

# **BUSINESS TERMS AND CONDITIONS**

## **of Metal Produkt Servis Praha s.r.o.**

### Section A.

#### BUSINESS TERMS AND CONDITIONS FOR THE SUPPLY OF WORK

##### GENERAL PROVISIONS

- 1) These business terms and conditions for the supply of work ("business terms and conditions") set forth the mutual rights and obligations of the contracting parties during the implementation of work between Metal Produkt Servis Praha s.r.o., Company ID No. 26708159, with its registered office at Davidkova 30, Prague 8, 180 00 Prague, registered in the Companies Register administered by the Municipal Court in Prague, Section C, Dossier No. 88745 and the Client. The provisions of the Contract prevail over the business terms and conditions. The rights and obligations of the contracting parties which are not set forth in the Contract or in the business terms and conditions shall be governed by related laws and regulations of the Czech Republic.
- 2) Contract means the written manufacturing contract (contract for work) entered into by and between the contracting parties, including all written enclosures and amendments thereto.
- 3) Work means the production, assembly, maintenance or repair of any particular thing, or the provision of any other tangible service to the extent of the specification stipulated in the Contract.
- 4) Any and all drawings and technical materials relating to the subject matter of the work which were delivered by a contracting party to the other contracting party before or after execution of the Contract remain the exclusive property of the delivering party and may only be used for the purpose for which they were provided. Unless with the consent of the delivering party, the other party is not allowed to use the drawings and technical materials in any other manner, make any copies of or reproduce the drawings and technical materials or deliver them to a third party. The end user of the Work is not deemed a third party if different from the Client; the same applies to the contractor's subcontractor.
- 5) Unless the Contractor manufactures the Work at the Client's, at the Client's land plot or at any land plot arranged by the Client, the risk of any damage to the Work passes to the Client at the moment of delivery and acceptance of the Work. If the Client defaults on the acceptance of the Work despite a proper request to do so and despite the fact that the Work was properly fulfilled and completed, the risk of damage to the Work passes on the first day of the Client's delay with the acceptance.

##### TESTS

- 6) If the implementation of the work includes any tests or if the completion of the work is to be proven by any agreed tests, the tests are performed at the Contractor's during its operating hours and in compliance with the laws and regulations and technical standards applicable in the Contractor's country. If the completion of the work is to be proven by any agreed tests, the work is deemed completed as soon as the tests are successfully performed. The Contractor shall invite the Client to attend the tests by a timely invitation; if the Client does not attend the tests, the tests can be performed unless the above inherently prevents the performance of the tests.

- 7) The Contractor is obliged to inform the Client about the date of the tests no later than 5 business days in advance in order to enable the Client or the Client's representatives to attend the tests. The tests can be performed regardless of the Client's absence. The test results will be documented in a record; if the Client is absent, the record shall be confirmed on the Client's behalf by a trustworthy, professionally eligible and impartial person who attended the tests.
- 8) If the Client does not attend, the record will be delivered to the Client and the data therein regarding the performed tests will be deemed correct unless proven otherwise.
- 9) The Contractor shall pay any and all costs of the tests; this shall not apply to any travel, accommodation and other costs of the Client's representatives which shall be paid by the Client.
- 10) If the work or any part thereof is implemented at the Client's, the Client is obliged to secure a free supply of electricity, lubricants, fuel, water and other utilities and materials necessary to perform the tests. The Client is also obliged to make available, free of charge, the Client's employees and provide any and all other assistance necessary to prepare and perform the tests.
- 11) If the Client frustrates the performance of the tests which are intended to prove the completion of the work despite the fact that the Client was properly informed of the date of the tests, the acceptance tests are deemed successfully performed as of the day for which they were scheduled.

#### CLIENT'S ASSISTANCE

- 12) The Client is obliged to provide the Contractor with a timely and necessary assistance and cooperation specified in the Contract and enable the Contractor to implement the Work properly. If no assistance was agreed in the contract and it turns out that assistance from the Client is necessary, the Contractor shall determine a reasonable time limit for the client to provide such assistance. If the Client fails to provide the assistance by the stipulated deadline, the Contractor may, at its own choice, either secure a substitute performance for the Client's account or, providing the Contractor warned the Client in advance, rescind the contract.
- 13) If the Work is being implemented at the Client's, the Client is obliged to secure the fulfilment of, inter alia, the following conditions:
  - a) The Contractor's employees must have the possibility to initiate works at the Client's or at any other agreed place of performance, in compliance with the agreed time schedule. If the Contractor informs the Client sufficiently in advance, the Contractor's employees may also work outside regular working hours.
  - b) Before initiating the works, the Client must inform the Contractor in writing of all of the Client's security and other regulations which the Contractor's employees are obliged to observe during the implementation of the Work. Throughout the implementation of the Work, the Client is obliged to secure such workplace environment for the Contractor's employees which complies with the applicable laws and regulations, primarily with sanitary and safety at work rules.
  - c) The Client shall provide the Contractor free of charge with suitable warehouse premises which will be secured against theft or damage to the stored articles. The security guard shall be arranged by the Client. The Client shall allow the Contractor's employees to use the Client's sanitary facilities and canteens.

- d) The Client shall hand over to the Contractor the site where the Work will be implemented; the handover shall be documented in a record in which all underground cables and networks will be accurately and completely marked. The access to the site where the Work will be implemented must be suitable for transport of things and devices which comprise the individual parts of the Work.

#### DEFAULT

- 14) If it becomes clear that any of the contracting parties will be unable to meet its obligations in time, including the obligations of assistance, the respective party shall inform the other contracting party thereof in writing and specify the reasons and the estimated cure period.
- 15) Following a prior written notice to the Client, the Contractor is entitled to suspend implementation of the Work for the duration of the Client's default. The delivery time stipulated for the Work is prolonged by the Client's default.
- 16) If the default – breach of the contractual obligations – is not remedied within a reasonable additional cure period stipulated by the Contractor, the Contractor is entitled to rescind the Contract.

#### IMPLEMENTATION AND MODIFICATIONS OF THE WORK

- 17) The Contractor is obliged to implement the Work in compliance with the laws, regulations and standards applicable at the time when the Contract was executed.
- 18) The Contractor shall implement any and all modifications of the Work which are necessary in consequence of any change in the laws, regulations and standards that occurred before the fulfilment and completion of the Work. The Client shall pay any and all costs and bear any other consequences of implementing the modifications of the Work necessitated by the change in the laws, regulations and standards.
- 19) If the parties are unable to agree on the costs and other consequences of the change in the laws, regulations and standards, the Client shall pay to the Contractor any costs spent efficiently on any and all alterations until the dispute is resolved.
- 20) The Client has the right to request the Contractor to implement any modifications to the Work until the Work is fulfilled and completed. The request for modifications of the Work must be made in writing and must contain a precise description and scope of the requested modifications.
- 21) The Contractor shall inform the Client within a reasonable period of time after receipt of the request for modifications of the Work and in writing whether the modifications can be implemented and with what consequences (time of supply, price of the work). The Contractor shall make an identical written announcement in the case of any modifications necessitated by changes in the laws, regulations and standards.
- 22) The Contractor is not obliged to perform any modifications of the Work requested by the Client until the parties agree on a corresponding amendment to the Contract, primarily with respect to the price of the Work and the time of supply, or until the dispute is resolved.

## INTELLECTUAL PROPERTY

- 23) If the delivery or implementation of the Work involves any object protected by intellectual property rights, the completion of the Work does not entail transfer of the intellectual property right from the Contractor to the Client. The completion of the Work neither entails the establishment of any joint ownership to the object of intellectual property between the Contractor and the Client.

## COMPLETION, DELIVERY AND ACCEPTANCE OF THE WORK

- 24) The Work is completed if:
- a) The agreed tests which were scheduled to prove completion of the work have been successfully performed or their performance is deemed successful, or
  - b) If the parties did not agree on any tests, when the Client receives a written notice from the Contractor that the Work was completed, unless the Work suffers from any defects which prevent use of the Work for the stipulated purpose or safe operation of the Work.

The Work is also deemed duly fulfilled and completed if the Work is supplied with minor defects and shortcomings which, individually or all together, do not prevent use of the Work for the stipulated purpose or safe operation of the Work.

- 25) The Client is not entitled to use or operate the Work or any part thereof before the Work is delivered and accepted. If the Client does so without the Contractor's written consent, the Work is deemed duly fulfilled and completed and the Contractor is relieved of the obligation to perform the agreed tests which were intended to prove completion of the work.

- 26) The warranty period starts to run at the moment the work is accepted. The delivery and acceptance of the work shall be documented by a written record signed by the contracting parties. The record shall also include a punch list (list of minor defects and shortcomings, if any) and stipulate the agreed cure period to remedy the defects and shortcomings. The day on which the record is signed shall have no bearing on the date of proper fulfilment and completion of the Work.

- 27) The Work is deemed duly fulfilled and completed as of the day on which the conditions are fulfilled under Articles 28 or 29 and any related articles. This shall not prejudice the Contractor's obligation to remedy minor defects and shortcomings.

## CONTRACTUAL PENALTIES, COMPENSATION FOR DAMAGE AND LOSSES

- 28) The Client has the right to claim contractual penalties against the Contractor if the Contractor defaults on its obligations. The contractual penalty is agreed as 0.05 % of the total price for the Work for each day of the delay. The aggregate amount of all contractual penalties is limited by the maximum amount of 10 % of the total price for the Work.
- 29) If the Contractor defaults on any partial supply according to the time schedule specified in the contract, the contractual penalty is calculated from the price of the partial supply on which the Contractor has defaulted. If the Contractor subsequently completes the entire Work by the agreed deadline, these contractual penalties shall not be applied.
- 30) The contractual penalties are due and payable on the basis of an invoice issued by the Client after the Work is accepted.

- 31) The total aggregate liability of the Contractor for any and all damage and losses, including the contractual penalties and other claims of the Client which arise in connection with a breach of one or more obligations of the Contractor under this contract, must in no event exceed the maximum amount of 25 % of the total price for the Work.
- 32) The above limitation of the total compensation for damage and losses does not apply to damage incurred with respect to any injury or damage/losses caused by the Contractor intentionally, or to any breach of the confidentiality provisions.

#### PAYMENT TERMS

- 33) Unless the Contract stipulates otherwise, the price for the Work means the price for the Work, VAT excl. The payment terms are stipulated in the Contract. The price does not include any transportation costs, costs of packaging, insurance for the goods and, in the case of a supply outside the territory of the Czech Republic, costs connected with export, i.e. taxes, customs duties, imposts and any other charges levied outside the Czech Republic.
- 34) If the Client defaults on any of the Client's payment obligations arising from the Contract or from any other legal relationship between the Client and the Contractor, the Contractor has the right to suspend implementation of the Work according to the Contract until the due amount is paid in full. The time of delivery of the Work shall be prolonged by this period.
- 35) All invoices – tax documents and invoices for advance payments, shall become due and payable thirty (60) days after their delivery to the contracting party obliged to pay. An invoice is also deemed delivered if the recipient refused to accept the invoice or if an attempt to deliver the invoice failed due to the addressee's absence despite the fact that the invoice was sent to the address of the Client's registered office specified in this Contract or announced by the Client subsequently as a change of the Client's registered office; in such case, the invoice is deemed delivered on the third day after a proven dispatch of the invoice.
- 36) All invoices must meet the requirements of a tax invoice.
- 37) If the invoice does not contain the stipulated essentials or contains incorrect data, the Client has the right to return the invoice to the Contractor within five (5) days after receipt with information regarding the missing essentials or incorrect data. In such case, the time period for payment shall be interrupted and a new period for payment shall start to run as soon as a corrected invoice is delivered. If the Client groundlessly returns the invoice despite the fact that the invoice is correct and contains the prescribed essentials, the time period shall not be suspended and if the Client fails to pay the invoiced amount by the original due date, the Client is in default.
- 38) Invoices shall be paid by a wire transfer to the account of the other contracting party specified in the invoice.
- 39) If a contracting party becomes an unreliable payer in terms of Section 106a of the Value Added Tax Act No. 235/2004 Coll., as amended, the following procedure shall apply:  
The recipient of the taxable supply, as a guarantor in terms of Section 109(3) of the Value Added Tax Act No. 235/2004 Coll., shall pay the amount stipulated in the tax invoice and corresponding to the amount of the value added tax directly to the account of the competent tax office. The paid amount corresponding to the amount of the value added tax shall be deducted from the debt of the recipient of the taxable supply under the received uncontested tax invoice.

#### RIGHTS FROM LIABILITY FOR DEFECTS, WARRANTIES

- 40) The Contractor is obliged assumes the commitment to remedy duly, in time and free of charge any reported defects of the Work, by repair or replacement.
- 41) The warranty period is 24 months after the delivery and acceptance of the Work and is subject to the fulfilment of the contractual commitments by the Client.
- 42) The replaced or repaired parts of the Work shall be subject to the same 24-month warranty period and the same warranty terms which apply to the originally supplied performance. The warranty period applicable to the other parts of the Work shall be prolonged only by the period during which those parts of the Work had to be out of operation as a result of the need to remedy the defect. The warranty period always expires no later than 24 months after the delivery and acceptance of the Work.
- 43) The Client is obliged to report any and all defects of the Work to the Contractor in writing without undue delay after their discovery. Defects of the Work which could cause damage or losses must be reported by the Client to the Contractor immediately with a subsequent written confirmation. The report listing the defects of the Work must contain a description of the defects or description of the manifestations of the defects, as applicable, photographic documentation. Particulars of the complaint procedure are provided for in the complaints code. The provisions of the complaints code prevail over the provisions of the business terms and conditions. The Client assumes the risk of damage and losses incurred as a result of a breach of the Client's obligations under this Article.
- 44) After the defects of the Work are reported, the Contractor is obliged to remedy the defects of the Work without undue delay and at the Contractor's costs. Defective parts of the Work which were replaced remain the property of the Contractor. The Contractor is not obliged to remedy the defects of the Work free of charge at any place other than the Contractor's production factory or a place agreed for the delivery of the Work.
- 45) Depending on the nature of the defect, it can be remedied by replacement or repair of the defective part. A defect may also be remedied by a discount on the price if the contracting parties agree. If the Contractor defaults on eliminating the defect, the Client has the right to secure elimination of the defect at the Contractor's costs.
- 46) If the Client's complaint is wrongful, the Client shall pay and reimburse the Contractor for any costs connected therewith.
- 47) The warranty does not cover any defects of the Work caused by any unqualified interference by the Client or a third party, and defects of the Work which cannot be proven to have occurred as a result of defective material, defective construction or incomplete processing, primarily defects of the Work which occurred by natural wear and tear, defective maintenance, failure to observe rules of operation, excessive stress, use of inappropriate means of operation, chemical and electrolytic influences, construction and assembly works implemented by individuals or entities other than the Contractor, and all other causes with no fault of the Contractor.

#### FORCE MAJEURE

- 48) Both Parties have the right to suspend performance of their obligations under the Contract for the duration of circumstances excluding liability ("Force Majeure"). Force Majeure means an obstacle which occurred independent of the obligor's will and prevents the obligor from performing his or her obligation if it is not reasonable to presume that the obligor would avert or overcome the obstacle or the consequences thereof and that the obligor anticipated the obstacle at the moment of executing the Contract. Force Majeure includes especially: strike, epidemic, fire, natural disaster, floods, inundation, civil unrests, mobilisation, war, riot, confiscation of goods, embargo, prohibition of foreign

exchange transfer, no-fault regulation of the consumption of electricity, terrorist attack, etc.

- 49) Force Majeure excludes any claim for contractual penalties against the party affected by the Force Majeure. The party invoking the Force Majeure must immediately report it to the other party in writing and adopt any and all possible measures to alleviate the consequences of the party's default on his or her contractual obligations.
- 50) If the Force Majeure exceeds six months, both parties have the right to rescind the Contract. The Contractor is in such case entitled to a reimbursement of the costs spent on the performance of the work as of the rescission day. The Client shall pay to the Contractor any and all duly evidenced and efficiently spent costs.

#### CONFIDENTIALITY

- 51) The contracting parties are obliged to secure confidentiality of any confidential information they obtain by means which are commonly employed to secure confidentiality of such information, unless explicitly agreed otherwise. This obligation applies irrespective of any expiration or termination of the contract. The parties are entitled to demand that the other party furnishes proof of sufficient protection of confidential information. The parties are also obliged to secure confidentiality of confidential information with their employees, agents as well as other cooperating third parties in case such information is provided to them.
- 52) Both parties have the right to use, provide and disclose confidential information only to the extent and under the conditions necessary for the due exercise of rights and discharge of obligations arising from the contract.
- 53) Confidential information includes, irrespective of the media the information is stored in, any and all information which was designated as confidential by any of the contracting parties.
- 54) Confidential information in no case includes information which has lawfully entered the public domain without any breach of the obligation to protect such information, as well as information obtained by a procedure independent of this contract or of the other party if the recipient party is able to furnish proof thereof, and finally information provided by a third party which was obtained by the third party lawfully, i.e. not in breach of the obligation to protect such information.
- 55) The contracting parties undertake that they shall not copy, in whole or in part, any confidential information provided by the other party in the form of a paper document; this obligation shall not apply to any cases in which such copying is required for its legitimate use in terms of the contract. The contracting parties shall attach any and all labels and marks to each copy, including its storage device, which is specified in the document containing confidential information provided by the other party.
- 56) Both contracting parties undertake to handle confidential information provided to them by the other party or otherwise obtained in connection with performance under this contract as trade secrets, i.e. especially (without limitation) keep the information confidential and adopt any and all contractual and technical measures preventing its misuse or disclosure.
- 57) If the information provided by the Client which is necessary for performance under this contract contains data which are subject to the special protection regime under Act No. 101/2000 Coll., on Personal Data Protection, as amended, the Client is obliged to secure the performance of all reporting obligations which the said Act prescribes, and obtain the prescribed consents of the personal data subjects with respect to personal data provided for processing. The Client cannot be released from the said obligation.

- 58) The confidentiality obligation shall be subject to no temporal limitation.
- 59) The contracting party that breaches the obligations arising from this contract with respect to the protection of confidential information is obliged to pay to the other contracting party a contractual penalty of 100,000 CZK (in words: a hundred thousand Czech crowns) for each non-negligible breach of the said obligation within fifteen (15) days of receiving the invoice issued for the payment thereof. This shall not prejudice or limit the claim for a compensation for any damage or losses incurred.
- 60) No provision of this contract prevents or limits the Contractor with respect to any publishing, commercial use of any technical expertise, skill or experience of general nature which the Contractor acquired in performance of this contract.

#### DISPUTE RESOLUTION

- 61) The contracting parties shall endeavour to resolve any and all disputes amicably. If the contracting parties fail to resolve the dispute within a 30-day period after the dispute arose, any of the contracting parties has the right to submit the dispute to the competent court for resolution.
- 62) Any and all disputes from an executed contract, including disputes relating to its execution and validity, shall be resolved by Czech courts using the laws and regulations of the Czech Republic. The contracting parties explicitly confirm and agree that the court with territorial jurisdiction for both contracting parties shall be the court determined according to the registered office of Metal Produkt Servis Praha s.r.o. This change in the territorial jurisdiction of courts constitutes agreement of the contracting parties in terms of Section 89a of the Code of Civil Procedure.
- 63) Legal relations between the contracting parties which are not explicitly provided for in the contract, its enclosures and the business terms and conditions, shall be governed by Czech law, primarily the provisions of the Civil Code No. 89/2012 Coll., as amended, and any relating laws and regulations.

#### MISCELLANEA

- 64) Any and all notices between the contracting parties and their juridical acts which relate to this contract or which are to be made on the basis of this contract, must be executed in writing and delivered to the other party personally or by registered mail or any other means of registered postal traffic, to the address stipulated in the heading of the contract, unless otherwise stipulated or agreed by the contracting parties.
- 65) A juridical act is also considered performed in writing if it is executed by electronic or other technical means which enable to record the contents thereof and to identify the actor. The records of the data regarding juridical acts in an electronic system are considered reliable if performed systematically and consecutively and if protected against alterations.
- 66) The formation of the contract is contingent on an agreement of the contracting parties on the entire contents of the contract without any reservations, amendments, deviations. The formation of the contract is also contingent on execution of the contract in writing, with the signatures of authorised representatives of the Contracting Parties on the same instrument. These terms and conditions also apply to the execution of any amendments to the contract.

## Section B.

### BUSINESS TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

1. These business terms and conditions for the supply of Goods ("business terms and condition") set forth the mutual rights and obligations of the contracting parties in the supply of Goods between Metal Produkt Servis Praha s.r.o., Company ID No. 26708159, with its registered office at Davídkova 30, Prague 8, 180 00 Prague, registered in the Companies Register administered by the Municipal Court in Prague, Section C, Dossier No. 88745 and the buyer. The provisions of the Contract prevail over the business terms and conditions. The rights and obligations of the contracting parties which are not set forth in the Contract or in the business terms and conditions shall be governed by related laws and regulations of the Czech Republic.
2. Any and all supplies of Goods shall be implemented on the basis of a purchase contract the execution of which is usually confirmed by a written confirmation of order, and on the basis of these terms and conditions which become part of the contractual arrangement ("Contract") upon confirmation of the order. "Contract" means the written purchase contract entered into by and between the parties, or the Buyer's written order, subject to the terms and conditions and to the extent it was confirmed in writing by the Seller, including all written enclosures and amendments thereto or any other type of contract.
3. Goods mean personal property identified individually or by quantity and type according to the specification stipulated in the Contract.
4. Any and all information regarding the weight, dimensions, performance parameters, price and other information stipulated in the catalogue and price lists is binding only if this is explicitly stipulated in the Contract.
5. Any and all drawings and technical materials relating to the Goods which are the subject matter of the contract and which were delivered by a party to the other party before or after execution of the Contract remain the exclusive property of the delivering party and may only be used for production, assembly, activation (putting into operation) and maintenance of the Goods. Unless with the consent of the delivering party, the other party is not allowed to use the drawings and technical materials in any other manner, make any copies of or reproduce the drawings and technical materials or deliver them to a third party. The end user of the Goods, if different from the Buyer, is not deemed a third party.

### TESTS

6. Acceptance tests for the Goods must be explicitly agreed in the Contract. The tests will be performed during regular working hours of the seller, during the seller's operating hours and in compliance with the laws, regulations and technical standards applicable in the seller's country, in the premises designated by the seller. The agreed tests may take place in the buyer's absence.
7. The Seller is obliged to inform the Buyer about the date of the tests no later than 5 business days in advance in order to enable the Buyer or the Buyer's representatives to attend the tests. If the Buyer fails to attend, the record evidencing the performed tests handed over to the Buyer is deemed accurate.
8. The Seller shall pay any and all costs of the tests at the producer's; this shall not apply to travel, accommodation and other costs incurred by the Buyer's representatives which shall be paid by the Buyer.

#### PLACE AND METHOD OF PERFORMANCE, DELIVERY TERMS

9. The Seller's obligation to deliver the goods means delivery of the goods to the Buyer by the agreed delivery date and in the place of performance. Unless the place of performance is agreed differently in the contract, the Seller shall discharge its obligation to supply the goods by enabling the Buyer to handle the goods in the Seller's registered office. If the Buyer defaults on the takeover of the goods, the Seller has the right to store the goods at the Buyer's costs. The Seller shall notify the Buyer thereof without undue delay and inform the Buyer of the storage costs. The Seller is entitled to retain the goods until the Buyer pays to the Seller the incurred storage costs.
10. If the parties agreed in the contract that the goods will be delivered to the Buyer at a certain place, the Seller shall discharge its obligation of supply by handing over the goods to the first carrier for the purpose of shipping them to the Buyer. The Buyer undertakes to pay to the Seller or the designated carrier the shipping fee according to the agreed price of the shipping. The price of shipping the goods is not included in the purchase price unless agreed otherwise.
11. The goods (products) will be supplied in bulk or in transport packaging. Each consignment with the goods shall include a delivery note.
12. The Seller is not in default on the supply of the goods if the cause of the default is the buyer's failure to provide cooperation or any other assistance.
13. The buyer acquires title to the goods on the day the goods are fully paid up. The risk of damage to the goods passes to the buyer on the day the seller effectively fulfils its obligation to supply the goods to the buyer.
14. If the delivery date for the Goods is not determined by a precise date but by a period stipulated in weeks, months or years, the period starts to run as soon as the last of the following conditions is fulfilled:
  - a) Execution of the Contract,
  - b) Issuance of all permits to supply or import the Goods which are to be procured by the Buyer.
  - c) Crediting of the first advance payment to the Seller's account if an advance payment was agreed in the Contract.
  - d) Provision of all warranties and fulfilment of all conditions precedent agreed in the Contract.

#### CONTRACTUAL PENALTIES

15. If the Seller defaults on the supply of the Goods, the Buyer has the right to claim contractual penalties against the Seller.
16. The contractual penalty is agreed as 0.05 % of the total price for the Goods for each day of the delay. The aggregate amount of all contractual penalties is limited by the amount of 10 % of the total price for the Goods. If the Seller defaults on a partial supply of the Goods, the contractual penalty shall be calculated from the price of the partial supply.
17. The contractual penalties are due and payable on the basis of a penalty invoice issued by the Buyer, but not before the Goods are supplied or the Contract is rescinded, as applicable.
18. If the Buyer becomes entitled to the maximum amount of the contractual penalties as a result of the Seller's default, the Buyer has the right to rescind the Contract.

## INVOICING AND PAYMENT OF THE PRICE FOR THE GOODS

19. The Buyer is obliged to pay to the Seller the agreed purchase price for the supplied goods. The price (advance payment) shall be paid on the basis of an invoice. The right to invoice accrues subject to the terms of the contract. The due date means the date on which the amount is credited to the Seller's account. Any advance payments made will be reconciled in the final invoice.
20. Unless agreed otherwise, the Buyer shall make any and all payments by a non-cash transfer, by a payment order to the Seller's account; the invoice number shall constitute the variable symbol.
21. If the payment is not made by the due date, the Seller has the right to prolong the agreed delivery date. If the Buyer defaults on payment, the Buyer shall pay to the Seller a contractual penalty of 0.5 % of the due and outstanding amount per day; in such case, the Seller is also entitled to rescind the contract. If the Buyer's default on any payment exceeds 15 days, the seller's claims which have not yet become due (primarily instalments) become immediately due and payable. Payment of the contractual penalty shall not prejudice the Seller's claim for a compensation for damage and losses.
22. Any and all written materials relating to the contract must be delivered to the other party personally or by a postal license holder, to the address stipulated in the contract.
23. If an attempt fails to deliver any written material to the Buyer's address stipulated in the contract or if acceptance of the written material is refused, the written material is deemed delivered upon expiration of the 3<sup>rd</sup> day after the consignment is left at the post office.
24. The Buyer is not entitled to retain the price for the supply of the goods or work, or any part thereof. The Buyer is not entitled to unilaterally offset any of the Buyer's claims towards the Seller against the Seller's claim for payment of the price for the supply of goods or work.
25. The Seller has the right to reject an order or suspend delivery of the goods or work to the Buyer who has defaulted on its financial obligations to the Seller.
26. Unless agreed otherwise, the prices listed in the seller's price list, in the offer or in the contract are VAT exclusive and do not include any transportation costs, costs of packaging, insurance for the goods and, in the case of a supply outside the territory of the Czech Republic, costs connected with export of the goods, i.e. taxes, customs duties, imposts and any other charges levied outside the Czech Republic.
27. If the Buyer defaults on his or her financial obligations arising from the Contract or any other legal relationship between the Buyer and the Seller, the Seller has the right to suspend delivery of the Goods under the Contract until the payment is made in full. The time of delivery stipulated for the Goods shall be prolonged by this period.

## RIGHTS FROM LIABILITY FOR DEFECTS, WARRANTIES

28. The Seller is obliged to supply goods in such quantity, quality and by the delivery dates confirmed by the Seller. If the Buyer meets its contractual obligations, the seller provides a warranty for the goods covering their common use for the designated purpose; unless stipulated specifically in the contract, the warranty period lasts 24 months from the moment at which the risk of damage to the Goods passes to the Buyer. The warranty period starts to run on the day the goods are supplied. The provisions of the complaints code prevail over the provisions of the business terms and conditions.
29. If the Buyer discovers that the supplied goods suffer from any defects, the Buyer has the right to make a complaint about the defects. The Seller's liability especially does not cover defects caused as a result of transportation of the goods by the Buyer, for defects caused by or in consequence of unqualified assembly and if the assembly, repairs and

modifications of the goods were performed by the Buyer or a third party, or if the defects were caused by any other activity of the Buyer or a third party. Particulars of the complaint procedure are specified in the complaints code.

30. Defects detectable at the takeover of the goods must be complained of immediately at the takeover.
31. The Seller assumes the commitment to remedy duly, in time and free of charge any reported defects of the Goods, by repair or replacement. The Seller shall pay the costs of enabling working access to the Goods, disassembly and reinstallation of the Goods which are necessary for proper implementation of the repair/replacement. The above is an exclusive definition of the contents of the quality warranty for the Goods assumed by the Contractor.
32. The replaced or repaired parts of the Goods shall be subject to the 6-month warranty period and the warranty terms which apply to the originally supplied Goods. The warranty period applicable to the other parts of the Goods shall be prolonged only by the period during which those parts of the Goods had to be out of operation as a result of the need to remedy the defect. The warranty period always expires no later than 24 months after the risk of damage to the Goods passes to the Buyer.
33. The Buyer is obliged to report any and all defects of the Goods to the Seller in writing. Defects of the Goods which could cause damage or losses must be reported by the Buyer to the Seller immediately with a subsequent written confirmation. The written notice listing the defects of the Goods must contain a description of the defect or description of the manifestations of the defect, as applicable. The Buyer assumes the risk of damage which occurs as a result of the Buyer breaching his or her obligations in the complaints procedure.
34. After the defects of the Goods are reported, the Seller is obliged to remedy the defects of the Goods without undue delay and at the Seller's costs. The defective parts of the Goods which were replaced remain the property of the Seller.
35. If the buyer's complaint is wrongful, the buyer shall pay and reimburse the seller for any costs connected therewith.
36. The warranty does not cover any defects of the Goods caused by any unqualified interference by the Buyer or a third party, and defects of the Goods which cannot be proven to have occurred as a result of defective material, defective construction or incomplete processing, primarily defects of the Goods which occurred by defective maintenance, failure to observe rules of operation, excessive stress, use of inappropriate means of operation, chemical and electrolytic influences, construction and assembly works implemented by individuals or entities other than the Seller, and all other causes with no fault of the Seller.
37. In connection with the Seller's liability for defects and warranty liability, the Seller is not obliged to remedy the defects of the Goods free of charge at any place other than the Seller's production factory or any other place determined by the contract.

#### FORCE MAJEURE

38. Both Parties have the right to suspend performance of their obligations under the Contract for the duration of circumstances excluding liability ("Force Majeure"). Force Majeure means an obstacle which occurred independent of the obligor's will and prevents the obligor from performing his or her obligation if it is not reasonable to presume that the obligor would avert or overcome the obstacle or the consequences thereof and that the obligor anticipated the obstacle at the moment of executing the Contract.

39. Force Majeure includes especially: strike, epidemic, fire, natural disaster, mobilisation, war, riot, confiscation of goods, embargo, official intervention, traffic and customs delays, prohibition of foreign exchange transfer, no-fault regulation of the consumption of electricity, terrorist attack, etc.
40. If the effects of force majeure last for more than 3 months, any party has the right to rescind the contract. Force Majeure excludes any claim for contractual penalties against the party affected by the Force Majeure.
41. The party invoking the Force Majeure must immediately report it to the other party in writing and adopt any and all possible measures to alleviate the consequences of the party's default on his or her contractual obligations.
42. If the Force Majeure exceeds six months, both parties have the right to rescind the Contract.

#### COMPENSATION FOR DAMAGE/LOSSES

43. The total aggregate liability of the Seller for any and all damage and losses, including the contractual penalties and other claims of the Buyer which arise in connection with a breach of one or more obligations of the Seller under the Contract, must in no event exceed the maximum amount of 25 % of the total price for the Goods.
44. The above limitation of the total compensation for damage and losses does not apply to damage incurred with respect to any injury or damage/losses caused by the Seller intentionally.

#### DISPUTE RESOLUTION

45. The contracting parties shall endeavour to resolve any and all disputes amicably. If the contracting parties fail to resolve the dispute within a 30-day period after the dispute arose, any of the contracting parties has the right to submit the dispute to the competent court for resolution.
46. Any and all disputes from an executed contract, including disputes relating to its execution and validity, shall be resolved by Czech courts using the laws and regulations of the Czech Republic. The contracting parties explicitly confirm and agree that the court with territorial jurisdiction for both contracting parties shall be the court determined according to the registered office of Metal Produkt Servis Praha s.r.o. This change in the territorial jurisdiction of courts constitutes agreement of the contracting parties in terms of Section 89a of the Code of Civil Procedure.
47. Legal relations between the contracting parties which are not explicitly provided for in the contract, its enclosures and the business terms and conditions, shall be governed by Czech law, primarily the provisions of the Civil Code No. 89/2012 Coll., as amended, and any relating laws and regulations.

#### MISCELLANEA

48. Any and all notices between the contracting parties and their juridical acts which relate to this contract or which are to be made on the basis of this contract, must be executed in writing and delivered to the other party personally or by registered mail or any other means of registered postal traffic, to the address stipulated in the heading of the contract, unless otherwise stipulated or agreed by the contracting parties.

49. A juridical act is also considered performed in writing if it is executed by electronic or other technical means which enable to record the contents thereof and to identify the actor. The records of the data regarding juridical acts in an electronic system are considered reliable if performed systematically and consecutively and if protected against alterations.
50. The formation of the contract is contingent on an agreement of the contracting parties on the entire contents of the contract without any reservations, amendments, deviations. The formation of the contract is also contingent on execution of the contract in writing, with the signatures of authorised representatives of the Contracting Parties on the same instrument. These terms and conditions also apply to the execution of any amendments to the contract.

## Section C.

### COMPLAINTS CODE

#### GENERAL PROVISIONS

1. This complaints code stipulates the rights and obligations of the contracting parties arising from the liability for defects applicable to supplies provided by Metal Produkt Servis Praha s.r.o., Company ID No. 26708159, with its registered office at Davídkova 30, Prague 8, 180 00 Prague, registered in the Companies Register administered by the Municipal Court in Prague, Section C, Dossier No. 88745.
2. This complaints code covers all supplies provided by Metal Produkt Servis Praha s.r.o., Company ID No. 26708159, with its registered office at Davídkova 30, Prague 8, 180 00 Prague, (“supplier”) with respect to which the client/buyer (“customer”) makes a proper complaint with the supplier during the warranty period regarding the supplier's supply.
3. The supplier's supply means deliveries of work or goods or services on the basis of the applicable contracts entered into by and between the supplier and the customer. By entering into the respective contract with the supplier, the customer agrees with this complaints code, as amended and in effect on the day of executing the contract.
4. This complaints code regulates the procedure and the conditions for asserting rights and claims arising from the liability for defects (hereinafter also referred to as “Complaint”) with respect to the supplier's supplies in the warranty period.
5. This complaints code forms part of the contractual terms and conditions of Metal Produkt Servis Praha s.r.o., Company ID No. 26708159, for the deliveries of products or services in those cases where the respective contract or business terms and conditions invoke its application. Different provisions in the contract prevail over the provisions of the business terms and conditions and the complaints code, the provisions of the complaints code prevail over the provisions of the business terms and conditions.
6. The customer may assert his or her rights and claims arising from the liability for defects and demand resolution of the complaint if the customer fulfilled any and all obligations of the customer under the executed contract.
7. The customer does not have the right to assign the rights from the liability for defects to a third party without the supplier's consent.
8. If the warranty period is agreed to run from the day of activating the supply (device) (putting it into operation), the customer is obliged to deliver to the supplier an “Activation Record” within 14 days of the day of activation. If the Buyer fails to meet this obligation, the device is deemed activated on the day of delivery. This shall not apply if the activation is performed by the supplier. As concerns any other supplies, the warranty period starts to run at the moment of fulfilment.
9. Claims from defective supplies shall be made in the supplier's registered office unless agreed otherwise in the contract.

10. Inspection of the supply: The customer is obliged to duly and expertly check and inspect the supply immediately upon takeover. The customer is obliged to perform the inspection in such manner as to discover any and all defects which are discoverable with expert care. The customer is obliged to complain of patent defects with the supplier in written form and without undue delay after the defect is discovered, no later than 24 hours after the customer discovered or should have discovered the defects during the inspection of the supply which the customer was obliged to perform; otherwise the claims arising from the liability for defects relating to these patent defects are extinguished. The supplier is not liable for any potential defects which were known to the customer at the time of executing the contract or which must have been known to the customer considering the circumstances at which the contract was executed. Latent defects must be complained of during the warranty period and without undue delay after their discovery. Rights arising from the liability for such defects are extinguished unless asserted during the warranty period.
11. Warranty: The supplier provides a quality warranty for its supplies in terms of the applicable laws and regulations. The warranty period is agreed in the contract. Rights arising from liability for defects of the product which are covered by the warranty period are extinguished unless asserted during the warranty period.
12. Complaints procedure: Rights from defects can be asserted only by the customer, in written form, exceptionally by phone at the supplier's address:  
Metal Produkt Servis Praha s.r.o., Davídkova 30, Prague 8, 180 00 Prague,  
Tel.: 00420775399400 – Mr Širůček  
e-mail: [sirucek@mpservis.cz](mailto:sirucek@mpservis.cz)  
The complaint must indicate the contract/order number and designation of the supply and the customer must describe the defect or precisely determine the manifestations of the defect.
13. Based on the defect notice, the supplier shall ascertain which supplies and which defect the complaint concerns. If the defect of the supply is not covered by the supplier's warranty, the supplier shall inform the customer. If the defect notice was not made in written form, i.e. by a letter, fax, or e-mail, the supplier shall prepare a report on receipt of the complaint which shall be sent to the customer for confirmation. Based on the confirmed report on receipt of the complaint, the supplier evaluates the defect of the supply or, at the supplier's discretion, dispatches a service worker for the said purpose to the customer, and determines how the complaint will be resolved. The supplier has the right to choose the method of resolving the complaint which must be commensurate with the nature of the defect.
14. If the defect:
  - Can be eliminated, the customer is entitled to have the defect eliminated free of charge and the supplier is obliged to eliminate the defect by the deadlines stipulated in this complaints code,
  - Cannot be eliminated and prevents proper use of the subject matter of the complaint and the supplier's supply like an article free of defects, the customer is entitled to have the supply or the part thereof affected by the defect replaced,
  - Cannot be eliminated and does not prevent proper use of the subject matter of the supplier's supply like an article free of defects, the customer is entitled to a discount on the price for the supply.

15. If the supplier's service worker provides service at the customer's, the worker prepares a report in which the worker describes the defect, the possibility of eliminating the defect or whether it was eliminated on site or, as applicable, that the defect cannot be eliminated.
16. Assessment of whether the complaint is justified and resolution of the complaint, including the elimination of the defect, shall be performed by the supplier without delay unless a longer period is reasonable considering the circumstances. If the seller requests for its disposal the contested supply or part thereof in order to assess the alleged defect or if the supplier's worker provided service at the customer's, the time limit for assessing whether the complaint is justified and eliminating the defect starts to run as soon as the supplier has the supply/product or the part thereof at its disposal and is allowed to make the necessary findings.
17. The contested parts – parts of the supply will be provided to the supplier for its disposal at the supplier's request so that the supplier may assess the alleged defect. The customer is obliged to deliver the parts, at the supplier's costs, to the address of the supplier's registered office or other relevant premises according to the supplier's instructions. The Seller is not obliged to take over the contested parts which will be sent at the Seller's costs. The return shipping (after a justified Complaint is resolved) shall be paid by the supplier.
18. If the parties do not proceed pursuant to Article 17, the complaint will be resolved at the place where the respective device was delivered (according to the delivery terms). In such case, the customer is obliged to specify the precise place where the work will be performed and identify the customer's responsible contact person; the customer is obliged to enable the supplier to perform the works (without downtimes) on the contested device.
19. If the transportation and customs costs are high, the parties have agreed that the contested supply – the parts of the supply from abroad remain with the contracting partner in the respective country where they will be collected for a period of 6 months for the possibility of checking by means of the customer's own inspection, and a check by the supplier.
20. If the complaint is assessed unjustified and rejected, the customer will be notified thereof in writing or using electronic means, and the grounds for rejecting the complaint will be specified.

21. Exceptions to warranty:

The warranty does not cover the cases of defects specified in the respective contract and business terms and conditions. Apart from the above cases, the warranty does not cover:

- Defects resulting from transportation of the supply by the customer,
- Defects caused by or in consequence of assembly and if the defects were caused by assembly, repairs and modifications of the product implemented by the customer or a third party,
- Defects caused by any other activity of the customer or a third party,
- Defects which originate in the technical documentation or materials handed over by the customer to the supplier for manufacturing the product,
- Natural wear and tear caused by regular use of the product,
- Damage and losses caused by unqualified or negligent manipulation (defective servicing) or interference or modifications,
- Use for inappropriate purpose or caused by other influences which were not anticipated in the contract,
- Other cases specified in the contract or the business terms and conditions,
- Defects caused by use, insufficient maintenance or installation of the product which are contrary to the instructions for use of the product, caused by a connection to

electricity network which does not comply with the applicable CSN (Czech technical standard)

- Damage caused by force majeure,
- To products with damaged protective seals, labels, serial numbers, or indicating an unqualified repair,
- Defects caused in consequence of using the product in conditions in which the temperature, dustiness, humidity, chemical and mechanical influences do not comply with the environment for which the product is designed.
- Goods damaged during shipping upon delivery by handing over the goods to the first carrier (must be taken up with the carrier)

22. The complaint procedure starts to run on the second day after receipt and ends on the day the Complaint is resolved. If the parties proceed pursuant to Article 17, the complaint procedure starts to run from the day of delivery of the contested part to the supplier.