

GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF SUPPLIES AND SERVICES

Moravskoslezské Cukrovary, a.s.

(Based on the 'General Terms and Conditions for the Purchase of Supplies and Services Agrana Zucker GmbH'; Version: May 2018)

Unless otherwise agreed between the parties in writing, the following general terms and conditions for the purchase of deliveries and services shall exclusively apply:

1. Scope of Application

- 1.1 The purchaser (hereinafter: Purchaser) and the contractor (hereinafter: Contractor) agree in respect of all inquiries, purchase orders, purchases and other transactions and services for the procurement of deliveries and services on the following Terms and Conditions for the Purchase of Deliveries and Services (hereinafter: GTC).
- 1.2 The Contractor acknowledges that the Purchaser hereby contradicts to all objects differing terms and conditions of the Contractor that may be included in order confirmations or other business papers. In particular the acceptance of deliveries or services or the payment thereof shall not constitute an approval of terms and conditions other than the GTC.
- 1.3 In case the Contractor points out to his own Terms and Conditions when accepting the offer, which are in contradiction with the GTC, the contract will nevertheless be concluded with a content in which the general terms and conditions of the Parties do not contradict each other. Where the terms and conditions of the Parties contradict each other, dispositive provisions of law no. 89/2012, Civil Code (hereinafter referred to as Civil Code) as amended shall be applied.
- 1.4 In case of any inconsistency between the individual elements of the Contract between the Purchaser and Contractor, the following documents shall have priority in the following order: [i] the Purchase Order; [ii] the annexes integrated in the P.O. such as a negotiation record; [iii] the GTC; [iv] commercial practices between Purchaser and Contractor.
- 1.5 Neither the P.O. nor the GTC shall restrict any other legal claims the Purchaser may have.

2. Contract Award and Proviso for Cancellation of the Contract

- 2.1 The contract between the Purchaser and the Contractor shall be deemed concluded after the Contractor has accepted the (SAP) order placed by the Purchaser in writing.
- 2.2 Contracts awarded and orders placed by Purchaser shall be deemed accepted unless rejected in writing immediately after receipt.
- 2.3 In case of justified indications that difficulties are expected to occur in respect of target dates or supplies, or in case of a lack of cover of Purchaser's liability and warranty claims pursuant to the GTC, Purchaser may at any time cancel orders placed and rescind from agreements already concluded. This applies especially in the case of any marked deterioration of Contractor's economic situation, in case the Contractor suspends payments, when insolvency proceedings are initiated in respect of Contractor's assets, or if such proceedings are dismissed for lack of assets to cover costs.

3. Price

The prices indicated in the P.O. shall be invariable fixed prices pursuant to the stipulated currency of the P.O. for the period of conclusion of the contract until complete performance of the delivery or service and will not be subject to any price escalation or price change whatsoever.

4. Letter of Representation

Within its scope of supplies and services, the Contractor shall provide all necessary supplies and services needed for the agreed success, even if these supplies and services were not mentioned or appear in Purchaser's inquiry, technical documents, the P.O. or in other documents.

5. Pricing and Transfer of Risk

- 5.1 The Purchaser and the Contractor hereby agree to apply the price basis, the transfer of risk, and customs duties according to the Incoterms 2010 for deliveries and services to the agreed place of destination DAP (Delivery At Place) within the European Union, and DDP (Delivery Duty Paid) outside the European Union.
- 5.2 In case of an assembly of the supplies owed by the Contractor, the risk will transfer immediately after successful acceptance.

6. Advance Payment / Bank guarantee

The Purchaser provides an advance payment that may have been contractually agreed in the P.O. only against presentation of an advance payment invoice and under the furthermore precondition of a complete repayment security by presentation of an irrevocable, abstract bank guarantee in the amount of the agreed advance payment payable upon first demand, at Contractor's cost and issued by a bank accepted by the Purchaser. In general, it is obligatory to issue bank guarantee and corresponding same bank data.

7. Partial Payments / Partial Deliveries

- 7.1 The Purchaser will make any partial payment agreed in the P.O. only against proof of the respective delivery or service provided by the Contractor for this partial payment in conformity with the contract (PAYMENT MILESTONE) and acceptance thereof as well as against submission of a verifiable partial invoice.
- 7.2 The Purchaser reserves the right to reject non-agreed partial deliveries as well as to cancel residual amounts.

8. Invoicing and Due Date for Payment

- 8.1 The Contractor shall issue partial and final invoices not later than thirty days after provision of the delivery or service in conformity with the contract and acceptance thereof.
- 8.2 Invoices shall be issued in a form which allows the Purchaser to verify it using reasonable effort; such invoices shall be preferably sent by email in readable PDF format to email address 3120.invoicing@agrana.com or if sending invoices electronically is not possible can be used surface mail (Moravskoslezské Cukrovary, a.s.: (1) Cukrovarská 657, CZ-67167 Hrušovany nad Jevišovkou; (2) Opava Vávrovická 273, CZ-74773 Opava-Vávrovice; UID CZ46900764). Invoices for supplies and services that have been ordered with a system P.O. (SAP) shall refer to the order number of the P.O. Invoices for supplies and services that have been ordered without the ordering system, shall refer to the full name and the 6-digit Agrana reference ID of the ordering person. Documents necessary for approval of the supplies and services (quantity calculations, price conversions, drawings, delivery notes, hourly time sheets, performance reports and so on) shall be

enclosed in a clearly understandable form. If several invoices are to be sent in a single envelope, the attachments shall be stapled together with the respective invoice. The invoices must comply with the relevant legislation applicable in the Czech Republic, especially with those provisions set out in Law no. 235/2004 on Value Added Tax (hereinafter referred to as Value-Added Tax Law) as amended, and in Law no. 563/1991 on Accounting as amended. Even if one of the documents necessary for verification is missing, the Purchaser may return an invoice.

- 8.3 If an invoice does not comply with the requirements of the Value-Added Tax Law or Article 8 of the present GTC, it shall be returned to the Contractor for rectification within 30 days and re-submitted by the Contractor within 30 days. The respite will re-commence upon submission of the corrected invoice.
- 8.4 If partial payments as well as a bank guarantee to be provided together with the first partial invoice have been agreed, this bank guarantee shall also be sent together with the invoice for the advance payment to the address mentioned under 8.2 above. The complete delivery or service shall be settled with the final invoice, taking into account any Liquidated Damages / penalties, premiums and the like. The Contractor shall not be entitled to offset his claims against Purchaser's claims. Once the Contractor has issued his final invoice, the Contractor declares to have invoiced all deliveries and services related to the execution of the contract and all other claims, and the Contractor expressly waives to assert any additional claims arising from the contract or any other legal relationship whatsoever, to the extent that this is admissible under Czech law.
- 8.5 The final invoice shall be identified as such if partial invoices were issued beforehand. Partial payments already made shall be indicated in the final invoice.
- 8.6 The terms of payment for partial and final invoices indicated in the P.O. will be calculated by the Purchaser after acceptance of the delivery or service in conformity with the contract and after receipt of a verifiable invoice. The payment of invoices shall be effected only in respect to the conditions of the P.O. or an existing frame agreement. The Purchaser will accept invoicing for packing costs only if explicitly agreed. The terms for payment shall commence once the delivery or service has been made available in a contractually acceptable condition or by the date of receipt of the invoice, depending on which of the two is later.

9. Liability for Engineering

The Contractor guarantees the correctness and completeness of engineering services, consulting services and any documentation.

10. Liability for Documentation

The Contractor is aware of the particular importance of compliance with his obligations in connection with the documentation and shall be liable for late or insufficient documentation.

11. Purchaser's Liability towards Contractor

- 11.1 The Purchaser shall not be liable for losses or damage caused by Contractor to any third party.
- 11.2 Purchaser shall not be subject to any liability or joint liability for his participation in any supply or service, including but not limited to accompanying control, and in connection with the delivery of regulations and documentation to the contractor and the like; Contractor waives any right to assert contributory negligence in this context to the extent permitted by Czech law.

12. Assertion of Claims by the Contractor

- 12.1 The Contractor shall keep records of deliveries and services that are not covered by the agreed scope of supplies and services and shall deliver those records within seven days of commencement of that delivery or service to the Purchaser for written confirmation and acknowledgment of the type and scope of those supplies and services, otherwise the claim for a return of the supplies or services or for payments shall be forfeited.
- 12.2 Other claims the Contractor may have against the Purchaser on any legal ground whatsoever shall be reported by the Contractor to the Purchaser by written notice, including detailed proof and precise amount of the claim, within 14 days after occurrence of the event which entitles the Contractor in its opinion to assert such claims; otherwise, the Contractor shall not be entitled to assert such claims.

13. Indemnity

The Contractor agrees to indemnify the Purchaser with regard to all claims that may be asserted against the Purchaser by third parties or that may arise in connection with supplies and services that were not provided in compliance with the terms of the contract.

14. Assignment / Pledging

Any assignment, pledging or other transfer of rights and duties, or the setting off of claims by the Contractor is permissible only upon the Purchaser's prior written consent.

15. Liens / Rights of Retention

- 15.1 The purchase of any lien, encumbrance, right of retention or any other kind of security on the free issue parts provided by the Purchaser or on the supplies and services or any part thereof is ruled out.
- 15.2 The Contractor shall ensure that a similar provision is included in all contracts with his sub-contractors.

16. Insurance

- 16.1 The Contractor himself shall conclude insurances to cover the extent to which the activities of the Contractor can damage the Purchaser. On Purchaser's written demand, the Contractor shall deliver to the Purchaser all documents necessary for verifying valid insurance coverage. In this case, Purchaser shall be entitled to obtain information about the insurance policies from the relevant insurance undertaking.
- 16.2 The Contractor is obliged to pay his premiums in time and to provide the Purchaser with a confirmation issued by his insurer about the payment due date and the effected payment.
- 16.3 This or any other insurance shall not limit the duties and liabilities of the Contractor in any way, even if the Purchaser raises no objection against the insurance policies the Contractor submits at the Purchaser's request.

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17. Place of Performance

The place of performance shall be the final destination mentioned in the P.O. The above shall apply to the Contractor particularly in connection with any supply, service and payment, whether or not an individual agreement may have been reached on the place of deliveries, services or payment, or the Purchaser bears the transport costs.

18. Shipping

18.1 The Contractor is liable for compliance with all shipping regulations of the Purchaser that are included in the P.O.

18.2 The Contractor shall continuously monitor the goods to be supplied and delivered and inform the Purchaser immediately in detail about possible defects and errors, in particular design and manufacturing errors. The same applies to changes in the state-of-the-art in science and technology. In the event that delivered goods prove to be defective or faulty on the basis of such changes, the Contractor shall immediately notify the Purchaser thereof and shall retrieve such deficient or defective products at his own expense.

18.3 Deliveries are to be made exclusively at the delivery location mentioned by the Purchaser at the risk of the Contractor. Unless otherwise agreed, all deliveries shall be free on ramp or free on stock. If it is not possible to deliver at the agreed destination for reasons attributable to the Purchaser, the Contractor has to contact the Purchaser immediately.

19. Transfer of Title

The title shall transfer to the Purchaser upon the earlier of payment or acceptance of the (partial) delivery or (partial) service provided by the Contractor, whichever occurs first. A reservation of proprietary rights of the Contractor shall be excluded.

20. Warranty / Guarantee / Notice of Defects / Damages

20.1 The Contractor warrants for a complete and defect-free delivery and service in conformity with the P.O. and particularly for the usually expected and possibly promised qualities, also mentioned in public statements in accordance with samples, and for compliance with all relevant statutory and regulatory regulations applicable to the deliveries and services at the place of destination or the sales markets indicated by the Purchaser. The Contractor is liable that no defect occurs during the warranty/guarantee period, regardless of whether the defect existed already upon delivery.

20.2 The Contractor shall verifiably notify the Purchaser of any risks that can usually be expected in connection with deliveries and services. The Contractor is equally liable for the deliveries and services provided by his as well as for the components of deliveries and services of his sub-contractors.

20.3 Only the weights or items determined upon acceptance of the delivery or service or other quantities indicated in the P.O. shall be relevant, without taking into account any preceding weighing or counting. Any deviation (loss) of weight, items or quantities shall be deemed as defect.

20.4 The Purchaser is not required to examine the delivery or service and to give notice of any defects. This expressly rules out the application of § 2104 of the Civil Code.

20.5 The Purchaser may assert obvious defects that are visible without testing or examining the delivery or service within 14 calendar days after acceptance of the delivery or service.

20.6 The Purchaser may assert defects which are discovered not until after the proposed use or consumption of the delivery or service within 30 calendar days after complete discovery.

20.7 In case promised and usually expected qualities of the goods are not achieved, the Purchaser shall at his own discretion have the following rights: to terminate the contract without granting a grace period, to reduce the P. O. price, or to grant a grace period for a defect-free delivery. The Contractor is also obliged to have defective deliveries, which have been rejected by the Purchaser, collected at the Contractor's cost and expense within 7 calendar days after notice of rejection was given, otherwise the Purchaser will return the defective deliveries at the Contractor's cost and expense.

20.8 Unless a longer warranty or guarantee period has been agreed, the contractual warranty and/or guarantee periods shall be 24 months after acceptance of the delivery or service. This shall not restrict any time limits within which claims for damages may be asserted.

21. Retention (Security for Future Liability)

21.1 In the case of a contractually agreed security for a future liability a contractually agreed amount of not more than 10 % of the total order value, Purchaser may retain this as non-interest bearing collateral for warranty and guarantee claims for a period of 30 days beyond the contractually agreed warranty or guarantee period. This agreement also applies if the Contractor becomes insolvent.

21.2 However, the Contractor is granted the contractual opportunity to replace the security with the submission of an irrevocable and abstract bank guarantee, issued by a bank accepted by the Purchaser, at Contractor's own cost, payable upon first demand, which matures 30 days upon expiration of the warranty and/or guarantee period.

22. Date of Completion

Deliveries and services shall be provided at the date defined in the P.O. Delivery periods shall commence with the date of the P.O. Compliance with a delivery date or delivery period shall be based on the receipt of the delivery by the recipient at the reception or application site designated by the Purchaser or the timeliness of successful acceptance. Deliveries and services provided with delay shall always be accepted subject to reservation of all claims.

23. Penalties

23.1 If LDs/penalties, e.g.: LDs for late delivery of supplies (incl. documentation), LDs for non-compliance with contractually agreed performance data (availability, plant performance, etc.), etc. are agreed (e.g.: negotiation record, purchase order, etc.), the Purchaser, when verifiably entitled to assert a claim, may assert that claim pending payment of the (final) invoice on the non-conforming supplies or services without having to reserve this right when accepting the scope of supplies and services.

23.2 Unless otherwise provided in the negotiation record and/or the purchase order letter, the following basic regulation shall be applicable:

- If the Contractor fails to comply with his contractual obligations, also with regard to these GTC - the Purchaser is entitled to claim LDs/penalties in the amount of up to 10% of the contract price of the affected goods. However, the enforcement of a damage exceeding this amount shall not be excluded as a result.
- Should the Contractor fail to achieve agreed or defined LD/penalty events, he shall be obliged to pay the respective contractually defined LDs/penalties. If, from the binding placement of an order until the end of the contract term, the Purchaser and the Contractor agree in writing on amendments of the contractually defined LD events, the newly defined LD events shall also be deemed penalized.
- The Contractor shall be required to pay LDs upon occurrence of the contractually defined event.
- The payment of LDs shall not release the Contractor from its performance obligations and any resulting liabilities.
- The Purchaser and the Contractor agree that LDs of any nature whatsoever may not be reduced by court order.

24. Cancellation in Case of Default

24.1 If the Contractor (including its sub-contractors) is in default with its deliveries or services even without his fault, the Purchaser shall have the unrestricted right to terminate the contract in whole or in part after having granted a single, written and reasonable grace period (at the Purchaser's discretion). The Contractor shall be liable for any damage that may arise due to performance not in conformity with the contract (e.g. late delivery, incl. documentation, non-achievement of guaranteed qualities or performance, etc.) and for any direct additional costs whatsoever.

24.2 The Contractor shall not have any claims whatsoever against the Purchaser from such withdrawal.

25. Written Form

25.1 Any amendment of and/or modification to the contract shall exclusively be made in writing.

25.2 This written form requirement shall also apply to any consensual waiver of the written form requirement.

26. Safety Clause for Erection Works and/or Services

If any erection works and/or services were ordered within the scope of the P.O., such erection works and services shall be provided according to the applicable laws (including CE-Conformity and standards) at the contractually agreed final destination in compliance with the relevant provisions on safety and health protection during work. By virtue of this obligation, the Contractor assumes responsibility for the safety of his staff (including the staff of another employer that may have been assigned by the Contractor) during his erection activities.

27. Severability Clause

Should any term of these GTC be invalid in whole or in part, this shall not affect the validity of the remaining terms. In such a case, the Contractor and the Purchaser shall replace the invalid term by a valid term that closest reflects the economic purpose of the invalid term.

28. Legislation and Place of Jurisdiction

28.1 The contract shall be governed by and construed in accordance with substantive Czech Law, without giving effect to the UN Sales Convention (CISG) and the conflict of law rules of international private law.

28.2 If the Contractor has its corporate seat within the European Community or in a country with which an agreement for the recognition/enforcement of judgments in civil and commercial matters has been reached, all legal disputes arising from or in connection with the contract shall exclusively be referred to the court having local and subject-matter jurisdiction for the Purchaser's registered offices.

28.3 If the Contractor has its corporate seat outside the European Community or in a country with which no convention on enforcement and recognition of judgments in civil and commercial matters exists, all disputes arising from the legal relationships subject to these GTC or from their violation, termination or nullity shall be finally decided under the Rules of Conciliation and Arbitration of the International Arbitral Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with these Rules. The place of arbitration shall be Vienna; the arbitral proceedings will be conducted in the German language.

29. Employees

The Contractor has responsibility to ensure that all provisions set out in the laws concerning employees are met, in particular the registration for the payment of social security, compliance with the applicable legal provisions on safety and health protection during work, and the provisions of the Law on Employment. This also applies in particular to employees of the respective subcontractor and, where applicable, to foreign employees. Foreign employees must possess a valid visa and work permit if this is required under Czech law.

30. Code of Conduct

The Purchaser observes internationally recognized environmental, labour and social standards. The Purchaser has described and regulated these in the AGRANA Code of Conduct:

<http://www.agrana.com/agrana-gruppe/gesellschaftlicheverantwortung/>

The Purchaser expects the Contractor to also recognize and observe this Code of Conduct.

31. Data protection

Compliance with the GDPR [General Data Protection Regulation] and all applicable data protection laws is of great importance to AGRANA. The same is expected from our business partners. You can find the AGRANA data protection statement via the following link: <https://www.agrana.com/datenschutz/>. A hard copy is provided, if needed.