



GENERAL TERMS AND CONDITIONS AND COMPLAINTS HANDLING PROCEDURES

Activair s.r.o., Id. No.: 286 05 837, with its registered office at Hillova 1562/15a, Kateřinky, 747 05 Opava, registered in the Commercial Register kept by the Regional Court in Ostrava, File No. C 34300

1. Introduction

1.1. These General Terms and Conditions and Complaints Handling Procedures (hereinafter the "T&C") stipulate the mutual rights and obligations of the contractual parties in relation to, or following from, contracts for work, purchase contracts, service contracts and other similar types of contracts, as well as framework contracts and purchase orders related thereto concluded between the Supplier and its business partner, as the client or buyer, who is a natural or legal person operating a business (hereinafter the "Client").

1.2. The T&C form an integral part of each of the Supplier's offers and each contract entered into by and between the Supplier and the Client. The T&C shall also apply if a reference is made hereto in the confirmation of the Client's order by the Supplier.

1.3. These T&C constitute the exclusive terms and conditions applicable between the Client and the Supplier and exclude the application of any Client's terms and conditions unless the Supplier has given its prior written consent to the application of the Client's terms and conditions.

1.4. In the interest of improving the quality of the services provided, in connection with the development of the legal environment, advancement of technologies and also in view of the Supplier's business policy, the Supplier may unilaterally amend these T&C to a reasonable extent, especially in relation to the form of communication between the Parties, the manner

of invoicing, the scope of the products and services offered, complaints and manners of termination of the contractual relationship (the "Amendment"). In that case, the Supplier may propose the Amendment to the Client in writing **not later than two (2) months before the effective date** of the proposed Amendment. If the Client disagrees with the Amendment, the Client may terminate the contract in writing with effect as of the date preceding the proposed effective date of the Amendment. The written notice of termination must be delivered to the Supplier **not later than one (1) month** before the proposed effective date of the Amendment. If a notice of termination is not delivered to the Supplier within the above-specified deadline, the Amendment shall enter into effect as of the proposed date of effect and become binding on both Parties.

2. Conclusion of Contracts

2.1. A contract is concluded between the Parties (i) upon execution thereof by both Parties, or (ii) upon confirmation of the Client's order by the Supplier.

2.2. The Client may make a non-binding query concerning the Supplier's services, on the basis of which the Supplier may prepare a quotation and offer and send it to the Client. Such an offer serves exclusively as a basis for any purchase order placed by the Client and its confirmation does not give rise to any contract between the Client and the Supplier.

2.3. The Client shall order the Supplier's supplies or services by means of purchase

- orders (hereinafter the “**Purchase Order**”) containing the following requisites:
 (i) specification of the product or work;
 (ii) number of items; (iii) identification of the person who issued the Purchase Order including his/her name, surname and title; and (iv) date of the Purchase Order.
- 2.4. The Supplier shall respond to the Purchase Order not later than within **ten (10) business days** unless agreed otherwise. The confirmation of the Client’s Purchase Order by the Supplier shall include a brief summary of the contractual terms and conditions. If the Supplier fails to respond within the said deadline, it shall be deemed that the Supplier has rejected the Purchase Order.
- 2.5. A contract shall be only formed upon explicit confirmation of the Purchase Order by the Supplier.
- 2.6. If a Purchase Order contains different terms and conditions than the offer and/or the T&C, the Supplier may make modifications to the Purchase Order in the confirmation of the Purchase Order, thus confirming the Purchase Order with modifications. Confirmation of a Purchase Order with modifications is permitted unless the Client rejects such modification to the Purchase Order not later than within **three (3) business days** of delivery of the confirmation of the Purchase Order with modifications.
- 2.7. Within communication between the Client and the Supplier, e-mail shall also be deemed to be a written means of communication.
- 3. Subject of Performance**
- 3.1. The subject of performance consists in delivery of a product, performance of work or provision of a service (hereinafter collectively referred to as the “**Products**”) as agreed in a contract or specified in a Purchase Order confirmed by the Supplier.
- 3.2. If the quality, properties or design of the Products is not expressly agreed, Products suitable for the purpose expressly specified in the contract, Purchase Order or offer shall be supplied; otherwise, Products suitable for the usual purpose, according to the Supplier’s knowledge, shall be supplied.
- 3.3. The Client agrees to provide the Supplier without undue delay with all co-operation necessary for proper performance of the Supplier’s obligations.
- 3.4. The Client agrees to comply with the conditions of proper storage, professional assembly, handling, maintenance and operation according to the Supplier’s recommendations and instructions.
- 4. Delivery of Goods**
- 4.1. The Supplier shall supply the Products to the Client at the place of performance and at the agreed time of delivery. The Client agrees to take over the delivered Products. If the place of performance is not expressly agreed, it shall hold that performance has been agreed at the place of the Supplier’s registered office. If the time of delivery is not expressly agreed, it shall hold that the Products shall be delivered whenever possible for the Supplier.
- 4.2. The deadline for delivery shall be extended at least by the period of the delay:
- 4.2.1. if the Supplier does not receive the information necessary for the performance of the contract in due time or if the Client requests additional modifications to the original Purchase Order; or
- 4.2.2. in case of any obstacles that the Supplier is unable to overcome despite due efforts, regardless of whether the obstacles are on the part of the Supplier, the Client or some other supplier. This includes, for example, epidemics and the associated measures, mobilisation, war, unrest,

- operational accidents, accidents, strikes, delayed or defective subcontracts, inactivity of authorities, natural disasters or other limitations of the Supplier that affect the timely performance of the Supplier's obligation and the Supplier has not caused them by its own conduct; or
- 4.2.3. if the Client or a third party fails to perform its tasks or fulfil its contractual obligations, especially in connection with the payment terms.
- 4.3. Unless expressly agreed in the contract or the Purchase Order, it shall be deemed that the supply of the Products is not a fixed obligation pursuant to Section 1980 of Act No. 89/2012 Coll., the Civil Code (hereinafter the "Civil Code").
- 4.4. The Client agrees to properly take over the Products at the place of performance and inspect their quality and quantity as follows:
- 4.4.1. at the time of delivery of the Products, the Client is obliged to perform a basic inspection of the supplied Products (including, but not limited to, intactness of the packaging, etc.) and of the required and supplied quantity. The Client is obliged to point out any defects thus ascertained at the time of takeover and mark them in the carrier's bill of delivery. Subsequently, not later than **within four (4) hours** of the delivery, the Client is obliged to perform a basic visual inspection of the supplied Products (including, but not limited to, varnish defects, dents, visible damage, etc.). If the Client does not claim such defects of the Products in the manner described above, it shall be deemed that the delivered Products are free of any obvious defects of this nature and the Customer shall not be entitled to claim any obvious defects of the Products at a later date;
- 4.4.2. not later than **within three (3) business days** of the delivery of the Products, the Client is obliged to perform a more detailed inspection of the quality of the Products within the scope of usual technical inspections of the required properties of the Products. The Client is obliged to point out any defects thus ascertained by means of a written notice to the Supplier within the said deadline. If the Client fails to claim such defects of the Products by the above-specified deadline by means of a written notice to the Supplier, the delivered Products shall be deemed free of any obvious defects and the Customer shall not be entitled to claim any obvious defects of the Products at a later date.
- 4.5. If any defects are ascertained, the Client is obliged to demonstrably document the defects and inform the Supplier thereof in writing, while also submitting to the Supplier the relevant photographic documentation of the defects. If the supplied Products are damaged within transport, the Client is obliged to carefully document this fact directly with the carrier at the time of takeover of the consignment and draw up a record describing the scope of the damage.
- 4.6. Minor defects and snags that in themselves do not prevent the use of the Products shall not constitute grounds for the Client's refusal to accept the Products.
- 4.7. The risk of damage to the relevant items passes to the Client when the Supplier hands over the Products to the carrier or some other person designated by the Client. If the handover to the carrier is postponed at the Client's instruction or for other reasons without the Supplier's fault, the risk of damage to the Products shall pass to the Client upon removal of the goods from storage and preparing

- them for collection. As from the time of removal from storage, the Supplier shall keep Products at the Client's costs and risks.
- 4.8. Unless agreed otherwise, the ownership title to the Products shall pass to the Client on the date of full payment of the price of the Products including value added tax.
5. **Price and Payment Terms**
- 5.1. *Notwithstanding Clause. 5.4 of the T&C* (inflation clause), price of the Products is a fixed price and is specified **excluding value added tax**, which shall be added to the price at the rate stipulated by the applicable legal regulations. Unless agreed otherwise, the purchase price does not include transport costs and other fees, such as taxes, customs duties, insurance, etc.
- 5.2. The Client is obliged to pay to the Supplier the agreed Price of the Products, including any costs of transportation, insurance and assembly, unless it is expressly agreed that these are included in the price, on the basis of an invoice complying with the requisites of a tax receipt pursuant to Act No. 235/2004 Coll., on value added tax, as amended.
- 5.3. The Supplier may request that the Client provide an advance on the Price of the Products before commencing production, performance of the work or provision of the service. In the event of the Client's delay in providing the advance payment, the period of performance by the Supplier shall be extended by the period of the Client's delay. The Supplier may also withdraw from the contract if the advance payment has not been provided.
- 5.4. The price of the Products may be unilaterally adjusted by the Supplier after twelve months from the conclusion of the Contract by the inflation rate officially announced by the Czech Statistical Office (Český statistický úřad) according to the development of the aggregate consumer price index for goods and services announced for the last twelve months. The
- prices of the Products adjusted by the Supplier pursuant to this Clause shall be valid from the day following the day on which the adjustment is notified to the Client.
- 5.5. Unless agreed otherwise, invoices shall be payable within **fourteen (14) days** of the date of issue; as a rule, invoices shall be issued not later than **within fifteen (15) days** of delivery of the Products. In case of partial deliveries, the Supplier may issue invoices for the prices of the individual performances.
- 5.6. The Price shall be paid by wire transfer into the Supplier's account specified in the invoice. If a variable or specific symbol is specified in an invoice, the Client agrees to use these details when making the payment. The date of crediting the Supplier's account with the outstanding amount shall be the date of payment of the pecuniary performance.
- 5.7. In the event of delay in payment of any invoiced amount, the Supplier may claim from the Client default interest in the amount of 0.05 % of the outstanding amount for each, even incomplete, day of delay until payment.
- 5.8. In the event of the Client's delay in payment of any invoiced amount, the Supplier may suspend the performance of any other Purchase Order of the Client until all the Client's debts towards the Supplier are settled; in that case, the Supplier is not in delay with the performance.
6. **Defects of Goods, Quality Warranty and Complaints**
- 6.1. If the Products are ridden with defects at the time of their delivery, the Client is obliged to proceed in the sense of *Article 4 of the T&C*. If the Client fails to do so, it shall be deemed that the Products have been delivered free of any defects.

- 6.2. Unless indicated otherwise, the Supplier provides a warranty for the quality of the Products of 12 months of delivery of the Products. The warranty only applies to defects of new Products where the conditions of proper storage, handling, maintenance and operation have been observed in accordance with the Supplier's instructions. The warranty does not apply to parts subject to fast wear and tear and consumable parts.
- 6.3. For used or refurbished Products, the Supplier provides a warranty for the quality of **6 months of delivery** of the Products, unless indicated otherwise.
- 6.4. The Supplier is not liable for defects and non-functionality of the Products and for any damage incurred as a result of using the underlying documents and materials supplied by the Client. In the Supplier manufactures the Products based on documentation or materials supplied by the Client, the Supplier is not obliged to check the correctness, suitability and completeness of the documents or materials supplied by the Client and assumes no responsibility for such documents (and use of such materials) and for compliance with the legislative conditions for distribution and use of such Products. The Client's documentation redrawn by the Supplier for the purposes of manufacture is also considered the Client's documentation unless the basic design of the Product has been changed.
- 6.5. Defects of the Products must be claimed within the warranty period without delay after they have been ascertained, but not later than **within seven (7) days** of the date when the defects have been ascertained. A defect must be claimed with the Supplier in writing and the notice of the complaint must include precise specification of the defective Product (including identification details, e.g. drawing No.), quantity, ascertained defect, date, manner of ascertaining the defect and manifestations thereof. If the Client fails to notify a defect properly and in due time, the Client loses its rights arising from defective performance *vis-à-vis* the Supplier.
- 6.6. If the Client ascertains a defect, the Client is obliged to immediately take measures to minimise further damage to the Product and the occurrence of any other related damage.
- 6.7. If the Client claims a defect properly, the Supplier agrees to provide for inspection of the reported defect of the Product. Unless agreed otherwise, the relevant Product shall be transported to the Supplier's establishment, where it shall be subjected to the relevant tests with a view to ascertaining whether it is indeed defective. The manner of transport to the Supplier's plant shall be agreed by the Parties. If the complaint is justified, the transport costs shall be borne by the Supplier. The Client is obliged to provide the Supplier with all necessary co-operation to verify the defects and to properly remedy any correctly reported defects.
- 6.8. If a defect is acknowledged, it shall be remedied by the Supplier free of charge either by way of a repair or by delivery of a new Product or part thereof, according the Supplier's choice. If the Supplier fails to remedy the defect **within 30 days** of the written statement on the complaint, the Client may request a reasonable discount on the Price of the Products in the amount agreed by both Parties; the Client shall not be entitled to the discount if the delay in remedying the defect occurred as a result of the Client's delay in providing co-operation to the Supplier.
- 6.9. Checks of functionality and defects of the Products, as well as replacements of small components and worn parts, may only be performed by a qualified employee of the Supplier or an employee of the Client who has been appropriately trained to this end by the Supplier. The warranty for the quality of the Product automatically expires if the Product is tampered with

- within the warranty period at variance with this provision of the T&C.
- 6.10. If it is stated in the Supplier's manual or instructions for the use of a Product that the Product requires regular professional maintenance and servicing, the maintenance must be performed; otherwise the quality warranty expires.
- 7. Limitation of Consequences of Breach**
- 7.1. The Client acknowledges and agrees that the aggregate predictable damage that may be incurred by the Client in the event of breach of the Supplier's contractual or statutory obligations may not exceed **thirty (30) per cent** of the value of the performance excl. VAT.
- 7.2. In view of this fact, the Client and the Supplier agree that if the Client raises a claim for compensation for damage against the Supplier, the obligation to compensate the damage caused by the Supplier is limited to thirty (30) per cent of the value of the performance excl. VAT. The limit for compensation for damage is agreed for the sum of all claims raised by the Client, both in terms of separate and partial claims for compensation for damage.
- 7.3. The limit for compensation for damage stipulated in *Clause 7.2 of the T&C* also applies to indirect damage and consequential damage (including, but not limited to, loss of production, loss caused by delays, lost profits or loss of interest on profits, acquisition of new financing or maintenance of the existing financing, costs of disassembly and assembly of any equipment, payment of any amounts to third parties or authorities, including compensation for damage and penalties including contractual penalties, etc.) and to special damage (especially environmental damage, etc.) that the Client could incur as a result of breach of the Supplier's obligations.
- 7.4. The limit for compensation shall not apply in cases where the damage has demonstrably been caused by the Supplier's intentional conduct.
- 8. Termination of the Contract**
- 8.1. The contract may only be terminated:
- 8.1.1. based on written agreement of the Parties;
- 8.1.2. by written notice of termination for reasons stipulated in the contract or the T&C;
- 8.1.3. by withdrawal from the contract for reasons stipulated in the contract or the T&C.
If any of the Parties has reasons for withdrawal, it shall first deliver to the other Party a written notice containing a request for remedy within a reasonable grace period not shorter than ten (10) business days. If the deadline expires to no effect, the relevant Party may withdraw from the contract in writing.
- 8.2. Reasons for the Supplier's withdrawal consist in (i) the Client's delay in the provision of co-operation necessary for the proper performance by the Supplier; (ii) breach of the Client's obligation to secure the necessary rights to use the underlying documents provided by the Client pursuant to *Article 6 of the T&C*; or (iii) the Client's delay in payment of any amount owed to the Supplier.
- 8.3. Reasons for the Client's withdrawal consist in (i) the Supplier's delay in supplying the Products for a period exceeding **thirty (30) days**; or (ii) failure to remedy correctly reported and acknowledged defects of the Product.
- 9. Intellectual Property Rights**
- 9.1. If the Products or parts thereof are manufactured on the basis of underlying documents supplied by the Client, the Client shall secure the relevant rights to use these underlying documents to the necessary extent and shall be liable for any and all damage (including lost profits,

compensation for the costs of the proceedings, attorney's fees, court and other fees) incurred by the Supplier in connection with the use of such underlying documents, and agrees to reimburse them to the Supplier to the full extent.

The Supplier shall not be liable for any infringement of any industrial or other intellectual property right resulting from manufacture and/or use of the Products according to the underlying documents supplied by the Client under any laws where such infringement could occur.

9.2. Drawings, models, technical documents and all other technical information and underlying documents submitted between the Supplier and the Client for the purposes of manufacture and delivery of the Products may not be used for any other purpose without prior express consent of the Party that obtained and handed over the underlying documents to the other Party. In particular, these underlying documents may not be copied, reproduced or disclosed to any third parties without prior written consent of the Party which provided the underlying documents.

9.3. With the exception of the necessary minimum of the rights of use required for standard use of the Products in terms of their usual purpose, the Supplier shall not transfer to the Client or grant to the Client any rights to the Supplier's intellectual property. All patents, utility designs, industrial designs, trade marks, unregistered signs of goods or services, business secrets, know-how and copyrights related to the Products owned by the Supplier shall remain exclusively with the Supplier.

9.4. Some Products include firmware or other pre-installed software of the Supplier or a third party (hereinafter the "Software"). The Software usually consists of computer programmes and databases within the meaning of Act No. 121/2000 Coll., the Copyright Act, as amended. The terms of use and any updates of the Software shall be governed by the licence terms and

conditions and manuals that are (a) attached to the Product or (b) annexed to the contract. By disturbing the packaging of the Product or accepting the contract to which the terms and conditions of use and updates of the Software are annexed, the Client agrees to comply with the terms and conditions and any recommendations contained therein. If the Client uses the Software at variance with the terms and conditions of its use and if the Supplier incurs any costs or damage thereby, the Client shall compensate the Supplier for all purposefully expended costs and damage.

10. Confidential Information

10.1. The Parties agree to maintain confidentiality of all information concerning the Parties that they have obtained directly or indirectly from the other Party in connection with the execution of the contract and performance of the obligations under the contract, and not to disclose it to third parties, except for disclosure thereof to be used to the extent necessary to ensure proper performance of the contract.

10.2. Based on agreement of the Parties, the following shall be deemed confidential information pursuant to Article 10 of the T&C (hereinafter "**Confidential Information**"): (i) business secrets in the sense of Section 504 of Act No. 89/2012 Coll., the Civil Code, as amended, and (ii) confidential information, i.e. other non-public information concerning the businesses of the Parties, regardless of whether or not it is designated as confidential, with which the Parties have become acquainted or will become acquainted in connection with the conclusion of the contract and performance of the obligations under the contract. Such Confidential Information includes, *inter alia*:

10.2.1. information contained in the contractual documents, in the Purchase Order or its confirmation;

- 10.2.2. information on the Supplier's financial and economic standing;
- 10.2.3. information on employees, customers and business partners and personal data processed by the Supplier;
- 10.2.4. other confidential information with which the Client has become acquainted or which it has obtained before execution of the contract if such information is otherwise considered Confidential Information pursuant to this Article; and
- 10.2.5. any other information that a reasonable person would consider confidential in view of its contents or the manner in which it was disclosed.
- 10.3. Confidential Information under this Article shall not include information where:
- 10.3.1. the information is or becomes generally known or publicly accessible for reasons other than breach of the confidentiality obligation;
- 10.3.2. the disclosure of the information has been agreed by the Parties (e.g. testimonials provided by the Parties to one another);
- 10.3.3. there exists a statutory duty to disclose such information to a court or some other public authority;
- 10.3.4. the confidential information is disclosed to a person who is him/her/itself bound by a statutory confidentiality duty, particularly an attorney-at-law or some other professional advisor; or
- 10.3.5. the information is disclosed for the purpose of performance of the obligations following from the contract.
- 10.4. The confidentiality obligation includes, without limitation, the obligation (i) not to disclose the Confidential Information to third parties unless the Parties so agree and unless such third persons also agree to protect the Confidential Information, (ii) secure the Confidential Information so as to ensure its protection against unauthorised or illegitimate use or transfer by a third party, including provision of appropriate technical and organisational means to protect the Confidential Information, and (iii) to use the Confidential Information exclusively for the performance of the contract concluded by and between the Parties.
- 10.5. The Parties agree that the confidentiality obligation shall survive the termination of their mutual co-operation (termination of the contract), (i) for Confidential Information constituting business secrets for the period during which such proprietary information maintains the nature of business secrets under the legal regulations; and (ii) for other Confidential Information for a period of five (5) years from the date of termination of the contract.
- 10.6. If the Parties enter into some other independent agreement on non-disclosure or protection of confidential information, such an agreement shall prevail over this Article on confidentiality.
- 11. Final Provisions**
- 11.1. The business relationship of the Parties shall be governed by the applicable laws of the Czech Republic.
- 11.2. Any and all disputes arising out of and in connection with the contract that are not resolved by negotiation between the Parties shall be resolved by the Supplier's common court.
- 11.3. Unless expressly stipulated otherwise, any amendments to the contract must be made in the form of a written amendment executed by both Parties. This shall not apply in the event of a change in

the contact persons where only prior written notification is required and in the event of an Amendment to the T&C, as stipulated *in Clause 1.4* above.

11.4. These T&C enter into effect on 1 July 2023.