



## Výzkumný a zkušební ústav Plzeň s.r.o. General Commercial Terms and Conditions for deliveries of works and services

### 1. GENERAL INTRODUCTORY PROVISIONS

**1.1.** These general terms and conditions (hereinafter referred to as "**GTC**") are incorporated by reference in all general and partial purchase contracts and contracts for work done, or other contract types, if any, made by and between **Výzkumný a zkušební ústav Plzeň s.r.o. (hereinafter referred to as "VZÚ Plzeň")** having its registered office at **Tylova 1581/46, Plzeň 301 00, the Czech Republic, company reg. No. 47718684, VAT No. CZ47718684**, registered in the Commercial Register kept with the Regional Court in Plzeň, section C, file 3404, as a Seller, a Contractor, etc. (hereinafter referred to as "**the Contractor**") and the other contracting party as a purchaser, a customer, etc. (hereinafter referred to as "**the Customer**"). The GTC shall always apply unless otherwise agreed in writing between the contracting parties.

**1.2.** Divergent provisions in the general purchase contract / purchase contract / contract for work done, or in another contract, shall take precedence over the wording of these GTC.

### 2. DEFINITIONS OF TERMS

For the purpose of these General Terms and Conditions the following definitions apply:

- a) "Civil Code" means Act no. 89/2012 Sb., the Civil Code, as amended;
- b) "Price" means the aggregate remuneration of the Contractor for the provided supplies stated in the quotation or the remuneration otherwise agreed with the Customer;
- c) "Invoice" means a tax document issued in accordance with Value Added Tax Act No. 235/2004 Sb., as amended;
- d) "Quotation" means any offer made by the Contractor (in writing or verbally) which is applied jointly and in accordance with the GTC, and in the event of any discrepancy, the relevant provisions of the Quotation apply;
- e) "Customer" means an individual or a legal entity to whom a Quotation is addressed or to whom any Services are rendered;
- f) "Service" or "Services" means service(s) (work, making the work, including but not limited to performance of tests) specified in the Quotation;
- g) "Specimen" means any product, component, material supplied by the Customer in order to perform the test;
- h) "Test" means any testing, analysis, review, sampling or other testing activities as specified in the Quotation;
- i) "Performance" means any delivery of goods, work or rendering Services;
- j) "Contractor" means Výzkumný a zkušební ústav Plzeň s.r.o. (hereinafter referred to as "VZÚ Plzeň");
- k) "Contract" means the contract to render services based on acceptance of the Quotation by the Contractor and these GTC;
- l) "Parties" means the Customer and the Contractor jointly.

### 3. PRICE AND INVOICING

**3.1.** The Price of the Performance of a Contract is set by an agreement of the Parties. The Price is based on the information available to the Contractor on the date of the Quotation. It means that if during the period of the Contract there is a change in the costs of materials, labour or other input costs of the Contractor, the Price may, at the absolute discretion of the Contractor, be increased to take account of such increase of costs; the Contractor will inform the Customer about such increase.

**3.2.** In addition to the Price specified in the Quotation the following items shall be paid:

- a) value added tax;
- b) bank charges;
- c) package, insurance, freight costs;
- d) travel costs; and
- e) at the same time the costs of destruction of Specimens and costs of storage of Specimens after the completion of Tests and other Performance (after the completion of all the Performance the Specimens are stored free of charge for 1 month at the respective places in the individual laboratories of the Contractor), after that the Customer will be requested to collect those Specimens within 7

calendar days, failing that the Specimens will be disposed of at the Customer's expense;

- f) the costs for obtaining any standards or specifications requested with regard to the Services / Performance provided;

**3.3.** In case of the Performance on the basis of the orders by the Customer, the Price is set based on the internal price list of Contractor's work and Services. The Contractor declares that the prices set this way are in compliance with the legislation of the Czech Republic.

**3.4.** The Contractor issues an invoice after fulfilling a delivery. Any invoice shall contain all the elements in compliance with the accounting regulations. The maturity of any invoice is 14 days from its sending out by the Contractor. An invoice is considered to be paid on the date of crediting the invoiced amount to the Contractor's account.

**3.5.** The invoice shall be paid to the Contractor in full by one payment without any deductions. The Customer is not entitled to claim any set-off and to retain the payment due to any mutual claims.

**3.6.** The late payment of the invoice is considered to be a material breach of the Contract. If the Customer is in default with the payment for more than 14 days, the Contractor is entitled to suspend rendering any further Services to the Customer, to alter or withdraw from the payment terms agreed or to change the price terms and terms of rendering Services.

### 4. PENALTIES FOR LATE PAYMENT

**4.1.** If the Customer is in delay with the payment of the Price, including any possible shipping costs, the Customer undertakes to pay to the Contractor a contractual penalty of 0.05% of the unpaid invoiced amount for each calendar day of such delay.

**4.2.** In the event that the Customer withdraws from the Contract after it has been concluded, the Contractor is entitled to demand from the Customer all the demonstrably incurred costs.

**4.3.** Should the Customer fail to take the Performance over within 14 days after the notification that the Performance is ready for collection or refuse to take it over at another agreed place of performance, the Customer is obliged to pay to the Contractor the contractual penalty of 0.05% of the invoiced amount for each calendar day of such delay. The payment of the contractual penalty is without prejudice to the Contractor's claim for damages; thus the Contractor is entitled to claim damages in addition to the contractual penalty.

**4.4.** In the event that the Contractor is in delay with the fulfilment of the obligation to deliver the Performance under the Contract, the Contractor shall pay to the Customer a contractual penalty of 0.05% of the Price for each day of such delay, up to a maximum of 3% of the Price specified in the Contract. Goods, Services or Work delivered within 10 calendar days of the expiry of the delivery period specified in the Contract shall be deemed to be delivered on time. In accordance with the provisions of s. 2050 of the Civil Code, the Customer shall not be entitled to damages incurred as a result of the delay in delivery of the subject-matter of the Contract by the Contractor and hereby waives the right to claim damages. Furthermore, the right of compensation of loss or lost profits is also excluded.

### 5. FULFILLMENT OF THE CONTRACT

**5.1.** The place of delivery is the place agreed in the Contract. Unless both contracting parties expressly agree otherwise in the Contract, the Contractor is obliged to fulfil the subject-matter of the Contract at the headquarters of VZÚ Plzeň according to EXW Incoterms 2020.

**5.2.** The subject-matter of the Contract is considered to be fulfilled by signing the Record of Handover and Takeover of the Work by the representatives of both contracting parties, or by the takeover of the goods or Services, if applicable. The delivery also includes the documents relating to the subject-matter of the Contract that are necessary for its takeover and use, the documents proving the origin of goods for the customs purpose, re-export, etc. and the documents proving fulfilment of duties under Act No. 477/2001 Sb. regulating packing of products. If it is purposeful, during the performance the Contractor is obliged to keep an assembly book and record a course of work according to the agreed schedule. The Contractor shall allow the Customer to check the records.





**5.3.** The date of arising of the VAT liability concerning the deliveries of the work and Services of VZÚ Plzeň (completing the order), unless otherwise stated in the Contract, is the date of:

- a) confirmation of the Proof of Receipt (Delivery note, Completion certificate) by both Parties at the personal receipt of the Work;
- b) a Customer's signature in the stamp placed on a copy of the order at the personal receipt of the Work;
- c) sending the results by the registered mail (a date of handing over to a carrier).

## **6. TRANSPORTATION INSTRUCTIONS**

**6.1.** The transport of Specimens, tested products, or products intended for processing to the place of performance of the subject-matter of the Contract and their subsequent transport back is provided by the Customer at its expense. If the Customer requires, the Contractor will ensure the transport of products. A carriage fee will be charged as a separate item. The Services results (reports, research reports, etc.) are sent to the Customer by email and mail at the expense of the Contractor or handed over to a Customer's representative personally.

## **7. RIGHT OF OWNERSHIP**

**7.1.** The right of ownership to the subject-matter of the Contract is gained by the Customer only after the full payment of the Price.

**7.2.** The risk of damage to the Performance passes to the Customer at the moment of handing over, or dispatching, i.e. by fulfilling the delivery of the Contract according to Article 5. In case of delivery to another place of delivery, the Contractor shall deliver the Performance to the Customer and the risk of damage to the goods shall pass to the Customer at the moment of handing over the Performance by the Contractor to the carrier.

## **8. TRANSFER OF TECHNOLOGIES**

**8.1.** If the licence to an item of the intellectual property rights is a part of the contract delivery, the limited licence to this item of the rights is valid exclusively for the needs of the usual use of the performed delivery for the period of duration of the rights to the given item of the intellectual property rights. The price of the licence is included in the Price of the Contract performance. The Customer is not entitled to sub-license or otherwise individually benefit from the licensed item beyond the normal use of the subject-matter of the delivery. The Customer undertakes to protect it against reproducing (e.g. in the form of reverse engineering), misusing as well as against its use by an unauthorized entity without Contractor's consent. In case of breaching this obligation, a contractual penalty in the amount of CZK 50,000 for each breach of protection of the Contractor's intellectual property is set. The payment of the contractual penalty is without prejudice to the Contractor's claim for damages; thus the Contractor is entitled to claim damages in addition to the contractual penalty.

## **9. OBLIGATION TO MAINTAIN CONFIDENTIALITY**

**9.1.** The contracting parties agree that all the facts not commonly available in business circles and with which they come into contact in the performance of the Contract and orders, including know-how and other items of rights in the intellectual property delivered within fulfilling the Contract or incorporated as a part of the delivery, constitute the trade secret.

**9.2.** In connection with the subject-matter of the performance of the Contract and a respective order the Contractor has received, or will receive, as the case may be, confidential information, groundwork, including drawings, sketches and specimens, oral information as well as knowledge and experience – hereinafter referred to as "the Information" from the Customer.

**9.3.** The Contractor undertakes that:

- a) it will not disclose the Information received from the Customer to third parties;
- b) it will use the Information and know-how obtained with it only for the purpose of performing the placed orders and concluded Contracts;
- c) it will make the Information available only to a limited circle of the Contractor's employees nominated to perform the Contract;
- d) it will take appropriate measures and ensure that the Contractor's employees, or its subcontractor's employees, if applicable, will keep the Information in secret in the same extent as

the Contractor and use it only for the purpose of the performance of orders and Contracts.

**9.4.** The obligation of confidentiality will cease to exist at the moment when the Information becomes generally known, however not earlier than 5 years from the date of the Contract.

## **10. LIMITATION OF LIABILITY, COMPLAINTS**

**10.1.** The Parties' liability for a partial or total failure to fulfil their contractual obligations is excluded if this is due to Force Majeure. Force Majeure means any unforeseen or unavoidable event occurring irrespective of the will of the contracting parties, which makes it impossible for a certain period to fulfil in full or in part the obligations of any of the contracting parties. Events that will occur after signing the Contract and that cannot be prevented by the party affected are regarded as Force Majeure. If Force Majeure lasts for a period not exceeding 90 calendar days, the Parties are obliged to fulfil the obligations arising from the Contract as soon as the effects of Force Majeure cease to exist, with delivery times and all other periods postponed by the Force Majeure period. If the Force Majeure lasts on the Contractor part for more than 90 calendar days, each of the Parties is entitled to withdraw from the Contract. Delays in supplies from subcontractors, lockouts and illegal strikes cannot be regarded as Force Majeure.

**10.2.** The contracting party in which Force Majeure occurs shall immediately notify the other contracting party of its occurrence in writing by a registered letter, however within 14 days at the latest. Failure to comply with this deadline results in the termination of the right to rely on this event.

**10.3.** The total aggregate liability of VZÚ Plzeň under the Contract (whether breaching the contractual obligations, liability in tort, based on breaching any statutory duty, including negligence, or otherwise) arising out of or in connection with the Contract (the Quotation) or with its performance or contemplated performance, or with a delay in its performance or failure to perform or otherwise howsoever arising shall be limited for each calendar year by the amount of (i) 125% of the Price paid or to be paid in that calendar year; and (ii) not more than CZK 125,000.

**10.4.** The Customer is obliged to exercise all its claims against the Contractor in writing within 30 days from the completion of the Performance supplied under the Contract (Quotation) that must be delivered to the Contractor and must include the type of Performance, delivery date, an indication of the invoice, and who discovered the defect in the Performance and when, the accurate description of the defect in the delivered Performance and a Customer's proposal of a method of removing the defect. If the Customer fails to claim a defect in the Performance in the above mentioned manner, by a lapse of the mentioned period to no effect the Performance supplied shall be deemed as the Performance supplied free of any defects. The Customer's right resulting from defects in the Performance cannot then be granted in the court proceedings if the Customer fails to claim a defect in the Performance in the manner described above with the Contractor within the specified 30-day period.

**These General Terms and Conditions come into effect on 1 March 2024.**

