

## **General Delivery and Payment Terms and Conditions of the Metako s.r.o. Company**

### **I. Validity / Quotations**

1. These General Selling Terms and Conditions are applicable to all – even future – contracts and other performances. The Buyer's conditions are not mandatory for us even if they are not challenged explicitly by us after delivery.
2. Our quotations are not binding. Agreements – mainly oral, secondary arrangements, promises, guarantees and other assurances of our employees are mandatory and binding only when confirmed by us in writing.
3. The underlying documents belonging to the quotation, e.g. drawings, figures, technical data, references to standards and statements in advertising media, are not understood any qualitative data, assurance of properties or guarantee, unless they are designated as such explicitly and in writing.
4. Deviations of the subject of delivery from quotations, samples, test or preliminary deliveries are permitted only based on the valid regulations or other relevant technical standards.

### **II. Prices**

1. Our prices are understood, unless agreed otherwise, from our plant without packing, always value added tax inclusive.
2. If the products are delivered packed, the package is charged for the actual working costs; within the scope of the statutory provisions we will take back the packages delivered by us if they are returned carriage paid by the Buyer within the adequate term.

### **III. Payments and billing**

1. Our invoices are mature within 8 days from the date when the invoice was issued. The payment must be performed so that the our account may be credited by the relevant sum on the day of maturity at the latest. The Buyer is in delay with payment immediately on the first overdue day.
2. Unilateral setoff of mutual receivables by our contract partner is not allowed.
3. If the term of maturity is exceeded, we are entitled to charge interest on overdue payment in the amount of relevant bank rates for bank overdrafts, but at least the interest amounting to 8 per cent points above the basic interest rate. Claiming other damages due to overdue payment remains unaffected anyhow.
4. The agreed discount always relates to the invoice value without transport and full settlement of due Buyer's obligations on the moment of the rebate is assumed.

#### **IV. Reservation of proprietary rights**

1. All delivered goods remain our ownership (the goods with reserved proprietary rights) until full settlement of our relevant receivables.

2. The arisen co-ownership rights are applicable as for the goods with reserved proprietary rights pursuant to provisions of § 2132 of the Czech Civil Code No. 89/2012 Sb., as amended.

3. If the contract partner sells the goods, which we have the ownership or the coownership right to pursuant to par. 2 above, then the former is obliged to transfer to us the claim arisen on the basis of the resale, namely for the nominal price. The provisions on execution of the future contract pursuant to § 1785 et ff of the Czech Civil Code No. 89/2012 Sb., as amended, are applicable fully to this provision.

4. The contract partner is obliged to inform us about execution or about other rights of any third person to its property.

#### **V. Realization of delivery**

1. The risk during all transactions, even in case of free or paid out delivery, is transferred to the Buyer upon transfer of the goods to the forwarder or carrier, but when the goods leaves the warehouse or the delivery plant in case of direct transactions at the latest. The obligation and the costs for unloading shall be borne by the Buyer. Insurance shall be ensured by us only if instructed so by the Buyer and at his costs.

2. We are entitled to perform partial deliveries within the acceptable scope only. In case of goods for further production it is permitted to increase or reduce the delivery by up to 10% of the agreed quantity, delivery of smaller goods length is also permitted.

3. In case of the orders with schedule of successive deliveries we are entitled to manufacture or to let the whole ordered quantity manufacture at the same time. Possible requirements for any change cannot be considered after the order is granted, unless agreed so explicitly in advance. Terms of successive deliveries and the scheduled quantities can be observed – unless any fixed agreements are made – only within our delivery and production capacities and possibilities. The goods ordered with successive deliveries must be taken within one year. If the goods are not taken under the contract, we are entitled to bill them as delivered after expiry of the adequate extended term.

## **VI. Warranty for defects**

1. In case of a justified prompt deficiency claim we can (at our own discretion) either remove the defect or deliver an intact product (additional performance). In case of unsuccessful remedy or rejection of additional performance the Buyer can reduce the purchase price or withdraw from the contract – after unsuccessful expiry of the granted adequate term. If the defect is not material, the Buyer is entitled to price reduction only.
2. The costs connected with additional performance are accepted only if they must be borne by us case by case as the consequence of our fault or based on the warranty. These cost must be in the adequate ratio to the purchase price of the goods. The costs that will arise from transportation of the sold goods to the place other than the 3 buyer's seat or branch are not accepted by us, unless it corresponds to your application under the contract.
3. Until the Buyer provides us the opportunity to make sure about the defect, mainly if the Buyer fails to release the claimed goods or samples of these goods though requested to do so, the former cannot refer to the defects of the goods.
4. Other claims are excluded. This is applicable mainly for the claims concerning indemnity (damages) that have not arisen on the in-house goods (damage as the consequence of defect).
5. The goods have to be inspected and checked for the defects caused by transportation immediately after delivery. The damages caused by transportation must be confirmed by the forwarder immediately. Additional complaint – though the acceptance is performed with the reservation of additional test – is not possible.

## **VII. General restriction of warranty and limitation of actions**

1. We are liable and warrant for breach of contract and out-of-contract obligations, mainly due to impossibility, delay, fault in preparation of the contract and unauthorized negotiations about the contract - even for the top managers and other assistants in performance – only in case of malicious intent or gross negligence, with restriction to the damage corresponding to the contract of this type that was foreseeable upon execution of the contract.
2. These restrictions are not applicable to culpable violation of material contract obligations, provided that reach of purpose of the contract was endangered, in cases of mandatory warranty under the law (warranty for the product), in case of jeopardy of life, injury or health hazard; it is also not applicable where defects on the goods were concealed captiously or their non-existence was guaranteed. The principles concerning burden of proof remain unaffected anyhow.
3. If not agreed otherwise, the contract claims arisen to the Buyer towards us for the reason or in connection with goods delivery are subject to the statute of limitation two years after goods dispatch (shipping). This term is also applicable to the goods

which was used for construction with respect to its common method of use and caused its defective state, unless this method of use was agreed in writing. Unaffected remains our warranty for intentional and gross negligent breach of obligations and also limitation of mandatory claims for indemnity. In case of additional performance the term of delay does not start to run from the beginning.

### **VIII. Copyright**

1. We reserve the title and copyright to the budgeted costs, designs, drawings and other underlying documents; they can be made available to any third person only upon our approval. Drawings and other underlying documents belonging to the quotations must be returned if requested to do so. 4
2. If we delivered products under the drawings, models, samples or other underlying documents handed over by the Buyer, the latter guarantees that protective rights of the third persons have not been breached. If any third person prohibits - with reference to protective rights - production and delivery of such products, we are entitled, without being obliged to investigate the legal situation, to stop any further activity and ask indemnity in case of the Buyer's fault. In addition to it, the Buyer is obliged to exempt us immediately from any related claims of any third person.

### **IX. Test parts, moulds, tools**

1. If the Buyer shall delivery parts for realization of the job order, the former must deliver them free the manufacturing plant in the agreed quantity and/or in the adequately increased quantity for possible scraps, namely in due time, at no cost and free from any defects. If these obligations are not performed, the costs and other consequences caused to us shall be borne by the Buyer.
2. Production of the test parts incl. costs for moulds shall be borne by the Buyer.
3. The title to the moulds, tools and other fixtures, necessary for manufacture of the ordered parts, are governed by the made agreements. If such fixtures become unserviceable before fulfilment of the agreed quantity, the costs necessary for their replacement shall be borne by us. We shall have such fixtures available for at least two years after their last use.
4. Our warranty for the tools, moulds and other fixtures delivered by the Buyer is restricted to the care of them as if they were out things. The costs for maintenance and treatment shall be borne by the Buyer. Our obligation to store ends - irrespectively of the Buyer's ownership rights – two years from the last production using the said mould or the tool at the latest.

### **X. Place of performance, competent court and governing law**

1. Registered seat of our company is the place of performance of our deliveries.

2. The contracts are governed by the Czech legislation, mainly by the Civil Code No. 89/2012 Sb., as amended. The parties hereto have agreed that possible disputes or misunderstandings following from this contract shall be resolved mainly amicably. If the parties hereto fail to come to an agreement, the dispute shall be resolved by the arbitration proceedings held before the Arbitration Court at the Chamber of Commerce of the Czech Republic and the Agrarian Chamber of the Czech Republic. The Arbitration Court shall be held in conformity with the rules of arbitration proceedings of this Arbitration Court (hereinafter referred to as the “Rules”) by 3 arbitrators appointed in conformity with the Rules. Place of performance of the arbitration proceedings – Zlín, Czech Republic; official language of the proceedings will be the Czech language with possible synchronous translation into English. Award of the arbitration proceedings delivered by the arbitration chamber is final and binding for both parties.

#### **XI. Governing wording**

These General Delivery and Payment Terms are valid, unless agreed otherwise by the contract.

This Contract shall be construed in accordance with the laws of the Czech Republic, namely the Act No. 89/2012 Coll. of Laws, The Civill Code, as amended. All disputes arising out of the Contract or in connection herewith that failed to be settled by negotiations of the Parties, shall be finally settled by the Arbitration court of the Czech Industry Chamber and Czech Agrarian Chamber. The arbitration shall be held under the Rules of Arbitration of said Arbitration Court by three arbitrators appointed in accordance with the said rules. The place of arbitration shall be city of Zlín, Czech Republic and the language of arbitration shall be Czech with possible simultaneous translation into English. The decision of the arbitrators shall be final, binding and conclusive on the Parties.