

## GENERAL COMMERCIAL TERMS AND CONDITIONS FOR PROCUREMENTS

issued pursuant to the provisions of Article 1751 et seq. of Act No/ 89/2012, the Civil Code, in its current version ("Civil Code"), applicable to entering into contracts in which BONATRANS GROUP a.s. is the Buyer

### 1. Preamble

These General Commercial Terms and Conditions for Procurements ("**Terms**") have been issued with the aim to simplify business transactions while at the same time defining in detail the Parties' rights and obligations when entering into purchase contracts in which the buyer is BONATRANS GROUP a.s. [joint stock company] with its registered seat at Revoluční 1234, 735 94 Bohumín, Czech Republic, ID No 27438678, Tax ID No CZ27438678, a company incorporated in the Commercial Register of Regional Court in Ostrava, Section B, File 3173 (hereafter also referred to only as "**Buyer**"). These Terms shall form an integral part of the contents of all purchase contracts for the procurement of goods concluded between the Buyer and another entity as the Seller (hereafter also referred to only as "**Purchase Contract(s)**" or "**Contract(s)**").

Any deviations from these Terms or addenda thereto shall be valid and effective only if approved in writing by both Parties, and if they are part of the Purchase Contract. Where the provisions in a Purchase Contract differ from those in these Terms, the provisions stated in the Purchase Contract shall prevail.

### 2. Signing a contract, contract subject matter

2.1 All Purchase Contracts shall be signed based on a written order / draft purchase contract ("**Order**") placed by the Buyer. Upon the receipt of the Seller's written acceptance (confirmation) of the Buyer's Order, or upon the Contract original being signed by authorised officers of both Parties, the Purchase Contract shall be deemed concluded. The Order must be accepted by the Seller in its entirety, without any addenda, objections, limitations or other amendments vis-à-vis the text of the Order placed by the Buyer. Accepting the Order with any addenda, objections, limitations or any other amendments shall be regarded as the Order being declined by the Seller, and will constitute a new Seller's draft purchase contract, even if the addenda, objections, limitations or any other amendments do not substantially change the Order's terms and conditions. In such case a Purchase Contract shall be entered into only if this new draft contract is accepted by the Buyer, and the acceptance confirmed to the Seller. Unless stipulated in the Order otherwise, the Seller will have 5 days to accept the Order after having received it, and within this deadline either confirm the acceptance of the Order to the Buyer, or notify the Buyer that the Seller decided to decline accepting the Order. Both accepting the Order and declining to accept it must be executed in a written form, signed and delivered to the Buyer through a holder of a postal licence, or in an electronic form (with at least a plane electronic signature), or sent to the Buyer's data box, or delivered by hand. The Purchase Contract must contain at least the following information:

- Identification data of the Parties: company name, registered address, ID No, Tax ID No, bank and account number for payment (The account can be changed only in the form of an addendum to the Contract)
- Identification of the goods being purchased (identification of each item, type of goods, quantity and quality/grade, execution and the documentation required to be delivered together with the goods)
- The goods price
- The required method of payment
- The date, place and method of delivery
- Warranty period
- A clause stating that an integral part of the Contract are these Terms

2.2 By signing a Purchase Contract the Seller undertakes to deliver to the Buyer, to the agreed place and at the agreed time, the goods specified in the Purchase Contract, and transfer the ownership rights to these goods to the Buyer, and the Buyer undertakes to accept the goods at the agreed place and time, and pay the Seller the agreed purchase price for them.

2.3 A signed Purchase Contract can be amended only if the amendment has been approved by both Parties. Any addenda and amendments to the Purchase Contract must be executed exclusively in a written form and be signed by the representatives of both Parties, otherwise the amendment will be invalid. As a written form shall be also regarded cases when negotiations have been conducted via electronic media which allow the negotiations contents to be recorded and the persons who conducted them identified, provided the records contain at least a plain electronic signature.

2.4 All written documents issued in connection with a Purchase Contract must contain the Order No./Purchase Contract No. stated in the Order/Purchase Contract.

### 3. Purchase price, taxes and payment terms

3.1 The contracted purchase price is a fixed price, its amount shall remain non-changeable throughout the Purchase Contract term, unless explicitly specified in the Contract otherwise.

- 3.2 The purchase price includes also all Seller's auxiliary costs, and unless stipulated in the Contract otherwise, the purchase price includes the costs of transporting the goods to the place of delivery and any other costs of services provided or activities conducted by the Seller in connection with the goods delivery (e.g. customs duties, transit frees, etc.). The purchase price includes also the costs of insuring the goods, unless stipulated in the Contract otherwise, or unless legislation places the obligation to insure the goods upon the Buyer. The Seller does not have the right to request any other payments from the Buyer, or any additional deliveries of any kind whatsoever. The Parties hereby explicitly exclude the application of any legislative provisions whatsoever (in particular those of the Civil Code) which afford the Seller the option to request from the Buyer an increase in the purchase price, any additional payments or any other deliveries, unless such increase in the goods purchase price, other payments or other deliveries, are specified in the Purchase Contract.
- 3.3 Unless stipulated in the Purchase Contract otherwise, the purchase price does not include any taxes or levies. The Seller shall charge taxes in compliance with the tax laws of the Czech Republic applicable at the time of the goods taxable delivery. Any valid tax exemption certificates must be attached to the Contract to which they apply. In respect of goods for which the regime of reverse charge applies, the Buyer shall proceed in accordance with the provisions of Article 92a et seq. of Act No. 253/2004, as amended.
- 3.4 By signing the Purchase Contract, the Seller declares that the declaration made in the Contract as to whether the Seller is or is not a VAT payer in the Czech Republic, or whether they are an entity registered as a VAT payer in some other EU member state, or whether they are a foreign entity as defined in the Value Added Tax Act (i.e. they do not have a domicile, place of business or establishment or place of residence or the place of usual residence, in any EU country), is true.
- 3.5 Unless the Seller is a foreign entity as defined in the previous paragraph, the Seller must also state in the Purchase Contract the assigned Tax ID No. If an entity registered as a VAT payer in another EU member state as per the previous paragraph is involved, this shall be interpreted as this entity not having a domicile, a place of business or an establishment in the Czech Republic, unless stipulated in the Contract otherwise.
- 3.6 By signing this Purchase Contract, the Seller undertakes to notify the Buyer, for as long as this Contract remains effective, about any changes in any of the above stated particulars, forthwith after the change has occurred (within 7 days).

By signing this Purchase Contract, the Seller who is a foreign entity declares that the Seller has no permanent establishment in the Czech Republic as defined by the provisions of Article 22 paragraph 2 of Act No. 586/1992, the Income Tax Act, and the applicable Prevention of Double Taxation Agreement. The Seller furthermore declares that they have no signed agreement on the basis of which an establishment defined by the quoted legislative regulations may be predicted. If the Seller has or will have in the Czech Republic a permanent establishment as defined in the quoted legislative regulations, or if the Seller enters into an agreement on the basis of which an establishment could be predicted, the Seller shall inform the Buyer accordingly within 30 days after the time when it has happened.

The Seller undertakes, should they breach the obligations set forth in this paragraph, to compensate the Buyer in a cash form for any damages the Buyer has suffered as the consequence of the breach of the Seller's obligations.

- 3.7 After the goods ordered in the Purchase Contract have been duly delivered and accepted, the Seller shall raise an invoice. The invoice must contain the particulars specified in clause 3.9 of these Terms. If the Seller is registered in the Czech Republic as a VAT payer, the invoice must also contain all particulars of a tax document as defined by applicable legal regulations.

The Buyer shall make the payment without offsetting any counter-receivables or deductions, unless a different method of payment of the purchase price has been stipulated in the Purchase Contract.

- 3.8 When the Seller has given the Buyer a discount, the discount shall be either included in the price of each item, or shown in the invoice as a separate item.

**3.9 Invoices must contain the following particulars:**

- ID No and Tax ID No of both, the Buyer and the Seller
- Specification of the Contract subject matter
- Total amount being invoiced without VAT, the VAT rate and amount, and the invoiced price including VAT, broken down as specified in the Purchase Contract, including discounts where applicable
- Invoice issue date
- Date of taxable delivery (Tax effective day)
- Payment due date
- Seller's stamp and signature
- The name and bank account number of the financial institution identical to the Seller's account specified in the Contract
- Order/Purchase Contract number

Attached to the invoice must be a copy of the shipment's delivery note or a copy of a record substantiating the Seller's right to raise the invoice. When a summary monthly invoicing has been agreed, an integral part of the invoice must be a summary of delivery notes for the goods delivered during the month.

- 3.10 Invoices shall be payable within 60 days after the invoice has been demonstrable presented to the Buyer, sent to the following Buyer's invoicing address:

**BONATRANS GROUP a.s.**  
**Accounts and Analyses Department**  
Revoluční 1234  
735 94 Bohumín,

or, if delivered electronically, to the following address: [prijem.faktur@ghh-bonatrans.com](mailto:prijem.faktur@ghh-bonatrans.com)

As payment remittance shall be regarded debiting the payment amount from the Buyer's account.

- 3.11 Unless the invoice contains all the required particulars, of if it contains incorrect information, the Buyer will have the right to return the invoice before the payment due date back to the Seller, and the Seller shall raise a new invoice which meets all the specified requirements. In such case the payment term shall be suspended and a new payment term started when the corrected or missing data added invoice has been delivered to the Buyer. The Seller furthermore undertakes to render the Buyer collaboration in the event that the Internal Revenue Service claims that the invoice fails to meet the requirements of a tax document as required by the Value Added Tax Act or some other relevant legislative regulation. Until the Seller fulfils its obligation to render collaboration, the Buyer will have no obligation to pay any part of the purchase price, or to make good any other payment obligation from the Purchase Contract.
- 3.12 In the event that the goods delivered contain defects which prevent them from being accepted or used, the Buyer will have the right to return the goods to the Seller or withhold a payment for the goods, until defect-free goods have been delivered. The contracted payment term shall commence on the day the goods defects have been remedied or replacement goods delivered.
- 3.13 A Seller who has a domicile/place of business in the Czech Republic and who is a value added tax payer in the Czech Republic, hereby explicitly declares that they have no outstanding tax liabilities to the Internal Revenue Service, and that they do not meet the conditions and circumstances defined in Article 9 of Act No. 235/2004 in its current version, which can make the Buyer legally liable to pay the value added tax on behalf of the Seller, and declares that there is no danger in the Seller's case that such conditions and circumstances might occur, and that they will adopt all necessary measures to prevent such conditions and circumstances from occurring. The Seller undertakes that, should such conditions and circumstances occur or should there be a danger that they might occur at the time of taxable delivery, they shall notify the Buyer accordingly forthwith. In order to substantiate the above undertakings, the Seller shall present to the Buyer at Buyer's request a recent certificate (not older than seven days) confirming that the Seller has no outstanding tax liabilities (a personal tax account balance certificate), within 10 days after having received the request from the Buyer to do so. Unless at the time of signing the Purchase Contract the Document Archive of the Commercial Register contains the Seller's latest financial statements, if the Seller has a legal obligation to compile financial statements, or the Seller's latest audited financial statements, if the Seller has a legal obligation to have its financial statements audited, the Seller undertakes to present to the Buyer a certified copy of the financial statements if asked to do so by the Buyer in writing, within 10 days after having received the Buyer's request. If the Seller is in default with fulfilling any of its obligations specified in this clause for more than 14 days, the Buyer will have the right to withdraw from the Purchase Contract.
- 3.14 If the Seller is in the Central Taxpayer Register identified as an unreliable taxpayer, or if the Seller specifies in its invoice an unregistered bank account, the Buyer will have the right to pay the value added tax due themselves, i.e. remit it to the appropriate office of the Inland Revenue Service. The Buyer will then remit to the Buyer the purchase price at the tax base level (i.e. less the value added tax paid).

#### **4. Delivery terms**

- 4.1 Delivery dates are specified in each Purchase Contract. A delivery term commences the moment the Purchase Contract is signed.
- 4.2 As the moment of the goods delivery shall be regarded the moment when the Buyer has the possibility to manipulate the goods in its premises (place of delivery), unless agreed by the Parties otherwise.
- 4.3 Unless specified in the Purchase Contract otherwise, the place of delivery shall be the Buyer's complex at the Czech Republic, Bohumín, Revoluční 1234, whereas the Buyer can in the Order specify a specific warehouse inside the Buyer's manufacturing complex.
- If specified as the place of delivery has been "Central Deliveries" or "Components Warehouse" BONATRANS GROUP a.s., then the delivery can be made and the Buyer must accept the goods, Mondays to Fridays from 7:00am to 1:00pm.
- 4.4 The Seller shall arrange for the goods to be transported to the place of delivery and obtain all permits and rulings of relevant authorities necessary for the goods to be transported and delivered to the place of delivery. The Buyer undertakes to render to the Seller in this respect the necessary collaboration.
- 4.5 The Seller shall deliver the goods in the contracted quantity, quality and execution, and if quality and execution have not been specified, then in the quality and execution suitable for the purposes for which the goods have been ordered, and if the purpose has not been specified, then for the purpose for which the goods are usually used. The goods must meet all applicable provisions of legislative regulations, technical requirements and technical and safety standards for the given type of goods, also taking into consideration the final product of which the goods are to be a part. The goods as well as the components to be used in their production must be new, unused, undamaged and made from material of good quality. If the goods are supplied based on samples, designs or drawings, they must fully match and comply with these samples, designs or drawings. The goods must be capable of at least standard performance in accordance with the properties and quality specified in the Purchase Contract, and fully meet the purpose for which they have been ordered. Goods of particular properties or quality ordered by the Buyer, or the Buyer's specific requirements concerning the goods' properties, does not relieve the Seller from Seller's obligation to act with professional care and warn the Buyer in writing if the Buyer has ordered unsuitable goods or issued an unsuitable instruction, as the result of which the goods would not serve the purpose for which the Buyer intends to use them, or would not provide the Buyer the required performance, if these facts have been known to the Seller.
- 4.6 The Seller shall ship the goods in the manner specified in the Purchase Contract or, if the way the goods are to be shipped is not specified in the Purchase Contract, then in the usual way, and deliver them to the place of delivery at the specified delivery date. The Seller shall deliver together with the goods also all paperwork and documentation necessary for accepting and duly using the goods, i.e. especially a declaration of conformity issued pursuant to Act No. 22/1997 in its current version, certificates issued by authorised bodies, operating and maintenance instructions in Czech, a quality and completeness certificate, wiring diagrams, manufacturer's certificates of tests performed, etc. (if in doubt, the paperwork and documentation specified by the Buyer).

- 4.7 The Buyer will not be obliged to accept partial deliveries, i.e. especially will not have to accept a delivery containing other than the contracted quantity, execution and quality, or delivery with incomplete paperwork and documentation.
- 4.8 If the delivery contains goods in a quantity greater than ordered by the Buyer or as agreed, the Buyer will not be obliged to accept the surplus quantity of the goods, unless the Buyer had given explicit consent with accepting the surplus goods prior to the goods delivery. The acceptance of surplus goods by the Buyer shall not be interpreted as having entered with the Seller into a Purchase Contract for these surplus goods. The Seller shall take back the surplus goods at own cost and without undue delay, even if the Seller has not been instructed by the Buyer to do so, unless the Buyer has notified the Seller that the Buyer will keep the surplus goods and pay the Seller the purchase price for them.
- 4.9 The Parties shall compile about the goods delivery against a Purchase Contract a handover and takeover protocol or a delivery protocol ("Delivery Protocol"), which must be signed by both Parties and which shall contain the following particulars:
- First names and surnames of the persons who performed the handover and takeover procedure
  - Specification of the goods handed over – their full identification including the list of all paperwork and documentation which form part of the delivery.
  - Date of the goods handover and takeover and signatures of the persons who carried out the handover and takeover
- 4.10 The Seller shall inform the Buyer forthwith about any potential delays in the goods delivery longer than two workdays over the contracted delivery date.
- 4.11 The Seller may deliver the goods before the specified delivery date (early delivery), unless stipulated in the Purchase Contract explicitly otherwise, or if early delivery is not possible due to operation reasons on the Buyer's side, of which the Buyer must notify the Seller without undue delay after having been advised about the pending delivery by the Seller pursuant to clause 4.12 of these Terms.
- 4.12 The Seller shall notify the Buyer in writing about the pending delivery of goods sufficiently in advance, not less than three workdays prior to the delivery, stating the Purchase Contract or Order number, the day the Purchase Contract was signed or the Order placed, with full identification of the goods, which must match the goods specified in the Purchase Contract.
- 4.13 When shipping the goods, the Seller shall abide by the Buyer's instructions, otherwise the Buyer will have the right to charge the Seller and be compensated by the Seller for any damages suffered due to the Seller's disregard of the Buyer's instructions. For consignments in the units of weight transported by rail, the Seller shall arrange official weighing.
- 4.14 When shipping goods by rail, the Seller shall enclose with each consignment in the railway truck a delivery note in such a way that it is visible but protected against the effects of weather and against damage during the transportation. For the so called shared wagon consignments, the Seller shall show in both, the information display board and in the delivery note, the numbers of all Purchase Contracts according to which the material has been stowed in the railway truck. Each type of goods in the railway truck must be identified by the Buyer's Purchase Contract No. The information display board and the delivery note must contain full specification of the number of units (metres) and weight.
- For consignments comprising of several packets, the packet which contains the delivery not must be marked accordingly.
- 4.15 The Seller undertakes to take back the goods packaging or packaging waste which the Seller launched to the packaged product market, through the combined services rendered by EKO-KOM, a.s., unless a different way of taking the packaging back has been specified in the Purchase Contract. All costs associated with taking back packaging shall be borne by the Seller.
- 4.16 The Seller shall arrange for selected products to be taken back as required by Czech legislation (Act No. 185/2001, the Wastes Act in its current version), at own cost and risk.

## 5. Other Buyer's rights and obligations

- 5.1 In respect of goods where part of the Purchase Contract is also the Seller's undertaking to provide to the Buyer technical advisory services, to participate in operation tests, to keep a consignment warehouse at the Buyer's premises, etc., the Buyer shall, at the Seller's written request, issue to the Seller at a charge an entry permit for all Seller's vehicles, necessary for fulfilling this undertaking.
- 5.2 The Buyer undertakes to train or arrange training of a nominated Seller's employee (or an employee of its subcontractor) in work safety, of which a written record will be made.
- 5.3 If the Seller performs its obligations inside the Buyer's complex, the Buyer will have the right to check the Seller's employees, especially concerning the fulfilling of their obligations specified in Clause 6 of these Terms.

## 6. Other Seller's rights and obligations

- 6.1 The Seller shall:
- Observe when inside the Buyer's complex all applicable regulations (including Buyer's internal regulations) concerning occupational health and safety, as well as applicable fire protection regulations and regulations concerning environmental protection; an integral part of the Purchase Contract shall be also General Terms and Conditions for the Enforcement of OHAS for Suppliers of Material, which are available at [http://www.ghh-bonatrans.com/soubory/VSEOBECNE\\_Purchase\\_ContractDMINKY\\_BOZP\\_MATERIAL.pdf](http://www.ghh-bonatrans.com/soubory/VSEOBECNE_Purchase_ContractDMINKY_BOZP_MATERIAL.pdf); The Seller declares that they have acquainted themselves with all these regulations and accept their content.

- Ensure that the Seller's employees / subcontractors / subcontractors' employees entering the Buyer' complex observe the applicable regulations (including the Buyer's internal regulations) concerning occupational health and safety, as well as applicable fire protection regulations and regulations concerning environmental protection. Persons when entering the Buyer's complex will be acquainted with special regulations concerning occupational health and safety, as well as with applicable fire protection regulations and regulations concerning environmental protection, which they will confirm by their signature (Instruction as per clause 502 of these Terms).
  - Ensure that the Seller's employees / subcontractors / subcontractors' employees entering the Buyer' complex respect the ban on smoking inside the BONATRANS GROUP a.s. complex outside of designated smoking areas identified by a pictogram.
  - Ensure that the Seller's employees / subcontractors / subcontractors' employees entering the Buyer' complex abide by all instructions and orders of the Buyer's employees or other persons nominated by the Buyer, concerning the observance of applicable regulations (including the Buyer's internal regulations) to enforce occupational health and safety, as well as applicable fire protection regulations and regulations concerning environmental protection.
  - Ensure that the Seller's employees / subcontractors / subcontractors' employees entering the Buyer' complex render to the Buyer's employees or to other persons nominated by the Buyer, adequate collaboration when being instructed as specified in clause 5.2 of these Terms, and to sign the protocol specified in clause 5.2 of these Terms.
- 6.2 If the Seller and the Buyer agree on top of the framework of the rules specified in clauses 4.15 and 4.26 of these Terms, on returning returnable packaging supplied together with the goods, the Seller shall pay the costs of returning this packaging.
- 6.3 At Buyer's request the Seller shall let the Buyer conduct its own client ISO 9001 audit at the Seller's plant.

## **7. Guaranty of quality, liability for defects**

- 7.1 The Seller guarantees that the goods delivered are and throughout the warranty period will be, free of defects, and that throughout the warranty period the goods will have the quality, properties and execution specified in clause 4.5 of these Terms, and that they will be fit to be used for the purpose specified in clause 4.5 of these Terms. The Seller furthermore guarantees that the goods are free of legal defects.
- 7.2 At Buyer's request the Seller shall present to the Buyer forthwith relevant grade and quality certificates issued in accordance with the requirements of applicable EU standards, and a certificate of the country of origin. This provision will not relieve the Seller from its liability from the guarantee of quality.
- 7.3 A defect to which the Seller's liability from warranty also applies is the failure to deliver or the delivery of defective or incomplete documentation specified in clause 4.6 of these Terms.
- 7.4 The Buyer shall have the right to refuse accepting the goods unless they have been delivered on time and duly, i.e. if the goods contain defects or if the Seller has failed to fulfil some other obligations concerning the goods as required by legislation or by the Purchase Contract. The Buyer may decide to accept the delivery in its entirety or of its part only, or decline to accept it in its entirety. All costs associated with it (repackaging, storage, etc.) shall be borne by the Seller. The Buyer has no obligation to check, not even by making random checks, the goods' properties upon their delivery. Accepting goods with defects or with defective or incomplete documentation shall not relieve the Seller from the obligation to duly deliver the goods in accordance with the Purchase Contract, and shall not prejudice any of the Buyer's entitlements from the Purchase Contract, especially not the entitlement from the liability for defects, liability from warranty or liability for damages.
- 7.5 Unless stipulated in the Contract otherwise, warranty period shall be 36 months after the goods' delivery, however not more than 24 months after the delivered goods have been put into operation by the Buyer's client (even when the delivered goods are a component in a final product produced by the Buyer). The time during which the Buyer is unable to use the goods because of the defects they contain shall not count towards the warranty period.
- 7.6 Defects in delivered goods can be notified / claimed in writing at any time during the warranty period. Failure to report a defect without undue delay shall not prejudice in any way the Buyer's entitlement to make claims from the Seller's liability for defects or from the guarantee of quality. The Parties have agreed to exclude the application of the provisions of Article 1921, Article 2103, Article 2104, Article 2105, Article 2110, Article 2111 and Article 2112 of the Civil Code. The Buyer must let the Seller inspect the defective goods. Defects notified by fax, e-mail or similar demonstrable technique shall be accepted as a written form of notification.
- 7.7 The Buyer is entitled to make during the warranty period the following demands in respect of defective goods:
- a) Demand that the defects are remedied or new goods are delivered in place of the defective goods, or that missing goods are delivered within 15 days after the defective goods were notified by the Buyer to the Seller, or, if the nature of the defects prevents the goods from being duly used, within 48 hours after the notification, and the Seller shall be obliged to replace the defective goods or remedy the defects within these deadlines.
  - b) Demand that the defects are remedied by repairing the goods (provided the goods are repairable), within 15 days after the defects were notified by the Buyer to the Seller, or, if the nature of the defects prevents the goods from being duly used, within 48 hours after the notification, and the Seller shall be obliged to replace the defective goods or remedy the defects within these deadlines.
  - c) Demand a reasonable discount on the purchase price.
  - d) Withdraw from the Contract.

Which of the above options is selected is at the Buyer's discretion. The Buyer may also select more than one option, provided the nature of these options do not make them mutually exclusive. In particular the Buyer will have the right to demand a discount on the purchase price together with the delivery of replacement goods or repair of the goods defects. Selecting any of the options specified in paragraph 7.7 of these Terms shall not prejudice the Buyer's right to also impose a sanction. If the Buyer selects either the option in clause 7.7 a) or 7.7 b) of these Terms, and the Seller fails to remedy the defects within the stipulated deadline, or if the defects are irreparable, the Buyer will have the right to demand a reasonable discount on the purchase price, or to withdraw from the Contract.

- 7.8 The Seller shall remedy the notified defects by delivering replacement or missing goods or by repairing the notified defect within the above specified deadline, even if the Seller disputes the claim's justifiability. Should the claim turned out to be unjustified, the Seller will have the right to be compensated for any expenses purposefully incurred in remedying the alleged defects in the delivered goods. Should the claim concerning the delivered goods turn out to be justified, the Buyer will have the right, inter alia, to be compensated for any damages suffered, and the right to impose appropriate sanctions.
- 7.9 For newly delivered goods or repaired goods, a new warranty period of the length specified in clause 7.5 of these Terms shall commence from the moment of delivery of the replacement goods or the moment of the defective goods repair.
- 7.10 The Seller shall express its opinion concerning the claim's justification within 15 calendar days after the defect notification date. If the Seller fails to do it within the specified deadline, this shall be interpreted as the Seller's acceptance of the claim's justifiability.
- 7.11 As the date of the defective goods claim / notification shall be deemed the date the message containing the defect identification and the Buyer's selection of the remedy described in clause 7.7 of these Terms, was sent.
- 7.12 In the event that the delivered defective goods have already been processed into the Buyer's final product and this product has already been sold to a third party ("Buyer of Final Product"), the Buyer will be entitled, in addition to the entitlements specified above, to a reasonable discount on the purchase price, and to be compensated for all purposefully expended costs and damages (e.g. sanctions imposed against the Buyer) incurred because of the defects in the final product or in remedying the defects in the final product, or which the Buyer of Final Product or the end user of the final product has claimed from the Buyer, including the costs of disassembly and putting the final product or the product into which the goods have been built in, out of operation.
- 7.13 Until all defects in the goods have been remedied, the Buyer will have no obligation to pay the Seller any part of the defective goods purchase price which as yet has not been paid to the Seller.

## **8. Interest charged for late payment, liability for damages, offsetting, withholding goods, pledging of receivables**

- 8.1 If the Buyer is in arrears with the payment of invoices, the Seller will have the right to charge the Buyer an interest for overdue payment in compliance with applicable legal regulations.
- 8.2 If the Seller is overdue with the proper and timely delivery of goods as specified in the Purchase Contract, the Seller shall pay the Buyer a sanction at the rate of 0.5% of the contracted purchase price of those goods the delivery of which the Seller is in default, for every day and a part thereof the delivery is overdue.
- 8.3 Should the Seller be in default with fulfilling its obligations concerning the liability from goods defects or liability from warranty (especially if the Seller fails to remedy goods defects within the deadlines specified in clause 7.7 a) or b) of these Terms), the Seller shall pay the Buyer a sanction at the rate of 0.5% of the purchase price of the defective goods in respect of which the Seller was in default, for every day and a part thereof the Seller was in default with fulfilling this obligation.
- 8.4 Should the Seller breach any of the obligations or prohibitions specified in Clause 12 of these Terms, the Seller shall pay the Buyer a sanction of CZK 250,000 for each case of such breach.
- 8.5 If the Buyer makes a justified claim concerning defects in the goods delivered by the Seller (irrespective of the nature of the notified defects) during the warranty period more than three times, the Buyer will have the right to impose a sanction at the rate of 10% of the purchase price of the claimed goods for each new case of defects found in the goods for which the Seller is liable under warranty as specified in Clause 7 of these Terms.
- 8.6 Should the Seller breach its obligations specified in clauses 3.4, 3.5 and 3.6 of these Terms, the Seller shall pay the Buyer a sanction of CZK 5,000 for each case of such breach.
- 8.7 Should the Seller breach its obligations specified in clause 3.13 of these Terms, the Seller shall pay the Buyer a sanction of CZK 100,000 for each case of such breach.
- 8.8 The Seller shall not have the right to withhold goods deliveries because of any unpaid invoices by the Buyer, or to unilaterally offset such receivables from payments due by the Seller to the Buyer. The Seller may not cede or pledge any of its receivables from the Buyer without the Buyer's prior explicit written consent. Should the Seller violate any of the provisions of this clause, the Seller shall pay the Buyer a sanction at the rate of 30% of the receivable's value.
- 8.9 The price used to determine sanctions shall always be the price excluding VAT.
- 8.10 If either Party breaches any of the obligations specified in the Purchase Contract or in these Terms, the Party which has breached the obligation shall, in addition to paying the applicable sanction, fully compensate the Party which has suffered damages as the result, for the real loss of profit, including any sanctions which the Buyer will have to pay to its clients as the consequence of the breach of the Seller's obligations. The payment of this sanction shall not relieve the Party which has breached its obligations, from the undertaking to fulfil its obligations imposed upon it in the Contract, and shall not prejudice the other Party's other entitlements afforded to it by legislation and the Purchase Contract (e.g. the entitlement to impose other sanctions).

## 9. Right of ownership and risk of goods damage

The right of ownership and the risk of goods damages shall transfer to the Buyer upon the demonstrable handover of the goods by the Seller and takeover of the goods by the Buyer.

## 10. Force majeure

- 10.1 Neither Party shall be held liable for fully or partially failing to fulfil its obligation, if such failure is the consequence of obstacles in respect of which it cannot be reasonably assumed that the obligor Party would overcome this obstacle or its consequences, or that at the time of the inception of its obligation (i.e. upon the signing of a Purchase Contract) the Party could have foreseen the incidence of this obstacle, such as floods, fire, earthquake or other elements of the nature, war or acts of war.
- 10.2 The Party for which fulfilling an obligation has become impossible due to the incidence of force majeure, shall inform about it the other Party in writing forthwith, not later than 7 calendar days after the occurrence of such obstacle, and likewise, shall inform the other Party in writing forthwith, not later than 7 calendar days after the effect of force majeure obstacle has ceased.
- 10.3 If the obstacle caused by force majeure remains in effect for the period not exceeding 20 calendar days, the Parties must fulfil their obligations from the Purchase Contract, but the deadlines for fulfilling these obligations shall be moved forward by the time force majeure remained in effect. If the obstacle caused by force majeure lasts while the Purchase Contract is effective for more than 20 calendar days, either Party will have the right to withdraw from the Purchase Contract.
- 10.4 As circumstances of force majeure shall not be recognised circumstances which occurred at the time when the obligor Party was already in default with fulfilling its obligations, or circumstances which occurred as the result of the Party's economic situation.

## 11. Resolving disputes and governing law

- 11.1 The Parties' rights and obligations related to a Purchase Contract, including the Purchase Contract's inception, its validity and effectiveness, shall be governed by legislation of the Czech Republic, with the exclusion of the Choice of Law and The UN Convention on International Sales of Goods.
- 11.2 Any disputes concerning Purchase Contracts entered into pursuant to these Terms and in connection thereto, shall be resolved, whenever possible, by agreement between the Parties. If the dispute cannot be resolved within 30 days from the start of the Parties' negotiations aimed at resolving the dispute, the dispute shall be heard before and decided by materially competent courts of the Czech Republic. The Parties to the Purchase Contract have agreed that the court competent to hear disputes originating from Purchase Contracts entered into pursuant to these Terms and in connection thereto, shall be the by locality competent District Court in Ostrava.

## 12. Non-disclosure obligation and protection of information

- 12.1 Any materials made available to the Seller by the Buyer (documentation, jigs, tools, measuring devices, etc.), shall remain the Buyer's property and may be used only for performing Purchase Contracts by the Seller. They may not be made available to any third party, must be stowed safely and secured, and after the Purchase Contract(s) termination, or immediately after they became for performing the Purchase Contract(s) to the Seller unnecessary, must be returned, without asking, undamaged to the Buyer.
- 12.2 The Seller undertakes not to disclose any design, technology-related or manufacturing materials, documents, information, equipment and other matters (in summary "Buyer's Confidential Information") which the Seller has received from the Buyer in connection with performing or entering into Purchase Contracts, or which the Seller has acquired by other means. The Seller furthermore undertakes to treat any Buyer's Confidential Information or transactions intended by the Purchase Contract which are not publically known and accessible (by other means than by violating the Purchase Contract), as its own confidential information, and not to disclose it to any third party, except when the Seller has been given a written permission by the Buyer to disclose it, or if the disclosure is required by legal regulations or by competent by legislation nominated authorities. The Seller undertakes not to disclose the Buyer's Confidential Information to any third party without an explicit Buyer's permission, and undertakes to ensure that this undertaking will be respected also by their employees and business partners. This undertaking shall remain in force even after the Purchase Contracts ceased to be effective.
- 12.3 The Seller undertakes not to use the Buyer's Confidential Information defined in the previous paragraph for any other purposes than for performing Purchase Contracts.

## 13. Contract termination

- 13.1 A Purchase Contract can be terminated before the expiration of its term or before it has been duly fulfilled in the following cases / by the following ways:
- By written agreement of the Parties signed by authorised representatives of both Parties, in which case the Purchase Contract will be terminated on the day on which the Parties have agreed;
  - By the Buyer withdrawing from the Purchase Contract.

The withdrawal notice must be executed in a written form and delivered by registered mail. The withdrawal from the Purchase Contract becomes effective on the day it is served to the other Party. In this respect the Parties undertake to settle their mutual claims and liabilities without undue delay.

- 13.2 Unless stipulated in the Purchase Contract otherwise, the Buyer will have the right to withdraw from the Purchase Contract provided at least one of the following conditions are met:

- a) The Seller is guilty of a gross breach of its obligations from the Purchase Contract;
  - b) The Seller is guilty of a non-gross breach of its obligations from the Purchase Contract, but has failed to fulfil this obligation even after being given by the Buyer a sufficiently generous deadline to do so;
  - c) Insolvency proceedings have been instituted against the Seller, either at the debtor's or the creditor's request, which has not been turned down within a legal deadline for obvious groundlessness or because of its bullying nature, or if the Seller has gone into liquidation;
  - d) Before the goods have been delivered without giving a reason.
- 13.3 As a gross breach of obligations shall be regarded especially the Seller's failure to fulfil the following obligations:
- a) To deliver the goods to the Buyer duly and on time, or
  - b) Breaches of obligations concerning the Seller's liability for goods defects or liability from warranty.
- 13.4 By withdrawing from a Purchase Contract, the Purchase Contract becomes null-and-void. This notwithstanding, by withdrawing from the Contract or otherwise terminating the Contract, the following provisions shall remain in force:
- a) Any already accrued entitlements from the liability for goods defects of liability from warranty
  - b) Provisions concerning warranty and liability for defects
  - c) Provisions concerning non-disclosure, confidentiality and protection of business secret
  - d) Entitlements to be compensated for damages suffered as the consequence of breaches of the Purchase Contract
  - e) Entitlements to impose and collect sanctions
  - f) The choice of the by locality competent court
  - g) Other entitlements afforded by applicable legal regulations
- 13.5 If the Buyer withdraws from a Purchase Contract without giving a reason pursuant to clause 13.2 d) of these Terms, the Buyer shall reimburse the Seller for all purposefully expended costs incurred in connection with fulfilling the Purchase Contract, up to the purchase price specified in the cancelled Purchase Contract. The Seller shall present to the Buyer a written statement giving details of the costs incurred pursuant to the first sentence of this provision, together with materials substantiating these costs, within 14 days after the day the Seller was served the withdrawal notice, otherwise the Seller will forfeit this entitlement.
- 13.6 After withdrawal from Purchase Contract the Parties shall settle their mutual claims and liabilities in the manner and within the deadlines defined by the Buyer.

#### **14. Miscellaneous provisions**

- 14.1 The Seller hereby explicitly declares that they possess full rights to all industrial and intellectual property to the goods, and undertakes to guarantee due and undisturbed use of the goods by the Buyer or the Buyer's clients and the transfer of the goods by the Buyer to third parties.
- 14.2 Together with the goods the Seller grants the Buyer the right to use the goods for any purposes, free of any territorial, time or quantity restriction. This right of use is freely transferrable and includes the Buyer's right to make repairs and modifications to the goods, as well as the right to acquaint third parties with the goods, to the extent necessary for repairing or modifying the goods, and furthermore to the extent necessary to allow the transfer of ownership rights to the goods or the right to use the goods. If the goods are protected by intellectual or industrial rights, the Seller shall grant the Buyer a non-exclusive, time- and territory-wise unlimited licence to exercise these rights for the purposes specified in this clause. The price of granting the licence is included in the purchase price, and the Seller is not entitled to a separate licence fee.
- 14.3 The Seller may not cede any of the rights and obligations from the Purchase Contract to a third party without the Buyer's written consent. This also excludes the option to cede the Contract in its entirety pursuant to Article 1895 et seq. of the Civil Code without the Buyer's written consent. For violating this provisions the Seller shall pay the Buyer a sanction of CZK 100,000.
- 14.4 The Seller undertakes to abide during any its activities by legal regulations applicable to the Buyer and their activities:
- competition law including prohibition of unfair competition
  - prohibition of active or passive bribery
  - personal data protection
  - international sanctions, embargo and measures against legitimisation of proceeds of crime and financing of terrorism
  - human rights protection
  - safe and discrimination-free working environment
  - ban of force, illegal or child labour
  - environmental protection.
- 14.5 Violation of any regulation stated above in article 14.4 by Seller entitles Buyer to withdraw from the Contract.

**15. Personal data**

If either Party makes available to the other Party personal data in connection with a Contract, the Party which is the recipient of the personal data undertakes to use the personal data or to make them available to third parties (unless agreed in a concrete case otherwise) exclusively for fulfilling the obligations imposed upon this Party by its legal signature or on the basis thereof, or for the protection of its legitimate interests, keep them only for the time the data are needed, and thereafter delete them.

**16. Final provisions**

- 16.1 The failure to use or an omission to exercise any right or entitlement from a Purchase Contract or these Terms shall not constitute, nor shall it be interpreted as, waiving this right or entitlement, unless it is waived explicitly in writing. Waiving any of the rights and entitlements from the Purchase Contract or these Terms shall not be interpreted as waiving any other right of entitlement. No extension of the deadline granted for fulfilling an obligation or other task specified by the Purchase Contract or these Terms shall be interpreted as extending the deadline for fulfilling any other obligation or other task specified by the Purchase Contract or these Terms.
- 16.2 Neither Party may make any declaration concerning any Purchase Contract, the issues stated therein or issues in any way related to any Purchase Contract or these Terms, without a prior written consent of the other Party, with the exception of declarations required by legal regulations, the Contract or any by competent law nominated authority.
- 16.3 If any provision of a Purchase Contract or these Terms turns out to be invalid, ineffective or unenforceable, this shall not result in the remaining provisions of the Purchase Contract or these Terms becoming invalid, ineffective or unenforceable, or the Purchase Contract in its entirety. In such case the Parties to the Purchase Contract undertake to immediately substitute such invalid, ineffective or unenforceable provision with a provision which is valid, effective and enforceable, and which by its content corresponds to the original purpose of the provision it replaces.
- 16.4 Purchase Contracts shall be executed in two counterparts, of which the Parties shall receive one counterpart each.
- 16.5 Amendments and additions to a Purchase Contract must be made in writing and confirmed by the authorised representatives of the contracting parties, otherwise they are invalid

Bohumín, 1. 7. 2020

Ing. Jakub Weimann, CEO, signed in person

BONATRANS GROUP a.s.