



FLABEG

General Terms and Conditions for Sale

of

FLABEG Czech s.r.o.

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I

General, Scope

Our deliveries and services shall be exclusively governed by the following General Terms and Conditions. These General Terms and Conditions shall also apply to all future business transactions relating to our deliveries and services to the customer, without the need for any further reference thereto. They shall also apply without any explicit reference thereto in future contracts between us and the customer. The customer's general terms and conditions shall not apply, irrespective of whether or not such general terms and conditions have been expressly rejected by us. These General Terms and Conditions shall also apply exclusively if we, having knowledge of other general terms and conditions, effect a delivery or service without reservation.

II

Offers and Conclusion of a Contract, Scope of Performance

1. Unless explicitly designated in writing as non-binding, our revocable offers to the customer are binding. We shall be bound by our offers for a period of two weeks as of the date of receipt thereof by the customer. All customer's orders for deliveries and services shall be considered binding irrevocable orders (offers) and the customer shall be bound thereby for a period of four weeks as of the date of receipt thereof by us. The business contract shall be made by us and the customer when (i) our offer is unconditionally accepted by the customer, or (ii) the customer's order (offer) is accepted by us by a written order acknowledgment or by the unconditional provision of the goods or services ordered.
2. We reserve the rights of ownership and intellectual property rights in cost estimates, drawings, plans and other documents; these shall be made accessible to third parties only with our prior written consent and shall be returned to us upon request free of charge.
3. The documents related to our offer, in particular illustrations, drawings, indications of weights and dimensions, performance and consumption data as well as technical data and descriptions contained in the relevant product information or advertising material are non-binding, unless explicitly designated as binding. In case of sale by samples, the goods will only be provided of average kind and quality in accordance with the furnished samples.
4. Any guarantee (*záruka za jakost*) shall only be binding on us if (i) it is taken over by us in our binding offer or our acknowledgement (acceptance) of the customer's order (offer), (ii) it is expressly designated as "guarantee", and (iii) expressly stipulates the obligations for us resulting from such guarantee.
5. In case the goods are used outside of the Czech Republic, the scope of delivery, in particular for devices related to safety at work and environmental protection, is determined by the agreements made, in case of doubt it is determined by the provisions applicable in the Czech Republic. The customer shall be responsible for compliance with statutory and other regulations applicable at the point of use.

III

Prices, Terms of Payment, Late Payment

1. The prices agreed by us and the customer in the relevant contract shall apply. If no price has been explicitly determined in the respective contract, the prices stated in our price list

applicable on the day of our binding offer or the day of the customer's order shall apply. Unless expressly agreed otherwise, all prices shall be Ex Works (Incoterms 2000) from our works or from another address indicated in the relevant contract, exclusive of packaging and other ancillary costs. All prices shall be understood net plus applicable value added tax at the currently valid statutory rate. All public charges (taxes, fees, customs etc.) arising from the conclusion or the performance of the contract outside of the Czech Republic shall be borne by the customer.

2. We reserve the right to reasonably adjust the prices if, after conclusion of the contract, cost changes occur, in particular due to wage agreements, price increases by sub-suppliers or exchange rate fluctuations, which we are not responsible for.
3. Our invoices shall be paid, unless another payment date is specified in the relevant invoice, within ten days after the date of invoice and delivery without any deduction. In the event of the customer's default the statutory default interest will be charged while we reserve the right to assert further-reaching claims.
4. We shall be entitled to apply any payments received from the customer firstly to earlier receivables, then to costs and interest of the principal receivable and finally to the principal receivable. The customer shall only be entitled to exercise a right of retention or set-off if its counterclaims are final (*pravomocně přiznané*), are not contested or have been acknowledged by us. In addition, the exercise of any retention right by the customer shall only be permitted to the extent that such counterclaim is based on the same contractual relationship.

IV

Deterioration of the Customer's Financial Situation

1. If, after the conclusion of a contract, circumstances become known, whereupon the customer's performance of its contractual obligations is jeopardised due to the substantial deterioration of the customer's financial situation or the insolvency (*úpadek*) of the customer or, as the case may be, if there is an insolvency filing (*návrh na zahájení insolvenčního řízení*) filed, or insolvency grounds are met, we may, at our own discretion, withhold any deliveries and services until prepayment of the purchase price or provision of an appropriate security. This also applies if due to default in payment by the customer reasonable doubts about its solvency or creditworthiness arise.
2. In the cases of Clause IV.1 we shall also be entitled to withhold deliveries and services until receipt of all payments for outstanding claims against the customer or provision of appropriate security.
3. If the customer fails to provide prepayment or provision of security in accordance with Clause IV.1 within two weeks as of the request by us, we may rescind the affected contract.

V

Delivery Periods, Delay in Delivery, Partial Deliveries

1. Unless explicitly designated as non-binding, the delivery or service periods stated in the contract are binding on us. Unless otherwise agreed, the delivery periods shall commence on the day of conclusion of the contract. The delivery period shall be deemed complied with if the goods have left our works

or readiness for shipping has been announced by us to the customer by the time the delivery period expires.

- Our adherence to delivery and service obligations is subject to the timely and correct performance of the customer's obligations. If advance payment is agreed or if the customer has to provide us with documents, permits or releases, the delivery period shall not commence before these requirements have been fulfilled.
- If agreed delivery or service periods are exceeded due to circumstances we are responsible for, the customer may, after fruitless expiry of a reasonable time period set by it, rescind the affected contract by written notice. In case of non-binding delivery periods, we shall not be in delay in delivery before fruitless expiry of a reasonable time period set by the customer, with the customer not being entitled to set such time period earlier than four weeks after the lapse of the non-binding delivery date.
- In case of force majeure and other unforeseeable, unusual events we are not responsible for, such as business disruptions by fire, flood and similar events, breakdown of manufacturing facilities and machinery, delays in delivery or suspension of deliveries by our suppliers as well as disruptions of operations caused by shortage of raw materials, power or labour, strike, lockout, difficulties to obtain transport, disruptions of traffic, governmental interventions, and to the extent these events prevent us from performing on time our delivery and service obligations, we are entitled to defer the delivery or performance for the duration of the impediment plus a reasonable start up period. If the delivery or service is thereby delayed by more than one month, both parties shall be entitled to rescind the contract with respect to the volumes affected by the impairment of delivery or service.
- Our liability for each case of delay in delivery shall be governed by the provisions of Clause IX.
- If reasonably acceptable for the customer, we may effect partial deliveries and performances within the agreed delivery and performance periods.

VI

Transfer of Risk, Transport and Packaging

- Deliveries shall be made, unless expressly agreed otherwise between us and the customer, Ex Works (Incoterms 2000) from our works or from another address indicated in the relevant contract.
- Risk (*nebezpečí škody na věci*) shall pass to the customer in accordance with Ex Works (INCOTERMS 2000). This shall also apply in case of partial deliveries or if we, by way of exception, have assumed additional obligations such as freight charges, delivery or installation, unless delivery is effected by our own vehicles or means of transportation. Risk shall also pass to the customer irrespective of whether or not the customer fulfils its obligation to take over (*převzít*) the deliveries. The collection of the goods to be collected constitutes a material contractual obligation of the customer. At the customer's request and costs, we will insure the goods against theft, breakage, damage in transit, damage by fire or water, and other insurable risks specified by the customer.
- If it is agreed with the customer that the goods are to be shipped by us, the method of shipping and the shipping route will be determined by us at our sole discretion, unless otherwise agreed in writing with the customer. Also, in this case, the provisions in Clause VI.2 shall apply.
- We do not take back disposable packaging. The title in the disposable packaging shall pass to the customer together with the title in the goods. The parties have agreed that, in accordance with Section 13(1)(b) of the Act No. 477/2001 Coll. on Packages, as amended (the "**Act on Packages**"), the customer shall be responsible for the fulfilment of any and all

obligation stipulated by the Act on Packages in respect of the packaging related to the delivered goods.

VII

Reservation of Title

- Without prejudice to the following provisions of this Clause VII, we reserve title in goods delivered to the customer until full payment of the purchase price, including its appurtenances (*příslušenství*).
- In case of a material breach of contract by the customer, in particular the customer's default in payment, we may - without prejudice to other (damage) claims - rescind the contract and recover the goods in which title is reserved (the "**Reserved Products**"). In case of default of payment, the prior setting of a time period is not required. For the purpose of recovering the Reserved Products, the customer hereby agrees that we shall be entitled to enter the customer's business premises during normal business hours.
- The customer shall treat the Reserved Products with due care, in particular the customer shall insure the same at its own costs, against any damage, in particular damage by fire, water and theft sufficiently at replacement value. The customer herewith assigns its claims under the insurance contracts to us and we hereby accept such assignment. The customer shall carry out in due time and at its costs any necessary maintenance and inspections of the Reserved Products.
- For the duration of the reservation of title the customer shall not pledge the Reserved Products or use the same as security.
- The customer may, in the course of its ordinary business activities, resell the Reserved Products (without any previous processing (*zpracování*)) (the "**Resale**") to its customer (the "**Sub-Customer**"). The customer's obligation to pay the purchase price to us shall be unaffected by the Resale. However, should the Resale take place, the customer hereby, for the purpose of securing the fulfilment of the customer's obligation to pay the purchase price for the Reserved Goods, including its appurtenances, in full, assigns to us a part of the customer's (future) receivable(s) against its Sub-Customer, which will arise by reason of the Resale(s), the amount of which shall be equal to the amount of the unpaid part of the purchase price, including its appurtenances. We hereby accept such assignment(s). However, the above shall not apply, i.e. the customer shall not be entitled to resell the Reserved Products, in the event that the Sub-Customer has excluded or limited the assignment of the customer's claims (receivables) against it.
- The customer may, in the course of its ordinary business activities, reprocess (*zpracovat*) (the "**Reprocessing**") the Reserved Products (the "**Reprocessed Products**"), in which case we and the customer have agreed that the reservation of title in the Reserved Products under Clause VII.1 shall cease to apply when a new thing is created. The customer's obligation to pay the purchase price to us shall be unaffected by the Reprocessing and, for the purpose of securing the fulfilment of the customer's obligation to pay the purchase price for the Reserved Goods, including its appurtenances, in full, the customer hereby transfers to us co-title in the Reprocessed Products in the proportion of the value of the Reserved Products (the amount of which shall be equal the amount of the unpaid part of the purchase price, including its appurtenances) to the other items reprocessed at the Reprocessing. To the extent this provision is not applicable in a particular case (e.g. due to co-processing of third-party items), Section 135b of the Czech Civil Code shall apply.

If the customer pays the purchase price, including its appurtenances, to us in full, our co-title in the Reprocessed

Products shall cease to exist and automatically return to the customer.

If the customer is in default in payment, being considered a material breach of contract, we may at any time - without prejudice to other (damage) claims - realise the co-title in the Reprocessed Products in a reasonable manner.

The customer may, in the course of its ordinary business activities, resell the Reprocessed Products to its Sub-Customer (the "**Resale of Reprocessed Products**"). The customer's obligation to pay the purchase price to us shall be unaffected by the Resale of Reprocessed Products. However, should the Resale of Reprocessed Products take place, the customer hereby, for the purpose of securing the fulfilment of the customer's obligation to pay the purchase price for the Reserved Goods, including its appurtenances, in full, assigns to us a part of the customer's (future) receivable(s) against its Sub-Customer, which will arise by reason of the Resale(s) of Reprocessed Products, the amount of which shall be equal to the amount of the unpaid part of the purchase price, including its appurtenances. We hereby accept such assignment(s). However, the above shall not apply, i.e. the customer shall not be entitled to resell the Reprocessed Products, in the event that the Sub-Customer has excluded or limited the assignment of the customer's claims (receivables) against it.

7. In case of the assignment(s) of the receivables (claims) under Clause VII.5 and/or VII.6, the customer shall retain the right to collect the claims.

Our right to collect the assigned receivables by ourselves shall not be affected thereby. However, we shall not collect the receivables as long as:

- a) the customer is not in default with its payment obligations against us;
- b) the customer's financial situation is not deteriorated substantially;
- c) insolvency (*úpadek*) of the customer is not declared by the relevant authority;
- d) an insolvency filing (*návrh na zahájení insolvenčního řízení*) is not filed against the customer; or
- e) insolvency grounds are not met.

If any of this is the case, we may request the customer to disclose the assigned receivables and the respective debtors, to furnish all data necessary for collection, to hand over to us all documents pertaining thereto and to inform its debtors of the assignment(s). In such case the customer's right to collect the claims shall be extinguished.

8. The customer shall notify us in writing without undue delay of all seizures, attachments and other interference by third parties with respect to the Reserved Products or Reprocessed Products.

VIII

Customer's Claims in the Event of Defects

1. We shall be responsible for defects in the delivered goods existing in the goods at the time of passing of the risk (*nebezpečí škody na věci*) to the customer.
2. The customer shall carry out the inspection of the delivered goods without undue delay after the passing of the risk to the customer. The customer shall notify us in writing of any obvious defects (*zjevné vady*) discovered by the customer at the inspection of the goods without undue delay thereafter, but within one week after the passing of the risk, at the latest. The customer shall notify us in writing of any hidden defects (*skryté vady*) without undue delay after being discovered by the customer, but at the latest within one year after the passing of the risk. The customer's claims for defects shall be forfeited if

a notice of defect has not been made in time or properly, unless a defect has been fraudulently concealed. The acceptance of goods may not be refused by the customer for defects that are not of a material nature.

3. Without our prior written consent, we will not bear the costs caused by the customer for examination of possible defects. For an effective handling of claims for defects, we will sort out defective goods from an affected delivery, unless we instruct the customer otherwise. The customer will not be entitled to dispose of defective goods without our prior written consent. Upon our request, the customer shall send the defective goods to us for examination.
4. The customer shall not be entitled to claims for defects for used goods (*použité zboží*) or goods that have been agreed to be of a lower quality category (*zboží nižší kvality*). The same shall apply in case of deviations, in particular deviations of dimensions, thicknesses, weight, performance data or colour nuances, which are within the tolerances customary in the industry, as well as in case of immaterial reduction of the value or usability of the goods.
5. In case of defects, we will remove the same in the manner determined by us at our own discretion, either by rectification (*oprava zboží*) or replacement of the goods (*odání náhradního zboží, příp. dodání chybějícího zboží*). Other claims of the customer with respect to defects, in particular the right to a reasonable price reduction, are excluded. Rectification or replacement of goods shall be made without acknowledgement of a legal obligation (*uznání závazku*). For repaired goods the remainder of the original limitation period shall run from the return of the repaired good; the same shall apply for replaced goods.
6. If we fail to remove a defect in accordance with these General Terms and Conditions, the customer may rescind the affected contract. In case of removal of a defect by rectification (*oprava zboží*), we shall be deemed to have failed to remove the defect after the third unsuccessful attempt to remove it in this way.
7. If the customer wrongly asserts claims for defects (e.g. the goods were not defective), we may charge to the customer any reasonable costs thus incurred by us.
8. Our liability for any damage the customer may have suffered due to defects of goods delivered by us or for any futile expenses shall be governed by the provisions of Clause IX.

IX Liability

1. We shall only be liable for damages to the extent such damages are typical and foreseeable at the moment of conclusion of the relevant contract to which these General Terms and Conditions apply.
2. The parties hereby declare that they consider the amount of Euro 1.5 million to be the maximum amount of damage foreseeable by the parties per damaging event. We will conclude and maintain insurance coverage with a corresponding contract amount (at least Euro 1.5 million per damaging event).
3. To the extent permissible under Czech laws, we hereby limit our liability as follows:
 - a) with respect to breach of a material contractual obligation, we shall be liable only in case of a culpable breach (*porušení z nedbalosti*); and
 - b) with respect to a breach of any other obligation by us, we shall be liable only in case of an intentional breach (*úmyslné porušení*) thereof.

4. For the avoidance of doubt, the provisions of this Clause IX. shall also apply in case the damage was caused by our employees, staff, agents, and assistants.

X

Place of Jurisdiction, Governing Law

1. Exclusive place of jurisdiction for any claims between us and a customer shall be our registered office, unless otherwise provided by mandatory law. We are, however, also entitled to sue a customer at the court competent for its registered office.
2. The legal relationship between us and the customer shall be governed by Czech laws. The application of the provisions on Contracts for the International Sales of Goods (CISG - Vienna UN Convention) shall be expressly excluded.

XI

Security Information

In case of a visit to the customer's works or workings at its factory premises, the customer shall inform us about the general security regulations and provide protective clothing and other accessories and aids.

XII

Final Provisions

1. Set-off and exercise of a right of retention by the customer due to contested counterclaims or counterclaims which are not final (*pravomocně přiznané*) or are excluded. The exercise of any

retention right by the customer is also excluded to the extent that the counterclaims are not based on the same contractual relationship.

2. Without our prior written consent, the customer shall not, in part or in whole, assign its rights and obligations. We may assign our rights and obligations, in particular to affiliated companies (koncernová společnost) within the meaning of Section 66a(7) of the Czech Commercial Code.
3. Changes or amendments to or cancellation of these General Terms and Conditions require written form in order to be effective. This also applies to the cancellation of this written form requirement.
4. Should any of the above provisions be invalid, the validity of the remaining provisions remains unaffected thereby. The parties will replace invalid provisions to the extent permitted by law with provisions that most closely reflect the intended purpose.
5. We keep customer data in connection with our mutual business relation in compliance with the Act No. 101/2000 Coll., on the protection of personal data, as amended.
6. These General Terms and Conditions are written in Czech and English languages. In the event of any discrepancy between the Czech and the English version, the English version prevails.