of the Contracting Party (including legal, accounting, tax and other advisers or auditors) who are either bound by a general professional duty of confidentiality laid down or imposed on them by law or who are required to maintain confidentiality under a written agreement with the Contracting Party;
- b) a controlled Contracting Party of a Contracting Party; (ii) the controlling Contracting Party of a Contracting Party; (iii) an entity in respect of whom the Controlling Contracting Party has the status of controlled entity or a similar position; and (iv) an entity in which the controlling entity of the Contracting Party has the status of a controlling entity or a similar position, and the said entities have

equal obligations to protect the Confidential Information as have the Contracting Parties.

**11.5.** The obligation of the Contracting Parties to maintain confidentiality of the Confidential Information does not apply to information that:

- a) has been made public before the signature of the Contract, which must be proven on the basis of evidence provided to demonstrate this fact;
- b) becomes generally and publicly available after the Contract is signed, and this for a reason other than the result of breach of obligations under the Contract, which must be proven;
- c) is to be made available on the basis of an obligation laid down by law, by a judicial decision, by decision of a public prosecutor's office or another competent public authority, in which case the Contracting Party required to make the information available shall promptly notify the other Contracting Party in writing thereof;
- d) has been acquired by a Contracting Party from a third party who has legally acquired or developed it and which has no obligation that would limit its disclosure.

**11.6.** The Seller is likewise not entitled, without the Buyer's prior written consent, to use the information that the Seller has supplied to the Buyer the Goods under the Contract, or the information on the conclusion of the Contract in order to promote its activities.

**11.7.** The Seller is obliged to inform the Buyer about a breach of the obligation to protect Confidential Information (in particular, a violation of the security, confidentiality, integrity, availability, misuse, damage, destruction, deterioration, loss, leakage or theft of Confidential Information) and/or about an event that is considered a breach of the obligation protection of Confidential Information (hereinafter "breach of protection") and about the measures taken to eliminate the consequences of the breach of protection without undue delay after he became aware of the breach of protection. The Seller is obliged to take measures to eliminate the consequences of the violation of protection immediately after the Buyer notifies the Seller of the violation of the obligation to protect Confidential Information. The seller is obliged to remove or to the maximum extent possible, minimize the consequences of a security breach without undue delay after becoming aware of the security breach.

**11.8.** All obligations of the contracting parties regarding the protection of Confidential Information apply regardless of the termination of the validity and effectiveness of the Contract.

#### Personal data

**11.9.** The Contracting Parties undertake, in the case of processing personal data of natural persons, to proceed according to Act no. 18/2018 Coll. on the protection of personal data and on amendment to certain acts as amended (hereinafter as "Personal Data Protection Act") and Regulation (EU) 2016/679 of The European Parliament and of The Council 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 (General Data Protection Regulation) (hereinafter as "GDPR") and in the case of activities and/or any other act of the Contracting Parties for the execution of which a written agreement is required under the mentioned law, they shall conclude a separate

Contract for this purpose and/or perform any and all acts in compliance with the provisions of the mentioned law so that the performance can be carried out within the meaning of the Contract.

**11.10.** Personal data of the Seller, who is a natural person, or of persons acting on behalf of the Seller, who is a legal entity, are processed by the Buyer for the purpose of fulfilling the Contract or to take measures before concluding the Contract in accordance with Art. 6 par. 1 letter b) GDPR. The contracting parties may have a legitimate interest in providing each other with personal data of contact persons in accordance with the provisions of § 78 par. 3 of the Personal Data Protection Act for the purpose of mutual communication during the performance of the Contract. The contracting parties will process such personal data obtained from the other contracting party as independent operators.

**11.11.** The Seller is obliged to notify the affected persons of the provision of their personal data to the Buyer in accordance with the previous point and verifiably inform them that information on the processing of personal data by the Buyer in accordance with Article 14 of the GDPR is available on the Buyer's website on the Personal Data Protection sub-page (<https://www.spp-distribucia.sk/gdpr/>).

**11.12.** All obligations of the Contracting Parties regarding the protection of the Personal data shall continue to apply irrespective of the termination and effectiveness of the Contract.

## **XII. Other provisions**

**12.1.** Authorised or contact persons (hereinafter referred to as "Authorised Persons") are agreed in the Contract or notified to the other Contracting Party, and it is understood that the Authorised Person has the necessary authorisations and powers to take and execute decisions in connection with the performance of the Contract, but the Authorised Persons of the Contracting Parties are not entitled to amend or cancel the Contract.

**12.2.** In the case of any change to information stated in the Contract, or to other information that the Contracting Parties communicate to one another under this Contract, or a change of authorised persons or a change in contact data, the Contracting Party is required to notify the other Contracting Party in writing. A change of information pursuant to the preceding sentence may be made on the basis of a written notification by the relevant Contracting Party delivered to the other Contracting Party, without the need to conclude an addendum to the Contract, whereupon this change becomes effective at the moment of delivery of the written notification of the change.

**12.3.** The Contracting Parties, in accordance with the provisions of § 364 of the Commercial Code, have agreed that the Buyer may offset any of its liabilities whatsoever against any receivables whatsoever of the Seller, regardless of the legal relationship from which they arise and irrespective of whether the Buyer's payables are future, present, contingent or non-contingent, payable, or expired. The Buyer shall immediately notify the Seller in writing of having made such offset. The Seller is not entitled to unilaterally offset its claims without the Buyer's prior written consent.

**12.4.** Assignment is any written agreement concluded between a Contracting Party to the Contract and a third party, on the basis of which the Contracting Party assigns the Contract, part thereof or any advantage, benefit or receivable resulting therefrom to a third party.

**12.5.** Without the Buyer's prior written consent, the Seller is not entitled to assign or transfer the Contract, part thereof, or advantages, benefits or receivables resulting therefrom. The Seller is also not entitled, without the Buyer's prior written consent, to mortgage or otherwise encumber by third-party rights its receivables from the Contract. If the Seller makes any acts toward assigning or transferring the Contract, part thereof, or advantages, benefits or receivables resulting therefrom, or to mortgaging, or to otherwise encumbering by third-party rights its receivables toward the Buyer without the Buyer's prior written consent, this shall be deemed a fundamental breach of contractual obligations from the side of the Seller. For the avoidance of doubt, it is stated that the provisions of these GTC relate to receivables resulting from the Contract also following the termination of the Contract, for example in consequence of withdrawal from the Contract.

**12.6.** The Buyer is entitled to assign or transfer its rights and obligations from the Contract to any third party whatsoever even without the Seller's prior consent.

**12.7.** The Buyer's consent to the assignment or transfer of the Contract or part thereof to a third party does not relieve the Seller of its obligations and liabilities arising from that part of the Contract that has already been fulfilled, or for the part of the Contract that has not been assigned or transferred.

**12.8.** The assignee must fulfil all requirements as were set for concluding the Contract between the Buyer and the Seller.

**12.9.** The Buyer is entitled to authorise a third party to execute all rights and obligations of the arising to the Buyer under the Contract. Such person communicated from the side of the Buyer is authorised without the need to conclude an addendum to specify their data necessary for delivering communications under the Contract.

**12.10.** The Seller is obliged to notify the Buyer in the event that the Seller begins to enter liquidation, enforcement proceedings begin on the Seller's assets, or there begin proceedings under Act no. 7/2005 Coll. on bankruptcy and restructuring, as amended.

### **Prevention of crime**

**12.11.** The Seller, in performing the Contract and in connection therewith, undertakes to comply with Legal Regulations, and the Seller specifically undertakes to proceed in such a way that through its actions, as well as the actions of persons by means of whom it performs or ensures the subject-matter of the Contract and activities related thereto, including staff, authorised persons and suppliers, there is no violation of criminal law, specifically, though not limited to, standards concerning corruption, money-laundering and other norms protecting human life, property, general safety, the environment, proper waste management, tax and insurance contributions collection.

**12.12.** The Seller undertakes to take active preventive measures, give appropriate guidance to persons by means of whom it performs or ensures the subject-matter of the Contract, and to establish control mechanisms for ensuring obligations under point 12.11. of these GTC.

**12.13.** The Seller undertakes to not provide, promise or offer, in performing the Contract and in connection therewith, directly or indirectly or via an intermediary, to any person, specifically not a public official, any bribe, in an effort to achieve directly or by means of the influence of another person, that a certain person acts or refrains from acting in a way that they would be in breach of their

obligations arising from their employment, occupation, position or function, and likewise in connection with the procurement of a thing of general interest. A public official under the preceding sentence shall mean a public official pursuant to the provisions of Act no. 300/2005 Coll. the Criminal Code, as amended.

### **XIII. Delivery of notices**

**13.1.** Withdrawal from the Contract, termination of the Contract, draft addenda to the Contract, invoices shall be made out in writing and delivered to the other Contracting Party in person, by courier or by post. Any notice of withdrawal from the Contract shall be delivered by the Contracting Parties in the form of registered post.

**13.2.** The Seller is entitled to deliver invoices to the Buyer in electronic form as well, this does not affect the Buyer's right to request invoices from the Seller in paper form.

**13.3.** The Buyer is entitled, for the delivery of all documents, to specify the address of a third party, whereupon the delivery of documents to that third party shall be deemed to constitute delivery to the Buyer. The obligation to deliver documents to a third party arises to the Buyer on the day when it receives a notification from the Buyer on the application of this right, and notification of the third party's contact details.

**13.4.** All documents shall be deemed to have been delivered even in the case of non-receipt of a consignment (in the case of delivery by post or courier, e.g. if the consignment is returned back to the Buyer with the note "unknown addressee", "not picked up within the collection period", "addressee refused to take receipt of the consignment", "addressee moved away" or other similar remark meaning unsuccessful delivery of the consignment) sent by post or courier to the address of the registered office or place of business of the other Contracting Party, or to the address stated in the header to the Contract, or the address communicated to the other Contracting Party, and this on the tenth day from the day of sending such consignment, or, if the undelivered consignment is returned to the Buyer earlier, so then on the day of its return.

**13.5.** Other documents and representations of the will of the Contracting Parties shall be delivered by fax or e-mail to the numbers / addresses agreed in the Contract or communicated to the other Contracting Party.

### **XIV. Audit**

**14.1.** Where the Seller declares that it has a quality management system implemented (whether certified or uncertified), it is obliged, at the Buyer's request, to allow authorised employees of the Buyer to perform at the Seller's workplaces an audit focused on verifying compliance with this system, and this during the course of performing the Contract, as well as after completing performance, in the suppliers evaluation process. The Buyer also has the right to require from the Seller the possibility to perform an audit focused on processes relating to compliance with the stable quality of its production at a manufacturer, if the manufacturer of the Goods is a subject other than the Seller. In the event that the manufacturer does not allow such an audit, the Buyer has the right to require from the Seller the supply of the Goods with the same specification from a different manufacturer, who has allowed the performance of the audit, or to refuse the supply of other Goods from the same manufacturer.

### **XV. Circumstances excluding liability**

**15.1.** Circumstances excluding liability shall be deemed any obstacle that occurred independently of the will of the obliged Contracting Party and that prevents it from performing its obligation, unless it can reasonably be expected that the obliged Contracting Party could have averted or overcome this obstacle or its consequences, and, furthermore, that at the time of establishing this obligation it would have foreseen this obstacle.

**15.2.** Liability is not exempted by an obstacle arising at a time when the obliged Contracting Party was in delay in performing its obligation, or which arose from this Contracting Party's economic circumstances.

**15.3.** Neither of the Contracting Parties shall bear liability for failing to meet their obligations under the Contract if it is proven that:

- i. the nonfulfillment happened in consequence of extraordinarily unforeseeable and irreversible events,
- ii. at the time of concluding the Agreement it was not possible to foresee the obstacles or their consequences,
- iii. it was not possible to prevent, avoid or overcome the impediments or their consequences.

**15.4.** Unforeseeable and irreversible obstacles shall not include those caused by the non-issuance of official permits, licences or similar authorisations to the obliged Contracting Party.

**15.5.** The Contracting Party that is in breach of its obligation or which, taking account of all circumstances, should know that it will breach an obligation from the Contract is obliged to notify the other Contracting Party of the nature of the obstacle that is preventing it or will prevent it from meeting the obligation, and of the consequences of this obstacle. The notification must be made without undue delay after the obliged Contracting Party learns of the obstacle or could have learnt in the case of due care. Any failure to fulfil the notification duty shall make the obliged Contracting Party liable for damage compensation that could have been avoided through timely notification.

**15.6.** The effects of circumstances excluding liability are limited only to the period over which the obstacle with which these effects are connected lasts.

**15.7.** Circumstances excluding liability release the obliged Contracting Party from the duty to compensate for damage, or to pay a contractual penalty and other contractually agreed penalties.

**15.8.** The deadline term for performance shall be extended accordingly by the duration of circumstances excluding liability. During this period the entitled Contracting Party shall be denied the right, if any exists, to withdraw from the Contract.

**15.9.** If circumstances excluding liability last longer than 6 months, each of the Contracting Parties shall be entitled to unilaterally withdraw from the Contract.

### **XVI. Certain provisions regarding termination of the Contract**

**16.1.** The Contract may be terminated in manners provided for in Legal Regulations, e.g. by agreement of the Contracting Parties, etc. or manners provided for in the Contract.

**16.2.** The Buyer is entitled to terminate the Framework Contract without giving reason, in a one (1) month notice

period, which shall begin to run on the first calendar day of the month following the month in which the written notice of termination was delivered to the Seller.

**16.3.** For the avoidance of doubt, it is stated that in the event of the cessation of the Contract, the Seller is obliged to fulfil obligations arising from an Order delivered to the Seller prior to the cessation of the Contract, unless stated otherwise in the Buyer's act causing cessation of the Contract. The provisions of the Contract shall apply in full to the rights and obligations of the Contracting Parties and to Goods supplied on the basis of an Order pursuant to the preceding sentence.

**16.4.** The Contracting Parties have agreed that the Contract (or Partial Contract) may be terminated by way of immediate withdrawal from the Contract in the case of a substantial breach of Contract that may be deemed to have occurred for reasons which, besides those pursuant to the Commercial Code and pursuant to specific provisions of the GTC or Contract, include:

i. The Seller:

- a) not accepting or refusing to accept an Order;
- b) failing to supply the Goods in time;
- c) failing to supply the Goods properly, whereupon the Buyer is entitled to withdraw from the Contract under conditions pursuant to the respective provisions of the Contract;
- d) failing to provide the Buyer proper and timely warranty performance;
- e) repeatedly supplying defective Goods or repeatedly being in delay with supply of the Goods;
- f) the Goods repeatedly failed to fulfil the requirements of tests performed pursuant to these GTC or the Contract;
- g) is subject to Act no. 7/2005 Coll. on bankruptcy and restructuring, and under this act a petition for the declaration of bankruptcy on the Seller's assets has been lodged, or a petition for allowing restructuring of the Seller has been lodged;
- h) has submitted to the Buyer invalid documents or misled the Buyer regarding the specification of the Goods, or stated other untrue information in connection with this Contract or the Goods that are to be delivered on the basis of it;
- i) ceases to fulfil the conditions, certificates, etc. whose fulfilment it proved in the process of concluding the Contract, or in the selection procedure;
- j) violates obligations concerning the protection of confidential information or personal data;
- k) damages the reputation and eligible interests of the Buyer;
- l) assigns or transfers its claims without the Buyer's prior consent;
- m) performs acts directed towards assigning or transferring its receivables without the Buyer's prior consent;
- n) if there is reasonable concern that a decline in personnel and technical capacities on the side of the Seller may lead to a threat to or limitation of the performance of obligations under the Contract.

ii. the Buyer:

- a) fails to pay the Purchase Price within 30 days following the due date of the invoice pursuant to the Contract despite prior warning from the Seller;
- b) violates obligations concerning the protection of confidential information or personal data.

**16.5.** Withdrawal from the Contract must be done within 30 days from the day of the breach of the contractual obligation establishing the right to withdraw from the Contract, in writing and is effective on the day of its delivery to the other Contracting Party.

**16.6.** Through withdrawal from the Contract there expire all rights and obligations of the Contracting Parties resulting from the Contract, other than those obligations concerning protection of confidential information or personal data, claims for damage compensation, claims from defects liability, claims for contractual or legal penalties, or other rights and obligations according to their nature pursuant to Legal Regulations.

## **XVII. Final provisions**

**17.1.** All previous arrangements, whether spoken or written, concerning the subject-matter of performance pursuant to the Contract are replaced in full by the Contract, which represents the complete agreement on the rights and obligations of the Contracting Parties concerning the subject-matter of performance pursuant to the Contract.

**17.2.** In the case that any of the provisions of the agreement is or becomes invalid, ineffective or unenforceable, the validity of other provisions shall remain unaffected. If such a situation arises, the Contracting Parties shall agree in writing on a solution that preserves the context and purpose of the given provision.

**17.3.** The Contracting Parties, as regards the treatment of rights and obligations under the Contract or these GTC, have hereby expressly agreed on the application of law of the Slovak Republic. Rights and obligations not expressly arranged by the Contract or these GTC shall be governed by the respective provisions of the Commercial Code and other Legal Regulations.

**17.4.** The Contracting Parties undertake to resolve disputes arising from the Contract, including disputes regarding its validity, interpretation or cancellation, primarily through negotiation and mutual agreement of the Contracting Parties. If Contracting Parties do not reach agreement on a dispute, either of the Contracting Parties is entitled to file a litigation suit at the court competent according to procedural Legal Regulations, or for the avoidance of doubt, it is stated that the Contracting Parties have hereby agreed on the jurisdiction of the courts of the Slovak Republic. The Contracting Parties hereby also exclude the application of any conflicting norms provided for in bilateral or multilateral international treaties or agreements that are a component of the law of the Slovak Republic.

**17.5.** The Contracting Parties have hereby expressly agreed that Incoterms clauses (provisions) issued by the International Chamber of Commerce in Paris stated on an invoice for performance under the Contract or other document relating to the Contract that are at variance with the agreement of the Contracting Parties under the Contract, shall be disregarded. The Contracting Parties have agreed that the Vienna Convention on the International Sale of Goods shall not apply to the

treatment of their rights and obligations under the Contract.

**17.6.** Particularly in the case that the Seller is domiciled abroad; any communication language other than Slovak or Czech must be specifically agreed in the Contract.

**17.7.** Even in the case that a different communication language is specifically agreed pursuant to the preceding point, the Contract itself, changes thereto and important documents concerning the performance of the Contracting Parties (e.g. Takeover Protocol etc.) must be also drawn up in the Slovak language, whereupon these may concurrently be drawn up also in a specifically agreed different language. In the case of discrepancies, the version drawn up in the Slovak language shall be decisive.

**17.8.** The Contracting Parties have agreed that the Contract may be cancelled or amended in writing; any change must be done in form of an amendment in cases expressly required by the Contract.

**17.9.** The Seller through its signature confirms that it has received these GTC, familiarised itself with them, understood their content, consents to them and undertakes to comply with them.

.....  
Date (day, month, year)

.....  
Seller (first name, last name, signature and stamp)