

## General terms and conditions for the sale of goods and services of the company Schäfer - Menk s.r.o.

### I. Definitions

„the Supplier“ means the company Schäfer – Menk s.r.o., Id. No.: 614 61 512, with its registered office at Prague 5, Přeštínská 1415, Postal Code 153 00, registered in the Commercial register maintained by the Municipal court in Prague, Section C, Insert 28416.

„INCOTERMS 2010“ means international rules for transport conditions INCOTERMS 2010.

„Civil code“ means Act no. 89/2012 Coll., Civil Code, as amended.

„the Client“ means any legal entity or natural person – entrepreneur, in a position of a buyer according to the § 2079 and following of the Civil code, or in a position of a client according to the § 2586 and following of the Civil code, or in a similar economic position as a party of other contract, either regulated or unregulated by the Civil code.

„Subject of performance“ means items and their components or work, that the Supplier commits to hand over to the Client according to the Contract and to allow him to acquire ownership of such items/work and the Client according to the Contract commits to take over such items/work and accept their ownership and commits to pay to the Supplier the negotiated price.

„the Contract“ means purchase contract according to the § 2079 and following of the Civil code, contract for work according to the § 2586 and following of the Civil code or other contract with a similar economic purpose, either regulated or unregulated by the Civil code.

„General terms“ means these General terms and conditions for the sale of goods and services of the company Schäfer - Menk s.r.o.

### II. A conclusion of the Contract

The offer made by the Supplier is not a proposal to conclude a Contract within the meaning of § 1731 of the Civil Code but has the nature of an invitation to bid for the conclusion of the Contract.

The Client is authorized to make a proposal to the Supplier for the conclusion of the Contract (hereinafter referred to as the "Proposal"). The Proposal must contain the specification of the parties, the Subject of performance, the price, the deadline and the way of delivery, the billing and contact details (e-mail, telephone, fax, etc.) of the Client.

The Client's Proposal must be confirmed in writing by the Supplier within 7 working days of receipt of the Proposal, otherwise the Proposal is deemed rejected.

The Contract is concluded upon delivery of the Supplier's confirmation of the acceptance of the Proposal to the Client without any reservation or other changes.

If the Supplier's confirmation contains reservations, limitations, or other changes, it is considered a new proposal for the conclusion of the Contract. In such a case, the Contract is concluded only if the Client accepts this new proposal by the Supplier. Such Contract is concluded at the moment of delivery of Client's confirmation to the Supplier.

The Contract may be amended by the contracting parties on the basis of written amendments. The amendments may also be made in oral form, provided that the contracting parties subsequently confirm it in writing.

### III. Subject of performance

The Supplier is obliged to deliver the Subject of performance in the time, manner, place, quality and quantity in accordance with the Contract and these General terms. Unless the Contract contains specific provisions, the Supplier shall deliver the Subject of performance in time, manner, place, quality and quantity in accordance with these General terms.

The Subject of performance shall meet the requirements set by the Contract and these General terms.

The Supplier verifies the completeness and suitability of technical data and drawings, materials, tools, equipment, prefabricated items and other documents provided by the Client, only if it was agreed in writing. In such a case the Client pays the associated costs. Should these items prove to be defective or unusable for the agreed purpose, the Client is obliged to deliver new items at his own

expense and to compensate the Supplier for the incurred costs and damages.

The Supplier is not responsible for damage caused by technical data and drawings, materials, tools, equipment, prefabricated items and other documents that were provided by the Client.

### IV. Terms of delivery

The delivery period runs from the moment the Client provides all the assistance and meets all the conditions necessary for the Supplier to provide performance under the Contract.

The Supplier is authorized to realize the Subject of performance through partial deliveries. At the Supplier's request the Client is obliged to take over even only the part of the Subject of performance.

Unless otherwise agreed, the place of delivery is either the registered office of the Supplier at Prague 5, Přeštínská 1415, Postal Code 153 00, or the Supplier's establishment at Dýšina 302, Postal Code: 330 02, subject to the Supplier's notice; this provision is consistent with INCOTERMS 2010 section FCA.

The Client is obliged to take Subject of performance at the place of delivery on working days from 8:00 to 15:00, unless otherwise agreed between the parties.

The risk of delivery and shipping of the Subject of performance is borne by the Client.

A delivery note shall be included in the delivery of the Subject of performance. The delivery note shall contain at least the identification of the parties and the Subject of performance, or the contract number or order number, as well as the date of issue of the delivery note, the method of transport and the contact details of the Supplier.

The handing over and acceptance of the Subject of performance shall be captured by the handover protocol signed by both contracting parties.

If the Client fails to point out apparent defects upon takeover, the Subject of Performance is deemed to be without defects. If the Client is late in taking over the Subject of Performance, he is obliged to pay to the Supplier the costs associated with the storage and any damages arising therefrom.

Upon the Client's delay with taking over of the Subject of performance, the Supplier shall be entitled to demand the payment of a contractual penalty of 0.3 % of the price of the Subject of performance for each day of the delay.

### V. Price and payment terms

The price arrangement or the method of its calculation is an essential part of the Contract.

Unless otherwise stipulated in the Contract, the price does not include value added tax (VAT) and all costs of packaging, (transfer) documents, transportation and insurance of the Subject of performance.

Until the day of delivery of the Subject of performance, the Supplier is entitled to increase the price by the costs incurred by him in connection with the performance of the Contract.

The Supplier is entitled to carry out any work he considers to be effective in performing the Contract. The Supplier is authorized to carry out all work and extra-work whose implementation need arises during the performance of the Contract. The Supplier is not obliged to inform the Client in advance of such works. The Client is obliged to pay the price of these works. This does not establish the right to deviate from design documentation.

The Supplier is entitled to issue an invoice (tax document) on the date of the proper delivery of the Subject of performance, based on the handover protocol of the Subject of performance signed by both contracting parties.

Apart from legal obligations the invoice shall include the identification of the parties, the contract number or the order number, the delivery note number, number, issue date and invoice maturity, the date of completion and the subject of the taxable transaction, the price including VAT and excluding VAT and bank connections of the parties.

The Client is obliged to pay the price on the basis of an invoice issued by the Supplier. The invoice maturity is 30 days from the date of its dispatch to the Client.

If the Client is in default with the payment of the price, the Supplier is authorized to:

- Claim default interest for late payment of 0.3 % of the amount due for each day of delay;
- reasonably extend the delivery period, or postpone the provision of performance until the payment of the amount owed;
- determine the immediate maturity of any other outstanding invoices of the Client;
- claim reimbursement of the costs for recovering the claim,

either independently or in conjunction.

If the Client violates any payment terms of this Contract or if the Supplier has reasonable doubt as to Client's solvency, all claims of the Supplier shall immediately become due. In such a case, the Supplier is entitled to request the payment of advances and to suspend performance until such advances are paid.

Discounts and other benefits are subject to the timely payment of the price; otherwise such claim will be extinguished.

### VI. Transfer of ownership and passage of the risk of damage to property (items/work)

The Supplier bears the risk of damage to the Subject of Performance until it is properly handed over and accepted by the Client, that is, to the signing of the handover protocol.

If the Client is late in taking over the Subject of performance, the risk of damage to the Subject of performance is passed to him on the date on which the Subject of Performance was to be handed over.

By paying the entire price of the Subject of performance and all related costs, the ownership of the Subject of performance is transferred to the Client.

If a thing provided by the Client was processed for the fabrication of the Subject of performance, such a thing becomes component part of the Subject of performance and the ownership of such a thing is transferred to the Supplier at the moment of processing.

### VII. Withdrawal from the Contract

Notwithstanding other arrangements, the Supplier shall be entitled to withdraw from the Contract if:

- the Client's delay with taking over of the Subject of performance is for a period longer than 21 business days;
- the Client is in delay with complying with any other obligation arising from the Contract, these General terms or from the law;
- there was initiated an insolvency proceeding against the Client pursuant to Act. no. 182/2006 Coll., on bankruptcy and methods of its solution, as amended;
- the Client enters into liquidation;
- there is a force majeure event for a period longer than 3 months.

The Contract is cancelled by withdrawing from the Contract in writing. Concurrently with withdrawal from the Contract, the Supplier shall determine how the parties will settle their mutual rights and obligations. Withdrawal from the Contract does not affect any claims for damages or payment of a contractual fine, liability for defects, confidentiality or choice of applicable law for dispute resolution.

Withdrawal from the Contract applies only to the performance that has not yet been performed, unless the Client is not interested in the partial performance of the Contract.

### VIII. Quality guarantee (warranty)

The Supplier provides the Client with a quality guarantee for the Subject of performance. The Supplier undertakes that the Subject of performance will be eligible for use for the intended purpose and that it retains the features specified in the Contract and these General terms for the quality guarantee period. Unless otherwise agreed, the quality guarantee period is 12 months from the date of handing over of the Subject of performance.

The quality guarantee does not apply to:

- damages and defects in the Subject of performance caused by harmful natural, chemical, electrochemical,



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electrical and other influences, due to natural wear and tear, defective embedding or defective installation work made by the Client or any third party, incorrect commissioning, incorrect or negligent handling, improper strain or due to usage of unsuitable or unsuspected means of operation;

- b) damages and defects in the Subject of Performance caused as a result of changes or commissioning which the Client has done without the Supplier's prior written consent or contrary to his recommendation;
- c) defects and their consequences arising from the data and materials provided by the Client, unless it was expressly and in writing stipulated that the Supplier has the obligation to check the accuracy of such data and materials;
- d) the parts of the Subject of performance which, due to the fabric composition or mode of use, are subject to increased natural wear and tear, such as conventional protective coatings etc.

#### **IX. Liability for defects (Product liability)**

The Subject of performance is defective if it does not meet the requirements stated in the Contract, these General terms or applicable legislation.

The Client is obliged to review the Subject of performance for defects immediately after taking over. The Client is obliged to notify the Supplier about defects of the Subject of performance without undue delay and in writing, but no later than 8 business days since taking over, otherwise his claim will be time-barred without further.

The Client is obliged to bring to bear the defects that occur during the quality guarantee period without undue delay after he has discovered them.

In notification of defects the Client shall state in particular the description of the defect found and the date of its discovery.

Upon request the Client is obliged to send the Subject of performance or a part of it at their own expense to the Supplier.

The Supplier will handle the complaint within 30 days. If the complaint cannot be settled within abovementioned time limit, the Supplier shall inform the Client about it and convey to him the expected deadline for the settlement of the complaint.

If the complaint is legitimate, the Supplier shall, at his own choice, either repair the Subject of performance or its part, or provide the Client with a new Subject of performance or a new part thereof.

If the defect cannot be remedied in the abovementioned manner, the Supplier shall provide the Client with a reasonable discount on the price of the Subject of performance.

If the Supplier finds the complaint to be justified, the costs associated with the exercise of the rights to the defective performance shall be borne by the Supplier.

If the Client's complaint appears to be unjustified, the Client is obliged to pay the Supplier all costs associated with the handling of such complaint.

The Supplier is entitled to refuse to process the complaint for as long as the Client is in default in fulfilling any of the obligations arising from the Contract.

Exercise of the right to defective performance excludes further claims, in particular the right to compensation.

#### **X. Protection of confidential information**

The content of the Contract, as well as any information that becomes known to the parties during the performance of the Contract and / or in connection with it, is confidential, except for information generally known or provided in the course of fulfilling a statutory obligation.

The Client undertakes to keep secrecy about all confidential information that he was informed about or he has learned about and any other facts relating to the Supplier's activities, in particular about its customers and business partners.

The duty of confidentiality persists even after the termination of the Contract.

The Client is obliged to pay the Supplier a contractual fine of CZK 100,000 for each breach of confidentiality.

#### **XI. Force majeure**

In the case of force majeure, the deadlines for fulfilling the Supplier's obligations are extended by the length of time for which the force majeure event takes place. The Sup-

plier is obliged to inform the Client about the occurrence and termination of a force majeure event; the same applies if such occurrence occurs to the Supplier's subcontractor.

Force majeure events are especially: strikes, lockouts and all circumstances independent of will of parties such as fire, war, flood, earthquake, general mobilization, revolt, requisition, seizure, embargo, limitation of energy consumption as well as defective or delayed deliveries made by subcontractors.

#### **XII. Dispute resolution**

The parties undertake to resolve any dispute arising from the Contract and/or in connection with it in an amicable way. All disputes that cannot be resolved amicably shall be finally decided with the Arbitration Court attached to the Czech Chamber of Commerce and the Agricultural Chamber of the Czech Republic according to its Rules by three arbitrators in accordance with the Rules of that Arbitration Court.

#### **XIII. Other provisions**

The Supplier is liable for any damage caused intentionally or through gross negligence.

If the Client pays part of the costs for acquiring drawings, technical descriptions, samples, films, floppy disks, standards, models, profiles, tools, forms and other technical data, or provides synergies for their creation, it shall not mean he acquires ownership, copyright, or industrial property rights.

The Supplier is authorized to fulfil the Contract in part by a third, professionally competent person. In such a case, the Supplier is responsible for the performance of a third party as if he were performing it by himself.

Payment of the contractual penalty does not affect the full liability for damages. A contractual penalty, as well as damages, is payable within 14 days since the date of delivery of the written request to the other party for payment.

No omission or failure to exercise any of the Supplier's rights may be construed as a waiver of such rights against the Client.

If the Client does not exercise his right arising from the Contract within 12 months of its creation, then his right shall be time-barred without further.

The Client is not entitled to set off any claim or its part against any Supplier's claim or its part, or to exercise any right of detention, or to concede the Contract or any part thereof to a third party, without the Supplier's prior written consent.

By a written form is also considered an e-mail communication with a simple electronic signature.

Contracting parties shall deliver the documents to the contact addresses specified in the Contract. The contracting party shall immediately notify the other contracting party about the change of contact address.

#### **XIV. Final provisions**

These General terms form an integral part of the Contract. By entering into the Contract, the Client expressly agrees to any and all of the rights and obligations contained in these General terms or resulting therefrom.

The legal relationship established by the Contract is influenced solely by these General terms, unless the Supplier agrees in writing to use the Client's general terms, provided that such general terms are not inconsistent with the wording of these General terms.

The provisions contained in the Contract take precedence over the wording of these General terms and, if applicable, general terms of the Customer.

If the Contract is drawn up in several language versions, the text of the Contract in German or English shall prevail in the event of a conflict between the different language versions.

These General terms and the Contract are governed by the laws of the Czech Republic, without prejudice to the application of the INCOTERMS 2010.

The contracting parties agree that the following provisions of the Civil Code shall not apply to the relationship established by the Contract: § 1765, § 1766, § 1793.

If any provision of the Contract or these General terms is found to be invalid or unenforceable, it will not affect the validity and enforceability of the remainder of the

Contract or General Terms. Such a provision will be replaced by a new provision that will be as close as possible to the original intention.

The Supplier reserves the right to adequately change these General terms at any time.