

## **General Terms and Conditions for the Sale of Products of the STROJÍRNY POLDI, a.s. Company (hereinafter referred to as the „Terms“)**

### **I. BASIC PROVISIONS**

1. These Terms govern the terms and conditions of the sale of goods between the Buyer on one hand and the Seller, ie. the Company of STROJÍRNY POLDI, a.s., Ident. No.: 27661440, with its registered office at Kladno - Dubí, Dubská 243, postal code 27203, on the other hand, on the basis of a separately concluded purchase contract, and they are an integral part of such purchase contract (hereinafter referred to as the „Contract“).
2. These Terms apply in their entirety, unless the parties agree otherwise in the Contract in writing; the content of the Contract is superior to these Terms. Terms and conditions of the Buyer, if they deviate from or are in conflict with the content of these Terms or the Contract, are ineffective and will not become part of the concluded Contract, unless the Seller expressly agrees to them in writing. An integral part of each Contract concluded between the Seller and the Buyer are the Terms valid in the wording effective as of the date of concluding the Contract.

### **II. CONCLUSION OF THE CONTRACT**

1. In the event that the proposal for conclusion of the Contract is sent to the Buyer by the Seller, the Seller is bound by his proposal for conclusion of the Contract together with these Terms for 15 days from the date of sending the Contract to the Buyer, unless otherwise stated in the draft Contract. Until the Contract is concluded, the Seller is entitled to cancel the proposal for conclusion of the Contract, without thereby incurring any liability for damages or any other harm to the Buyer. The Contract is then concluded when the Seller receives a duly signed draft Contract accepted by the Buyer without reservations or changes. This excludes the application of the provision of Section 1740 Paragraph 3 of Act No. 89/2012 Coll., The Civil Code, as amended (hereinafter referred to as the „CC“), ie. the possibility of accepting an offer with an amendment or deviation.
2. In the event that the proposal for conclusion of the Contract is sent by the Buyer, the Contract is concluded at the moment when the Buyer receives the confirmation of the proposal for conclusion of the Contract – the order (which means a separate confirmation on the document separate from the order, or even a confirmation marked directly on the original order form issued by the Buyer) issued by the Seller. Until the Contract is concluded (until the Buyer receives confirmation of the proposal to conclude the Contract), the Seller is entitled to cancel the order confirmation without any liability for damages or any other damage to the Buyer.
3. In order to expedite cooperation, the Parties may send the documents referred to in paragraphs 1 and 2 of this Article II. also by fax, or e-mail, but it always applies that the scanned or faxed document must be subsequently delivered as a signed document.
4. The silence of the Seller is not considered acceptance of the proposal to conclude the Contract or any business terms.
5. Oral or written arrangements or agreements made prior to the signing of the Contract by both Parties and relating to the sale intended under a later Contract shall be superseded by

the provisions of the Contract, together with these Terms, unless such arrangements are expressly included in the Contract.

6. The Contract may be amended and supplemented only by written numbered amendments, which are marked as such. The use of business practices is hereby expressly excluded in accordance with Section 558 paragraph 2 of the Civil Code. Each Contract is always governed by these rules, in the order in which they are listed: (i) primarily by the mandatory provisions of the CC; (ii) the conditions specified directly in the Contract (or confirmed order); (iii) the provisions of these Terms; (iv) dispositive provisions of the CC and other legal regulations.

### **III. DELIVERY, DELIVERY TIME, DELIVERY DELAY**

1. Unless otherwise stated in the Contract, the Seller is obliged to deliver the goods in parity EXW (plant at the Seller's registered office) according to Incoterms 2010, ie. the place of performance is the Seller's registered office. If the Seller has packed the goods and the packaging (ie. pallet, container, etc.) is returnable according to the agreement in the Contract, the Buyer is obliged to return such packaging or similar items to the Seller at his own expense and risk immediately after delivery.
2. The delivery time is met if the subject of delivery is made available to the Buyer for acceptance at the place of performance until its expiration. The Buyer is obliged to provide the Seller with all necessary cooperation to take over the goods, in particular the Buyer undertakes (eg. through an authorized person – carrier) to collect the goods within the period specified in the Seller's written invitation to collect the goods, but no later than on the agreed day of delivery of the goods according to the Contract (if agreed). In the event that the Buyer does not pick up the goods without undue delay within the specified period after receiving the Seller's invitation, but no later than five (5) working days from delivery of the invitation to take over the goods, the Seller's obligation to deliver the goods under the relevant Contract shall be deemed duly fulfilled by the expire of the last day of collection (or the agreed delivery date) and the Seller is entitled to payment of the purchase price for the goods, whereas the Seller is entitled to issue an invoice immediately for payment of the purchase price. In such a case, the goods will be stored with the Seller at the risk and expense of the Buyer, and the Buyer is obliged to pay the Seller in excess of the purchase price a contractual penalty of 1.5 % of the purchase price of the goods under the Contract for each started week of the Buyer's delay in taking over the goods. This provision does not affect the right to compensation for damages and costs of the Seller for the storage of goods. The Buyer's delay in taking over the goods, which will be longer than thirty (30) calendar days, is considered a material breach of the Contract.
3. Partial deliveries are permitted, unless otherwise agreed. The Seller is also entitled to deliver the goods prematurely. The Buyer is not entitled to demand early delivery of goods.
4. In case of delay of the Buyer in taking over the goods according to paragraph 2 of this Article III. of the Terms which will be longer than ninety (90) calendar days, the Seller is entitled to scrap the uncollected goods under the Contract. The Buyer will be notified of this action by the Seller at least ten (10) calendar days in advance. The cost of such scrapping shall be borne by the Buyer. In the event of simultaneous fulfillment of both conditions: (i) the Buyer's delay in taking delivery of the goods according to paragraph 2 of this Article III. of the Terms longer than ninety (90) calendar days and (ii) scrapping of uncollected goods by the Seller, the Buyer undertakes to pay the Seller a contractual penalty in the amount of the purchase price of the scrapped uncollected goods according to the relevant Contract. This provision does not affect the Seller's right to compensation.

5. Unless the Contract stipulates otherwise, the ownership of the goods passes to the Buyer on the day when the full amount of the relevant delivery of the goods is paid, incl. VAT (reservation of title). The Buyer is entitled to sell goods to which reservation of title applies (ie. until full payment of the purchase price), or to load such goods for the benefit of a third party, only with the prior written consent of the Seller.
6. Tools and any other aids necessary for the production of goods under the Contract, which have been developed by the Seller and adapted to his methods and equipment, remain the property of the Seller, including all intellectual property to it. The Buyer’s participation in the cost of manufacturing such tools gives the Buyer only the right to use these tools in the Seller’s workshops with the prior written consent of the Seller, as the cost of manufacturing such tools were taken into account in the purchase price for goods.
7. The Seller is obliged to supply the Buyer the goods together with the documentation relating to the goods, which is required by generally binding legal regulations and/or the Contract.
8. The Seller is entitled to detain the goods if he has any outstanding receivables from the Buyer (including receivables from contractual penalties, interest on arrears and damages), in the event of the Buyer’s delay in any payment, the Seller is also entitled to suspend the delivery of other ordered goods under any Contract or under any other contract concluded between the Seller and the Buyer (ie. not only under the one concerning the Buyer’s delay), until the full settlement of all due obligations of the Buyer to the Seller. Such non-delivery of the goods will not be considered as a delay of the Seller in fulfilling his obligation under the contract in question.
9. The delivery date is also postponed by the time for which the Buyer is in arrears with the payment of the purchase price on any other due receivables of the Seller or the advance payment for this purchase price or in delay with the delivery of the drawing documentation, or other production or transport instructions, the delivery of which the Buyer has agreed with the Seller or the delivery of which is necessary for the proper performance of the Contract by the Seller.
10. If the Seller has packed the goods and the packaging (or pallet, container, fixing material etc.) is returnable according to the agreement in the Contract, the Buyer is obliged to return such packaging or similar items to the Seller at his expense and risk immediately after delivery.

#### **IV. PRICE AND PAYMENT TERMS**

1. The price of the goods according to the Contract is a fixed price. In addition to the agreed price, the Buyer is obliged to pay the Seller VAT in the statutory amount.
2. The purchase price does not include the price of transport packaging, packaging costs, loading onto a means of transport or costs of other charges, such as taxes, duties, insurance, etc., all these cost items are separate items that will be charged under accounting of the purchase price (therefore, these costs are not part of the purchase price), unless expressly stated otherwise in the Contract, and all these costs are borne by the Buyer.
3. The Seller’s right to payment of the purchase price for the goods arises on the day that occurs first: (i) the day of delivery of the goods under the Contract; or (ii) the day of the Buyer’s delay in taking over the goods under the Contract.
4. The Seller has the right to issue a tax document (invoice) for the purchase price for the delivered goods according to the Contract on the day of the right to the purchase price (see above Article IV., paragraph 3 of these Terms). The invoice is due within 30 days from the date of its issuance, unless the Parties agree otherwise in the Contract.

5. For the avoidance of any doubt about the charging of the price, the delivery of goods occurs even if only a part of the goods has been taken over, in which case the goods have been delivered in respect of the taken over part, the remaining part may be delayed.
6. Payment of the purchase price is made by non-cash transfer to the Seller's account specified in the invoice, or to the account specified by a written payment instruction issued by the Seller. Any invoiced amount is considered paid at the moment such payment is credited to the relevant account of the Seller.
7. The Buyer is not entitled to make a unilateral set-off against any receivables of the Seller that arise under the Contract or any other contracts concluded between the Buyer or the Seller, or from any other contractual or non-contractual negotiations, without the prior written consent of the Seller. The Buyer is not entitled to withhold payments, or any part thereof, due to any counterclaims or alleged claim from defective performance (ie. due to a claim for goods). The Buyer is not entitled to assign any of his receivables from the Seller to a third party without the prior written consent of the Seller (nor is he entitled to assign the Contract as a whole), nor encumber such receivables by any third party right.

## **V. CLAIMS FOR DEFECTS IN THE GOODS, WARRANTY CONDITIONS, COMPLAINTS**

1. When ordering goods, the Buyer is obliged to precisely specify the requirements for the goods, especially the quantity, properties, quality parameters, preservation, packaging and the method and form of proving the compliance with the specified requirements. The goods must be of the quality required by the Buyer in the validly concluded Contract, otherwise in accordance with the valid legal regulations.
2. The Seller is responsible for the defects in goods (qualitative, quantitative, document defects etc.), which exist at the time the risk passes on to the Buyer, even if the defect manifests itself only after this moment. The Seller is also responsible for any defect that arises after the transfer of risk to the Buyer, if it is caused by a breach of the Seller's obligations.
3. This is not a defect in performance and the goods are considered properly delivered if the quantity (or weight) or quality of the delivered goods corresponds to the permissible tolerance deviation resulting from the Contract, technical specification, applicable (technical) standards or other generally binding regulations. Likewise, it is not a defect in performance and the goods are considered properly delivered if the delivery of goods under the Contract will contain defects or defective pieces (called scrap), but the amount of these defects or scrap does not exceed the tolerated limit of 1 % of the total delivery of goods according to the relevant Contract, unless otherwise agreed in the Contract (the Buyer acknowledges that it is not objectively possible to achieve a situation where there are 0 % defects or scrap in the delivery of goods).
4. The Buyer is obliged to carefully inspect and check the goods delivered on the basis of the Contract (especially the quantity of goods), without undue delay after the delivery of the goods under the Contract.
5. The Buyer is obliged to notify the Seller in writing without undue delay, no later than three (3) days from receipt of the goods, of obvious defects of the goods, which could be found during the inspection after delivery of the goods (especially the quantity of goods), otherwise the goods are considered flawless. The Buyer is obliged to notify the Seller in writing of other than obvious defects of the goods immediately after their discovery, ie. no later than three (3) days after their discovery.

6. All claims for defects in goods (from liability for defective performance and from quality guarantee) must be made in writing and must contain identification data of the claimed delivery (Contract Number, or order confirmation number, delivery date, transport document number, invoice number, etc.), a description of the detected defects with supporting documents proving the legitimacy and justification of the complaint. A quantitative claim for goods must be substantiated by a supporting document (weighing slip) from an independent entity. If the legitimacy of the complaint is proven, the Seller is obliged, at his sole option, to provide the Buyer with either a reasonable discount on the purchase price, or to eliminate the defects in a suitable manner within a reasonable time.
7. The Buyer is obliged to ensure separate storage of the claimed goods, until the day the complaint is settled. The Buyer is not entitled to freely dispose of the said goods, which would make the complaint procedure more difficult or impossible. If the Buyer violates the above obligations, or if he does not allow the Seller to be convinced of the existence of the defect, or does not allow him access to the claimed goods, does not provide the Seller, at his request, with samples of the claimed goods or does not provide sufficient documents within the deadline set by the Seller to enable the Seller to calculate a reasonable discount from the purchase price, these facts are the reason for the rejection of the complaint and cause the loss of the Buyer's claim from defective performance and from the quality guarantee.
8. Unless otherwise stipulated in the Contract (or in the warranty certificate issued for the delivered goods according to the Contract), the warranty period for new products is twelve (12) months from date of delivery of the goods to the Buyer, and for the services provided (repairs, cooperative production, etc.) it is six (6) months from the performance of these services, provided that the Operating Terms and Conditions for the transport, handling, assembly and operation of engineering products of the STROJÍRNY POLDI, a.s. Company are complied with. Any complaints must be made in accordance with these Terms no later than the last day of the warranty period.
9. The Seller is not liable (does not provide a quality guarantee) for defects in the goods caused by accident or force majeure, as well as for defects in the goods caused by wear and tear caused by normal use, or use of the goods contrary to the purpose of the Contract or documentation relating to the goods, and is not liable for damage or malfunction caused by the fault of the Buyer, defective use, error of supervision or maintenance by the Buyer.
10. In the event that the Buyer is in delay with taking over the goods (see Article III., paragraph 2 of these Terms), the warranty period for the goods begins on the first day of such delay of the Buyer.
11. A claim for a defect in the goods does not entitle the Buyer to suspend (withhold) payment of the purchase price of the goods (or part thereof), nor to refuse to accept another delivery of goods under the same or another Contract. The Buyer's claims for defective performance and the quality guarantee expire if the Buyer does not report the defects within the agreed deadlines and in the agreed manner.
12. The Buyer is not entitled to repair the claimed goods himself or otherwise manipulate them in order to eliminate the claimed defect, unless otherwise agreed in writing. The Buyer is entitled to reimbursement only of such costs incurred in connection with the removal of the claimed defect (called additional costs), which will be agreed in writing in advance with the Seller.
13. In the event that the Buyer incurs damage as a result of breach of any obligation of the Seller under the Contract (eg. also due to defective delivery of goods), without circumstances of force majeure excluding the Seller's liability, the Seller will only be liable to pay actual, demonstrable property damage calculated by the Buyer, but not to cover the

lost profit, but not more than to the amount corresponding to 100% of the purchase price under the relevant Contract. The Buyer may not claim compensation for damage caused by a delay in the delivery of goods from the Seller's suppliers, necessary to fulfill the Seller's obligation under the Contract.

## **VI. CONDITION OF WITHDRAWAL FROM THE CONTRACT**

1. If insolvency proceedings are initiated against the Buyer, or if the Seller concludes based on available information that there is a threat of initiating such proceedings, the Seller is entitled to withdraw from the Contract in writing without further ado. Each of the parties is entitled to withdraw from the Contract in writing in the event of a material breach of the Contract by the other party. Upon withdrawal, such Contract shall terminate. Withdrawal from the Contract does not affect the right to a contractual penalty and compensation for damages caused by breach of the Contract, the guarantees provided, or contractual provisions concerning choice of law, settlement of disputes between the parties, contractual penalties and other provisions which, due to their nature, should continue after termination of the Contract.
2. The Seller has the right to withdraw from the Contract, if the Buyer is in arrears with payment of the purchase price or with payment of any other due receivables of the Seller for more than thirty (30) calendar days.
3. In the event that the Seller or the Buyer withdraw from the Contract for reasons specified in the Contract, Terms or law, the Buyer is obliged to return the goods to the Seller at his own expense within three (3) days from the delivery of the notice of withdrawal, and if the Contract is terminated by the Seller's withdrawal due to a reason on the part of the Buyer, the Buyer is, at the same time, obliged to reimburse the Seller for all costs incurred in connection with performance of the Contract and the Buyer is also obliged to compensate the Seller for all damage to the goods and wear and tear of the goods, which arose after the date of delivery of goods to the Buyer. The Seller is obliged to return to the Buyer the purchase price already paid, while the Seller has the right to set off the costs incurred in connection with the performance of the Contract and compensation of any damage and wear and tear of the goods. The Seller is obliged to return to the Buyer the above specified part of the purchase price within 14 days after returning the goods.

## **VII. PENALTIES FOR BREACH OF CONTRACTS**

1. In the event of the Buyer's delay in paying the purchase price for the delivered goods or any other invoiced amount of money, the Buyer undertakes to pay the Seller a contractual penalty of 0.25 % of the relevant unpaid amount for each day of delay started. This provision does not affect the Seller's right to claim for damages. Failure to pay the purchase price or other monetary amount by the Buyer within the due date is considered a material breach of the relevant Contract. In the event of the Buyer's delay in returning the goods to the Seller due to the termination of the Contract by the withdrawal of one of the parties, the Buyer shall pay the Seller a contractual penalty of 0.1 % of the purchase price of the goods for each day of delay in returning the goods started.
2. In the event that the Seller is delayed with delivery by more than ten (10) working days, and the delay in delivery was not caused by force majeure, and if both parties have not agreed to postpone the delivery date or the delivery date has not been postponed in accordance with these Terms, the Buyer is entitled to request from the 11th day of delay in

delivery a discount on goods of 0.02 % of the purchase price for the delayed goods for each day of delay, but not more than 3 % of the purchase price of the delayed goods. In the event of non-fulfillment of the delivery of goods within forty five (45) calendar days after the agreed delivery date, the Buyer is entitled to withdraw from the Contract, if he called the Seller in writing for performance with a reasonable period of correction, and the Seller did not deliver the goods even within this additional period. In the event that damage is caused to the Buyer during the Seller's liability for defects or during the warranty with defects of the goods that prevent or impede their use or endanger safety, the Buyer is entitled to a contractual penalty of 0.1 % of the price of the defective goods for each week in which these defects persist. The highest aggregate amount of the contractual penalty (penalties) according to the previous sentence is 20 % of the price of the defective goods.

3. This Article VII. of the Terms does not affect penalties for breach of the Contract pursuant to other provisions pursuant to the Terms, in particular pursuant to paragraph 2 and paragraph 4 of Article III. of the Terms.

## **VIII. FORCE MAJEURE**

1. If events occur which cannot be foreseen at the time of signing the Contract and which cause the Seller an obstacle to fulfill his contractual obligations, the Seller is entitled to postpone the performance period by the time for which this obstacle lasted and the time necessary to resume normal activities. These obstacles include, in particular, strikes, war, other riots of a similar nature, trade, monetary, political or other state measures, natural disasters such as fire, flood, earthquake, lightning strike, Arctic frosts preventing or restricting the transport of goods, etc., as well as delays in the delivery of material and components for which the Seller is not liable, transport closures or delays, theft of goods during transport, breakdown of the production equipment or its part and similar events, including a decision or instruction of a competent state authority that will limit or prevent the fulfillment of contractual obligations under the relevant Contract. The Seller, in which the events of force majeure have arisen, is not liable for non-fulfillment of the obligation under the Contract or for the delay, and the Buyer, in particular, is not entitled to damages or the right to get paid the contractual penalty resulting from such delay. The Seller will inform the Buyer within a reasonable time about the obstacle, as well as its expected duration. The parties shall discuss possible measure in good faith.
3. If an obstacle of force majeure lasts for a period not exceeding thirty (30) calendar days, the parties are obliged to fulfill their obligations under the Contract as soon as the effects of the obstacle of force majeure cease to exist, with delivery times and all other deadlines being postponed by force majeure. If an obstacle of force majeure lasts for more than thirty (30) calendar days, each party has the right to withdraw from the relevant Contract which the circumstances of force majeure relate to.

## **IX. CHOICE OF LAW AND DISPUTE RESOLUTION**

1. Legal relations established by the Contract, including the claims of the contracting parties arising from these legal relations, are governed by Czech Law, excluding conflicting provisions of private international law and the provisions of the UN Convention on Contracts for the International Sale of Goods. The application of the following provisions of the Civil Code to the contracts is excluded: Section 557, Section 573 and Section 1805 par. 2 of the CC. The Buyer assumes the risk of a change of circumstances pursuant to Section 1765 par. 2 of the CC, for the period after the conclusion of the Contract. All limitation periods in which the Seller can exercise his rights in court are extended to 15 years. No ancillary arrangements in the purchase contract other than those specified in these Terms or expressly specified in the Contract have been agreed.
2. All disputes that arise between the parties resulting from legal relations arising under the Contract (ie. concluded Contracts), or in connection with them, will be decided by the general courts of the Czech Republic, while the local jurisdiction of the court will be determined by the registered office of the Seller.

## **X. FINAL PROVISIONS**

1. If one or more provisions of these Terms or Contract become legally ineffective or invalid for any reason, this does not affect the validity and effectiveness of the other provisions of these Terms and/or Contract. The Parties undertake to immediately replace them with new provisions that will pursue the economic objective of these Terms or the Contract.
2. All data specified in the Contract, as well as information, documents and other documentation provided by the Seller to the Buyer in connection with the Contract, which are not commonly available, are trade secrets of the Seller. The Buyer undertakes not to use this confidential information for his own use contrary to the purpose of the Contract, nor to provide or allow access to it to third parties without the prior written consent of the Seller.
3. The Buyer agrees to the sending of commercial communications and offers from the Seller. The Buyer can send his disagreement with the sending of commercial communications at any time. He will do so in writing. Upon receipt of this communication, the Seller will stop sending commercial communications.

The Terms take effect on 30<sup>th</sup> June 2020