

General trade terms and conditions for purchase of goods and customer service of ŽDAS, a.s.**1. Basic provisions and terms**

1.1. These General Purchase Terms (hereinafter referred to as the „GPTs“) apply to the purchase of goods (Purchase Contract) and services (Contract for Work) of ŽDAS, a.s. (joint-stock company).

The GPTs closely define and qualify the rights and obligations of the Contractor and the Customer, procedure of a contract conclusion and its fulfilment.

Provisions of general contracts take precedence over herein mentioned GPTs. Relations not specifically regulated by these GPTs are governed by respective provisions of Act No. 89/2012 Collection of Laws, the Civil Code.

1.2 For the purpose of the herein mentioned GPTs, the following terms mean:

- a) “Civil Code“ means Act No. 89/2012 Collection of Laws, the Civil Code as amended.
- b) “Contract“ means an agreement being concluded between the Customer and the Contractor, which carries the characters according to paragraph 1.1 of the GPTs. It can be a purchase contract, contract for work, contract for the provision of services etc., where the acquirer of the deliverable is the Customer. The contract must be in written form or consistent form of declarations of will for the acceptance and the offer. It is not required that declarations of will are in only one document. The term “Contract“ means subcontract as well as all provisions of a general contract, which apply to the subcontract in a particular case (in case of delivery of the contractual subject).
- c) “Proposal/Order“ means a draft of purchase contract or draft of contract for work by which means the Customer orders Goods. A Proposal/Order shall comprise the following essentials – subject of contract, time period for contractual execution, and price. The GPTs are part of the Proposal/Order and are binding on both contractual parties.
- d) “Customer“ is ŽDAS Company in the position of buyer or order party.
- e) “Contractor“ is a person delivering goods, providing service(s), executing a piece of work or other monetary valuable fulfilment for the benefit of the Customer under the Contract in the position of seller or contractor.
- f) “Deliverable“ - Goods meaning things in possession which are the subjects of the purchase. A piece of work means production of a specific item beyond the scope of the purchase contract, followed by the maintenance, repair or adjustment of the item, or other activity leading to any change of the item condition. A piece of work means production, maintenance, repair or adjustment of the construction or its part.
- g) “Documentation“ means a file of all documents necessary for operation, use and ordinary maintenance of the Goods and other records relating to the Goods, which shall be handed over to the Customer in the context of Goods delivery, according to legal regulations or the Contract, especially the declaration of conformity and certificates.
- h) “Technical specification“ means documents describing design, function, composition or other attributes of Goods.
- i) “Inspection“ means an action leading to the investigation of the existing status, by which means the Customer verifies the probity of contract fulfilment prior to Goods delivery.
- j) “Testing“ means any type of verification of safety, operating ability, quality or quantity of Goods which shall be carried out prior to delivery or after delivery of Goods, according to Contract or legal regulation (e.g. elevator revision, electric system revision, testing operation based on the contract etc.).
- k) “Quality“ means specification of attributes of Goods or a Piece of Work described in the Contract or convention for agreed delivery status or way of use.

2. Pre-contractual negotiation(s)

2.1. Any pre-contractual negotiations (such as questions, requests for technical resolution(s), price, terms, calls for tenders, seller offers etc.) serve as an option for buyer needs and do not bind the buyer to the conclusion of the purchase contract. All these activities (data handover, resolutions, consultations, participations etc.) are provided free of charge. Pre-contractual commitment under §1728-1729 of the Civil Code is excluded at the conclusion of contract.

3. Contract conclusion – its initiation and changes

3.1. Via the Purchase Contract the Contractor commits to deliver the Goods to the Customer and enables him to gain title to the Goods. The Customer commits to take over the Goods and pay the purchase price to the Contractor. In case of contract for work, there is a commitment for execution of such piece of work by the Contractor. The Customer commits to take over such piece of work and pay the price for the work.

3.2. Customer acceptance of the Proposal/Order leads to the Purchase Contract conclusion having all legal effects. Acceptance of the Proposal/Order with an unsubstantial amendment or variation as per § 1740 Article 3 of the Civil Code is excluded.

3.3. The Contractor confirms the Customer Proposal/Order and delivers it to the Customer’s registered seat by the term specified within the Proposal/Order. Contract conclusion is accepted exclusively in written form. A scanned Proposal/Order with the signatures of authorised representatives of the contractual parties and sent by email via enclosure are considered to be in written form.

In case of any obscurities in the Technical specification, the Contractor is liable to ask the Customer to provide additional information which shall be provided in a reasonable period of time by the Customer.

3.4. If the Contractor does not accept the Proposal/Order within the stated terms, the Contract is not enclosed unless the Customer accepts the delivered Proposal/Order after the due date. The same legal effects follow when the Contractor changes these GPTs, which are not accepted by the Customer in written form within 30 calendar days from the date of the Contractor’s amendment delivery. While contracting it is proceeded according to §1736 – 1744 of the Civil Code.

3.5. The price has to be agreed and stated in the Contract itself, respectively the manner of price evaluation has to be stated there.

3.6. When there is a reference in the Contract to its certain attachment, it is supposed that this attachment is the integral part of the Contract. In case that the meaning of the attachment differs from the meaning of the Contract, the Contract is to be enforced with precedence.

4. Contract amendments

4.1. All changes and amendments to the Contract have to be in written form and signed by all contractual parties. A scan of the signed document delivered by email is considered to be written form as well.

4.2. If a change of circumstances occurs after the Contract conclusion which causes “gross disproportion“ consisting in a disadvantage of one of the contractual parties by a disproportionate increase in costs of the contract fulfilment, and/or by a disproportionate decrease of the value of Goods, the affected party has the right to restoration of the contractual negotiation if it proves that it could have neither assumed nor influenced the change reasonably, and that the matter in dispute has occurred after the contract conclusion, and/or has been known to the affected party after the contract conclusion. Exercising this right does not entitle the affected party to postpone the fulfilment. If the contractual parties do not agree in a reasonable period of time, the matter in dispute can be adjudicated on the basis of legal proceedings by an applicable court.

5. Delivery terms

5.1. Documentation is the integral part of Goods delivery. The obligation of Goods delivery in due form and in due time is not met if the documentation is not delivered in due form and in that term in which the Customer can take over the Goods according to the Contract. In this case the Contractor defaults in fulfilment of Goods delivery in due form and on due time. The number of the purchase contract shall be stated on all documents (bill of delivery, packing list, bill of freight, invoice).

5.2. If the Contractor delivers a larger amount of Goods than contracted, the Contract includes the excess amount unless the Customer refuses without undue delay.

5.3. The Customer is not obligated to pay the purchase price unless the Customer has the possibility to examine the Goods to be sold. It does not apply to the situation when the negotiated way of the subject delivery excludes the examination.

5.4. Steel scrap delivery shall be accompanied by the certificate of its non-explosiveness and by the certificate of radioactive-free delivery. Steel scrap shall be free of cast iron portion. In case of breach of the type of such a commodity, the Customer retains the right to set up a claim (deduction of price due to re-sorting of such a commodity). We require a tilting device if lorry transport is used for goods delivery. Receipt of goods delivered by means of automobile transport is possible only on working days from 06:30 until 13:00. The Contractor has to notify the customer of goods delivery. The contractor of the scrap is obligated to state a number of waste to each invoice, and next he is obliged to present a sum of all deliveries according to the number of waste within 15 days after the end of year.

5.5. For goods governed by Act No. 22/1997 Collection of Laws, the contractor states whether the EC declaration of conformity has been issued according to requirement as per Act No. 22/1997 Collection of Laws and its implementing regulations in the Contract (in the invoice).

5.6. The basic document for payment is a tax document (hereinafter referred to as the invoice), payable within sixty days if not contracted otherwise. The right to invoice the contractual purchase price on the Contractor's behalf shall arise at the moment of the contract fulfilment, which means at the moment of Goods delivery to the Customer.

5.7. The Customer is eligible to execute reinsurance VAT payment into the account of the respective Tax authority if the Contractor becomes an unreliable taxable person on the date of taxable payment, or the Contractor states the foreign bank account, or states the bank account being disclosed by the tax administrator. The Customer notifies the Contractor in written form on the above mentioned payment transaction.

5.8. The Contractor is obliged to state the number of customs nomenclature while importing the goods from EU or third countries.

6. Delivery of subject of contract fulfilment

6.1. Transfer of title to the Goods shall take place during handover.

6.2. Goods are delivered according to delivery parity DAP Customer's company according to INCOTERMS 2010 if not contracted otherwise.

6.3. Goods takeover is confirmed by Customer signature on the bill of delivery, transportation document or handover record (document). By this signature the Customer confirms neither defect-free goods delivery and backlogs, nor any examination of Goods after the takeover. The Customer shall accomplish the acceptance on terms and conditions under the Contract or herein mentioned GPTs.

6.4. Partial fulfilment is acceptable only via written form with prior approval by the Customer.

6.5. The Contractor is obligated to pack the Article in a way that it is protected against poor weather conditions and damage while being transported.

6.6. The article delivered for the price of its weight is charged respective of its real weight at delivery in net weight. Weighing is carried out by the Customer; the Contractor has a right to participate on the article weighing if he is present at the delivery.

6.7. Packing material marked by the Contractor as to be returned, according to the contract, invoice or other accompanied documents, shall be charged as a separate item next to the goods to be sold by the seller. The Contractor is obligated to accept such packing material if it is returned into the Contractor's dispatch store, registered seat or other designated place within 12 months from the date of Goods dispatch together with document invoicing of such material. The Contractor is obligated to pay back the charged price to the Customer account within 30 calendar days.

7. Force majeure / inevitable accident

7.1. Liability of the contractual parties for partial or overall non-fulfilment of the contractual obligations is excluded in consequence of inevitable accident. Force majeure (inevitable accident) means any unpredictable or unavoidable occasion independent of the contractual parties' wills that disables partial or overall fulfilment of the obligations of any contractual party for a certain period of time. The events that have arisen after the contract conclusion and could not have been avoided by the affected contractual party are acknowledged as force majeure (inevitable accident). If the force majeure / inevitable accident lasts less than 90 calendar days, the contractual parties are liable to fulfil the contractual obligations once the effects of force majeure pass, whereas delivery terms and any other terms defer by the time of duration of force majeure. If the force majeure / inevitable accident lasts more than 90 calendar days on the part of the Contractor, the Customer can claim the right to withdraw from the contract. Delays of subcontractors, closures and illegal strikes, financial obstructions or restructuring of the Contractor cannot be considered force majeure.

7.2. The contractual party affected by a force majeure circumstance is liable to notify the counterparty on this occasion in written form by means of a cover letter. Such notification shall be done instantly, up to 10 days at the latest. Non observance of this time period results in a loss of the right claiming the above mentioned circumstance.

8. Warranty

8.1. The contractual warranty period of an article is 24 months from being put into operation. The contractual warranty period of delivered Goods is 36 months at maximum from the Goods handover. The warranty period stops for the duration of time in which the Customer cannot use the imperfect Goods that the Contractor is liable for.

8.2. The Contractor is liable for Goods delivery without factual or legal defects of Goods. Goods are considered to be defective if they:

- a) do not comply with the Contract or Technical Specification;
- b) do not have the characteristics which the Contractor cited in his formulas, prototypes or offer,
- c) are not suitable for the intended purpose of use,
- d) are not suitable for the ordinary purpose of use,
- e) have an origin or characteristics not confirmed by the specified documents,
- f) are burdened with any rights of the third parties;
- g) are different from what the Customer could have reasonably expected;
- h) do not meet current technical standards and the highest level of attainable quality;
- i) do not correspond to the Contract in another way.

8.3. Liability for defects is governed by relevant provisions of the Civil Code. Criterion for claiming the entitlement for remedy is based on whether there is a substantial or unsubstantial breach of the Contract. Only the Customer can exercise the right of option for claiming a defects remedy. The Customer is liable to revise the Goods instantly after handover and to consequently notify the Contractor on found apparent defects in written form. To revise means a rough control of visible defects not involving checking by means of a gauging device or diagnostic device. In this case, defect detection during assembly or commissioning at the end customer is considered as a timely complaint.

A defect is noted even if it is stated in the handover record (document), bill of delivery, CRM document etc.

The Contractor is obligated to report his point of view up to 48 hours counted within working days after the claim delivery.

8.4. Compensation is governed by the respective provisions of the Civil Code.

9. Contract withdrawal

9.1. Besides the legitimate reasons for contract withdrawal, the Customer is entitled to do so with immediate effect in the case of the following contractual reasons:

- a) the Contractor is in delay with the goods delivery or handover of work for more than 30 calendar days
- b) a substantial deterioration of Contractor assets occurs or threatens and which jeopardizes Contractor fulfilment of his obligations for delivery of the contractual subject.
- c) the Contractor went into bankruptcy according to insolvent law in consequence of debts in excess or insolvency.
- d) the Customer is entitled to withdraw from the contract, eventually to terminate the contract if the proceedings of liquidation of the Contractor's company has been opened or any other similar proceedings has been opened to ensure protection from creditors.

Where the Contractor has provided a partial fulfilment, the Customer is entitled to withdraw from the overall contract only in case the Customer is unwilling to accept a partial fulfilment.

If the Customer withdraws from the contract or terminates the contract based on contractual right, the Contractor is liable to compensate any losses arising from the above mentioned reasons to the Customer, with the exemption if the Contractor is not liable for arising the right of Customer withdrawal from the contract or termination of the contract.

9.2. The Contractor is liable to notify the Customer where ecology, hygiene or safety risks can occur in relation to the contractual subject of performance. The Contractor is liable to notify the Customer where the special rules specified by the legal regulations of binding force apply to either Goods or their parts usage. In case of breach of such liability, the Contractor is obligated to pay the contractual penalty of 10% of the deliverable price up to 5 working days from delivery of the call for appeal for contractual penalty payment from the Customer to the Contractor.

10. Complaint

10.1. The Contractor is obliged to act when being notified of the Customer complaint of Goods on the first working day following the complaint report if not negotiated otherwise. The complaint can be reported by a delegate of the Customer or by a delegate of the end user of the reported device via telephone or via claim letter. The Contractor is liable to solve the complaint in the shortest period of time.

If the Contractor **does not execute** the removal of defects without delay after the call appealing for the defects removal, the Customer is entitled to remove these defects on his own or with the help of a third party at the expense of the Contractor in urgent cases, especially to avoid danger or major damages.

If any extraordinary costs arise when the defective Goods are delivered to the Customer, especially for transportation, travel, work, installation, disassembly, material or expenses for entry inspection, the Contractor bears these costs.

The Contractor informs the Customer about handling complaints and its process regularly.

10.2. The Customer is entitled to repair the Goods on his own or via a third party in case of breakdown, necessary operational need and other similar event at the Contractor's expense. In such a case, the Customer charges the Contractor for the expense which shall be paid up to 15 days from the invoice delivery.

10.3. The Customer can proceed according to the previous paragraph, even if the defect is not removed in due form and in due time.

10.4. The Contractor is liable for losses and for settling all claims occurred as a consequence of the defective Goods. For such losses the penalties and compensations entitled by the end user towards the Customer are considered.

11. Contractual penalties, delay charge and compensation for loss

11.1. Where the Customer is in delay with paying the invoice price or the price stated in another document replacing the invoice, the seller is entitled to claim pay for a contractual delay charge of 0.03% of the invoice price including VAT for each day of delay. The maximum value of the contractual delay charge may not exceed 5% of the invoice price including VAT.

11.2. The Customer is entitled to claim pay for a contractual penalty for a delivery delay and breach of time period for contractual execution having been negotiated. The penalty is 0.05% of the negotiated price including VAT for each day of delay. By this provision the right of the Customer for compensation of a loss towards the Contractor is intangible. The contractual penalty can be executed by deduction from the purchase price if not agreed otherwise.

12. Other provisions

12.1. The Contractor undertakes to notify the buyer immediately about technological change, crucial parameters change, production dislocation and other substantial matters significantly affecting delivery terms, payment terms and other circumstances under the Contract.

12.2. The accepted Proposal/Order or other documents can be delivered via post office; the third calendar day from the date of transport submission is considered the delivery date; while a personal service document has to be delivered to the authorised person who has to issue the receipt for document acceptance. While faxing or emailing such a document, the evidentiary date of electronic transfer is considered the delivery date.

12.3. All information, know-how, technical documentation and its parts including electronic files which the Contractor has gained access to while negotiating the contract conclusion, or while executing the contract fulfilment, are considered as confidential for the period of validity of the contract and for the next 10 years. Such information may not be used for any other purpose than for execution of the contractual obligations of the Contractor towards the Customer. Copying such information can be made only with advanced written consent of the Customer.

12.4. The Contractor is obliged to return or destroy all data carriers/media relating to information being stated in paragraph 12.3 including all their copies on demand of the Customer without delay.

12.5. The Contractor is obliged to keep silent on contractual terms and on technical specification content towards third persons. Only the employees directly involved in executing the contractual fulfilment, members of the statutory and supervisory body, legal department clerks, auditor and tax advisers are entitled to be provided with such information.

12.6. Products having been produced based on Customer data, such as drawings, prototypes etc., or based on Customer confidential data or by means of Customer tools or tools produced based on a Customer's model, may not be used by the Contractor itself, neither offered nor delivered to the third party.

Special provision regarding the conclusion of contract for work:

The Contractor meets the commitment of the contract for work upon due termination and work handover to the Customer. The Customer can accept the work with qualifications when apparent defects are discovered and/or without qualifications. The work is finished when the Contractor presents its capability to serve its purpose. The claim to charge a contractual price for work arises upon the fulfilment of the obligation which means at the moment of due handover and takeover of the work. The title of the work is governed by provision § 2 599 up to § 2 603 of the Civil Code. The Customer disclaims the application of reservation of the title under § 2 134 of the Civil Code at the same time.