

## GENERAL COMMERCIAL TERMS & CONDITIONS FOR PROCUREMENT OF SERVICES

issued pursuant to the provisions of Article 1751 et seq. of Act No/ 89/2012, the Civil Code, as amended ("Civil Code"), applicable to entering into contracts of work in which the company BONATRANS GROUP a.s. ("BONATRANS" or "Client") is client

### 1. Preamble

These General Commercial Terms & Conditions for deliveries of services (hereinafter referred to as the "Terms") are issued for the purpose of simplifying business contact whilst at the same time ensuring the precise delineation of the rights and obligations of the contracting parties upon conclusion of a Contract of Work, in which the joint stock company BONATRANS GROUP a.s. with its registered seat at Revoluční 1234, 735 94 Bohumín, IČ<sub>ID No.j.</sub> 27438678, DIČ<sub>[Tax ID No.j.]</sub> CZ27438678, entered in the Commercial Register at the Regional Court in Ostrava, section B, inset 3173, appears as the Client ("Client"). These Terms are integral part of Contract of Works concluded between Client and other person performing Work for Client as producer ("Producer") ("Contract of Works" or "Contracts").

Any deviations from these Terms or addenda thereto shall be valid and effective only if approved in writing by both Parties.

These conditions relate commensurately also to business relationships in which BONATRANS orders the fulfilment of activity or provision of a service, the result of which is not a material result. For the purposes of the Terms the term "work" is understood to cover also these activities or services and the term "Producer" is understood to mean the contractor or provider or these activities.

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

2.1 Contracts of Work are concluded based on a written order / draft purchase contract ("Order") placed by the Client and delivered to the Producer. Upon the delivery of a written acceptance (confirmation) of Order by the Producer to the Client or upon signature of originals of a Contract by the authorised representatives of the parties a Contract of Work is concluded. The Order must be accepted by the Producer in its entirety, without any addenda, objections, limitations or other amendments vis-à-vis the text of the Order placed by the Client. Accepting the Order with any addenda, objections, limitations or any other amendments shall be regarded as the Order being declined by the Producer, and will constitute a new Producer'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 the Contract of Work is concluded only if the Client accepts this new draft and delivers the acceptance to the Producer. Unless another deadline is given in the Order, the Producer is obliged to accept the Order within 5 days and within this period either to deliver the acceptance to the Client or to announce to the Client that it rejects this Order. The acceptance or rejection of an Order must be made in writing, signed and delivered to the Client via the holder of a postal licence or via email (even without guaranteed digital signature) or by delivery to data box or by personal delivery. The Contract of Work must contain the following particulars at very least:

- Identification data of the Parties: company name, registered seat, ID No, Tax ID No, bankers and account number
- Identification of the subject of Contract of Work (work, service, reference to Tender competition and/or purpose for which Client shall use the work, or purpose for which the service is provided to Client)
- The price or method of price determination
- The required method of payment, payment conditions
- The date and place of performance
- Special technological requirements (unless stipulated in Tender Documentation)
- Warranty period
- A clause stating that an integral part of the Contract are these Terms

2.2 By signing a Contract of Work the Producer undertakes, at its own expense and risk and, to execute the work specified in the Contract on time and properly and hand it over completed to the Client at the place and time given in the contract, and this shall be in a quality arising from the agreement in the Contract of Work or at the highest possible quality, and the Client undertakes under the conditions agreed in this Contract of Work to accept this work at the agreed place and time and to pay the Producer the agreed price for this work. Along with the work, the Producer also undertakes to give the Client full and fault-free documentation for the work.

2.3 A signed Contract can be amended only if the amendment has been approved by both Parties. Any addenda and amendments to the 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 Contract must contain the Order No./Contract No. stated in the Order/Contract.

### 3. Price of work, taxes and payment terms and conditions

3.1 The agreed price of the work is fixed, its amount shall remain non-changeable throughout the Contract term, unless explicitly specified in the Contract otherwise, and it includes the complete scope of the work.

- 3.2 The price of the work also includes all additional costs of the Producer, all measures associated with the performance of the work, all costs and expenses necessary for the performance of the work according to the Contract or which the Producer will be forced to accept or bear in connection with the fulfilment of its duties arising from the Contract or from valid legal regulations, and unless specified otherwise in the Contract the price includes the costs for transport of the work to the place of fulfilment, costs associated with the transport of workers or sub-contractors of the Producer to the place of performance of the work or provision of services, and any other costs for services or activities implemented by the Producer in connection with the delivery of the work (such as customs duty, transit charges etc.). The price also includes costs for insurance of the work, unless the Contract designates otherwise, or if according to the law the Client is obliged to insure the work. The Producer is not authorised to require of the Client other charges or additional fulfilment of any type. The parties expressly preclude the application of any provisions of legal regulations (in particular pursuant to the Civil Code) which allow the Producer to require of the Client any increase in the price of the work, other payments or other fulfilment of any type unless such an increase in price of the work, other payments or other fulfilment is agreed in the contract. And during the performance of the work neither will the price of the work be increased based on inflation or exchange-rate differences, tax changes (with the exception of a change to the VAT rate), changes of fees or any other reasons or changes.
- 3.3 Unless stipulated in the Contract of Work otherwise, the price of the work does not include any taxes or equivalents thereof. The Producer will bill for taxes in compliance with the tax regulations of the Czech Republic valid at the tax effective date. Valid confirmations of freeing from tax must be appended to the Contract of Work to which they apply. In the event of the performance of the work for which the regime of reverse charge applies, the Client shall proceed in accordance with the provisions of Article 92a et seq. of Act No. 235/2004, as amended.
- 3.4 By signing the Contract of Work, the Producer declares that the declaration made in the Contract as to whether the Producer 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 this concerns a foreign entity in the sense of the preceding paragraph, the Producer is at the same time obliged to state its Tax ID No. in the contract, if this has been allocated. If this concerns a subject registered for VAT in another EU member state in the sense of the preceding paragraph, it is understood that this subject does not have a registered seat, place of business or operational premises within the Czech Republic unless stated otherwise in the contract.
- 3.6 By signing this Contract, the Producer undertakes to notify the Client, 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 the signature of the contract, a Producer which is a foreign entity declares that it has no permanent business establishment on the territory of the Czech Republic in the sense of the provisions of Article 22 paragraph 2 of Act No 586/1992 Coll., on income tax, and relevant dual taxation prevention treaty. It also declares that it does not have a Contract concluded on the basis of which the creation of permanent business establishment could occur in the sense of the specified legal regulations. If the Producer has permanent business establishment on the territory of the Czech Republic or if its permanent business establishment is created in the sense of the specified legal regulations, or if it concludes a Contract on the basis of which they could be created for it, it is obliged to announce this fact to the Client before the conclusion of the Contract or at the latest within 30 days from this fact occurring.

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

- 3.7 After the due handover and receipt of the work, the Producer will issue an invoice. The invoice must contain the particulars given in paragraph 3.8. If the Producer is registered in the Czech Republic as a payer of VAT, the invoice must also contain the particulars of a tax document pursuant to valid regulations.
- 3.8 The invoice must contain these particulars:
- Number of Order/Contract of Work,
  - ID No, Tax ID No of Client and Producer,
  - Precise designation of provided fulfilment according to Contract of Work,
  - Summary invoiced amount excluding VAT, rate and level of VAT, and invoiced amount including VAT, broken down as specified in the Contract, including discounts where applicable,
  - Invoice issue date,
  - Tax effective date,
  - Agreed due date,
  - Seal and signature of Producer,
  - Indication of financial institute and account number into which payment is to be made.

Attached to the invoice must be a copy of a record on the handover and receipt of the work (or part of the work if realised in phases) signed by both parties and/or copy of record proving inception of right to issue invoice.

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

BONATRANS GROUP a.s.

Oddělení účetnictví a rozborů

*[Division of Accounts and Analysis]*

Bohumín, Revoluční 1234, postcode 735 94, Czech Republic

or in the case of digital delivery, to the address [prijem.faktur@ghh-bonatrans.com](mailto:prijem.faktur@ghh-bonatrans.com).

The Client shall pay the invoice by means of cash-free transfer into the account of the Producer stated on the invoice, in which payment is understood to mean the sending of the payment from the account of the Client.

- 3.10 The Client will settle the invoice by wire transfer to the account of the Producer given on the invoice, and payment means the debiting of a payment from the account of the Client. If the Producer provides a discount, it will include the discount in the price of the work or will give it in the invoice as a separate item.
- 3.11 Unless the invoice contains all the required particulars, or if it contains incorrect information, the Client will have the right to return the invoice before the payment due date back to the Producer, and the Producer 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 amended invoice has been delivered to the Client. The Producer furthermore undertakes to render the Client 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 Producer fulfils its obligation to render collaboration, the Client will have no obligation to pay any part of the purchase price, or to make good any other payment obligation from the Contract of Work or these Terms.
- 3.12 If the Client accepts a work with faults or unfinished items, it is authorised to suspend payment of up to 10% of the price of the work (retention money for rectification of faults and unfinished items) until the moment of the rectification of faults and unfinished items.
- 3.13 In the case of provision of an advance, the Client reserves the right to require of the Producer at any time the satisfactory ensuring of the fulfilment of the undertakings of the Producer in connection with the provision of an advance on the price of the work.
- 3.14 A Producer 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 109 of Act No. 235/2004 in its current version, which can make the Client legally liable to pay the value added tax on behalf of the Producer, and declares that there is no danger in the Producer'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 Producer 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 Client accordingly forthwith. In order to substantiate the above undertakings, the Producer shall present to the Client at Client's request a recent certificate (not older than seven days) confirming that the Producer has no outstanding tax liabilities (a personal tax account balance certificate), within 10 days after having received the request from the Client to do so. Unless at the time of signing the Contract the Document Archive of the Commercial Register contains the Producer's latest financial statements, if the Producer has a legal obligation to compile financial statements, or the Producer's latest audited financial statements, if the Producer has a legal obligation to have its financial statements audited, the Producer undertakes to present to the Client a certified copy of the financial statements if asked to do so by the Client in writing, within 10 days after having received the Client's request. If the Producer is in default with fulfilling any of its obligations specified in this clause for more than 14 days, the Client will have the right to withdraw from the Contract of Work.
- 3.15 If the Producer is in the Central Taxpayer Register identified as an unreliable taxpayer, or if the Producer specifies in its invoice an unregistered bank account, the Client 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 Client will then remit to the Client the purchase price up to the tax base level (i.e. less the value added tax paid).

#### 4. Handover and receipt of work, place of fulfilment

- 4.1 The duty of the Producer to execute the work is performed by the due completion and handover of the work executed properly, in compliance with the relevant Contract of Work and also relevant legal regulations, technical standards and regulations, to the Client. The work must comply with all technical requirements and technical and safety standards for the given type of work. The work/subject of the work and components used for its production must be new, unused, undamaged and made out of quality material. If the work is delivered on the basis of samples, designs or drawings, it must wholly correspond with these samples or drawings. In the case of a discrepancy between the samples, designs or drawings and the Contract of Work, the designation in the Contract of Work prevails for determining the quality and version of the work. The work must be capable of performing in compliance with the properties and quality designated in the Contract of Work and fully complying with the purpose for which it is supplied. The Producer declares and undertakes that before the conclusion of the Contract of Work it had verified and confirmed that it was capable of performing the work duly and on time and handing it over according to all specifications, both statutory and contractual (such as norms, directives and standards). The specification of the Client according to the Contract of Work does not free the Producer of a duty to act with professional care and inform the Client in writing in the case of a specification or instruction which is inappropriate or does not fulfil the purpose of the Contract of Work or is incomplete or insufficient.
- 4.2 The Client is also authorised, but not obliged, to accept a work with faults or unfinished items. The duty of the Producer to execute the work properly, in compliance with the Contract or relevant rights of the Client arising from the provided guarantee or from the liability of the Producer for faults of the work is not impacted hereby. The receipt of a work with faults does not free the Producer of the duty of due fulfilment in compliance with the Contract and does not impact any right of the Client according to the contract, in particular the rights based on liability for faults, from the guarantee or from liability for damage. If the Client accepts a work displaying faults and/or unfinished items and/or with incomplete or faulty documentation, the Producer is obliged to rectify these faults or unfinished items within one (1) week from the acceptance of the work by the Client. If it does not do so, it will be considered a fundamental breach of the Contract of Work.
- 4.3 Unless stipulated in the Contract otherwise, the place of fulfilment is the seat of the Client: BONATRANS GROUP a.s. Bohumín, Revoluční 1234, Czech Republic. With regard to the place of fulfilment it is possible to specify in the Order the plant in which the work is to be implemented.
- 4.4 The Producer is obliged to hand over the work or part thereof and the Client is obliged to receive the work or part thereof on the basis of a written transfer protocol or record of delivery, delivery note, record of provided services etc. (hereinafter referred to as the "transfer protocol"), which shall be compiled immediately after the completion of the handover proceedings and shall contain at least the following information:
- (a) Identification and specification of transferred work or part thereof, or performed services,
  - (b) Evaluation of quality of work or part thereof, or performed services,
  - (c) List of any faults or incomplete items or faults of provided services,
  - (d) First name and surname of persons authorised to act in the name of the Producer/Client or authorised representatives of Client/Producer upon handover/receipt of the work/part of work.
  - (e) Date of handover and receipt of work or part thereof, signatures of transferring and receiving persons.
- 4.5 In the case that one of the contracting parties refuses to sign the transfer protocol for a work performed in a regular manner, pursuant to the relevant Contract, the other party shall provide this party with an additional period for signature of the transfer protocol of a minimum length of 7 days. If the first contracting party does not sign the transfer protocol and does not state serious reasons which prevent it from signing the transfer protocol in writing, the work shall be considered to be transferred in a regular manner even without the signature of the transfer protocol.
- 4.6 In cases in which a form of the work performed on the basis of the Contract is not a material result, the contracting parties are obliged to compile a record on the procedure of performance of the work or a record on the provided services. Paragraph 4.4 of these conditions is used as appropriate for the content of this record and the appurtenances thereof.

#### 5. Fulfilment deadline

- 5.1 The fulfilment deadline is agreed in the Contract of Work. The Producer undertakes to perform the work in compliance with the deadline agreed in the Contract and/or in compliance with the timetable agreed in the contract. If under the Contract the performance of the work in individual stages is agreed, the Producer will call upon the Client to accept the completed parts of the work at the latest 3 days before the end of work associated with the completion of the relevant part of the work, i.e., production, assembly and performance of the individual tests according to the timetable of work.
- 5.2 In cases where it is necessary to transport the work to the place of fulfilment, the Producer is obliged to ensure transport of the work to the place of fulfilment and to secure all consents and decisions of the relevant bodies which are necessary for the delivery and transport of the work to the place of fulfilment. The Client is obliged to provide the Producer with the necessary co-operation for this purpose.



## 6. Further rights and obligations of Client

6.1 In the case that the work is performed within the premises of the Client, the Client is obliged to:

- (a) train or secure instruction of the authorised employee of the Producer in occupational health and safety at the handed over workplace (construction site), about which a written record shall be compiled,
- (b) delineate and hand over to the Producer/authorised representative of the Producer the relevant workplace/construction site, in a condition enabling performance of the work. The Client and Producer are obliged to make an entry on handover of the workplace/construction site in the assembly (operational)/construction log,
- (c) provide the Producer/employees of the Producer/subcontractors of the Producer with access to the workplace/construction site within the premises of the Client in connection with performance of the work. The Client is further obliged to secure entrance permits for all vehicles of the Producer necessary in order to fulfil the obligation on the basis of a written request.

6.2 The Client is authorised to check the performance of the work and to issue the Producer with binding instructions during the performance of the work. In the case that these instructions of the Client are inappropriate or in conflict with the Contract, the Producer is obliged to notify the Client of this matter without unnecessary delay. Should the Producer fail to do so, the Client shall not be liable for the damage caused as a consequence of its instructions. If the Client discloses that the Producer is performing the work in a manner which is in breach of its obligations, the Client is authorised to demand that the Producer rectify the defects caused by the defective performance and implement the work in a regular manner.

6.3 The Client is authorised to check the employees of the Producer for adherence to the valid regulations (including the internal regulations of the Client) relating to occupational health and safety, as well as the relevant fire protection regulations (in particular the law, the accompanying decrees, other regulations on fire protection and the internal regulations of the Client on fire protection) and the regulations relating to environmental protection, with which these employees were familiarised upon entry to the premises of the Client.

6.4 The Client shall provide the Producer with information relating to risks to health within the conditions of the Client which are an integral part of the Contract of Work

## 7. Further rights and obligations of Producer

7.1 During the fulfilment of the Contract the Producer undertakes to proceed with expert care, to adhere to the instructions of the Client, the generally binding legal regulations, technical standards and conditions of the contract. If the Producer discovers a need for the addition of source materials, information, instructions etc., it will require them but bear all the costs associated therewith. This does not apply to the source materials that the Client expressly undertook to hand over in the contract.

7.2 The Producer is obliged:

- to observe when in the complex of the Client valid regulations (these being the internal regulations of the Client) applying to occupational health and safety and also the relevant fire regulations and environmental protection regulations; Integral part of the Contract are the General Commercial Terms and Conditions for ensuring OHS – PURCHASE OF SERVICES, which are available at the address [http://www.ghh-bonatrans.com/soubory/VSEOBECNE\\_PODMINKY\\_BOZP\\_SLUZBY.pdf](http://www.ghh-bonatrans.com/soubory/VSEOBECNE_PODMINKY_BOZP_SLUZBY.pdf) ; The Producer declares that they have familiarised themselves with these terms and agree with their content.
- ensure that its employees/subcontractors/employees of subcontractors entering the premises of the Client abide by the valid regulations (including the internal regulations of the Client) relating to occupational health and safety, as well as the relevant fire protection regulations (in particular the law, the accompanying decrees, other regulations on fire protection and the internal regulations of the Client on fire protection) and the regulations relating to environmental protection. The subjects stated in this article shall be familiarised with the relevant special regulations relating to occupational health and safety, fire protection regulations and regulations relating to environmental protection upon entry to the premises of the Client, which they shall confirm by their signatures (training according to article 6 paragraph 6.1 of these conditions).
- to ensure that its employees / sub-contractors / employees of sub-contractors entering the complex of the Client respect the smoking ban in the complex of BONATRANS GROUP a.s. outside of designated so-called smoking places marked by a sign.
- to ensure that its employees/subcontractors/employees of subcontractors entering the premises of the Client abide by the instructions and orders of the employees of the Client or other persons authorised by the Client, concerning adherence to the regulations (including the internal regulations of the Client) relating to occupational health and safety, as well as the relevant fire protection regulations (in particular the law, the accompanying decrees, other regulations on fire protection and the internal regulations of the Client on fire protection) and the regulations relating to environmental protection.
- ensure that its employees/subcontractors/employees of subcontractors entering the premises of the Client provide the employees of the Client or other persons authorised by the Client with the appropriate co-operation upon implementing

the instructions according to article 6 paragraph 6.1 of these conditions, and that they sign the written record prescribed in article 6 paragraph 6.1 of these Terms.

- 7.3 In the case that it is suitable and appropriate with regard to the nature of the work, the Producer is obliged to keep an assembly log (or daily records of provided services) throughout the entire period of performance of the work, in which all matters of decisive significance for the fulfilment of the Contract shall be progressively recorded, in particular information about the time progress of the works (or provision of services) and the quality of the work, as well as obstacles to the performance of the work. The assembly log is composed of the initial records, daily records and appendices. The daily records are entered in the book with numbered pages some of which are solid stapled and the rest perforated for two separable carbon copies. The perforated pages shall be numbered identically to the solid stapled pages.
- 7.4 The Producer is obliged to present a daily record to the constant technical supervision at the latest on the next working day, and to submit the first carbon copy, the receipt of which the technical supervision shall confirm. If the representative of the Client does not agree with the content of the record of the Producer, they shall attach its statement to this record within three working days, otherwise it shall be understood that the representative of the Client agrees with the content of the record or request of the Producer. The same applies in the relationship of the Producer to the Client. The Producer shall file the log for a period of 5 years following the handover and receipt of the work.
- 7.5 If the work is performed in the complex of the Client, the Producer will inform the Client within 2 days at the latest before the start of performance of the work in writing about the risks of damage and safety risks that could occur during the performance of the work, otherwise it will be liable for the damage arising due to the fact that the Client had not been informed of these risks duly and in good time. In the sense of the provision of Article 101 paragraph 3 of Act No 262/2006 Coll., the Labour Code, the contracting parties have agreed to inform each other in writing of the risks and adopted measures for protection against their effect which apply to the fulfilment of work and the workplace, and to cooperate when ensuring occupational health and safety for all employees at the workplace. The Producer is also entrusted with the coordination of measures for the protection of occupational health and ensuring that their activities and work are coordinated and performed for the entire period of implementation of the work in such a way that the employees of the Client are also protected in the sense of the provisions of Article 101 paragraph 3 of Act No 262/2006 Coll., the Labour Code, this being via the entrusted employee of the Producer, whose written authorisation the Producer gives to the Client. The Producer is also liable for the damage caused to the subject of the work or by its operation.
- 7.6 The Producer is fully liable for the activity of its employees within the premises of the Client and hereby explicitly declares that its employees are fully qualified to perform the work within the premises of the Client.
- 7.7 The Producer is liable to the Client for damages caused by its employees or subcontractors during the execution of the work. The Producer is obliged to arrange a liability insurance policy within the relevant scope for the case of damage.
- 7.8 Employees of the Producer shall wear visible indication of the company with whom they are employed.
- 7.9 The Producer may store material for the implementation of the work only in the area designated by the employee of the Client, about which an entry shall be made in the log. In the case that the Producer stores material outside of the designated (permitted) area, it shall be obliged to compensate the Client for all ensuing damages.

## **8. Sub-contractors**

- 8.1 A sub-contractor stands for a legal or natural person who is not in an employment relationship with the Producer and via whom the Producer should fulfil a certain part of the work, who should cooperate with the Producer on the performance of the work or part thereof, or person who is to provide certain things or rights to the Producer for performance of the work.
- 8.2 Unless stipulated in the Contract otherwise, the Producer can use a sub-contractor for the performance of the work. But the Producer must not sub-contract the entire work.
- 8.3 The Client has the right at any time to forbid the performance of the work or part thereof or delivery of things or rights for the performance of the work (the specified activities hereafter only the "performance of the work") by a certain sub-contractor. In such a case the Producer is obliged immediately to ensure the performance of the work through its own resources or via another sub-contractor. During the performance of the work, the Producer must not use sub-contractors whose use the Client had forbidden before the conclusion of the Contract or during its duration.
- 8.4 The Client also has the right to designate that certain types of work on the work must not be performed by a sub-contractor, or certain deliveries must not be delivered by a sub-contractor. If the Client utilises this right, the Producer is obliged to fulfil the work thus designated or deliveries via its employees.
- 8.5 The Producer acknowledges that the Client may prevent access to the Client's complex for sub-contractors who have been excluded from performance of the work or provision of deliveries according to articles 8.3 or 8.4 above. For the avoidance of doubts the parties have agreed that such a prevention of access to the Client's complex will in no way be interpreted as insufficient provision of cooperation from the part of the Client.
- 8.6 Should the Client so require, the Producer is obliged (without undue delay, but at the latest by the business day following the delivery of the request) to give the Client a full list containing data about its sub-contractors who participate on the performance of the work or have contributed or should contribute. The list of sub-contractors must contain identification data of the sub-contractor (company name, registered seat, ID No) and description of work or deliveries which the sub-contractor performs, should perform or has performed.

- 8.7 If the work is performed by a sub-contractor, the Producer is liable as if it had performed the work itself. The Producer undertakes that it will bind all of its sub-contractors to adhere to any necessary duties arising from the Contract and these Terms.
- 8.8 A breach of any of the duties of the Producer according to this article 8 constitutes a fundamental breach of contract.

## 9. Quality of work and guarantees

- 9.1 The Producer guarantees that the work is, and for the agreed guarantee period will be, free of faults, and that it has, and for the agreed guarantee period will have, the quality, properties and version agreed in the contract, in particular in article 4.1 of the Terms and if they are not agreed, the usual quality, properties and version. The Producer also guarantees that the work is, and for the agreed guarantee period will be, free of legal faults, and for the agreed guarantee period it will be fit for use for the purpose designated by the contract, in particular in article 4.1 of the Terms, and if not agreed, for the usual purpose. The Producer is liable for ensuring that no right of a third party or legal regulation is infringed by the use of a work created according to the Contract of Work by the Client or by provision of a licence to a third party for its use or by transfer of ownership of this work from the Client to a third party.
- 9.2 The non-delivery or faulty or incomplete delivery of documentation for the work agreed in the Contract also constitutes a fault to which the guarantee liability of the Producer applies.
- 9.3 The Producer provides the Client with a guarantee for quality of the work. Unless arranged otherwise in the contract, it is understood that the Producer provides a quality guarantee with a length of 24 months. The guarantee period of the performed work commences upon the handover and receipt of the regularly performed work. The period during which the Client is unable to use the subject of the work due to defects thereof is not included in the guarantee period. If the work is transferred in parts (partial fulfilment), the guarantee period commences from the moment of handover of the last partial fulfilment of the work on the basis of the transfer protocol.
- 9.4 Faults of the work can be announced/claimed against in writing at any time during the guarantee period. Failing to point out fault without undue delay will not affect the possibility for use of the right of the Buyer to assert a fault. The contracting parties rule out the use of the provisions of Articles 1921, 2103, 2104, 2105, 2110, 2111, 2112 and 2618 of the Civil Code. The Client is obliged to allow the Producer to inspect the work/thing on which the work was performed. Written form of a claim is observed even if the faults are announced by fax, email or other comparable provable means.
- 9.5 In the case of incidence of a fault during the warranty period, the Client has the right to assert the following rights based on faults of the work:
- (a) The Client has the right to require that the Producer rectify the asserted faults without delay, but at the latest within 15 days of their announcement at the Producer's own costs, unless the contracting parties agree otherwise. The Producer is obliged to rectify within 48 hours from their announcement the faults of the work which prevent use of the work, faults which have a direct impact on the production of the Client or faults which directly affect the technical parameters of production, i.e., quality and quantity of production of the Client. If the Producer does not rectify the faults in the periods according to this paragraph, the Client is authorised to rectify the faults itself or via a third party, and this shall be at the expense of the Producer. In such a case the Producer is obliged to refund to the Client all the costs expended in connection with the rectification of the asserted fault, and this shall be within two (2) weeks from the receipt of their billing and the relevant tax document.
- (b) to require a commensurate discount on the price of the work,
- (c) to withdraw from the Contract if the faults cannot be rectified, if they prevent use of the work, or if the fault constitutes a fundamental breach of contract.
- The Client has the right to choose from amongst the above specified rights. The Client can choose several rights if the nature of the individual rights does not preclude this. In particular it is entitled to demand a price discount along with the right to rectification of the fault. Assertion of any of the rights according to article 9.5 of these Terms does not impact the right to require in addition a contractual penalty or compensation for damage. If the Client asserts any of its rights according to article 9.5 a) of these Terms, and the Producer does not rectify the fault in the specified period, the Client may demand a commensurate discount on the price of the work or may withdraw from the Contract.
- 9.6 During the rectification of faults and unfinished items, the Producer is obliged to proceed according to the instructions of the Client in such a way that the faults and unfinished items are rectified and that the operation of the Client is disrupted to the least possible extent. The rectification must be performed by the Producer in such a way that it impedes the Client in production to the least possible extent, even at the cost of increased costs for the Producer.
- 9.7 The Producer is not liable for faults ascertained in the guarantee period if the Producer proves that the fault arose as a direct and exclusive result of the fact that the work was not operated by the Client in the guarantee period in compliance with the requirements designated by the Contract of Work, operational regulations, regulations for maintenance and under the technical conditions which the Contract of Work mentions or which constitute an annex to it, and if the Producer had acquainted the Client with these conditions or regulations. But such operation of the work in conflict with the specified rules by the Client or a third party, or interference with the work after its receipt frees the Producer of guarantee liability only in a scope commensurate with such use or interference. Until proof of liability for a fault on the part of the Client (the burden of proof is on the Producer), it shall be assumed that the Producer is liable for the fault, and in the period until the proving of

the Client's liability for the fault the Producer is obliged to start and continue in work associated with the rectification of the fault as if the Producer was liable for the fault. If the Producer proves that it is not liable for the fault, the entitled and justified costs associated with its rectification will be refunded to them. Faults arising due to force majeure are exempted from the guarantee.

#### **10. Contractual penalty, sanction, liability for damage, offsetting, retention of work and pledging of receivable**

- 10.1 In the case of delay with the settlement of due invoices, the Producer can bill late charges to the Client according to valid legal regulations.
- 10.2 If the Producer is in delay with the due performance of the work in the deadline designated in the contract, the Producer is obliged to pay the Client a contractual penalty of 0.5% of the price of the work for each day or part thereof of delay.
- 10.3 If the Producer gets into delay with the fulfilment of its duties arising from liability for a fault of the work or guarantee (in particular it does not rectify a fault of the work in the period pursuant to article 9.5 (a) of the Terms), the Producer is obliged to pay the Client a contractual penalty of 0.5% of the price of the work for each day or part thereof of delay with fulfilment of such a duty.
- 10.4 If the Producer breaches any duty or prohibition arising for it from article 15 of these Terms, the Producer is obliged to pay the Client a contractual penalty of CZK 100,000 for each such breach.
- 10.5 If a justified claim is made against the work from the part of the Client (regardless of the nature of the announced faults) during the guarantee period more than three times, the Producer is obliged to pay the Client a contractual penalty of 10% of the price of the work for each further case of incidence of a fault of the work to which the guarantee liability of the Producer according to article 9 of these Terms applies.
- 10.6 If the Producer repeatedly performs the work in conflict with the technical regulations or Contract of Work in a manner which threatens the future use of the work for the purpose arising from the contract, the Producer is obliged to pay the Client a contractual penalty at the level of 10% of the price of the work.
- 10.7 In the case of a breach of any of the duties designated in article 3, paragraph 3.4 to 3.6 of these Terms from the part of the Producer, the Producer is obliged to pay the Client a contractual penalty of CZK 5,000 for each such breach.
- 10.8 In the case of a breach of duties stipulated in article 3, paragraph 3.14 of these Terms from the part of the Producer, the Producer is obliged to pay the Client a contractual penalty of CZK 100,000 for each such breach.
- 10.9 If the Producer has sub-contracted the performance of the work or part thereof the sub-contracting of which the Client had forbidden, the Producer is obliged to pay the Client a contractual penalty of 10% of the price of the work excluding VAT.
- 10.10 If the Producer sub-contracts in breach of article 8.4 any types of work or deliveries where the Client has stipulated that they must not be performed by a sub-contractor, the Producer is obliged to pay the Client a contractual penalty of 10% of the price of the work excluding VAT.
- 10.11 If the Producer is in delay with the handover of the list of sub-contractors according to article 8.6 to the Client, it is obliged to pay the Client a one-off contractual penalty of CZK 50,000 and also a contractual penalty of CZK 1,000 for each day or part thereof of delay.
- 10.12 The Producer is not authorised to suspend the performance of the work due to the existence of any due receivables owed by the Client, nor is it authorised to set off any such of its receivables unilaterally against the receivables of the Client owed by the Producer. Neither is the Producer authorised to assign or pledge any of its receivables owed by the Client without the express prior written consent of the Client. In the case of a breach of the duties of the Producer given in this paragraph, the Producer is obliged to pay the Client a contractual penalty of 30% of the relevant receivable for each individual case of breach. This does not affect the rights of the buyer to compensation for damage or rights to payment of other contract penalties.
- 10.13 The contractual fine is payable within 15 (fifteen) days of the day of delivery of the written demand for payment thereof from the Client.
- 10.14 The right of the contracting parties to compensation for damages, rights ensuing from guarantee liability or liability for defects of the work shall not be affected by the provision on contractual penalty. Paid contractual penalty is not included within compensation for damages.
- 10.15 For the calculation of the contractual penalty, the price of the work always means the price excluding VAT.
- 10.16 Payment of a contractual penalty does not relieve the Producer of the undertaking to fulfil an obligation imposed on it by the contract.

#### **11. Ownership right and risk of damage to it**

- 11.1 If the maintenance, repair or alteration of a thing which is owned by the Client is a subject of the work, the Client is the exclusive owner of such a thing for the entire duration of the contract. But the Producer is obliged to perform all measures necessary to protect the thing from accidental damage arising in the course of performance of the work. The Producer is



obliged to inform the Client of these measures, and during their fulfilment the Client is obliged to provide the Producer with the necessary cooperation. The Producer is also liable for damage to a thing arising in the course of the performance of the work that it could and should have prevented.

- 11.2 If the subject of the work is the creation of a thing, the Client acquires ownership right to that thing at the moment of handover and receipt of the thing. At the same moment the risk of damage to a created thing or caused by its operation also transfers.

## 12. Force majeure

- 12.1. 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 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.
- 12.2. 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.
- 12.3. 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 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 Contract is effective for more than 20 calendar days, either Party will have the right to withdraw from the Contract.
- 12.4. 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.

## 13. Termination of contract

- 13.1 A Contract of Work can be terminated before the expiration of its term or before it has been duly fulfilled in the following cases / by the following ways:

- (a) By the written agreement of the parties signed by the authorised representatives of both parties, in which case the Contract of Work expires on the day agreed by both parties;
- (b) By withdrawal from Contract of Work.

The announcement of withdrawal from the Contract must be delivered in writing by registered mail. Withdrawal from the Contract becomes effective on the date of delivery to the other party.

- 13.2 Unless stipulated in the Contract or these Terms otherwise, the Client is authorised to withdraw from the Contract if at least one of these conditions is fulfilled:

- (a) if the Producer is guilty of gross breach of the obligations according to the Contract,
- (b) if the Producer is guilty of a non-gross breach of the obligations from the Contract, but has failed to fulfil the obligation even after being given by the Client an additional commensurate deadline to do so,
- (c) if bankruptcy proceeding has been initiated against the Producer, either at the debtor's or the creditor's insolvency request, which was not rejected in the statutory period due to evident groundlessness or bullying nature, or if the Producer has gone into liquidation,
- (d) before the handover of the work without giving a reason.

- 13.3 The following in particular will be considered a gross breach of duties:

- (a) delay of the Producer with fulfilment of the duty to perform the work according to the conditions of the Contract on time and properly; or
- (b) cases where the Producer repeatedly performs the work in conflict with technical regulations and the Contract of Work in a manner which threatens the future use of the work for the purpose arising from the Contract;
- (c) delay of the Producer with fulfilment of duty arising from liability for fault of work or from guarantee.

- 13.4 If the Client withdraws from a Contract without giving a reason pursuant to clause 13.2 d) of these Terms, the Client shall reimburse the Producer for all purposefully expended costs incurred in connection with fulfilling the Contract of Work, up to the price of the work agreed in the Contract. The Producer shall present to the Client a written statement of the costs incurred pursuant to the first sentence of this provision, along with materials substantiating the inception of these costs, within 14 days after the day the Producer was served the withdrawal notice, otherwise the Producer will forfeit this entitlement.

13.5 By withdrawing from a Contract, the 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 incurred rights arising from liability for faults of the work or guarantee,
- (b) provisions concerning guarantee and liability for faults,
- (c) non-disclosure provisions, agreements on confidentiality and protection of business secrets,
- (d) entitlements to be compensated for damages suffered as the consequence of breaches of the Contract of Work, rights to contractual penalties which arose before withdrawal,
- (e) Entitlements to impose and collect sanctions,
- (f) The choice of the by locality competent court,
- (e) other entitlements afforded by applicable legal regulations.

13.6 In the case of withdrawal from the Contract the contracting parties are obliged to settle matters mutually and in the periods designated by the Client.

13.7 Unless stipulated in the Contract of Work otherwise, the subject of the properly performed work to which the ownership right had transferred to the Client before the withdrawal from the Contract of Work:

- (a) remains in the ownership of the Client after the withdrawal from the contract. In this case the Producer has a right to alternative pecuniary fulfilment at the level at which the Client benefited from the specified used work. The Producer is obliged to refund to the Client the difference between the paid price for the work and the right to alternative pecuniary fulfilment according to the preceding sentence. If the price of the work had not been paid before withdrawal from the contract, the Client is obliged to provide the Producer with alternative pecuniary fulfilment according to the Contract; or
- (b) the Client may return it to the Producer after withdrawal from the contract. The Producer is at the same time obliged to refund the already paid price of the work or part thereof to the Client.

13.8 If the Producer is guilty of gross breach of the obligations according to the Contract of Work and the Client does not utilise the right of withdrawal from the Contract, the Client has the right to require of the Producer the fulfilment of duties without undue delay by an alternative deadline and/or to demand a discount on the price of the work.

13.9 If there occurs withdrawal from the Contract and the subject of the work is the maintenance, repair or alteration of a thing owned by the Client, the Client is obliged to pay the Producer for the increase in value of the thing by the Producer which occurred before withdrawal from the Contract. The concrete level of this increase in value will be determined by a third party (expert), who will be designated on the basis of the agreement of the contracting parties and will have all the relevant professional knowledge necessary for an evaluation of the concrete level of the increase in value of the thing, unless the parties agree on determination of amount of a valuation of a thing. Unless the parties agree on such a person in a reasonable period, the Client will designate this person.

13.10 In the case of withdrawal from this Contract due to a breach of duty, the contracting party that is guilty of gross breach of its duty is liable to pay the other contracting party the demonstrable damages that arose in connection with termination of the contract.

13.11 The relevant provisions of the Civil Code will apply to the consequences of withdrawal, unless stipulated in the Contract or these Terms otherwise.

#### **14. Resolution of disputes and applicable law**

14.1 Rights and duties of the parties related to a Contract, including the Contract's inception, its validity and effectiveness, shall be governed by legislation of the Czech Republic, with the exclusion of conflicting laws.

14.2 Any disputes concerning Contracts entered into pursuant to these Terms and in connection thereto, shall be resolved, whenever possible, by the 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 Contract have agreed that the court competent to hear disputes originating from Contracts entered into pursuant to these Terms and in connection thereto, shall be the by locality competent District Court in Ostrava.

#### **15. Non-disclosure obligation and protection of information**

15.1 Any source materials made available to the Producer by the Client (documentation, jigs, tools, measuring devices, etc.), shall remain the Client's property and may be used only for performing Contracts by the Producer. They may not be made available to any third party, must be stowed safely and secured, and after the Contract(s) termination, or immediately after they became for performing the Contract(s) to the Producer unnecessary, must be returned, without asking, undamaged to the Client.

- 15.2 The Producer undertakes not to disclose any design, technology-related or manufacturing materials, documents, information, equipment and other matters (in summary "Client's Confidential Information") which the Producer has received from the Client in connection with performing or entering into Contracts, or which the Producer has acquired by other means. The Producer furthermore undertakes to treat any Client's Confidential Information or transactions intended by the Contract of Work which are not publically known and accessible (by other means than by violating the Contract of Work), as its own confidential information, and not to disclose it to any third party, except when the Producer has been given a written permission by the Client to disclose it, or if the disclosure is required by legal regulations or by competent by legislation nominated authorities. The Producer undertakes not to disclose the Client's Confidential Information to any third party without an explicit Client'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 Contracts ceased to be effective.
- 15.3 The Producer undertakes not to abuse the Confidential Information of the Client shared according to the preceding paragraph and not to use them for purposes other than the fulfilment of a contract.

## 16. Miscellaneous provisions

- 16.1 The Producer hereby explicitly declares that they possess full rights to all industrial and intellectual property to the subject of the work, that the intellectual property rights pertaining to third parties are not infringed by the performance of the work or its use by the Client or other persons, and it undertakes to ensure the proper and uninterrupted use of the work by the Client or customers of the Client and the transfer of the work by the Client to third parties.
- 16.2 Together with the work, the Producer grants the Client the right to use the work for all purposes associated with the trading of the Client, without any territorial, time or quantity restriction. This right of use is freely transferable and also includes the right of the Client to the performance of repairs and changes of the work and also the right to acquaint third parties with the subject of work to the extent necessary for repairing or modifying the work, and furthermore to the extent necessary to allow the transfer of ownership rights to the work or rights to use the work. If the work contains rights of intellectual or industrial ownership, the Producer hereby provides the Client with a non-exclusive licence, not limited in terms of time or territory, for their exercise with the purposes given in this article. The price for the provision of the licence is included in the price of the work, and the Producer has no right to its separate payment.
- 16.3 The Producer may not cede any of the rights and obligations from the Contract to a third party without prior written consent of the Client. This also exclude the option to cede the Contract in its entirety pursuant to Article 1895 et seq. of the Civil Code without the prior written consent of the Client. For violating this provisions the Seller shall pay the Buyer a sanction of CZK 100,000.
- 16.4 Producer undertakes to abide during any its activities by legal regulations applicable to the Producer 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.
- 16.5 Violation of any regulation stated above in article 16.4 by Producer entitles Client to withdraw from the Contract.

## 17. 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 specific 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.

## 18. Concluding provisions

- 18.1 The failure to use or an omission to exercise any right or entitlement from the 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 Contract or these Terms.

18.2 If any provision of a Contract or these Terms turns out to be invalid, ineffective or unenforceable, this shall not result in the remaining provisions of the Contract or these Terms becoming invalid, ineffective or unenforceable, or the Contract in its entirety. In such case the Parties to the 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.

18.3 The contracts of work shall be executed in two counterparts, of which the Parties shall receive one counterpart each.

18.4 Amendments and additions to a Contract of Work must be made in writing and confirmed by the authorised representatives of the contracting parties, otherwise they are invalid.

Bohumín, 1. 1. 2020

Ing. Jakub Weimann, CEO, signed in person  
BONATRANS GROUP a.s.