

# **I & C Energo a.s. General Business Terms & Conditions** **effective from 1/2/2014**

**for performance of work and/or services (purchase)**

## **1. GENERAL PROVISIONS**

- 1.1 These General Business Terms and Conditions (hereinafter referred to as "T&C") shall be interpreted within the meaning of § 1751 of Act No. 89/2012 Coll., the Civil Code, as amended, (hereinafter referred to as "Civil Code"), and shall apply to contractual relations, in delivering under contracts for work or services, between I & C Energo a.s., registered office: Pražská 684/49, 674 01 Třebíč, registered in the Company Register administered by the Regional Court in Brno, Section B, File no. 4153 (hereinafter referred to as "Customer"), and contractor (hereinafter referred to as "Contractor").
- 1.2 The subject matter of a contractual relation is an obligation of the Contractor to deliver work to the Customer, and an obligation of the Customer to pay a price agreed in the respective contract or purchase order as the case may be for the work to the Contractor.
- 1.3 These T&C shall be binding upon the Customer and the Contractor and shall form a part of every respective contract or purchase order. These T&C shall apply exclusively; any terms and conditions tendered by the Contractor are rejected, unless expressly accepted by the Customer. In order to exclude any doubts, in the case that the Contractor's business conditions apply besides these T&C, these T&C shall prevail in case of any contradiction.
- 1.4 Any departures from the T&C will be valid only if agreed upon in writing in the respective contract or purchase order. Provisions given in the respective contract/purchase order shall prevail over these T&C. Rights and obligations of the contracting parties that are not provided for the respective contract/purchase order shall be governed by the Czech legal regulations.

## **2. CONTRACTUAL RELATION**

- 2.1 Work and services ("Work") will be executed based on a contractual relationship concluded between the Customer and the Contractor as a result of
- conclusion of a written contract between the Customer and the Contractor (that is upon a signature of both contracting parties);
  - written confirmation by the Contractor of a written purchase order placed by the Customer.
- 2.2 The Work will be specified in the respective contract/purchase order. Unless extra conditions are agreed in the respective contract/purchase order, the Contractor shall perform the Work in such extent and of such quality as to serve the purpose determined by the Customer or the purpose for which the Work is usually intended.
- 2.3 When negotiating an individual contract/purchase order, it is assumed that the Contractor has been made acquainted with and agreed to these T&C.
- 2.4 These T&C shall be deemed as accepted at the latest upon conclusion of the respective contract or upon the Contractor's confirmation of a purchase order.

## **3. OBLIGATIONS OF THE CONTRACTOR**

- 3.1 The Contractor shall perform the Work in accordance with requirements, conditions, parameters, specifications, and other documents, data and information, contained in the respective contract/purchase order.

- 3.2 Where the scope of Work includes a handover of related documentation such as an installation logbook, inspection logbook, technical documentation etc... ("Documentation Deliverable" or "Deliverables as the case may be), the Contractor shall hand over complete Deliverables at the same time with the Work handover. Otherwise, the Work shall be deemed defective and the Customer shall not be bound to accept the Work and pay the price for the Work or for other performance under the respective contract /purchase order.
- 3.3 All deliveries and activities outside the scope of Work as defined in the respective contract/purchase order will only be provided as extra work by the Contractor by agreement in writing with the Customer.
- 3.4 The Contractor shall provide all documents, rights of use and licences as necessary for completeness and operability of the Work and for its smooth, reliable, and safe operation.
- 3.5 The completion of Work is understood to be inclusive of implementation of all works and services, disassembly, installation, commission, testing, and closing of the Work. Throughout the implementation of Work, the Contractor shall maintain inspection logbooks, equipment test/measurements reports; supervise the implementation of Work, and be responsible for obtaining audit reports, permissions under public law and other confirmations, attestations, approvals, and other certificates as necessary for the completion of Work, to the extent and under terms and conditions stipulated in the respective contract/purchase order.
- 3.6 The Contractor is responsible for disposal of all waste produced in connection with the implementation of Work in accordance with applicable legal regulation; for handling/administration and transport to and from the place of implementation of the Work; for security and storage of all materials, items, components etc. as necessary for the implementation of Work.
- 3.7 The Contractor shall deliver all services and materials/items that even though not explicitly specified in the respective contract/purchase order, they can be inferred as necessary for the proper functionality of Work from the nature and extent of the Work under the respective contract/purchase order. The Contractor shall get acquainted with all information, data and other documents being a part of the respective contract/purchase order or those handed over by the Customer to the Contractor in connection with the respective contract/purchase order. If any information, data, or values provided by the Customer are insufficient or incomplete to the extent affecting the proper implementation of the Work, the Contractor's responsibility is too precise and/or obtain the missing information and/or data.
- 3.8 The Contractor has no entitlement to receive any additional payment or to postpone any deadline under the respective contract/purchase order because of an incorrect interpretation/understanding related to the place of performance, information, data or other documents provided by the Customer under the respective contract/purchase order.
- 3.9 The Customer and the Contractor have agreed that requirements of applicable technical standards identified as CSN shall be considered as binding. Failure to satisfy these requirements shall be understood as a significant breach of the C&T or of the respective contract as the case may be. In connection with the scope of performance under the respective contract/purchase order, the Contractor shall carry out all tests as required by CSN. The success of such prescribed tests shall be documented by the Contractor in the form as required by CSN.
- 3.10 Any products or materials delivered by the Contractor within the implementation of Work shall be new and unused, meeting requirements and parameters resulting from respective legal regulations (such as for quality, quantity, size, weight), free of defects, and in compliance with mandatory technical, hygienic, and safety standards and legal regulations.
- 3.11 The Contractor shall comply and have all its employees, subcontractors, and other workers engaged in deliveries within the implementation of Work under the respective contract/purchase order, complying with the Customer's internal rules, with which they were

provably made familiar. Further, the Contractor shall ensure compliance with and fulfilment of other duties as set out by legal and other regulations in the areas of occupational health and safety (OHS), fire prevention (FP), environmental protection (EP), technical safety (TS), and protection of people and property, and observe orders and restrictions resulting from the above. An identified breach of these duties shall be registered in writing using a separate record or usual registration tool such as an Installation Logbook (see article 3.16, T&C) or a construction site logbook.

- 3.12 Where a part of the Work is activities being carried out at the property of CEZ, a.s., the Contractor shall without reservation and unconditionally observe provisions contained in the CEZ internal regulation no. ČEZ\_SD\_0039r00, the CEZ Code of Conduct, as amended, see the following website: <http://www.cez.cz/cs/o-spolecnosti/cez/pro-dodavatele/vyberovazizeni.html>.
- 3.13 Where the place of performance under the respective contract/purchase order is the premises of a nuclear plant, the Contractor shall observe regulations in the areas of occupational health and safety (OHS), fire prevention (FP), environmental protection (EP), and other rules contained in the documentation binding upon CEZ contractors (hereinafter referred to as "Mandatory Documentation") with which it will be provably made familiar by the Customer.
- 3.14 The Contractor shall comply and have all its employees, subcontractors, and other workers engaged in deliveries under the respective contract/purchase order complying with the Code of Conduct and the Mandatory Documentation. When negotiating an individual contract/purchase order, it is assumed that the Contractor has been made acquainted with the Code of Conduct and the Mandatory Documentation. Any detected infringement of rules or provisions contained in the Code of Conduct and the Mandatory Documentation shall be documented in writing using a separate record or a usual registration tool such as an Installation Logbook (see article 3.16, T&C) or a site logbook. Failure to satisfy these requirements shall be understood as a significant breach of these C&T or of the respective contract as the case may be.
- 3.15 Where the Contractor uses equipment, tools, scaffolding, dedicated equipment, etc., provided by the Customer based on the respective contract/purchase order, or in connection with it, the Contractor shall use them in compliance with generally mandatory regulations and on its own risk, and shall be held responsible for any damage caused by such use.
- 3.16 Upon a site takeover, the Contractor becomes responsible for keeping an installation logbook (Installation Logbook) entitled with the Contractor and the Customer identification data, including the respective contract/purchase order ID. The Installation Logbook shall contain all facts decisive for performance under the respective contract/purchase order, particularly chronological data on the course of works, quality, data that are necessary for assessment of works by regulatory/public service bodies, and records related to compliance with the Code of Conduct and the Mandatory Documentation, and information about the subcontractor participation in the performance of Work. Further, it is required to record in the Installation Logbook all information about temporary deputization of authorised individuals. The Installation Logbook shall be permanently available on request during working hours. The duty to maintain the Installation Logbook shall continue until the day of handover and takeover of the Work. Besides a work supervisor, a Customer's employee authorized to act in technical matters under the respective contract/purchase order or in charge of audit or a regulatory body or other competent public service body, are authorised to make entries in the Installation Logbook. These individuals or bodies are entitled to review the Installation Logbook and possibly enter reservations to or comments on the performance of Work and as a true record they shall put their signatures; they are entitled to keep a carbon copy or photocopy of signed original copy by the Contractor, including possible enclosures.
- 3.17 The Contractor shall be entirely responsible for the manner in which the Work is being performed under the respective contract/purchase order. The Contractor shall be entirely responsible for its employees performing the Work in accordance with the Contractor's instructions, on behalf of the Contractor, being paid or otherwise compensated, during

working hours or as otherwise fixed or agreed with the Contractor, at the place determined by the Contractor in accordance with the place of performance under the respective contract/purchase order. No contractual relationship of any kind shall exist between the Customer and the Contractor's employees.

- 3.18 If the Contractor employs foreign nationals to perform the Work, the Contractor shall inform the Customer about this without undue delay. In the case that any costs are incurred by the Customer in connection with the Contractor's employing foreign nationals, in particularly in the case of imposing fines on the Customer by a revenue office, employment bureau or any other public service body, the Contractor shall reimburse in full the Customer's expenses.

#### **4. PLACE OF PERFORMANCE**

- 4.1 The place of performance means a place determined for performance of the Work including equipment/facilities installed at the place of performance (possibly construction site).
- 4.2 Prior to the commencement of implementation of the Work, the Customer shall enable the Customer on its request to inspect the place for performance of the Work or otherwise provide the Customer with necessary cooperation to find out conditions for implementation of the Work.
- 4.3 The Customer shall determine access roads for the Contractor to access the place of performance, and shall provide connecting facilities for electric energy and media for the purpose of implementation of the Work. The Customer shall identify in writing areas requiring specific measures to be implemented from the point of view of fire prevention, hygiene and protection against environmental impact.
- 4.4 The place of performance shall be handed over and taken over between the Customer and the Contractor based on a written acceptance certificate, signed by both contracting parties, or based on an entry in the Installation Logbook as the case may be. The Contractor shall verify whether the place of performance is free of hindrances or defects that might hinder from the commencement of implementation of the Work. The boundaries of place of performance determined by the Customer shall be binding upon the Contractor and the Contractor is required to provide for its proper marking.
- 4.5 The Contractor shall maintain tidiness and cleanliness of the place taken over and, at the Contractor's expense dispose all waste (including waste collection, sorting, and keeping on files as prescribed) and impurities that occur in connection with the implementation of Work. These activities are included in the Work price. The Contractor shall be held responsible for any environmental damage occurred in connection with the implementation of Work.
- 4.6 The Contractor shall enable the Customer or representatives authorised by the Customer to carry out audits at the given workplace (place of performance) for the purpose of verification of the Contractor's abidance by legal and contractual duties, especially in terms of observance of OHS, fire prevention, and waste management principles, etc.
- 4.7 The Contractor shall inform the Customer without undue delay about any accident or job-related injury of the Contractor or subcontractor's employees, fire, accidents with a negative impact on the environment as well as any other accidents, facts, and conditions of similar nature.

#### **5. TITLE OF OWNERSHIP AND RISK OF LOSS OF/DAMAGE TO THE WORK**

- 5.1 The title to any supplies of material, equipment, and materially captured results of delivered services and works, shall be transferred from the Contractor to the Customer at the moment of delivery of material, equipment and other deliverables to the place of performance, through implementation, provision, or handover of services, or through their payment by the Customer, whichever first occurs. The Contractor shall be responsible for these items not to be encumbered with other party's titles of ownership. A transfer of title of ownership shall not

relieve the Contractor of its duty of due care of such items.

- 5.2 Irrespective of the above mentioned transfer of title, the responsibility for the protection of items mentioned in the previous article as well as the risk of loss of or damage to these items shall rest with the Contractor.
- 5.3 By the handover of place of performance to the Contractor, the Contractor shall assume the risk of loss of or damage to the items as under the previous paragraph as well as to facilities installed at the place of performance for the purpose of implementation of the Work. Further, the Contractor shall bear the risk of damage to the Work or respective equipment for the period of time, for which the equipment was handed over to the Contractor for the purpose of defect removal, until the Work (equipment) is handed over back to the Customer. With regard to other equipment in the handed over area, not being a part of the Work implementation by the Contractor, the Contractor shall take such measures as to prevent damage to or unauthorized tempering with the equipment.
- 5.4 The Contractor shall be held liable for any damage to the Work or its part until the date of final acceptance of the Work by the Customer and remedy any damage to the Work or its part occurred for any cause within such period. Further, the Contractor shall bear the risk of damage to any equipment being part of the scope of Work or its part, caused by the Contractor or its subcontractors in the course of implementation of the Work.

## **6. INDEMNIFICATION**

- 6.1 The Contractor shall compensate the Customer for damage caused by the Contractor or its subcontractors in connection with any infringement of duty stipulated in these T&C, respective contract/purchase order, applicable legal regulations, or for any damage occurred in connection with performing the Work. The compensation for damage covers the actual damage and loss of profit. The Customer's right for damages under this paragraph shall not be affected by a payment of contractual fine by the Contractor.

## **7. IMPLEMENTATION AND COMPLETION OF THE WORK**

- 7.1 The Customer or its authorised representative shall be entitled to verify the quality of the Work and the Contractor's observance of duties under these T&C, respective contract/purchase order, and applicable legal and technical regulations any time in the course of implementation of the Work. The Customer's accredited representative shall be entitled to order the Contractor's personnel to discontinue the work, if the Contractor's responsible person is not available, and the work safety is compromised, or life or health of involved persons are endangered. The presence of the Customer's authorised representative shall not relieve the Contractor of its responsibility for due course of implementation of the work or for deficiencies/defects of work and/or deliveries.
- 7.2 The Customer and the Contractor have agreed that within the meaning of § 101(3), Act No. 262/2006 Coll., the Labour Code, as amended, in the case that employees of both the Customer and the Contractor perform their tasks at one workplace, the Customer shall coordinate occupational health and safety measures and procedures for their assurance, until the place of performance (workplace) is taken over by the Contractor. Prior to the commencement of implementation of the Work, the Customer and the Contractor shall mutually communicate information about risks resulting from their activities. Not having exchanged such information, the Contractor is not allowed to commence the Work.
- 7.3 If any work and activities are to be performed at a place of performance (workplace) exposing natural persons to increased life or health risks, as defined in Annex 5 to the Government Directive No. 591/2006 Coll., on detailed minimum requirements for occupational health and safety at construction sites, as amended, as well as when in performing the Work the Contractor fulfils the criteria of § 15 of Act No. 309/2006 Coll., on regulation of other requirements for occupational health and safety, as amended, the Contractor shall ensure that a plan for occupational health and safety is elaborated and

ready for use prior to the commencement of works. If a project documentation for the Work has been prepared separately, already including an OHS plan, the Customer shall inform the Contractor that the plan has already been prepared.

- 7.4 The following paragraph is applicable only to activities performed at equipment/facilities of CEZ: In the case that conditions under the previous paragraph are fulfilled, the Contractor shall provide the Customer with the information about the extent and method of the work using a questionnaire (the form is available on the website [www.cez.cz](http://www.cez.cz)), at the latest within 10 days after the conclusion of respective contract. The original copy of questionnaire shall be sent by the Contractor to a person authorized to act on behalf of the Customer in technical issues. Further, the Contractor shall cooperate in full and as necessary to fulfil duties under the Act No. 309/2006 Coll., on regulation of other requirements for occupational health and safety, as amended.
- 7.5 The contracting parties expressly exclude the application of § 2627 articles 1 and 2 of the Civil Code. If the Contractor discovers hidden obstacles relating to the place of performance of the Work that hinder completion of the Work in the agreed manner, the Contractor shall notify the Customer thereof without undue delay and propose the Work alterations. Within 3 days of receiving the notice of impossibility of performing the Work in an agreed manner, the Customer shall inform the Contractor of the manner in which the Customer wishes to perform the Work and the Contractor shall be bound by such information.
- 7.6 Based on fulfilment of all obligations of the Contractor under the respective contract/purchase order (except for warranty duties), the Contractor shall hand over to the Customer a draft handover and takeover certificate of the Work ("Acceptance Certificate" or "Final Payment Certificate" as to case may be (in the case of a Part of the Work under the respective contract/purchase order)). The Acceptance Certificate or the Final Payment Certificate shall only be signed by the Customer, if the Contractor has fulfilled besides as the mentioned above the following conditions:
- a) all works and activities within the scope of Work or its respective part have been duly completed;
  - b) the Contractor has handed over to the Customer all Documentation Deliverable (relating to the Work or its respective part) which is in the Contractor's disposal or which is necessary in case of claiming a defect of the Work;
  - c) the Work or its respective part is qualified for use in accordance with applicable legal and technical regulations;
  - d) all field mechanisms and thenceforth useless items have been removed from the place of performance (workplace); the place of performance (workplace) has been cleaned and tidied up, that is in particular all waste resulted from the Contractor's activity has been removed, and the place of performance (workplace) has provably been handed over back to the Customer.
- 7.7 The Work warranty period starts on the day following the date of the Customer's signature of an Acceptance Certificate or an Final Payment Certificate.
- 7.8 In order to exclude any doubts, any provision contained in these T&C in any case shall not exempt the Contractor from any of its responsibilities for inspections of the performance of Work, tests of the Work, quality, warranty or any other obligations under the respective contract/purchase order. Unless otherwise provided for in the respective contract/purchase order, then tests that serve to demonstrate the compliance of Work with the respective contract/purchase order shall be carried out in attendance of the Customer and be fully at the cost of the Contractor and so even in the case of tests repeated as a result of unsuccessful demonstration of the Work parameters specified in the respective contract/purchase order, in other words all these costs that may be incurred by the Contractor shall be included in the contractual price of the Work of its part.

## **8. PRICE AND PAYMENT TERMS**

- 8.1 The price of Work shall be paid based on an invoice (tax document) issued by the Contractor. The payment of the Work price shall be made by the Customer upon a due completion of the Work or its respective part, which shall be confirmed in the Acceptance Certificate or Final Payment Certificate and upon submission of the following documents by the Contractor:
- a) An invoice issued by the Contractor after the handover/takeover of the Work or its part.
  - b) An Acceptance Certificate or Final Payment Certificate signed by authorized representatives of the contracting parties as a proof of completion of the Work or its part.
- 8.2 The date of signing by both parties of the Acceptance Certificate or Final Payment Certificate shall become the effective date of taxable supply.
- 8.3 Every invoice shall be issued by the Contractor at the earliest at the effective date of taxable supply, but at the latest within 15 days after the effective date of taxable supply, and shall contain all tax document requisites in accordance with all respective legal regulations applicable as at the date of issue of the invoice, in particular with the Act No. 563/1991 Coll., on accounting, as amended, the Act No. 235/2004 Coll., on the value added tax, as amended, and § 435 of the Civil Code.
- 8.4 The invoice (tax document) shall contain in particular the following information:
- contract/purchase order identification number of the Customer;
  - invoice designation and identification number;
  - tax identification numbers of the Contractor and of the Customer;
  - names and registered offices of the Contractor and of the Customer, where the Customer's name and registered office shall be as follows:  
  
I & C Energo a.s., Pražská 684/49, 674 01 Třebíč;
  - the Contractor's bank connection;
  - date of issue of the invoice;
  - extent, subject, and effective date of taxable supply;
  - the due date of invoice in accordance with the contract/purchase order;
  - Where the Contractor is a VAT payer, every invoice (tax document) issued by the Contractor shall include the VAT exclusive price, VAT % rate, VAT amount in %, and possibly the VAT inclusive price for every item of goods or material delivered by the Contractor in connection with performance of the Work, and the total amount of the prices;
  - information about advanced payments;
  - signature and stamp of the Contractor.
- 8.5 The invoice shall be submitted together with a copy of Acceptance Certificate or Final Payment Certificate for the given Work or its part, confirmed by the Customer's representative.

- 8.6 Where hourly rates are charged, an inseparable part of the Acceptance Certificate or Final Payment Certificate in the form of an enclosure shall be a timesheet containing a list of names of employees and respective hours worked each day. The Acceptance Certificate or Final Payment Certificate shall include a total hours worked per type of activity and per hourly rate.
- 8.7 Invoices shall be sent by the Contractor to the Customer's registered address. I & C Energo a.s., Pražská 684/49, 674 01 Třebíč.
- 8.8 Unless otherwise explicitly stated, the Contractor shall not be entitled to issue an invoice combining payments for two or more Works or their parts.
- 8.9 The amounts of invoices shall become due 30 days after the invoice is served to the Customer; in case of doubt, the invoice shall be deemed served at the latest on the third day of its provable posting by the Contractor. The Customer is entitled to return an invoice before its due date to the Contractor, if the invoice lacks requisites mentioned in this article 8 or if it shows other deficiencies in terms of legal regulations or in terms of its content. Along with returning the invoice, the Customer shall inform the Contractor of the reasons, for which the invoice is being referred back. Depending on the nature of defect, the Contractor shall correct the invoice or issue a new invoice, including its enclosures. A well-founded return of an invoice within the above mentioned date makes the remaining term to maturity of the original invoice stop to lapse. The new invoice due starts to lapse on the day of issue of an amended or corrected or newly issued invoice containing appropriate requisites and meeting conditions of the respective contract/purchase order.
- 8.10 The invoice shall be a hard copy of A4 format, single-sided printout on a standard office paper with weight approx. 80g/m<sup>2</sup>, scannable (copiable) in black-and-white without any loss of the information contents, readable, and 5 pages at the maximum.
- 8.11 The payment shall be understood as a non-cash transfer of money to the bank account of the Contractor indicated in the contract/purchase order. The bank account of the Contractor has to be a bank account maintained by an inland provider of banking services and in a published manner enabling remote access in accordance with the Act No. 235/2004 Coll., on the value added tax, as amended. A different method of payment (such as setting off, instalment schedule, bill of exchange, etc.) shall only be possible, if approved in writing by the Customer. The contracting parties have agreed that any change of the bank connection and account number of the Contractor can only be done through a written amendment to the given contract, or through a written notification provably delivered by the Contractor to the Customer, at the latest along with the respective invoice. This notice shall be an original copy and shall be signed by persons authorized to sign contracts or by a statutory body of the Contractor. The change of a bank account of the Contractor has to comply with as mentioned above, that is it has to be a bank account maintained by an inland provider of banking services and in a published manner enabling remote access.
- 8.12 The Customer shall not be deemed in default with the payment, if the Buyer's account is charged off with the invoice amount to the credit of the Contractor's account at the latest on the invoice maturity day.
- 8.13 The Contractor may agree with the Customer on conditions of using electronic invoices.
- 8.14 The Contractor shall not transfer fully or partially claims arising from the fulfilment of a contract/purchase order unless previously agreed to in writing by the Customer. Should this obligation be breached, the Contractor shall pay to the Customer a contractual penalty amounting to 20% of the nominal value of transferred claims. The Customer's right for damages shall not be affected by the payment of contractual penalty of the Contractor in accordance with the previous clause. The Contractor shall not transfer any rights or duties arising from the contractual relationship with the Customer or the contract itself without a prior consent of the Customer.
- 8.15 The Customer is entitled to pay the VAT for the Contractor directly to the Contractor's tax



administrator for the purpose of special guarantee of VAT under § 109a of the Act No. 235/2004, on value added tax, as amended. The Customer shall inform the Contractor thereof in writing. Thus settled tax decreases the amount of the Contractor's receivable from the Customer by the value of the VAT amount paid by the Customer and the Contractor is not entitled to charge this amount to the Customer.

## **9. WARRANTY**

- 9.1 The Contractor gives a warranty to the Customer that the Work as a whole and every part of the Work are free of any defects, both material and legal. The Work or its part shall be deemed defective, if it does not correspond to the result explicitly specified in the respective contract/purchase order and/or its purpose of use and/or lacks attributes explicitly specified in the respective contract/purchase order, generally binding regulations, and/or generally accepted legal or technical regulations or standards. Also defects in documents that are necessary for the use of the Work as well as legal defects, that is the fulfilment of a contract or the method of fulfilment of a contract results in a breach of rights of third parties, shall be considered as defects.
- 9.2 The Contractor shall grant to the Customer a warranty period for the Work or its each part of 60 months after handover to the Customer, unless otherwise provided for in the contract or purchase order.
- 9.3 The warranty granted by the Contractor shall not apply to normal wear and tear, defects caused by carelessness and negligence in using the Work, non-observance of manufacturer's instructions or operating under different conditions or parameters than those agreed.
- 9.4 A defect shall be notified (including a description of symptoms of the defect) to the Contractor in writing, without undue delay. In case of doubt, a complaint notification shall be deemed served at the latest on the third day of its provable posting by the Contractor. The complaint notification shall include description of defect and mention options as described below.
- 9.5 On finding that the Work or its part has defects, the Customer is entitled to request the following:
- removal of the defect by providing a new deliverable, if the defects make the Work useless, and so without undue delay upon the service of notice, but at the latest within 10 days of notifying the Contractor of the defect, unless otherwise agreed by the contracting parties with regard to the nature of defect;
  - removal of the legal defect without undue delay after the notification, but at the latest within 10 days of notifying the Contractor, unless otherwise agreed by the contracting parties with regard to the nature of defect;
  - removal of the defect, provided the defect in question is repairable. The Contractor shall remove the defect without undue delay, but at the latest within 10 days of notifying the Contractor of the defect, unless otherwise agreed by the contracting parties with regard to the nature of defect;
  - withdraw from the contract, if the nature of defect is a significant breach of the contract.
- 9.6 The time periods referred to in the previous article 9.5 start to lapse on the day of service of the notice of defect to the Contractor; notices sent via email or fax shall be regarded as served on the day and time of dispatch of such email or fax message. The Contractor shall start removing the defect of the Work within forty eight (48) hours after the defect is notified, unless otherwise agreed with the Customer.

- 9.7 If the Contractor does not remove defects of the Work within time periods mentioned in article 9.5 above, the Customer is entitled to remove the defect at its discretion either on its own or through third parties at the Contractor's cost, without any prejudice to the Customer's rights arising from the warranty. The Contractor shall refund the Customer's provable expenses incurred to the purpose of correction of the defect, within 21 days of receiving the respective invoice of the Customer.
- 9.8 The Customer shall enable the Contractor to access the Work to verify the notified defect and subsequently remove the defect.
- 9.9 Based on a well-founded notification in accordance with these T&C, the Contractor shall remove the defect or satisfy another claim selected by the Customer in accordance with article 9.5 of these T&C, free of charge, at the Contractor's expense and risk.
- 9.10 The removal of defect or satisfaction of a different claim as selected by the Customer in accordance with article 9.5 of these T&C, shall have no effect on the Customer's claim to contractual penalty and compensation for damage.
- 9.11 For defects claimed during the warranty period, the warranty period will be extended by the lapse of time between the defect notification and the defect removal. The removing claimed defect handover between the Contractor and Customer shall always be made in writing.
- 9.12 Any new delivery within the defect removal, including the liability for defects in connection with such new delivery, shall be subject to the full extent of provisions of the contract/purchase order and these T&C.

## **10. SANCTIONS**

- 10.1 In the case that the Contractor fails to meet any deadline or another duty under the contract /purchase order, the Customer is entitled to claim a contractual penalty amounting to 0.5 % of the Work price or its respective part, for each day of the Contractor being in default. Where the Customer and the Contractor have agreed on partial deliveries of the Work, the time of being in default for each agreed partial delivery starts to lapse separately.
- 10.2 A failure to observe the Code of Conduct, Mandatory Documentation or other internal regulations of the Customer, with which the Contractor, its employees and subcontractors' employees have provably been made familiar, shall be subject to a contractual penalty; for respective amounts of contractual penalties, see the Code of Conduct or Mandatory Documentation. Where no amounts of contractual penalties for infringement of provisions contained in the Code of Conduct are mentioned, the Contractor shall pay for every individual case of infringement of the above mentioned provisions of the Customer a contractual penalty amounting at CZK 2,000.
- 10.3 In the case that the Contractor infringes the obligation to observe good housekeeping at the place of performance (workplace) and does not rectify the situation even upon the Customer's appeal written in the Installation Logbook, within a determined period of time, the Contractor shall pay
- to the Customer a contractual penalty at the amount of CZK 1,000 per each day of being in default per each case of infringement of its obligations.
- 10.4 The contractual penalty in case of the Contractor's default with removing of each individual defect of the Work for each day of being in default amounts to 0.5 % of the price of the Work or its part as defined in the respective contract/purchase order, to which the defect relates to, for each defect separately, up to the maximum amount of 30% of the total price of the Work.
- 10.5 If the total amount of contractual penalties under the contract/purchase order exceeds 30% of the contract price, the Customer shall be entitled to withdraw from the contract/purchase

order. This provision does not affect the Customer's right to compensation for damage by the Contractor or the Contractor's duty to fulfil its obligations arisen from the failure to meet contractual duties.

- 10.6 In the case that a faultless invoice or down payment request is not settled at the due date in accordance with the contract/purchase order, the Contractor shall receive late payment interest amounting to 0.05 % of the amount outstanding for each day of delay.
- 10.7 The payment of contractual penalty does not affect the right of the relevant contracting party to compensation for damages. The Customer is entitled to claim compensation for damages suffered from the Contractor's breach of obligations even in the case that the breach of obligation is subject to the contractual penalty. The compensation for damages covers actual damages and loss of profit. The claim to the contractual penalty is not conditioned by any formal acts on the part of relevant contracting party.
- 10.8 The contracting parties have agreed that in the course of implementation of the Work the amount of contract penalties shall not exceed 30 % of the total Work price.
- 10.9 In case that the contract/purchase order sets out a provision for retention, the contracting parties agree to that in the case the Contractor is declared bankrupt by a court, the Customer is entitled to claim a contractual penalty amounting to the value of agreed retention money/retention of title, which shall be available for the Customer at the moment of declaration of the Contractor bankruptcy. The Customer shall set off the claim to the contractual penalty against the claim to retention money/retention of any title.

## **11. SUSPENSION OF THE CONTRACT EXECUTION, WITHDRAWAL FROM THE CONTRACT**

- 11.1 The Customer is entitled to ask the Contractor any time to suspend all activities related to the execution of the Work. Provided that the Customer has notified the Contractor of the request in writing, then as at the date of service of the notice the Contractor shall comply with the request and secure the item in process of completion against any damage. Also, the Customer shall inform in writing the Contractor as to resume the execution of obligations, and at the same time reimburse all provable costs incurred by the Contractor in connection with such suspension.
- 11.2 A termination of contract shall be communicated by the withdrawing party to the other party in writing and without undue delay upon finding out about the reason for termination.
- 11.3 A withdrawal from a Contract does not affect any claim to contractual penalties, compensation for damages, protection of business secret and confidentiality of information, and possibly to further provisions contained in the contract/purchase order.
- 11.4 In the case of withdrawal, the contracting parties shall settle their provable obligations on a mutual basis.
- 11.5 If the withdrawal from a Contract is due to reasons on the part of the Customer and at the time before the commencement of performance, the Customer shall settle the Contractor's actual costs purposefully and provably spent in connection with the performance under the Contract, but up to the maximum of 50 % of the total amount, unless stipulated otherwise in the respective contract.
- 11.6 The contracting parties expressly exclude the application of § 2591 of the Civil Code, and in the case that the Customer does not cooperate as need be, the Contractor shall provide for alternate fulfilment. The Contractor is entitled to withdraw from the contract in the case that despite of an appeal to the Customer and provision of adequate period of time, the Customer's failure to act makes it absolutely impossible to perform the Work.

## **12. FORCE MAJEURE**

- 12.1 Neither the Customer nor the Contractor shall be considered as in default in fulfilment of their respective obligations arising from the contract/purchase order, if such default in fulfilment results from circumstances beyond their reasonable control (force majeure) and such circumstances disable or substantially affect the fulfilment of obligations under the contract/purchase order, but exclusively for the period of existence of force majeure circumstances or their consequences and only in relation to the obligation or obligations directly affected by obstacles arising from the force majeure.
- 12.2 Force Majeure shall mean any event or circumstance that could not be anticipated by the Customer or the Contractor at the moment of conclusion of the respective contract/purchase order and that objectively obstructs the Customer or the Contractor to fulfil their contractual obligations. Events of force majeure include circumstances that occur after a conclusion of contract/purchase order in consequence of events of extraordinary or unavoidable nature that cannot be anticipated and avoided by contracting parties and that have a direct impact on the fulfilment of a contract/purchase order. Such events may among others in particular include natural disasters, weather abnormalities, wars, general strikes, society-wide and economic changes, possibly measures imposed by competent administrative authorities.
- 12.3 The force majeure events do not include late deliveries of subcontractors, loss of power supply or production interruptions, if they are not attributable to force majeure.
- 12.4 Any delays in fulfilment in consequence of force majeure shall not be deemed a failure to fulfil contractual obligations and shall not give rise to any sanctions under the respective contract. The completion date for fulfilment of contractual obligations shall be postponed for each contracting party, but exclusively in relation to the obligations directly affected by the force majeure obstacle and only for the period of existence of force majeure circumstances or their consequences.
- 12.5 The contracting party seeking the relief from contractual obligations due to the effects of force majeure, shall immediately, but at the latest within five (5) days, inform the other party to the contract about force majeure circumstances in writing. The affected contracting party shall inform in the same way the other contracting party about cessation of the force majeure circumstances. The contracting party seeking the protection in the force majeure clause shall on request produce proofs to the other party or enable the other party to verify existence of such circumstances.
- 12.6 If force majeure circumstances continue to exist for a period exceeding three (3) months, the Customer and the Contractor shall agree on further steps in order to reach a mutually satisfactory solution. If no agreement is reached, either Customer and Contractor are entitled to withdraw from the contract/purchase order.

## **13. DISPUTE RESOLUTION**

- 13.1 The Customer and the Contractor shall exert all their efforts as to resolve and settle all disputes arising out of or in connection with the contract/purchase order in an amicable way.
- 13.2 Disputes that cannot be settled within 30 days after the day of serving the notice to the other contracting party in an amicable manner, shall be finally settled by the the Court of Arbitration of the Chamber of Commerce of the Czech Republic and the Agrarian Chamber of the Czech Republic ("Court of Arbitration") in accordance with its Code of Procedure and Rules by three arbitrators. The contracting parties shall fulfil duties imposed on them by the arbitrators' award.
- 13.3 The arbitration proceedings shall be conducted in the Czech language.
- 13.4 Unless the Customer specifies otherwise, the bringing a dispute in the Court of Arbitration in accordance with this article 13 does not entitle the Contractor to suspend/stop the

performance under given contract/purchase order.

#### **14. FINAL PROVISIONS**

- 14.1 Legal relations between the contracting parties not expressly provided for in the respective contract for work or purchase order and in these T&C shall be governed by the Civil Code, in particular by provisions contained in § 2586 and the following, on the contract for work.
- 14.2 Provisions contained in the T&C are subject to one-sided alterations to a reasonable extent by the Customer. New T&C shall be published on the Customer's website. The Customer shall notify the Contractor thereof in writing at the address of the Contractor's registered office. The Contractor is entitled within 3 days to serve a 2-month notice, which starts to lapse on the first day of the month following the month in which the notice is served to the Customer. If the contract is concluded for a fixed period of time that is shorter than the notice period, the contract shall cease on the last day the fixed period.
- 14.3 The Contractor has been made familiar with the wording of T&C and therefore, by mutual agreement of the contracting parties, an application of § 1753 of the Civil Code is excluded.
- 14.4 In accordance with § 1765 of the Civil Code, the Contractor assumes the risk of circumstance alterations. Prior to concluding the contract, the parties considered in full economic and factual situations and are fully aware of circumstances influencing the contract, as well as circumstances that may occur after conclusion of this contract.
- 14.5 Where the Contractor fulfils its duties arising from the respective contract/purchase order through a subcontractor, the Contractor shall make the subcontractor familiar with the T&C.

**These General Business Terms and Conditions come into effect as at 1/2/2014 and replace the general terms and conditions issued earlier.**