

# GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

## ŽDAS, a.s.

Effective as of 1 December 2022

### 1. INTRODUCTORY PROVISIONS

- 1.1. These General Terms and Conditions (hereinafter referred to as '**the GTC**') are terms and conditions in the sense of Section 1751 of the Civil Code, the purpose of which is to regulate the relations based on Contracts concluded between the Supplier as a seller or contractor and the Client (ŽDAS, a.s.) as a purchaser or customer, as well as the adjustment of the process leading to the conclusion of a relevant Contract.
- 1.2. These GTC, together with the terms and conditions agreed in a relevant Contract, represent complete agreement of the Parties on the conditions of purchase and thus replace all previous oral or written agreements or proposals of the Parties. Should the GTC contain provisions deviating from the Contract, the provisions of the Contract shall prevail.
- 1.3. Only these GTC shall apply to the contractual relations arising from a Contract and the use of any other terms and conditions shall be excluded, unless the Parties expressly agree otherwise in a Contract.
- 1.4. Mutual relations between the Parties not regulated by these GTC shall be governed by the laws of the Czech Republic, in particular the Civil Code. In the event of a conflict, a Contract, including the GTC, takes precedence over the dispositive provisions of the Civil Code.
- 1.5. These GTC are available to the Supplier, inter alia, on the Client's website [www.zdas.com](http://www.zdas.com) and the decisive version of the GTC shall be valid and effective as of the date of conclusion of a Contract for the rights and obligations of the Parties arising from Contracts.

### 2. DEFINITIONS

- 2.1. Unless expressly stated otherwise in a Contract, the following terms beginning with capital letters in these GTC shall have the following meaning:
  - a) '**the Supplier**' means a person in the position of a seller or contractor or other similar position of a supplier offering the Subject of Performance, which is to be supplied to the Client under the Contract;
  - b) '**the Documentation**' is a set of all the documents necessary for operation, use and routine maintenance of the Subject of Performance and other documents related to a specific Subject of Performance, which according to legislation or the Contract are to be handed over to the Client in connection with its delivery, in particular the declaration of conformity and certificates;
  - c) '**Quality**' is an indication of the properties of the Subject of Performance described in the Contract or usual for the agreed state of delivery or method of use of the Subject of Performance.
  - d) '**the Purchase Contract**' is a purchase contract concluded in accordance with Sections 2079 et seq. of the Civil Code between the Supplier as a seller and the Customer as a purchaser. Through the Purchase Contract, the Supplier undertakes, under the conditions of the Purchase Contract, to hand over to the Client the Goods that are the subject of purchase and allow the Client to acquire ownership, and the Client undertakes to take over the Goods and pay the purchase price to the Supplier.
  - e) '**the Draft Contract**' means the Client's Draft Contract, which contains the essential requirements of the Contract, while these GTC are part of each draft Contract and are binding for both the Parties, unless expressly agreed otherwise;
  - f) '**the Civil Code**' means Act No. 89/2012 Coll., the Civil Code, as amended;
  - g) '**the Subject of Performance**' is the performance to be supplied by the Supplier to the Client, namely:
    - i. Goods, especially movables, which are the subject of purchase under the relevant Purchase Contract (hereinafter referred to as '**the Goods**'), or
    - ii. Work, in particular the manufacture of a thing, if not covered by a purchase contract, as well as maintenance, repair or modification of a thing, or activities with other results that is the subject of work under the relevant Contract for Work, or services or other subject of performance under another contract concluded between the Parties (hereinafter referred to as '**the Work**');
  - h) '**the Sanction restrictions**' means restrictions and obligations of the Parties arising from national or international rules on import or export of goods or services, embargoes or sanctions, in particular, but not limited, sanctions adopted by the Czech Republic, United Nations, European Union or United States of America.

- i) **'the Contract'** is a relevant contract between the Supplier and the Client, of which these GTC are a part, in particular the Purchase Contract, the Contract for Work or another contract concluded between the Parties, according to which the Supplier shall deliver the Subject of Performance to the Client, in the form of a framework contract or individual contracts;
- j) **'the Contract for Work'** is a contract for work concluded in accordance with Sections 2586 et seq. of the Civil Code between the Supplier as a contractor and the Client as a customer, or another contract concluded between the Parties in accordance with which the Supplier is to provide the Client with the Work or services or other subject of performance. Through the Contract for Work, the Supplier undertakes to perform the Work or to supply services or deliver another Subject of Performance to the Client at the Supplier's expense and risk under the conditions of the Contract for Work, and the Client undertakes to accept the Work and pay the price agreed in the Contract for Work.
- k) **'the Parties'** or individually **'the Party'** means the Supplier and the Client as contracting parties to the Contract;
- l) **'the Technical Specification'** is a more detailed technical specification of the Subject of Performance under the Contract;
- m) **'the Technical Conditions of Scrap Supplies'** are technical-delivery conditions of steel and cast iron waste supplies applied by the Client in cases where the Subject of Performance means steel scrap and which are available on the Client's website [www.zdas.com](http://www.zdas.com). In the event of a discrepancy in content between the Technical Conditions for Scrap Supplies and these GTC, the Technical Conditions for Scrap Supplies shall prevail;
- n) **'the Client'** is business company **ŽDAS, a.s.**, with its registered office at Strojírenská 675/6, Žďár nad Sázavou, postcode 591 01, Czech Republic, CRN 463 47 160, registered in the Register of Companies administered by the Regional Court in Brno, File No. B 766.

### 3. ESTABLISHMENT OF CONTRACT AND ITS AMENDMENTS

- 3.1. The Contract shall arise when the Supplier accepts the Client's Draft Contract. Until the moment of concluding the Contract, the Client reserves the right to terminate negotiations on the Contract and shall not be responsible for the fact that the Contract will not be concluded.
- 3.2. Acceptance of the Draft Contract by the Supplier with any amendment or deviation to the Draft Contract or these GTC or with reference to terms and conditions other than these GTC, which change any conditions of the Draft Contract, shall be considered as a separate new draft Contract submitted by the Supplier, which must be explicitly accepted by the Client in order to establish the Contract. Therefore, provisions of Section 1740(3) and Section 1751(2) of the Civil Code shall not apply.
- 3.3. The Contract must be concluded in writing. The written form shall be preserved even in legal steps executed by electronic or other technical means enabling the capture of its content and the determination of a person acting. The acceptance of the Draft Contract by e-mail or the confirmation of the acceptance of the Draft Contract by e-mail shall also be considered as acceptance of the Draft Contract by the Supplier.
- 3.4. The Supplier shall accept the Client's Draft Contract in accordance with this Article and deliver the signed Draft Contract to the Client's registered office or to the Client's contact person by e-mail within the period specified in the Draft Contract but no later than 48 hours from receiving such Draft Contract from the Client. Should the Supplier accept the Client's Draft Contract in accordance with this Article after 48 hours from receiving the Draft Contract from the Client, the Contract shall be established only if the Client subsequently confirms in writing the conclusion of the Contract to the Supplier, or the Client begins to behave in accordance with the Draft Contract, in particular, they shall pay the price for the Subject of Performance.
- 3.5. Where reference is made in the Contract to a particular annex thereto, that annex shall be deemed to form an integral part of the Contract. Should the content of such annex be in conflict with the content of the Contract, the Contract shall prevail.
- 3.6. All changes and amendments to the Contract shall be in writing.
- 3.7. The Supplier shall assume the risk of a change in circumstances and thus waives their right to demand the resumption of negotiations on the Contract in accordance with the provisions of Sections 1765(1 and 2) of the Civil Code.

### 4. REQUIREMENTS FOR DELIVERY OF SUBJECT OF PERFORMANCE

- 4.1. The Documentation is an integral part of the delivery of the Subject of Performance. If the Documentation is not supplied properly and within such period that allows the Client to accept the Subject of Performance properly under the Contract, then the obligation to deliver the Subject of Performance has not been fulfilled properly and on time and the Supplier is delay with fulfilling their obligation to deliver the Subject of Performance properly and on time. All the documents (delivery, packaging, consignment note, invoice) must state the number of the Contract.

- 4.2. Should the Supplier deliver a larger number of items representing the Subject of Performance than agreed, the Contract shall also be concluded for the excess quantity at the price agreed in the Contract, if the Client has expressly agreed without undue delay after accepting it.
- 4.3. Unless agreed otherwise in the Contract, the Client shall not pay the price for the Subject of Performance until they have had the opportunity to inspect the Subject of Performance and verify its Quality. This does not apply if a method of handing over the item has been agreed which precludes the possibility of such inspection.
- 4.4. Supplies where the Subject of Performance is steel scrap must be substantiated by a certificate of non-explosiveness and absence of radioactivity. Steel scrap must not contain any cast iron components. In the event of non-compliance with type classification, the Purchaser hereby reserves the right to file a complaint (or price reduction due to type reclassification). When making supplies with trucks, the Client requires a tilting device. Receipt of the Subject of Performance in automobile supplied shall only be possible on working days from 6:30 am to 1:00 pm. The Supplier shall inform the Client about the delivery date in advance. The scrap supplier shall be obliged to state the waste number on each invoice and to hand over to the Client the sum of the total supplies according to the number of the relevant type of waste within 15 days after the end of a calendar year. The conditions of supplies where the Subject of Performance is steel scrap are also governed not only by these GTC but also by the Technical Conditions of Scrap Supplies available on the Client's website.
- 4.5. For the Subject of Performance that is subject to Act No. 22/1997 Coll., on technical requirements for products, as amended (hereinafter referred to as '**the Technical Requirements Act**'), the Supplier shall state in the Contract (or on a relevant invoice) whether Subject of Performance has been issued EC Declaration of Conformity in accordance with the requirements of the Technical Requirements Act and its implementing regulations.
- 4.6. The payment document is a tax document (hereinafter referred to as '**the invoice**'); the maturity of the invoice is 60 days unless the Parties have agreed otherwise in the Contract. The right to invoice the Client for the agreed price shall arise for the Supplier at the moment of fulfilling the obligation to deliver the Subject of Performance to the Client in accordance with the Contract. In order for the invoice to be considered properly delivered to the Client, it shall be sent by the Supplier in electronic form to the following e-mail address of the Client: [fce@zdas.cz](mailto:fce@zdas.cz).
- 4.7. The Client shall be entitled to make a security payment of VAT to the account of a relevant tax office if the Supplier becomes an unreliable payer on the day of taxable performance or states a bank account maintained outside the country or states a bank account not published by the tax administrator. The Client shall notify the Supplier in writing of the VAT security payment thus remitted.
- 4.8. In the event of supplies of the Subject of Performance from the countries of the European Economic Area or third countries, the Supplier shall state the number of the relevant customs nomenclature on the invoice.

## 5. CONDITIONS OF HANDING OVER SUBJECT OF PERFORMANCE

- 5.1. The Subject of Performance, if represented by the item, shall be delivered in accordance with the delivery clause DAP INCOTERMS 2020, to the Client's plant, to the address ŽĎAS, a.s., Strojírenská 675/6, Žďár nad Sázavou, postcode 591 01, Czech Republic, unless agreed otherwise in the Contract. Unless agreed otherwise in the Contract, the delivery clause in the Contract refers to the business conditions of INCOTERMS 2020.
- 5.2. Should the Goods be the Subject of Performance, the ownership right and the risk of damage to the Goods shall pass to the Client under the conditions specified in the Contract. Should the Work that is a thing be the Subject of Performance, the ownership shall pass to the Client at the time of creation of such Work and the risk of damage to the thing shall pass to the Client only upon handing over the thing to the Client under the conditions specified in the Contract. The Parties exclude the reservation of title.
- 5.3. Acceptance of the Subject of Performance, if represented by an item, shall be confirmed by the Client by signing delivery note, a consignment note, or a handover report. By signing, the Client shall not confirm that the Subject of Performance has been delivered without defects and unfinished work, nor shall they confirm that they have inspected the Subject of Performance after accepting it. The Client shall accept the Subject of Performance under the conditions pursuant to the Contract or these GTC.
- 5.4. Partial performance under the Contract is permitted by the Supplier only with the prior written consent of the Client.
- 5.5. The Supplier shall pack the Subject of Performance in such a way that it will be protected from the weather and against any damage during transport due to its nature.
- 5.6. The price for the Subject of Performance, which is delivered at weight prices, shall be charged to the Client in a net weight according to the actual weight upon delivery to the Client. Weighing shall be performed by the Client and the Supplier shall have the right to participate in the weighing if present at the delivery.
- 5.7. Packaging that is marked by the Supplier as returnable, either in accordance with the Contract, the invoice or in other accompanying documents, the Supplier shall charge as a separate item together with the submitted Subject of

Performance. Should this packaging be returned to the Supplier's warehouse, registered office or a place designated by the Supplier within 12 months from the date of dispatch of the Subject of Performance, indicating the document by which it was charged, the Supplier shall accept it and return the amount paid for it within 30 calendar days to the Client's account.

- 5.8. Unless agreed otherwise in the Contract, the price for the Subject of Performance has been agreed as a fixed amount and the Supplier shall not request an increase in the price or cancellation of the Contract and settlement of mutual obligations because the Subject of Performance required other efforts or costs than expected. This shall also apply in the event that a completely extraordinary unforeseeable circumstance would arise which would make the delivery of the Subject of Performance significantly more difficult.
- 5.9. Unless agreed otherwise in the Contract, the Supplier shall not be entitled to perform the Subject of Performance in cooperation with third parties (subcontractors) without the prior written consent of the Client.
- 5.10. Should the Work be the Subject of Performance under the conditions stipulated in the Contract, the Supplier shall fulfill the obligation to complete and hand over the Work to the Client by properly handing over the Work to the Client without any defects. The Client has the opportunity to accept the Work without reservations or with reservations should the Client find any defects. Unless agreed otherwise in the Contract, the right to invoice the agreed price for the Work shall arise for the Supplier at the moment when they duly hand over the Work to the Client without any defects.

## **6. GUARANTEE FOR QUALITY AND RIGHT FROM DEFECTIVE PERFORMANCE**

- 6.1. The Parties hereby agree on a guarantee for the Quality of the Subject of Performance for a period of 24 months from its commissioning, a maximum of 36 months from the acceptance of the Subject of Performance by the Client, unless agreed otherwise in the Contract. The warranty period shall not run for the period during which the Client cannot use the Subject of Performance for its defects for which the Supplier is responsible.
- 6.2. The Supplier shall deliver the Subject of Performance without factual and legal defects. The Subject of Performance shall be considered defective if
  - a) it does not comply with the Contract or the Technical Specification;
  - b) it does not have the properties stated by the Supplier in the samples, prototypes or in their offer;
  - c) it is not suitable for the purpose for which it is intended;
  - d) it is not fit for normal use;
  - e) its origin or characteristics are not confirmed by the prescribed documents;
  - f) it is encumbered by any rights of third parties;
  - g) it differs otherwise from what the Client could reasonably have expected;
  - h) it does not correspond to the state of the art and does not have the highest attainable quality;
  - i) it does not comply with the Contract in any other way.
- 6.3. The rights arising from defective performance in relation to the Subject of Performance shall be governed by the relevant provisions of the Civil Code. The criterion for exercising the relevant claim under the Civil Code is whether there has been a material or non-material breach of the Contract. The right to choose between claims for defects shall always belong to the Client.
- 6.4. The Client shall inspect the Subject of Performance within a reasonable period of time after its acceptance (however, this period shall not expire earlier than 30 days from the acceptance of the Subject of Performance) and subsequently notify the Supplier in writing of any apparent defects. The inspection of the Subject of Performance shall mean a cursory inspection for visible defects, which does not require additional equipment with measuring or diagnostic tools. A defect claim shall be considered as timely when its application follows its detection only during installation or commissioning at the Client's final customer.
- 6.5. A defect shall duly be claimed by the Client even if it is stated in an acceptance report, on a delivery note, CMR sheet, etc.
- 6.6. The Supplier shall communicate their opinion on the claimed defects no later than 48 hours counted on working days, after they have been notified of the claim, by registered mail or e-mail. The Supplier shall inform the Client continuously about the course and method of settlement.
- 6.7. Should the Supplier not start eliminating defects in the Subject of Performance immediately after the Client's notice, the Client shall be entitled in urgent cases, especially to avert acute risks or prevent major damage, to eliminate these defects themselves or with third parties at the Supplier's expense.
- 6.8. In the event that, as a result of a defective delivery of the Subject of Performance, the Client incurs costs, especially for transport, travel, work, installation, disassembly, material, or costs for entry control exceeding the normal range, these costs shall be borne by the Supplier.
- 6.9. The Supplier shall compensate the Client for all damage incurred as a result of defects in the Subject of Performance; penalties and damages applied by final customers against the Client shall also be considered as such damage.

## **7. WITHDRAWAL FROM CONTRACT**

- 7.1. In addition to legal reasons for withdrawal from the Contract, the Client shall be entitled to withdraw from the Contract with immediate effect in the following reasons:
- a) the Supplier is in delay of more than 30 calendar days with the delivery of the Subject of Performance;
  - b) there has been or is a threat of a significant deterioration of the Supplier's asset situation endangering the fulfillment of the Supplier's obligations in relation to the supplies of the Subject of Performance, in particular an insolvency petition against the Supplier has been filed;
  - c) the Supplier has become insolvent pursuant to Act No. 182/2006 Coll., on bankruptcy and ways of resolving it (hereinafter referred to as '**the Insolvency Act**'), as a result of over-indebtedness or insolvency;
  - d) the Client shall also be entitled to withdraw from the Contract if proceedings on the liquidation of the company or similar proceedings aimed at ensuring protection against creditors have been initiated against the Supplier.
- 7.2. If the Supplier has already provided the Client with a part of the Subject of Performance, the Client may, at their own discretion, withdraw from the Contract with regard to the entire Subject of Performance or even only with respect to the unfulfilled remainder of the Subject of Performance.
- 7.3. Should the Client withdraw from the Contract or terminate it on the basis of the contractual law, the Supplier is obliged to compensate them for all damage that arises as a result, except where the Supplier is not responsible for the Client's right to withdraw from the Contract or terminate it.
- 7.4. Should environmental, hygienic or safety risks arise in connection with the performance under the Contract or special rules stipulated by generally binding legal regulations apply to the use of the Subject of Performance or its handling, the Supplier shall notify the Client of these facts. In the event of a breach of this obligation, the Supplier shall pay a contractual penalty in the amount of 10 % of the price of the Subject of Performance within 5 working days from the delivery of the Client's notice to pay this contractual penalty to the Supplier.
- 7.5. The Client may with an immediate effect withdraw from the Contract or refuse to perform its obligations arising from the Contract without being in breach of the Contract, if such performance pursuant to the Contract is subject to the Sanction restrictions or if the Client is at its sole discretion reasonably exposed to the risk of imposing a sanction, fine or another measure by a public authority on the grounds that such performance pursuant to the Contract may be subject to the Sanction restrictions.

## **8. CONTRACTUAL PENALTIES, INTEREST ON LATE PAYMENT AND COMPENSATION**

- 8.1. Unless stipulated otherwise in the Contract, should the Client be in arrears with the payment of the price stated in the invoice or the tax document replacing it, the Supplier shall be entitled to demand the payment of contractual interest on late payment for each day of delay in the amount of 0.05 % of the price stated on the invoice, including VAT. The maximum amount of interest on late payment shall not exceed 3 % of the price stated on the invoice, including VAT.
- 8.2. Unless stipulated otherwise in the Contract, the Client shall be entitled to demand from the Supplier a contractual penalty for delay in supplies and non-compliance with the agreed period of performance under the Contract in the amount of 0.05 % of the agreed price for each day of delay, including VAT. This provision shall not affect the Client's right to compensation for damage from the Supplier. The contractual penalty may also be applied by the Client in the form of a deduction from the price, unless agreed otherwise.
- 8.3. Compensation for damage shall be governed by the relevant provisions of the Civil Code, unless agreed otherwise in the Contract.
- 8.4. The Supplier hereby acknowledges that in the event of a breach of their obligations under the Contract, especially in the event of a delay in the delivery of the Subject of Performance or delivery of a defective Subject of Performance, the Client may also incur indirect damages, such as lost profits or interest on late payment, contractual penalties or other sanctions that may be asserted against the Client by their business partners or other third parties. The Supplier shall also be liable to the Client for this indirect damage.

## **9. OTHER STIPULATIONS**

- 9.1. The Supplier hereby undertakes to notify immediately the Client of a change in the production technology of the Subject of Performance, a change in important parameters, relocation of production and other significant facts significantly affecting the delivery conditions, payment conditions and other circumstances of the concluded Contract.
- 9.2. When delivering the accepted Draft Contract or other documents, they can be delivered by post and the day of delivery shall be considered to be the 3<sup>rd</sup> calendar day from the submission for delivery. In the event of personal delivery, it shall be delivered to a responsible employee of the Contracting Party, who shall issue an acknowledgment of receipt of the document. For delivery by fax or e-mail, the date of delivery shall be considered to be the provable date of electronic transmission.

- 9.3. All information, know-how, Technical Documentation and its parts, including electronic files, to which the Supplier has gained access in connection with the negotiation or performance of the Contract, shall be considered confidential for the duration of the Contract and for another 10 years and shall not be used for a purpose other than to fulfill the contractual obligations of the Supplier towards the Client. Copies of this information may only be made with the prior written consent of the Client. At the request of the Client, the Supplier shall return or destroy all the information carriers specified in this clause of the GTC, including all the copies thereof, without delay.
- 9.4. The Supplier shall maintain confidentiality towards third parties about the conditions agreed in the Contract and the content of the Technical Specification and shall be entitled to acquaint with them only the employees directly involved in the performance of the Contract, members of the statutory and supervisory bodies, the Supplier's legal representative or an in-house lawyer, auditor and tax adviser.
- 9.5. Products that are manufactured according to the Client's documents, such as drawings, models and the like, or according to the Client's confidential data or with the Client's tools or tools manufactured according to the Client's model, may not be used by the Supplier themselves, or offered or supplied to third parties.

## **10. PROTECTION OF PERSONAL DATA**

- 10.1. The Supplier hereby acknowledges that the Client may, for the purpose of performing the Contract, process personal data concerning the Supplier (especially the personal data of the Supplier's contact persons – names and surnames, phone numbers, e-mail addresses, etc.). The processing of personal data is necessary for the conclusion and performance of the Contract. The Client further processes personal data for the purpose of their legitimate interests (i.e. for the purpose of enforcing the rights under this Contract and creating internal statistics and reports).
- 10.2. The Client may entrust the processing of personal data for the above purposes to a third party (processor), in particular persons within the Client's business group, the Client's business partners or persons performing a legal or economic audit of the Client.
- 10.3. The Client shall process personal data for the duration of this Contract and after its termination for a period required by applicable law or for a period necessary for the above purposes of personal data processing (but at least for 3 years from the date of termination of the Contract).
- 10.4. The Supplier's data subject shall have the following rights in connection with the processing of their personal data: the right to request access to such personal data, the right to correct or delete such personal data, the right to restrict processing, the right to data portability, the right to object to such processing and the right to lodge a complaint to a supervisory authority (the Office for Personal Data Protection of the Czech Republic).
- 10.5. More detailed information on the processing of personal data may be provided to the Supplier on the basis of the Supplier's request sent to the Client's contact e-mail: [zdas@zdas.cz](mailto:zdas@zdas.cz).

## **11. FINAL PROVISIONS**

- 11.1. The Supplier shall notify the Client immediately of the fact that:
- an insolvency petition has been filed against the Supplier;
  - execution proceedings have been instituted against the Supplier;
  - the Supplier decided on their cancellation with liquidation.
- 11.2. The Supplier shall not be entitled to assign their rights and obligations under the Contract to a third party without the written consent of the Client. The Supplier shall not be entitled to set off unilaterally its receivables from the Client against any receivables of the Client from the Supplier unless agreed otherwise in the Contract.
- 11.3. The Parties hereby declare that neither of them is a weaker party and that their mutual performance is not in gross disproportion.
- 11.4. All the disputes that may arise from or in connection with the Contract shall be resolved by the Parties primarily by mutual agreement and amicable settlement. If no agreement has been reached between the Parties on the amicable settlement of such disputes, the disputes shall be decided by the competent court of the Czech Republic in fact and place.
- 11.5. Should any provision of the Contract or these GTC later prove or be determined to be invalid, ineffective, apparent or unenforceable, then such invalidity, ineffectiveness, apparentness or unenforceability shall not cause the invalidity, ineffectiveness, apparentness or unenforceability of the GTC and the Contract as a whole. In such event, the Parties hereby undertake without further delay to further clarify or replace such invalid, ineffective or unenforceable provision by mutual agreement with a new provision which most closely corresponds, to the extent permitted by law, to the intention of the Parties at the time of concluding the Contract. The remaining provisions of the Contract and the GTC shall remain unaffected.