

## The General Delivery Business Conditions for Entrepreneurs

trading company: Festo, s.r.o., registered office: Modřanská 543/76, Prague 4 – Hodkovičky, postal code: 147 00, Company Reg.No.: 00564737, entered in the Commercial Register held at the Municipal Court in Prague (hereafter simply referred to as the "supplier").

### 1 The basic provisions

1.1 These General Business Conditions (hereafter simply referred to as the "GBC") supplement the purchase contract regulating the mutual rights and responsibilities of the parties during the sale of individual goods according to the supplier's catalogue or the sale of goods and services in general, hereafter simply referred to as the "goods", in accordance with the provisions of section 1751 of the Civil Code (Act no. 89/2012 Coll., hereafter simply referred to as the "Civil Code"). The express contractual agreements between the parties will take precedence over the GBC. Any matters not regulated in the contract or in these GBC will be subject to the Civil Code, especially its provisions pertaining to purchase contracts.

1.2 The customer is understood to be a purchaser who is an entrepreneur according to sections 420-422 of the Civil Code and who purchases the goods within the framework of his or her commercial activities.

1.3 These GBC hereby expressly do not apply to independent sales of software.

1.4 If the purchase is also subject to the customer's own GBC and it therefore becomes necessary to resolve the matter as to which GBC should be used, any conflicting provisions in both GBC will be resolved in accordance with the Commercial Code.

### 2 Concluding a contract

2.1. A contract is concluded either when the supplier sends the customer confirmation of its unreserved acceptance of the customer's order or when the supplier sends the customer confirmation of its receipt of the customer's statement of acceptance regarding the supplier's offer. The supplier will send the customer confirmation of any placed orders and the customer should check that the mutual communication is functioning correctly, if the supplier has not sent the customer confirmation or rejection of an order within a reasonable period.

2.2. All of the notifications and clarifications of the parties when negotiating the contract or during its realisation must be undertaken in writing, while communication in electronic form is sufficient, provided it has been correctly addressed.

The aforementioned also applies to the delivery of invoices to the customer, as well as to the delivery or any complaints about goods to the supplier by the customer. The customer is responsible for providing the supplier with the correct correspondence address and for advising the supplier of any eventual changes to it.

### **3 The manner, place and date of performance**

3.1 The supplier will fulfil its obligation to deliver the goods to the customer by means of the correct delivery of the goods to the agreed place within the agreed deadline.

3.2 If the personal collection of the goods from the supplier has been agreed, the obligation to supply the goods will be fulfilled as of the day when the goods become available for collection in accordance with the supplier's notification to the customer.

3.3 The supplier must immediately inform the customer, if it is unable to supply the goods within the agreed deadline in exceptional cases.

3.4 The customer's entitlement to the default payment in case of late delivery of the goods at the amount of 0.1% of the price of the goods for every day of default can only be claimed from the supplier up to 30 days from the receipt of the goods.

3.5 The supplier is authorised to withhold any subsequent performance throughout the duration of any default in the payment of the price for goods according to previously placed orders and to do so until such time as the outstanding amount has been paid. This will not place the supplier in default.

3.6 The supplier will designate the suitable method of transporting the goods to the customer depending on their nature and will ensure that the goods have been correctly packaged for transportation to the address provided by the customer. It has been agreed that the supplier will have fulfilled its obligation to supply the goods by transferring them to a carrier ("INCOTERMS conditions"). The supplier will also subsequently enable the customer to exercise the rights arising directly from the contract with the carrier once the goods have been sent.

### **4 The price of the goods and the payment terms**

4.1. Unless stated otherwise, the agreed price of the goods is always stated without VAT and it always includes all of the packaging and transport costs. If the price of the goods has been agreed without transport and the supplier is supposed to secure it, the supplier will re-invoice the transport costs.

4.2. If the value of the goods according to one order or one consignment is less than 1000 CZK, the supplier will add a handling fee of 150 CZK to the overall agreed price.

4.3. The customer will defray the price of the goods upon the basis of a correct invoice which has been issued as of the date of dispatch (handover) of the goods to the customer. If not agreed otherwise, the maturity will be 14 calendar days from the date of issue or delivery according to paragraph 4.4.

4.4 The supplier will always send the invoice to the address stated by the customer or to the customer's email address. The eventual non-delivery to the customer due to the customer's failure

to provide an address or the customer's failure to inform the supplier of a change of address or due to the non-functioning of the customer's email address will have no influence over the invoice maturity. It will be considered to have been delivered as of the third workday after it was sent (issued).

4.5 The price for the goods is usually stated in CZK. If the price is stated in EUR and paid in CZK, the Czech National Bank's average monthly exchange rate for the month preceding the invoice's date of issue will be used for the conversion.

4.6 The purchase price will be considered to have been paid as of the date when it is credited to the supplier's bank account stated in the invoice.

4.7 If the customer is in default with the payment of the purchase price, the supplier will be authorised to charge default interest at the amount of 0.1% of the outstanding amount for each day of default, provided the supplier exercises this right at the latest within 30 days of the amount being fully paid.

4.8 The ownership rights to the goods will pass to the customer upon the defrayal of the purchase price.

## **5 The handover and receipt of the goods, the transfer of ownership and the risk of damage occurring to the goods**

5.1 The risk of the occurrence of damage to the goods will pass to the customer at the moment of their receipt. If it has been agreed that the obligation to realise the delivery will have been fulfilled upon the transfer of the goods for transport (INCOTERMS), the moment of transfer will then constitute the moment as of which the customer has been enabled to exercise its rights arising from the transport contract.

5.2 Upon taking delivery of the goods from the carrier, the customer will simultaneously inspect the integrity of the packaging, the goods and the completeness of the consignment according to the contract. The customer will make a note of any damage caused en route in the bill of delivery or the packing list and will inform the supplier of this without any undue delay. If the customer fails to lodge any claims or prevents the supplier from lodging any claims against the carrier with regard to the carrier's liability towards the supplier, the supplier will be released from any such liability towards the customer to the same extent. The customer will also immediately inform the supplier of any incurred damage, if the customer is responsible for transport.

5.3 The customer will also inspect the correctness of the delivery from the point of view of any apparent faults in the goods and will do so upon taking delivery of the goods or at the latest within five workdays of delivery. The customer will immediately inform the supplier (lodge a claim) in the case of any ascertained faults.

5.4 The supplier will be released from all responsibility for the goods, if the customer has failed to adhere to any special instructions pertaining to the receipt, unpacking or use of the goods.

5.5 The supplier may refuse liability for any faults in the goods which cannot be specifically shown to have been delivered by the supplier, especially if the customer has removed the identification labels or any other labelling on the goods supplied by the supplier (manufacturer).

## **6 Commissioning the goods**

6.1 The supplier will only carry out the installation of the goods at the customer's premises if this has been expressly agreed. The installation will take place on workdays between 8:00 am and 5:00 pm. If the customer requests the supplier to carry out the installation outside working hours, the supplier will charge a 50% surcharge or a 100% on the price of the work on state holidays.

6.2 If the installation of the goods by the supplier at the customer's premises requires intervention in a system from another manufacturer, the customer will be responsible for acquiring said manufacturer's consent or the instructions upon which the adherence to the issued guarantees is conditional.

6.3 The supplier only guarantees and is only liable for the installation of the goods for a method of use which is in accordance with the extent of the information and the technical parameters stated in the catalogue. The same applies in the case of a different purpose of use for the goods or their compatibility, provided the supplier has not provided express assurances that this is possible.

## **7 The responsibility for faults in the goods and claiming for them**

7.1 The supplier will refuse any claims for faults or damages occurring to the goods as a result of clear non-adherence to the instructions given by the supplier (producer) pertaining to the unpacking, installation and commissioning of the goods.

7.2 The supplier is not responsible for the suitability of the subject of the performance for a specific use or for its compatibility with any of the customer's already existing systems, unless agreed otherwise.

7.3 The supplier will be liable for any apparent faults to the goods, if the customer reports them without any undue delay after they could have been found during a timely inspection and when exerting sufficient care. A reasonable period for discovering any such faults is considered to be 5 workdays from the receipt of the goods. If, however, the customer has stated in advance that it will use (install, commission) the goods at a later date, it will lose its right to claim for any apparent faults after the expiry of the stated deadline, but at the latest within 6 months of the receipt of goods.

7.4 The supplier is liable for any hidden faults which have been reported by the customer without any undue delay after they have been discovered or could have discovered when exerting sufficient care, but at the latest within two years of the date of the handover of the goods.

7.5 The supplier's liability is always conditional upon the fact that the customer has reported the fault in the goods, including the specific manifestations thereof, in writing and without any undue delay after the first appearance of the fault.

7.6 Any faults which make the goods only partially usable or unusable will be repaired free of charge by means of a repair realised within the jointly agreed deadline; this usually involves a deadline of up to a maximum of 15 days from the notification. In the case of the necessary replacement of the goods or any parts thereof, the repair will take place within a deadline which is identical to the deadline for delivery according to the original contract and under the condition of the simultaneous return of the defective goods or any part thereof to the supplier.

## **8 The confidentiality of information**

8.1 The parties hereby pledge to maintain confidentiality about all of the information acquired during the work on this transaction and the realisation thereof and to do so until such time as it has been completed.

8.2 The drawings and data which constitute part of the offer are for the personal use of the customer only and they may not be copied or provided to any third parties without the written consent of the supplier

8.3 The customer is aware of the fact that all of the software contained in the goods (the control unit) is the intellectual property of the supplier or its subcontractor and that as such it enjoys all of the legal protection of their intellectual property.

## **9 Insurmountable and unforeseeable impediments to performance**

9.1 Neither the supplier nor the customer will be obliged to provide the performance, if they become subject to an unforeseen and insurmountable impediment which has arisen independently of their will. The parties will not be in default throughout the period of the duration of any such impediment.

9.2 An unforeseeable and insurmountable impediment is not considered to mean an impediment which has arisen from personal relations or has arisen in the default period for any of the obligations.

## **10 The premature termination of the contract**

10.1 The contract may only be terminated:

- a) by means of a written agreement between the supplier and the customer,
- b) by means of withdrawal from the contract due to a gross breach which means
  - on the part of the customer:
    - default in the fulfilment of any monetary obligations towards the supplier lasting longer than 30 days from the maturity date,
    - entry into liquidation or the commencement of liquidation proceedings concerning the customer.

If the supplier has already fulfilled its obligation to supply the goods, the withdrawal from the contract will always also mean the entitlement to the return of any goods which have not been paid for based on the designation of ownership set out in Article 4.8 of these GBC.

- on the part of the supplier:
  - the failure to deliver the goods even after the receipt of written notification and the fruitless expiry of the provided replacement delivery deadline which must not be shorter than half the delivery deadline agreed in accordance with the contract,
  - entry into liquidation or the commencement of liquidation proceedings concerning the supplier.

10.2 Each party can also withdraw from the contract, if justified doubts arise as to the ability of the second party being able to provide the contractual performance and if said second party fails to provide sufficient certainty of the fact that it can live up to its obligations upon being requested to do so.

10.3 The withdrawal from the contract will be effective as of the day that it is delivered to the second party, if said second party has not yet fulfilled its obligation arising from the contract.

## **11 The governing law and the resolution of disputes**

11.1 The contract is subject to Czech law, especially the Civil Code. The parties hereby pledge to resolve all disputes amicably before exercising any rights with the courts.

11.2 If the customer has also made the conclusion of the contract conditional upon the customer's GBC, both GBC will apply to the contract at the extent to which the parties have agreed. In all other cases, the Civil Code will apply in the wording which was valid as of the date of the conclusion of the contract.