

## General Delivery Terms

(Version 1.01EN)

### 1. Efficiency of General Delivery Terms

1.1 These general delivery terms regulate binding rules for effecting deliveries of goods and making installation (hereinafter "performance") pursuant to the written order made by the order party and confirmed by the Unify s.r.o. (hereinafter "supplier"). These general delivery terms are an integral part of the confirmation of such an order. In case of a conflict between the provisions mentioned in the order confirmation and those in these general delivery terms, the provisions mentioned in the order confirmation shall prevail.

### 2. Order and Order Confirmation

2.1 A contractual relation based on the order will become effective on the day of the order confirmation by the supplier.

2.2 These general delivery terms also refer reasonably to the contractual relation caused by the supplier performance (i.e. without issue and/or confirmation of the order). In such a case, these terms of delivery are an integral part of delivery note or completion certificate.

2.3 The confirmed order containing the claim to the delivery without installation is considered as a contract of purchase by course of the § 409 and subsequent of the Commercial Code. The confirmed order containing the demand on effecting the delivery incl. the installation is considered as a contract for work by course of the § 536 and subsequent of the Commercial Code.

### 3. Supplier's Performance, Order Party's Co-operation

3.1 The confirmed terms of performance are binding for the supplier. As for the timely performance of the supplier, there is decisive:

- a) in case of deliveries without installation: delivery date of the subject of performance confirmed by the supplier and the order party or by their representatives in writing (delivery note),
- b) in case of deliveries with installation: delivery and acceptance date of the subject of performance confirmed by the supplier and the order party or by their representatives in writing (completion certificate).

3.2 The supplier's performance is conditioned by the appropriate order party's co-operation, especially:

- provision of unlimited access to the place of delivery for the supplier eventually the authorized representatives of the supplier;
- provision of the necessary documentation to the supplier, if relevant;
- provision of necessary energies, water eventually ventilation, air-conditioning and others to the supplier, if relevant;
- taking appropriate measures to prevent theft and/or damage of the subjects supplied for purpose of performance.

3.3 If the order party does not secure the appropriate co-operation in due form and time, the supplier is eligible to take adequate alternate measures for the purpose of performance, namely at the expense of the order party.

3.4 If the order party insists on using things and/or instructions (hereinafter "inputs") which are objectively inappropriate for the performance, the supplier is not responsible for performance failure or incompleteness, or for performance defects caused by these inputs.

3.5 If the supplier's performance is supposed to be combined with the components provided by the order party or third parties, the order party is obliged to access these components to the supplier at order party's own expenses in due form and time, namely undamaged and at the agreed delivery point. In this case, the supplier is authorized to put the components provided by the order party through the compatibility and usability tests whereas the order party is obliged to pay the supplier the price set by the supplier for carrying out these tests. If it is necessary to make alterations to the components provided by the order party, the supplier is obliged to inform the order party about it without delay.

### 4. Prices

4.1 In addition to the performance price mentioned in the confirmed order, the supplier charges to the order party according to the price lists valid at the time of the performance separately:

- works on software duplication, translation and generating;
- data carriers delivered by the supplier;
- analysis and recovery of failures caused by inadequate handling of the equipment delivered by the supplier and/or software or caused under circumstances for which the supplier is not accountable;
- support of software loading or operation
- granting service assistance beyond usual working hours (i.e. except Mo-Fr 8:30 - 16:30 o'clock, public holidays and rest days);
- works on performing changes required by the order party and/or by legal enactments as for a) extent of the subject of performance, 2) extent of user data, 3) place of performance, 4) settlement day;

- analysis and recovery of failures and/or damages caused by the technical state of the order party's equipment (e.g. distribution network);
- new software versions;
- recovery of failures caused by viruses;
- replacement of used batteries and their recharge;
- packaging, dismounting (incl. existing systems), transport incl. transport insurance.

## **5. Invoicing, Terms of Payment**

- 5.1 The supplier has to issue an invoice (tax document) containing essentials in terms of valid legal regulations by the deadline accordant with the taxable payment.
- 5.2 The day on which the delivery note or the completion certificate is signed by the order party and the supplier eventually by their representatives is taken for the tax payment date.
- 5.3 Unless provided otherwise, the maturity of supplier's invoice (tax document) is 17 days since the date of issuance.
- 5.4 The payments on the part of the order party are made by bank transfer on supplier's account.
- 5.5 On order party's default in payment, the supplier is eligible to charge an interest on late payment, namely 0.05 per cent of the total amount outstanding for every default day.

## **6. Passing of Risk of Damage and of Property Right eventually Right of User**

- 6.1 The risk of goods/article damage passes to the order party:
  - a) in case of deliveries without installation on the day of the confirmed delivery of the subject of performance to the place designated in the confirmed order,
  - b) in case of deliveries with installation on the day of the delivery/acceptance of the subject of performance.
- 6.2 The property right to the material subjects of performance excepting the software eventually the non-exclusive use of software (in terms of the provision of article 6.3) passes to the order party after paying completely the total price of the subject of performance.
- 6.3 The order party has non-exclusive right to use the software assigned to the order party with the subject of performance only and to the extent of the agreed feature parameters of the subject of performance. The order party is without time restraint obliged to care for that third parties become acquainted neither with the software nor with its data, incl. copies, in processed, extended or modified versions as well, without the former written approval of the supplier. The order party is not authorized to multiply the software or its data or to change the software without the former written approval of the supplier; an exception is the backup within the software use under the provision of §12 of the Act No.121/2000 of the Collection of Laws. The order party is not authorized to modify, adopt or translate the software or to remove it from the system and is not allowed to remove alphanumeric marking, trademarks and comments on copyrights (authorship). If software copies are allowed, the order party must also copy all accompanying marks and comments without changes, provide all copies with sequence numbers, out of which the original serial numbers can be read, and to keep evidential register on the distribution of all copies which the supplier can look into by request.
- 6.4 To the moment the property right eventually the right of user passes to the order party, the order party is obliged to access the subject of performance to the supplier.
- 6.5 To the moment the property right eventually the right of user passes to the order party, the order party is not authorized to assign these rights to third parties and/or to burden the subject of performance with other rights of third parties and/or to start the commercial utilization of the subject of performance.
- 6.6 To the moment the property right to the subject of performance passes to the order party, the supplier can withdraw from the order, if the order party has considerably broken these general commercial terms or the conditions of the confirmed order. The failure to pay the agreed payments for more than 17 days is also regarded as a considerable breach. In case of such a withdrawal, the supplier is entitled to the settlement of all expenses caused in connection with the withdrawal; if the subject of performance is already delivered to the performance place, the supplier is entitled to the settlement of a penalty amounting to 15 per cent of the total price of the subject of performance. The supplier is entitled to the settlement of all costs caused in connection with the performance of supplier's engagements even if the performance is not realized for reasons on the part of the order party.
- 6.7 If the order party does not meet the debt for the subject of performance to the supplier in due form and time, the supplier is authorized to make any technical intervention on/into the subject of performance, incl. its service interruption.

## **7. Liability for Defects, Quality Guarantee**

- 7.1 The supplier is by law responsible for the defect of the subject of performance in the moment when the risk of damage is attached to the order party even if the defect has become obvious after this moment. The order party is obliged to screen the subject of performance of the supplier immediately and to claim the defects discoverable during this screening to the supplier without undue delay.
- 7.2 The supplier has to give a guarantee that the subject of performance will retain appropriate functional properties for a guarantee period of 24 months. If some defects of subject of performance come to light in the guarantee period, the supplier has to realize the quality guarantee by executing repairs to the subject of performance or by delivering a spare component eventually the entire subject of performance.
- 7.3 The supplier is not responsible for and the guarantee does not refer to the defects demonstrably caused by:

- operating the subject of performance (incl. the delivered software) inconsistent with the delivered documentation and/or with the guarantee conditions of the manufacturer
- neglect of the specified maintenance of the subject of performance;
- incompetent or unprofessional intervention into the subject of performance;
- change of the installation place of the subject of performance;
- software modification which is contrary to these general commercial terms or to law;
- change of operational or database environment not authorized by the supplier in writing which the software is run in;
- intervention in the data structures or data by other media than by tools delivered together with the subject of performance or tools explicitly mentioned in the documentation (when intending to use another tool, the order party is obliged to require the former consent of the supplier);
- supplier's equipment components which the guarantee is not referred to;
- influence of computer viruses;
- configuration change of the subject of performance.

## **8. Liability for Damage, Intellectual Property Rights**

- 8.1 In case of damages caused by breach of supplier's contractual duties, the damage exceeding a foreseeable damage will not be compensated, according to the provision of § 379 of the Commercial Code. Unless explicitly otherwise agreed by the contracting parties, the maximum limit of the predictable damage is 1.000.000 Kč (in words: one million Czech crowns).
- 8.2 In case of imminent or emergent damage, the order party is obliged to take all the measures needed to avert or to mitigate the damage without delay and with respect to the circumstances of the case. Provided the order party should put in a claim for compensation to the supplier, the order party is furthermore obliged:
- a) immediately to acquaint the supplier with the threat or the beginning of damage as well as with the measures taken for averting or mitigating the damage,
  - b) to enable immediate investigation of the circumstances of the objective occurrence of lost to the entrusted employees of the supplier, the authorities of supplier's insurance company eventually to other competent authorities by their request,
  - c) to prove the amount of real damage as well as measurements to avert or mitigate damage.
- The supplier is not obliged to make good the damage caused by the fact that the order party has not discharged these obligations.
- 8.3 By accepting supplier's subject of performance, the order party also assumes usual operational risks of using this subject of performance, especially the risk of data and/or information corruption or loss in connection with the failure of functionality of this subject. The compensation requirements of the order party to the supplier on the ground of temporary malfunction of the subject of performance, especially claims on lost profit compensation or compensation of destruction or lost data and/or information for this reason, are therefore not legitimate.
- 8.4 The supplier is responsible for the subject of performance being free of know-how rights of third parties. If third parties raise a claim against the order party regarding the infringement of know-how rights of third parties to the subject of performance, the order party is obliged to inform the supplier without delay. The order party is not authorized to make any statements to the content of the raised claim of third parties, especially as for its acknowledgement.

## **9. Export Allowance**

- 9.1 The export or inland transfer of the subject of performance or its accessories as well as written supporting documents to third parties can be liable to lawful approval duty. The order party is obliged to negotiate any intended transfer of the subject of performance with the supplier in advance and to act up to the instructions of the supplier. The order party is responsible for possible consequences of the breach of this provision.

## **10. Confidential Information**

- 10.1 If the supplier saves or processes data concerning the order party in connection with the performance, the supplier is obliged to respect the instructions of the order party and to take necessary technical as well as organizational measures to safe this data against misapplication. This duty of the supplier remains even after the expiry of the contractual relation.
- 10.2 If the supplier or the order party gets acquainted with any confidential information concerning the other party of this contractual relation in connection with the performance by the confirmed order, the receiving party will make the same efforts to keep its confidentiality, as if this would be their own confidential information. The two parties are especially obliged not to transmit such information to third parties and not to use it other than for performing obligations by the confirmed order. These obligations remain even after the performance of engagements by the confirmed order.

If not explicitly otherwise agreed by the contractual parties, any information which is or could be a part of business secrets is considered as confidential, e.g. descriptions or parts of descriptions of technological processes and formulas, technical constellations and technical know-how, information on systems of working, procedures and working processes, business or marketing plans, conceptions and strategies or their parts, offers, contracts, agreements, arrangements or other appointments with third parties, information on trading incomes, on relations with business partners, on labor-law problems and another information, the publication of which by the receiving party could cause damage to the delivering party.

10.3 If the confidential information is supplied in written form or in the form of data files on computer media, the delivering party is obliged to refer the receiving party to the confidentiality of the contained information by an adequate indication.

10.4 Regardless of the above mentioned provisions, the information

- which became known in public without a purposeful fault or neglect of the receiving party,
- which the receiving party legally kept at disposal before the conclusion of the contractual relation in terms of chapter 2, if such information was not the subject of another information security contract concluded between the contractual parties before,
- which the receiving party has legally reached and is able to prove this.

is not considered as confidential one.

## **11. Law, Place of Trial**

11.1 The legislative relations in terms of provisions of chapter 2 of these general terms of delivery are governed by valid legal regulations of the Czech Republic, especially by Act No. 513/1991 of the Collection of Laws, Commercial Code as amended.

11.2 The place of eventual trial is Commercial Court relevant according to the place of order issue, unless otherwise provided by law.