

General Terms and Conditions of Delivery for Technical Products with Additional Conditions for Processing Contracts ("Third-Party Contract Manufacturing") and for Contracts with Purchase Obligations (Fixed-Quantity Contracts)

(Version 2024)

1. General

- 1.1 These General Terms and Conditions of Delivery (the "Conditions") are binding provided that they are declared applicable in the offer or in the order confirmation or if agreed by the parties (the "Parties") in writing or otherwise. Deviating conditions of the customer ("Customer") are applicable only if and to the extent expressly accepted by Novogear spol. s r.o. (the "Supplier") in writing. The term "Customer" refers to the buyer in the case of the purchase of goods and the client in the case of processing contracts.
- 1.2 To be valid, all agreements and legally relevant declarations made within the framework of the contract by the Parties must be made in writing. Unless agreed otherwise, texts that are transmitted or recorded electronically have the same status as the written form.

2. Offers and conclusion of contract

- 2.1 The contract is deemed concluded when the Supplier confirms in writing an order received (order confirmation). Inactivity does not mean acceptance of the order.
- 2.2 If no acceptance period is mentioned, offers are non-binding.

3. Scope of deliveries and services; technical documents

- 3.1 The scope and provision of the deliveries and services are determined exclusively by the order confirmation, including the documents mentioned therein. Additional deliveries and services will be invoiced separately. Technical improvements or developments may be implemented by the Supplier any time, provided that they do not result in higher prices.
- 3.2 If drawings or other technical documents are provided, the receiving Party acknowledges the other Party's title and other rights pertaining thereto. All technical drawings and documents must be treated as confidential and must not be made available to any third party without the other Party's prior written consent. They may only be used for the purpose for which they were handed over and only to the extent necessary to fulfil the contract. Upon termination of the contract, they must be returned to the other Party.

4. Regulations in the country of destination

Where regulations and standards of the country of destination affect the deliveries and services and safe operation, the Customer must draw the Supplier's attention to them no later than at the time when it places its order. Otherwise, deliveries and services must comply with the regulations in force at the Supplier's seat, and adaptations to regulations and standards of the country of destination must be borne by the Customer.

5. Prices

- 5.1 Unless otherwise agreed, prices are net, ex works, without packaging in the currency as per the order confirmation. Any extra costs in connection with the performance of the contract, for e.g. insurance, transport, official permits, taxes, customs duties or other fees must be borne by the Customer.
- 5.2 If the costs on which the calculation is based increase between the contract date and its due fulfilment, the Supplier may adjust the prices stated in the order confirmation accordingly. Furthermore, the Supplier may increase the agreed price if payment of the purchase price has been agreed in a currency other than Czech Crown (CZK) and the exchange rate on the contractual delivery date deviates by more than 5 % from the exchange rate on the submission date of the offer.

6. Terms of payment

- 6.1 The payment period is thirty (30) days as of the respective invoice date. Unless otherwise agreed, one third of the price becomes due upon conclusion of the contract, one third upon notification of readiness for dispatch, and the final payment upon completion of the delivery and/or service.
- 6.2 Payments are deemed to have been effected when they are credited to the supplier's account with the financial institution in the agreed currency.

6.3 In the event of default in payment, the Supplier reserves the right to immediately suspend pending deliveries and services, irrespective of the type of contract concluded between the parties, and may claim interest on arrears of ten (10) per cent p.a. The Supplier reserves the right to claim further damages.

7. Reservation of title

The Supplier remains the owner of all its deliveries until payment of the price has been made in full. The Customer is obliged to take the measures necessary to protect the Supplier's property at its own expense (e.g. maintenance, insurance). Furthermore, the Customer is obliged to cooperate in all measures and formalities necessary to create and maintain a legally valid reservation of title and to bear the costs in this respect. The Customer also undertakes not to dispose of the goods that have not yet been paid for, and at the request of the Supplier he must immediately return the goods to the Supplier and allow him to take them over on his premises.

8. Delivery period

8.1 The delivery period starts only if and when, cumulatively, (i) the contract is concluded, (ii) the Supplier has received the payments to be made at that time, (iii) the official formalities are fulfilled, and (iv) essential technical aspects clarified. The delivery period is complied with if the Supplier notifies readiness for dispatch before the period expires.

8.2 If delivery is delayed by an event the Supplier cannot prevent despite having exercised due care, or if delivery is delayed by an act or omission of the Customer or by non-performance or late performance of its contractual duties, or in the event of force majeure such as natural event, pandemic, epidemic, war, mobilisation, political unrest, embargo, strike, accident or any other event the Parties cannot prevent despite exercising due care, the delivery period must be extended accordingly.

8.3 The delivery period is extended appropriately if the Supplier has to suspend or reduce its production processes due to insufficient or reduced availability of energy sources (e.g. gas, electricity) or if delayed or defective sub-delivery of necessary raw materials, semi-finished or finished products prevents timely delivery. The Supplier shall inform the Customer without undue delay and in writing of any such circumstances. Any claim of the Customer against the Supplier based on compensation for delay or on compensation for direct and/or indirect damage as a result of such a delay is excluded.

9. Default in delivery

9.1 For delayed deliveries, the Customer may claim compensation for delay of 0.5 (zero point five) per cent for each full week of delay up to a maximum of 5 (five) per cent of the contract price for the delayed part of the delivery, provided that it has, therefore, incurred a loss, that the delay is proven to be the fault of the Supplier, and that the Supplier cannot help the Customer out with a replacement delivery.

9.2 If the maximum compensation for delay is reached, the Customer must grant the Supplier a reasonable grace period in writing. If this grace period expires unused for reasons for which the Supplier is responsible, the Customer may reject the delayed delivery. If partial acceptance is economically unreasonable for the Customer, it may withdraw from the contract and claim back payments already made against the return of the partial deliveries made.

9.3 The only rights and claims to which the Customer is entitled in the event of late deliveries or services are those set out in this Article 9. Further or other rights or claims are excluded.

10. Packaging, transport and insurance

10.1 Packaging is incumbent on the Supplier at the Customer's expense and will not be taken back unless otherwise agreed.

10.2 Transport is for the account and at the risk of the Customer. For complaints, the Customer must contact the last carrier immediately upon receipt of the delivery or shipping documents. The carrier must confirm to the Supplier that the goods have been dispatched to the Customer.

10.3 Insurance for deliveries and services against any kind of damage is incumbent on the Customer and for its own account, even if policies have to be taken out by the Supplier.

11. Risk of damage

11.1 Risk of damage passes to the Customer upon departure of the delivery ex works or in accordance with the agreed Incoterm clause (in the most recent version at the time of conclusion of the contract).

11.2 If dispatch is delayed for reasons for which the Supplier is not responsible, the risk of damage passes to the Customer – irrespective any agreed Incoterms clause – at the time of the initially planned delivery ex works, with the delivery being stored and insured from that time at the Customer's risk and expense.

12. Inspection and acceptance of the delivery

12.1 The Supplier must, to the extent customary, inspect the deliveries and services prior to dispatch. The Customer must inspect the deliveries and services as soon as possible after transfer of the risk of damage and notify the Supplier of any defects in writing without undue delay. If the Customer fails to give such notice, his rights arising from the liability for defects lapse.

12.2 The Supplier is obliged to remedy any defects notified as soon as possible and the Customer is obliged to give it the opportunity to do so.

12.3 Further or other acceptance tests must be agreed separately in writing.

12.4 The Customer has no further claims or rights in respect of defects of any kind in the deliveries or services other than those expressly set out in this Article 12 and in Article 15 below.

13. Export control

The Customer acknowledges that the deliveries and services may be subject to Czech and/or international export control regulations and, therefore require an authorisation to be exported, imported, sold, leased or otherwise transferred or used for a purpose other than the intended purpose. The Customer undertakes to comply with such regulations.

14. Data protection

The Customer consents to the processing of personal data of the Customer by the Supplier for the purpose of fulfilling the contract.

15. Liability for defects; warranty period

15.1 The warranty period is twelve (12) months and begins upon delivery in accordance with the delivery conditions. If dispatch is delayed for reasons for which the Supplier is not responsible, the warranty period expires no later than eighteen (18) months following the Supplier's notification of readiness for dispatch.

For parts or workpieces that are replaced or repaired during the warranty period, the warranty period starts anew.

15.2 The warranty period expires if the Customer or a third party carries out improper repair work or modifications without the prior consent of the Supplier. The warranty period will also expire if the Customer fails to take the necessary measures to mitigate damage that has occurred or if it fails to immediately give the Supplier the opportunity to remedy the defect.

15.3 The Supplier is obliged to replace or repair, at its option, as soon as possible any parts of its delivery that become defective during the warranty period as a result of bad material supplied, defective design or manufacture. The Supplier may take back replaced parts and they will become its property.

15.4 Warranted characteristics are no other than the features expressly described as such in the contract or pertaining requirement or functional specifications. This commitment expires no later than the warranty period. If warranted characteristics are not fulfilled, and provided that the defects can be remedied, the Customer may demand rectification, to supplement what is missing or a reasonable price reduction. If rectification fails, the Customer is entitled to a reasonable reduction in price. In the event of serious defects that cannot be remedied within a reasonable period of time and substantially reduce the usability of the delivery or service, the Customer may refuse to accept the defective part. If partial acceptance is economically unreasonable for the Customer, the Customer may withdraw from the contract and reclaim any payment made for the deliveries affected by the termination against their return.

15.5 Warranty and liability on the part of the Supplier are excluded for defects and damage attributable to natural wear and tear, inadequate maintenance, disregard of operating instructions, excessive stress, unsuitable operating materials, chemical or other environmental influences, work not carried out by the Supplier, or other reasons for which the Supplier is not responsible.

15.6 The Customer has no further claims and rights under warranty, liability for defects or lack of warranted characteristics other than those expressly set out in this Article 15.

16. Additional provisions for processing contracts

16.1 The provisions of this Article 16 govern processing contracts; they supplement the other provisions of these Conditions and take precedence over them insofar as they provide otherwise.

16.2 Processing contracts refer to processing carried out by the Supplier in accordance with the Customer's instructions and technical documents (such as drawings, technical specifications, calculations, material and work descriptions, etc.) on workpieces delivered and handed over to the Supplier by the Customer for the purpose of processing.

16.3 Tools such as workpiece-specific special tools, moulds, jigs, gauges, cutting tools, measuring devices, etc. or other items of equipment which the Customer gives to the Supplier to perform the contract remain the property of the Customer and may be used by the Supplier exclusively for the performance of the contract. The Supplier is obliged to store, use and maintain them properly. The Customer must reimburse the Supplier any costs incurred to replace or repair them to the extent that this is due to normal wear and tear or other reasons for which the Supplier is not responsible. They must be returned to the Customer upon first demand upon termination of the contract.

Unless otherwise agreed, tools, moulds, devices or other equipment made or provided by the Supplier to perform the contract remain the property of the Supplier.

16.4 The Customer has to deliver the workpieces to be processed to the Supplier in good time and they remain the property of the Customer; the latter also bears the risk of loss or damage, provided that this has occurred through no fault of the Supplier.

As soon as reasonably practicable, the Supplier has to carry out a visual inspection and inform the Customer of any obvious defect, damage or short delivery. The Customer must then ensure that a replacement is provided in good time.

16.5 The Supplier must carry out the processing in a professional manner and in accordance with the Customer's instructions and technical documents. The Customer must inform the Supplier in good time if processed workpieces are caught by international export control regulations. If, in the course of processing, the Supplier realises that there are shortages or defects attributable to errors or defects in the technical documents or tools or workpieces prepared and/or supplied by the Customer, the Supplier has to notify the Customer without delay. The Customer must rectify such shortfalls, defects, errors or omissions within a reasonable period of time and bear any additional costs incurred by the Supplier as a result.

16.6 During the warranty period, the Supplier must, at its option, either correct incorrectly processed workpieces, rework them or process new workpieces supplied by the Customer, and must bear the pertaining costs incurred. In the absence of any other agreement, the warranty obligation and liability of the Supplier is limited to five times the quoted or invoiced processing price for the incorrectly processed workpieces concerned.

The Supplier accepts no liability for the quality, suitability and absence of defects of/for the workpieces received from the Customer for processing, nor is it liable for the correctness or suitability of the technical documents and tools provided or for the suitability of the workpieces handed over for processing for the subsequent use as intended by the Customer. Likewise, the Supplier accepts no liability for claims based on infringements of patents or other industrial property rights, and the Customer must indemnify the Supplier if such claims result from processing with technical documents, tools or workpieces provided by the Customer.

17. Additional provisions for contracts with customer purchase obligations (fixed-quantity contracts)

17.1 The provisions of this Article 17 govern contracts imposing a purchase obligation on the Customer (fixed-quantity contracts); they supplement the other provisions of these Conditions and take precedence over them insofar as they provide otherwise.

17.2 Under a fixed-quantity contract, the Customer promises to the Supplier to purchase an agreed quantity of deliveries and services. A fixed-quantity contract requires an express agreement between the Parties.

17.3 Unless otherwise agreed, the agreed quantity of deliveries and services must be called or delivered within a period of one year from sending the order confirmation.

17.4 The Supplier independently decides the time of production. It is entitled to produce in stock.

17.5 Once a fixed-quantity contract is concluded, the Customer may still demand changes to deliveries and services provided that the Supplier has not started production. The Customer must pay the additional costs incurred as a result of such a change. The Customer is also obliged to pay the additional costs if, as a result of any such change, processing of deliveries and services already produced needs to be repeated.

18. Termination of Contract by the Supplier

18.1 The Supplier has the right to demand negotiation on a contract adaptation, if unforeseen events considerably change the circumstances of the deliveries or services so that these changes result in a significant disproportion by increasing Supplier's cost, or if performance subsequently becomes impossible. If such adaptation is economically not justifiable, the Supplier may terminate the Contract, or the parts affected thereby.

18.2 If the Supplier wishes to terminate the contract it shall – after having recognised the consequences of the event – immediately inform the Customer; this applies even if an extension of the delivery time has been agreed previously. In the event of a termination of the contract, the Supplier is entitled to payment for those parts of the deliveries and services that have already been carried out. Claims for damages on the part of the Customer based on any such termination are excluded.

19. General limitation of liability and exclusion of further liability of the Supplier

19.1 For all cases of non-performance or poor performance not explicitly mentioned in these Conditions that are attributable to a fault of the Supplier, the Customer may grant the Supplier a reasonable grace period in which to perform the contract. If this period expires unused due to the fault of the Supplier, the Customer may withdraw from the contract with respect to the affected deliveries and services. If partial acceptance is economically unreasonable for the Customer, it may withdraw from the contract and claim back payments already made against the return of the partial deliveries made. In the case of processing contracts, the Supplier must return partial payments received, workpieces, technical documents and tools received from the Customer. If the Customer can prove that it has suffered damage, its claim for damages is capped at ten (10) per cent of the price for the deliveries and services affected by the withdrawal from the contract or at ten (10) per cent of the quoted or invoiced processing price for the workpieces affected by the withdrawal from the contract.

19.2 In the absence of any agreement to the contrary, each and any case of non-compliance and the resulting legal consequences and each and any claim and right of the Customer, irrespective of their legal basis, are finally and conclusively provided for in these Conditions. Hence, claims for damages not explicitly mentioned in these General Terms, a price reduction or a cancellation/rescission of the contract are excluded. Under no circumstances will the Customer be entitled to compensation for consequential damage such as financial loss, loss of production, restricted use, loss of third-party orders, third-party claims for contract penalty, loss of profit, or other indirect or consequential damage.

20. Jurisdiction and applicable law

20.1 The exclusive place of jurisdiction is Frýdek-Místek, Czech Republic.

20.2 The contractual relationship is governed by Czech substantive law.

The application of the United Nations Convention on Contracts for the International Sale of Goods of 1 April 1980 (so-called "Vienna Convention") is excluded.