

GENERAL TERMS AND CONDITIONS OF SALE OF TOOL TRADE s.r.o.

issued pursuant to sec. 1751 et seq. of the Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the "Civil Code") providing for entering into purchase contracts by TOOL TRADE s.r.o. (hereinafter also "TTRADE" or the "Seller") as the seller

I/ Introductory Provisions

1. These Terms and Conditions of Sale (hereinafter also "the TCS") form an integral part of purchase contracts entered into by and between TOOL TRADE s.r.o., having its registered office at Voroněžská 172/24, 101 00 Praha 10, company identification number: 04118901, (hereinafter "the Seller") on the one side, and individual buyers (hereinafter "the Buyer") on the other side, the subject matter of which is delivery of any products, including other corresponding performance (hereinafter "the Goods" or "the Product") specified in the individual purchase contracts by the Seller. Hereinafter, the Seller and the Buyer are designated as "Parties".
2. These TCS regulate the relationships and the mutual rights and obligations of the Seller and the Buyer regardless of the origin of the Goods and the place of delivery and/or the registered office of the Buyer.
3. Any manifestation of will which contains any supplements, reservations, restrictions or other changes is deemed to be a rejected offer and, simultaneously, a new offer. The acceptance of an offer containing a supplement or deviation which does not alter the terms and conditions of the offer in a substantial manner is excluded.
4. Provisions of a purchase contract that differ from the TCS supersede the TCS.

II/ Purchase Price

1. The Buyer undertakes to pay the purchase price for the Goods stipulated in the purchase contract entered into ("the Interim Price") that may be adjusted in accordance with the rules set out in this article, in particular in case of occurrence of circumstances described below in this article between the day of entering into the purchase contract and the day of taxable supply.
2. If the Interim Price was agreed in Czech crowns (CZK) and the currency exchange rate of CZK against euro (EUR) declared by Česká národní banka increases by more than 4 % (depreciation of CZK against EUR) between the day of entering into the purchase contract and the day of taxable supply ("the Effective Period") the purchase price will increase proportionally to the increase of the currency exchange rate of CZK against EUR during the Effective Period. If the day of taxable supply is Saturday, Sunday or a public holiday the exchange rate of Česká národní banka declared on the last business day prior to the day of taxable supply will apply.
3. If the Interim Price was agreed in CZK and CZK as payment instrument is cancelled between the day of entering into the respective purchase contract and the purchase price due day the Interim Price will change automatically (i.e. without any additional agreement of the contracting parties). In such case the Interim Price will be determined in EUR in such manner that the equivalent of the Interim Price in CZK converted to EUR calculated on the basis of the official fixed conversion coefficient will remain unchanged.
4. If the Interim Price was agreed in Euro and the currency exchange rate of EUR against CZK declared by Česká národní banka increases by more than 4 % (depreciation of EUR against CZK) during the period from the day of entering into the purchase agreement and the day of taxable supply the purchase price will increase proportionally to the increase of the currency rate exchange of EUR against CZK during the Effective Period. If the day of taxable supply is Saturday, Sunday or a public holiday the exchange rate of the Česká národní banka declared on the last business day prior to the day of taxable supply will apply.
5. If the Interim Price was agreed in EUR and EUR as payment instrument is cancelled between the day of entering into the respective purchase contract and the purchase price due day the Interim Price will change automatically (i.e. without any additional agreement of the contracting parties). In such case the Interim Price will be determined in CHF/USD/GBP (middle currency exchange rates applicable in the state in which the Seller has its registered office) in such manner that the equivalent of the Interim Price in EUR converted to CHF/USD/GBP calculated on the basis of the official fixed conversion coefficient will remain unchanged.
6. If customs or tax regulations change between the day of entering into the respective purchase contract and the day of taxable supply and such changes affect the Interim Price such Interim Price will increase/decrease by the amount corresponding to these changes.
7. The Seller will add the value added tax to the final purchase price stipulated in the purchase contract (hereinafter the "Purchase Price"), in the amount prescribed by the respective legal regulations.

III/ Payment Terms

1. The Buyer will pay the Purchase Price or its part pursuant to the payment terms agreed in the purchase contract. For avoidance of any doubt the Parties agreed not to apply sec. 2119 of the Civil Code.
2. The Seller will issue an invoice - tax voucher after the date of taxable supply without undue delay. The day on that the Goods are delivered to the Buyer is deemed to be the day of taxable supply. The invoice issued by the Seller shall include the tax voucher requisites stipulated by the respective legislation. Issuance of a receipt to the Buyer or return of a note of hand does not constitute discharge of a debt.
3. The Seller is entitled to payment of the agreed Purchase Price by the Buyer once the Purchase Price becomes payable in accordance with the relevant provisions of the purchase contract regardless of whether the invoice (bill) has been issued or not; the invoice (bill) is only an accounting and tax document. Only if the maturity of the Purchase Price is not expressly stipulated in the purchase contract, the contracting parties will consider the invoice to be the request for its payment. In such cases maturity of the invoice shall be no less than within 16 calendar days after its issuance.
4. The obligation of the Buyer to pay the Purchase Price to the Seller will be deemed to be performed on the day on which all funds corresponding to the Purchase Price are credited to the Buyer's account defined in the respective invoice. In case that the respective invoice has not been served on the Buyer or bank data are missing in the respective invoice the day effective for payment of the Purchase Price (or instalment) is the day of crediting the respective amount to one of the Buyer's accounts indicated in the header of the purchase contract.
5. If the Purchase Price is agreed to be paid in instalments and the Buyer is in arrears with payment of any part of the Purchase Price (instalment) for more than 20 calendar days the Seller is entitled to payment of the entire Purchase Price, and on the day following the expiry of this period the entire outstanding part of the Purchase Price will become payable. The entire outstanding part of the Purchase Price will become payable automatically after expiry of the stipulated period and no individual claim need to be submitted by the Seller to exercise this right.
6. Any potential Buyer's complaint will not constitute grounds for suspension of the payment of the Buyer's payable liability towards the Seller that has arisen in relation to the purchase contract. The Parties have agreed explicitly to exclude application of sec. 2108 of the Civil Code.
7. Sec. 2125 ss. 2 of the Civil Code shall not be applied.

V/ Delivery and Dispatch of Goods, Passage of Ownership Title and Risk of Property Damage

1. The Seller will deliver the Goods within the period stipulated in the purchase contract.
2. The Seller will deliver the Goods in packaging or prepare the Goods for transportation in a way agreed in the relevant purchase contract. The type and quality of packaging will comply with the agreed terms and conditions. If the purchase contract does not stipulate how the Goods will be packed or prepared for transportation the Seller will wrap the Goods with a weather-proof foil.
3. The Buyer will inform the Seller of damage to the Goods occurred during transportation no later than on the workday following the takeover of the Goods from the carrier.
4. The Seller is not obligated to deliver the Goods if the Buyer has overdue liabilities towards the Seller regarding the deliveries of the Goods pursuant to purchase contracts entered into earlier.
5. The Seller is entitled to deliver the Goods to the Buyer in partial deliveries (in case of delivery of two and more machines) as well as to provide performances to the Buyer ahead of the deadline stipulated in the purchase contract. The Buyer will accept the partial performance as well as the performance ahead of the deadline. The Goods delivered no later than within 10 calendar days after the delivery day stipulated in the purchase contract are deemed to be Goods delivered on time.
6. The delivery method and the time of delivery of the Goods will be agreed in the relevant purchase contract. Unless agreed otherwise in the purchase contract, the Seller will deliver the Goods with the relevant documents to the Buyer the address of the Seller's registered office. In such case, the Goods are deemed to be delivered at the time when the Seller allows the Buyer to dispose of the Goods at the address of the Seller's registered office and if it notifies the Buyer hereof in a timely manner.
7. The Buyer will take over the Goods. The Seller will remedy any defects of the Goods discovered during the takeover within terms agreed by the Seller and the Buyer. The Buyer is not entitled to refuse to take over the Goods due to the existence of minor or immaterial defects or unfinished work or other defects that have no adverse effect on the functionality of the Goods. If the Buyer refuses to take over the Goods or does not take over the Goods even though it was obliged to do so the Seller is entitled to store the Goods at the Buyer's expense and charge the Buyer a storage fee in the amount of EUR 50 per each day of the Buyer's delay in taking over the Goods. The part of the Purchase Price originally payable after delivery or handing over of the Goods becomes payable at the moment when the Buyer refuses to participate in the takeover or refuses to accept the Goods without any justifiable reason. In such case, the Seller is not obligated to allow the Buyer to dispose of the Goods until the outstanding amount has been paid in full.
8. The Parties may agree that the Seller will arrange a dispatch of the Goods to the address of the Buyer's registered office or to the address stated in the purchase contract. In such case the time of delivery of the Goods will be deemed the day of handover of the Goods to the first carrier to be transported to the Buyer or the day on which the Seller accepted the Buyer's request for storing the Goods in the registered office of the Seller, whichever occurs earlier. In such case the Buyer shall pay the costs of dispatching the Goods to the Seller immediately, in addition to the Purchase Price, unless the purchase contract states otherwise.
9. The right of ownership to the Goods will pass to the Buyer by payment of 95 % of the Purchase Price. The Buyer is not entitled to transfer the right of ownership to the goods to a third person until 95 % of the purchase price has been paid. The risk of damage to goods will pass to the Buyer at the time of delivery of the Goods

V/ Putting the Goods into Operation, Training the Buyer's Staff

1. The purchase contract may include a provision stating that the Seller undertakes to put the Goods into operation and to train the Buyer's staff. The purpose thereof is to minimize the risk of complaints and to ensure considerable security that there will be no malfunction of the Goods due to incorrect adjustment or unprofessional handling by the Buyer's staff that was not trained sufficiently.
2. The Seller will agree to put the Goods into operation only provided that the Goods are prepared for being put into operation and the Buyer has no payable liabilities towards the Seller. The Buyer undertakes to ensure the readiness of the Goods for being put into operation by the agreed deadline, whereas the readiness will correspond to the relevant regulations (technical standards) and will be in compliance with the instructions specified in the contract in its appendices and in the manual for use. If the Buyer is in delay with performance of this obligation, the deadline for putting the Goods into operation will be extended adequately by the period during which the Buyer was in delay; the Seller is subsequently entitled to determine another deadline for putting the Goods into operation convenient for the Seller with respect to its production possibilities. The Buyer will arrange the Seller's access to the Goods and the participation of the Buyer's representative during the process of putting the goods into operation and will inform the Seller of applicable safety regulations and instructions valid at the premises where the Goods is located.
3. Putting the Goods into operation will include the verification of whether or not the Goods fulfil the condition of precision, i.e. it will be verified whether the Goods meet the parameters of measurement stated in the Handover Report on Geometric Precision according to the Seller's standard. Furthermore, within putting the Goods into operation, the Seller will train the Buyer's staff in the scope agreed in the relevant purchase contract. The Seller's obligation to put the Goods into operation will be performed as soon as the Goods meet the precision condition. After putting the Goods into operation, the Seller will complete a report on putting the machine into operation and it will submit the report to the Buyer for signing. The Buyer will sign the report.
4. If the Buyer does not provide the Seller with the possibility to put the Goods into operation or to sign the Report on putting the machine into operation or if it prevents the Seller from putting the goods into operation in any way the Buyer will not be released from the obligation to effect a payment payable in connection with the performance of the Seller's obligation to put the Goods into operation. To avoid doubts regarding the determination of the deadline for the payment, the last date of the period that was set for putting the Goods into operation will be deemed to be the date of the performance of this obligation.
5. In case of unexpected problems occurred due to the Buyer's non-readiness or due to other unexpected events, the Buyer will reimburse the Seller's actual costs related thereto including the additional services according to the Seller's valid pricelist of services.

V/ Quality Guarantee and Liability for Defects

1. The Seller provides the Buyer a quality warranty for Goods under the terms and conditions stipulated by the purchase contract and the appendices thereto.
2. Furthermore, the Seller is liable for legal defects and quantitative defects of the Goods in accordance with the Civil Code.
3. If the Seller removes the defects of the Goods within the period stipulated in the purchase contract or in the appendices thereto or within the period stipulated by the Parties with respect to removal of each individual defect the Buyer will not be entitled to damages due to delivery of defective goods.



VII/ Contractual Penalty

1. If the Buyer is in arrears with payment of the Purchase Price (or the respective part thereof) set out in the purchase contract, the Buyer will pay to the Seller contractual penalty in the amount of 0.03 % of the outstanding amount per day.
2. In the event of the Seller's delay in delivery of the Goods according to the purchase contract, the Seller will pay to the Buyer a contractual penalty in the amount of 0.03 % of the Purchase Price of the Goods the delivery of which is delayed, up to the amount of 3 % of the purchase price set out in the purchase contract, per each day of delay. Goods that were delivered no later than 10 calendar days after the delivery day set out in the purchase contract will be deemed to be delivered on time and the Buyer is not entitled to seek any fines against the Seller, including contractual penalties or damages.
3. The payment of the contractual penalty by the Buyer does not affect the Seller's claim for default interests or its claim for damages to full extent.
4. The Seller will be entitled to damages due to the Buyer's failure to pay its monetary debt even in case the damages are covered by interest on overdue payment.

VIII/ Withdrawal from the Contract

1. In addition to the legally defined cases, the Seller is entitled to withdraw from the purchase contract in cases set out in the purchase contract and in case that the Buyer is in arrears with payment of its due monetary obligations under the purchase contract for more than 60 days, whereas the Parties have agreed explicitly to exclude the application of s. 2133 of the Civil Code; the Buyer becomes insolvent, bankrupt or the Seller might assume that such situation may occur immediately, in particular if insolvency proceedings or similar proceedings have been initiated under the law to which the Buyer is subject; the Buyer breaches Art. IV paragraph 9 of the TCS by transferring the Good to a third party prior to payment of 95% of the Purchase Price, the Buyer breaches further provisions of the purchase contract or of these TCS repeatedly. Repeated breach means that the purchase contract or these TCS is/are breached whereas a breach of the purchase contract or of these TCS by the Buyer has already occurred in the past and the Buyer was reminded thereof; the Buyer is in delay with performance of its obligations pursuant to the purchase contract or these TCS and such delay was not remedied even within the appropriate additional period set by the Seller.
2. The Buyer is entitled to withdraw from the purchase contract only in cases set out in the purchase contract and in following cases:
the Seller is in arrears with delivery of the Goods or with putting the Goods into operation or with training of the Buyer's staff in delay for more than 60 days, provided such obligations were not fulfilled despite the fact that the Buyer reminded the Seller thereof and set an appropriate additional period of no less than 30 calendar days;
The Seller does not remove, within the period of 60 days after expiration of the agreed deadline, any defects of the Goods which make it unserviceable for the purpose arising out of the purchase contract, provided that the defective condition is not remedied despite the fact that the Buyer reminded the Seller thereof and set an appropriate additional period of no less than 30 calendar days;
The Seller breaches further provisions of the purchase contract of these TCS repeatedly. Repeated breach means that the purchase contract or these TCS is/are breached whereas a breach of the purchase contract of these TCS by the Seller has already occurred in the past, the Seller was reminded thereof and the defect condition is not remedied even within an appropriate additional period set by the Buyer which is no less than 30 calendar days.
3. The Seller may exercise its right to withdraw from the purchase contract whenever a fact or behaviour on part of the other Party occurs which constitutes the possibility for the Seller to withdraw from the purchase contract.
4. In case of performance in partial deliveries the Seller is entitled to choose whether it will withdraw from the purchase contract only with respect to the outstanding performance obligations or with respect to the entire performance.
5. The withdrawal from the purchase contract requires the form of a registered letter delivered to the address of the registered office of the relevant Party. If such document is not actually served on the addressee (contracting party) upon expiration of 10 days following its despatch it will be deemed to be served in a due manner by expiration of the tenth day following its dispatch. In the event of withdrawal the Parties will return any performances they provided each other until then within 30 calendar days. The Seller is entitled to use the paid advances for reimbursement of the costs expended by the Seller in connection with the withdrawal from the Contract including the costs required to reinstate the Goods to its original state because of a decrease in the value of the Goods due to the Buyer's handling of the Goods. Original state for the purposes of the Contract is understood as the state of the Goods at the moment of the signature of a Commissioning certificate that is an integral part of the Contract. Parties will not return each other any accepted contractual penalties or damages, if any. Thereafter, the Buyer will return the received performance within 30 days after the withdrawal became effective. If the performance has already been accepted, the Buyer will allow the Seller to enter the premises where the Goods are located, will enable the Seller to dispose thereof and provide assistance to the Seller. It means, among other things, that the Buyer will ensure the conditions for dismantling and transport of the Goods from its current location to the address of the registered office of the Seller or another location determined by the Seller, all at cost of the contracting party that did not withdraw from the Contract.
6. The Buyer is entitled to withdraw from the contract in cases stipulated by the purchase contract and in case that the Seller repeatedly breaches other provisions of these TCS or of the purchase contract. Repeated breach means that the TCS or a purchase contract are breached whereas a breach of TCS or of a purchase contract has already occurred in the past and the Seller was reminded of this defective condition and the defective condition was not remedied even within the appropriate additional period set by the Seller.

IX. Force Majeure

1. The Party is not liable for a full or partial failure to fulfil any of its obligations if such failure is caused by circumstances such as flood, fire, earthquake or other natural disasters, war or war acts and other similar extraordinary events if it cannot be reasonably expected that the obliged Party could overcome the obstacle or its consequences, and also that it could anticipate the occurrence of the aforementioned obstacle at the time of commencement of the contractual obligation (i.e. at the time of entering into the purchase contract) (hereinafter "Force Majeure") provided that such circumstance arose irrespectively of this Party's will, that it did not arise by virtue of personal circumstances of this Party or at the time when it was already in delay with performance of its obligations and that it is not such circumstance that had to be overcome by this Party under the purchase contract or the Seller is not able to fulfil its contractual obligations to full extent or partially due to prohibition of of the Machine or the related services or due to the fact that the export permission or a similar permit was not issued by government authorities (hereinafter "Force Majeure").
2. The Party that is not able to fulfil its obligation for the reasons described above shall immediately notify the other Party in writing no later than 7 calendar days after occurrence of the aforementioned circumstances, and it shall also notify the other Party in writing of the end thereof within 7 calendar days. After the obstacle caused by Force Majeure has ceased to exist the Parties are obliged forthwith, to start fulfilling their contractual obligations arising out of the purchase contract.
3. If Force Majeure exists for a period of 30 days the Party which is not prevented by Force Majeure from fulfilling its obligations is entitled to withdraw from the purchase contract. In the event of Force Majeure sections 2006–2008 of the Civil Code shall not apply.



X. Miscellaneous and Final Provisions

1. The Buyer will get an import licence or other official permits, arrange all customs formalities necessary for the import of products and pay any customs duties, taxes, fees and other expenses related to the import customs formalities at the Buyer's risk and expense.
2. The extent of damages incurred by the Buyer in connection with a purchase contract is limited; the Seller is obliged to compensate for the Buyer's damages to the maximum amount of 20% of the Purchase Price set in respective purchase contract. Compensation for loss of profits is excluded.
3. The Buyer is not entitled to assign any of its receivables arising from the purchase contract, not even partially, to a third person without the prior written consent of the Seller
4. All services mediated by the Seller are not provided at the Seller's liability.
5. In case of occurrence of an event that is unforeseeable at the time of signing the purchase contract which has the nature of Force Majeure and results in an obstacle for the performance of the Seller's obligations, the Seller is entitled to extend the period of delivery pursuant to the purchase contract by the period of duration of this obstacle.
6. Similarly, the Seller is entitled to extend the delivery period pursuant to the purchase contract in case that the Buyer is in arrears with payment of any part of the Purchase Price that is due prior to the delivery of goods.
7. The Buyer is not allowed to re-export the machine without the written consent of the Seller. In case of any breach of this obligation the Buyer is obliged to reimburse to the Seller a contractual penalty amounting to EUR 100,000. The claim for damages will remain unaffected by payment of the contractual penalty. In addition to the contractual penalty, the Seller's claim to damages shall remain unaffected to its full extent.
8. The purchase contract may only be changed and amended by written agreement confirmed by both Parties, called explicitly as "amendment to the purchase contract" and signed by statutory bodies or authorized representatives of both Parties.
9. If any of the provisions of the purchase contract or these TCS is found to be invalid, ineffective or unenforceable by court, the validity and effectiveness of the remaining provisions of the purchase contract and these TCS will remain unaffected by such provision; the Parties agree that they will immediately start negotiations in order to change such a provision so that it is valid, effective and enforceable and, at the same time, that it corresponds to the maximum possible extent to the original intention of the Parties with regard to the provision regulating the respective issue.
10. If it is not possible to resolve any dispute concerning relationships arising from the purchase contract amicably, all disputes arising from the purchase contract and in relation thereto will be submitted to the court having the territorial jurisdiction according to the Seller's registered office to be considered and decided thereby.
11. If the Parties use international rules of interpretation when entering into the purchase contract, these will be subject to the international rules for interpretation of the delivery terms issued by the International Chamber of Commerce in Paris – "INCOTERMS 2010". If there are any discrepancies between the provisions of the purchase contract, these TCS and the agreed clause, the provisions of the purchase contract and TCS 2010, will, with respect to the rights and obligations of the Parties, supersede.
12. Delivery by electronic mail and fax is not excluded. However, any documents related to creation, change or termination of the purchase contract, delivery of a tax voucher and complaint will also be (even subsequently) delivered to the other Party in a documentary form.
13. The contractual relationships of the Parties are subject to the law of the Czech Republic, in the relevant parts namely to the Civil Code and its provisions on purchase contracts, without giving effect to any statutory conflict of law provisions or to United Nations Convention on Contracts for the International Sale of Goods.

In Prague, on 01. 08. 2016

Tool Trade s.r.o.

Jiří Fikota
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