

# General terms and conditions of LISI AUTOMOTIVE FORM a.s. with effect from 1st October 2008

## Preamble

Commercial relations between Suppliers and Clients are governed by the laws of the Czech Republic, in particular by the Act No.513/1991 Col, Commercial Code, as amended (hereinafter referred to as the "**Czech Commercial Code**"), with exclusion of applicability of Nations Convention on Contracts for the International Sale of Goods (CISG) 1980.

## 1. General

- 1.1 These General Terms and Conditions (the "**GTC**") shall govern any Orders as defined in Clause 3 of the GTC.
- 1.2 Any deviation from these General Terms and Conditions must be agreed expressly and in writing by the Supplier and the Client in the form of Special Terms and Conditions (the "**STC**").
- 1.3 These GTC apply as of their date of entry into force to all Orders, Offers and Contracts signed on or after 1st October 2008, and to current Contracts, with the Client's agreement.
- 1.4 For these GTC the "Supplier" is LISI AUTOMOTIVE FORM a.s

## 2. Scope of the Contract

- 2.1 The following shall form an integral part of the contract: (the "**Contract**") and in order of priority in the event of any contradiction between documents or difficulty in their interpretation
  - the initials samples file presented by the Supplier and accepted by the Client
  - the Supplier's Offer namely the technical file including, in particular: the studies, quotations, specifications and technical documents meeting the Client's specifications,
  - the Client's Order accepted by the Supplier by any means, in particular by acknowledgment of receipt or Order confirmation,
  - the Special Terms and Conditions accepted by the Parties under Clause 1.2 of the GTC,
  - these General Terms and Conditions,
  - the Supplier's documents completing these General Terms and Conditions,
  - the studies, quotations and technical documents provided prior to the conclusion of the main contract and accepted by the Parties,
  - the invoice
  - the delivery note
- 2.2 The following shall not be deemed to form an integral part of the Contract: any documents, catalogues, advertisements and rates which are not expressly set out in the Special Terms and Conditions.
- 2.3 A quotation alone may not constitute an Offer. It may be withdrawn or modified at any time by the Supplier, prior to its acceptance by the Client.
- 2.4 Any material error or omission in any of the documents making up the Offer, or other documents or information will be rectified by the Supplier without it being possible to hold the latter liable for any such error or omission.

## 3. Procedure for placing Orders

### 3.1 General provisions

- 3.1.1 These GTC lay down the method of concluding the Contract and contain a reminder of the Supplier's obligation to provide information about its products, the obligation to be precise in its Order and to cooperate with the Client at the Offer, presentation of initial samples or pre-series stage.
- 3.1.2 An Order may be open or closed, and concerns a catalogue or a specific product. In all these cases, the Contract is only executed subject to : (i) an express acceptance of the Order by the Supplier for a catalogue product, or (ii) the Offer made by the Supplier for a specific product.
- 3.1.3 In an open Order, the Supplier's agreement results from its acknowledgment of receipt of the manufacturing / delivery order.

- 3.1.4 Any Order placed by the Client for an existing series product is presumed to take account of its own needs, process and standards of use, the specifications of the product, the recommendations drawn up by the Supplier, as well as any warnings, instructions and precautions for use detailed in the Offer, the technical file, and on the product's labels and packaging in particular.
- 3.1.5 The Contract shall only be completed once the Supplier has expressly accepted the Order.
- 3.1.6 Orders may be accepted by any suitable written means.
- 3.1.7 Once an Order is expressly accepted by the Supplier, whether it is a specific or open Order, the Client shall be deemed to have accepted the terms extended by the Supplier.

### 3.2 Specific Orders

- 3.2.1 The closed Order specifies the quantity price and delivery time.

### 3.3 Open Orders

- 3.3.1 Apart The open Order must meet the following conditions:
  - It must be limited in time to an agreed term,
  - It must set out the characteristics of the product and the price agreed by the parties,
  - At the time when the open Order is placed and accepted, minimum and maximum quantities and lead times must be defined,
  - The delivery schedule must include a precise definition of the quantities and timescales involved so as to fit in with the scope of the open Order.
- 3.3.2 If the Client subsequently alters to the provisional estimates of the open Order itself or places Orders which involve an upward or downward variation in excess of 20% of the abovementioned estimates, the Supplier shall be entitled to reconsider the consequences of such variations.
- 3.3.3 In case of a downward variation, the parties shall consult one another in Order to find a solution if it looks likely that the variation will alter the balance of the Contract to the detriment of the Supplier.
- 3.3.4 In case of an upward variation, the Supplier shall use its reasonable efforts to meet the Client's request by supplying whatever quantities it is able to supply within a reasonable timescale (to take into account any constraints relating to production, transportation, subcontracting, human resources, financial constraints, etc.).

### 3.4 Hardship

- 3.4.1 Should an event occur that is beyond the control of the parties and compromises the balance of the Contract to the extent that it becomes detrimental to one of the parties for it to perform its obligations, the parties agree to negotiate the modification of the Contract in good faith. This concerns the following events in particular: variations in the price of raw materials and exchange rates, modification of customs duties, changes in legislation.

### 3.5 Modification of Orders

- 3.5.1 Any modification of the Contract which is requested by the Client must be expressly and mutually agreed by the Supplier

and the Client in the form of a written amendment to the Contract.

### **3.6 Cancellation of Orders**

- 3.6.1 The placing of an Order implies the Client's irrevocable consent to be bound by the terms of the Order; the Client cannot therefore subsequently cancel the Order unless the Supplier has expressly consented to this beforehand. In such a case, the Client shall compensate the Supplier for any costs which the latter incurred (such as in relation to specific equipment, design costs, expenditure on manpower and supplies, tooling), and for all the direct and indirect consequences which might result. Moreover any down-payments which have already been made over shall accrue fully to the Supplier as a special cancellation fee.
- 3.6.2 An Order may no longer be cancelled if its performance has begun or the materials have been specially procured.

### **3.7 Modifications of the Contract – Effects on stocks**

- 3.7.1 The Supplier is likely to build up stocks (of raw materials, tools, half-finished goods and finished goods) based on the Client's stated requirements and in the Client's interest, either pursuant to an express request by the Client, or on the Supplier's own initiative in Order to meet the Client's stated provisional requirements.
- 3.7.2 Any modification, non-performance or suspension of the Contract which does not enable the Supplier to dispose of the stocks as initially provided in the Contract must therefore be followed by a renegotiation of the initial economic terms so as to compensate the Supplier appropriately.

## **4. Preparatory and ancillary work carried out prior to fulfilling the Order**

### **4.1 Blueprints, designs, descriptions**

- 4.1.1 It is stipulated that the Client shall remain in control of the process in its capacity as overall designer and integrator of the different components.
- 4.1.2 Any quotes, plans, descriptions, drawings, blueprints, charts, calculation sheets, tests data sheets, technical instructions, product descriptions, utilisation, assembly or manufacturing processes which are provided to the other party shall be provided on the basis of a loan for the purpose of assessing and negotiating the Supplier's commercial Offer. They should not be used by the other party for any other purposes. The Supplier shall retain full intellectual property rights and material title over the documents which are loaned, and on the qualification process which he elaborated. These documents must be returned to the Supplier immediately on its request.

### **4.2 Provision of samples**

- 4.2.1 Any samples or prototypes which are provided to the Client shall be covered by a strict confidentiality obligation. They may only be disclosed to third parties with the Supplier's prior express authorisation. These samples must be returned to the Supplier immediately on its request.

### **4.3 Property of the tools**

- 4.3.1 The Supplier may request that the Client shall bear a part of any costs which the Supplier incurs in Order to design or create special tooling and set up a production line (the "Special Tools").
- 4.3.2 Given that the Special Tools are designed by the Supplier and are intended to be adapted to its methods and equipment, they shall remain the Supplier's property and shall remain in its workshops.
- 4.3.3 The Client's participation in the cost of producing the Special Tools shall only give it a right to use said Special Tools in the Supplier's workshops. It shall not result in any transfer of

material title or of any intellectual property rights over the Special Tools, not of any know-how in connection with same.

- 4.3.4 The Supplier shall be entitled to destroy the Special Tools if over a period of two years or longer it does not receive any new Orders of sufficient size to justify putting the Special Tools back into use.
- 4.3.5 Prior to proceeding with the destruction of the Special Tools, the Supplier shall notify the Client by means of a letter sent by recorded delivery with acknowledgement of receipt.
- 4.3.6 Unless the Client responds and the parties come to an agreement over terms concerning the extension of the abovementioned timescale, the Supplier shall be entitled to proceed to destroy the Special Tools three months after the date on which the Client received the letter sent by recorded delivery with acknowledgement of receipt.

## **5. Characteristics and status of the goods Ordered**

### **5.1 Suitability of the goods for their stated purpose**

- 5.1.1 The goods which are delivered shall comply with the applicable technical regulations and with the technical standards which the Supplier expressly stated that the goods are designed to meet.
- 5.1.2 The Client shall be responsible for using the goods under normal and foreseeable conditions of use and in accordance with all rules and regulations governing health and safety and the working environment that must prevail at the place of use as well as the best practices in its profession.
- 5.1.3 Specifically, the Client shall be responsible for selecting a product which specifications meet its technical requirements and its implementation process where applicable, manual or automated, as well as any special transport and storage conditions and, after informing and cooperating with the Supplier and checking with the Supplier whether the product is suited to the planned use / application.
- 5.1.4 Save where this is expressly mentioned on the goods itself, the goods shall be deemed to be unsuitable to be placed in direct contact with food or to be used within a potentially explosive atmosphere.

### **5.2 The packaging of the goods**

- 5.2.1 The packaging, for which no deposit is charged, will not be retrieved by the Supplier. All packaging shall meet the applicable environmental rules and regulations depending on the stated purpose of the goods. The Client pledges to dispose of the packaging in keeping with the prevailing local environment regulations.
- 5.2.2 Unless specifically requested by the Client and agreed by the Supplier, the packaging of the goods is standard packaging for land transport, with single-use conditions for storage and handling and with no specific restrictions.

### **5.3 Provision of information concerning the goods**

- 5.3.1 The Client pledges to provide all useful information concerning the use of the goods to any person to whom the goods are resold. The Supplier shall ensure that the goods are traceable until they are delivered to the Client.

## **6. Intellectual property rights**

### **6.1 Intellectual property and know-how inherent in the documents and goods**

- 6.1.1 All intellectual property rights as well as any know-how that is contained in or disclosed by the documents which are disclosed, the goods which are delivered and the services which are provided, shall remain the exclusive property of the Supplier.
- 6.1.2 Any transfer of intellectual property rights or know-how may only take place under a separate license agreement or intellectual property rights transfer agreement signed by the Supplier and the Client.

6.1.3 The Supplier alone shall be entitled to dispose of its know-how and of the outcome of its own research and development work.

6.1.4 The Supplier's provision of blueprints or technical documents and information provided with to the Client shall not result in a transfer of title thereto nor of the rights that are attached thereto. The blueprints or technical documents shall be provided on a loan basis for the Client's use in connection with the goods and must be returned immediately on demand or at the end of the Contract.

6.1.5 Any Client's provision, declaration or clause which provides for an automatic assignment of any intellectual property rights or know-how as a result of the mere existence of a commercial relationship between the parties or as a result of placing an Order shall be deemed to be null and void.

## 6.2 Confidentiality

6.2.1 The parties hereby mutually pledge to abide by a general obligation of confidentiality in connection with any elements which are exchanged between them as part of the preparation and performance of the Contract (such as documents whatever the medium on which they are recorded, minutes and reports of discussions held between the parties, blueprints, exchanges of computer data, and information and documents listed in Clause 2 of the GTC.

6.2.2 However, the following shall not be covered by a confidentiality obligation:

- any information which was already in the public domain at the time when the Contract was signed,
- any information which was already lawfully known by the other party to the Contract prior to the signature of the Contract and prior to the preparatory work which preceded the signature of the Contract.

6.2.3 The provisions of this Clause 6 shall not prejudice any of the Supplier's right to freely use its own know-how and technology developed as part of the performance of the Contract unless the parties specifically agree otherwise. Neither shall these provisions prevent the Supplier from freely disposing of patents covering inventions.

6.2.4 Should the parties sign a special confidentiality agreement, the same shall not be valid if drawn up in the sole interest of either one of the parties. No confidentiality agreement may be signed which provides for or results in the automatic transfer or appropriation of one party's development results or intellectual property rights by the other.

6.2.5 The Supplier reserves the right to restrict the Client's or its substitutes' access to its installations and those of its suppliers, even if an audit is requested.

## 6.3 Warranty against infringements of intellectual property rights

6.3.1 The Client hereby warrants that at the time of the placing of his Order the content of the blueprints and of the specifications and the conditions governing their implementation do not rely on intellectual property rights or know-how belonging to third parties. The Client hereby warrants that it is free to dispose of them without infringing any contractual or legal obligations.

6.3.2 The Client hereby warrants that it shall hold harmless and indemnify the Supplier against the direct or indirect consequences of any civil liability or criminal proceedings which might be brought against the Supplier, such as lawsuits for infringement of intellectual property rights or unfair competition for instance.

## 7. Delivery, transportation, verification and acceptance of the goods

### 7.1 Delivery lead times

7.1.1 The delivery timescales shall run as of whichever of the following dates occurs later:

- The date on which the Supplier acknowledges receipt of the Order, or
- The date on which all the Supplier receives all the materials, equipment, tools and instructions which the Client must provide, or
- The date on which the Client performs its preliminary or Contractual or legal obligations, including any mutually agreed pre-conditions or advance payments.

7.1.2 Except in the case of a prior written agreement between the Parties, the Supplier's delivery times are given for information only and may be changed in the event of the occurrence of circumstances beyond the Supplier's control, notwithstanding the application of Clause 8.2. On no account may they be considered as a formal commitment. No delay in delivering goods, even a prolonged delay, may constitute an acceptable cause either for a refusal to deliver or for any action for damages of any kind.

### 7.2 Delivery terms

7.2.1 The goods shall be deemed to have been delivered upon being made available to the Client at the Supplier's plants or warehouses. The risks shall be transferred to the Client upon delivery notwithstanding the Supplier's right to subsequently avail itself of Clause 10.6 of the GTC (the retention of title clause).

7.2.2 The goods shall be deemed to have been delivered pursuant to the issuing of the notification informing the Client that the goods are available for dispatch or collection or, if the Contract provides for this, once the goods have been handed to a third party or to a transportation Contractor designated by the Client or, if the Contract provides for this, once the goods have been delivered to the Client's plants or warehouses.

7.2.3 Should the Client have retained a carrier / transportation contractor and should the Client be paying the cost of same, the Client shall bear the financial consequences resulting from any direct action brought by the carrier / transportation contractor against the Supplier.

### 7.3 Transportation, customs clearance and insurance

7.3.1 Unless the parties agree otherwise, the Client shall be in charge of transporting, insuring, clearing through customs, handling and conveying the goods to its site at its own expense and risk. It is up to the Client to check any consignments of goods on arrival and to raise any claims against the carriers / transportation contractors even if the consignment was sent post-paid.

7.3.2 Should the Supplier dispatch the goods to the Client, they shall be sent carriage forward at the lowest cost, unless the Client expressly requests otherwise, in which case the additional transportation costs shall be billed to the Client.

### 7.4 Checking and acceptance of the goods and of the provisions of service

7.4.1 The Client must under due professional care check or commission / delegate other person to check at its own expense and under its own responsibility that the goods comply with the terms of the Order.

7.4.2 The Client must legally accept the goods, and the provisions of service which is tantamount to acknowledging that they comply with the terms of the Contract. By accepting the goods, the Client implicitly acknowledges that they are not tainted by any apparent defects.

7.4.3 The Client or its agent shall also check with due professional care the goods delivered and their packaging/labelling in particular before they are made available for use on assembly lines, as prescribed by (i) respective law and applicable

technical standards applicable for on product liability and transportation, (ii) the uses and good practices of the industry, and (iii) the quality management systems.

- 7.4.4 The conditions for receiving and checking goods by the Client outlined above must be adapted when the latter has requested that the Supplier also provide specific packaging, labelling or logistics services.

## 7.5 Claims

- 7.5.1 Claims relating to any apparent defects or the non-conformity of the goods delivered with the goods ordered or the delivery note, must be delivered to the Supplier in writing within eight calendar days of the delivery of the goods at latest. Any claim notice delivered to the Supplier after expiry of the above 8 days claiming period shall be deemed as invalid and the Supplier shall not be responsible for any such defect and its consequences, including any and all damages.

- 7.5.2 It shall be the responsibility of the Client to provide all proof of the existence of the defects or anomalies observed as well their existence at the time of delivery of the goods. He must give the Supplier the opportunity to ascertain these defects or anomalies itself so that it may remedy them. It shall refrain from taking such action itself or from bringing in any third party to do so. The Supplier's repair or replacement of such defected goods shall represent the sole and exclusive remedy of the Client with respect to the duly claimed defect.

- 7.5.3 Any return of the goods must be the subject of the formal agreement of the Supplier beforehand.

## 7.6 Handling and storage

- 7.6.1 The Client must abide by all recommendations and guidelines concerning the storage and maintenance of the goods, such as, but not limited to, the re-packaging of pallets, the discarding of any goods which fall to the ground, or the management of the goods' modification indexes.

## 8. Acts of God and force majeure

### 8.1 Acts of God

- 8.1.1 Should an Act of God occur which is beyond the control of the parties and which compromises the balance of the Contract to the extent that one party's performance of its obligations under the Contract would cause that party undue prejudice, the parties hereby agree to negotiate changes to the Contract in good faith.

### 8.2 Force majeure

- 8.2.1 Neither party to this Contract shall be held liable for any delay or failure to perform its obligations under this Contract if this delay or failure is directly or indirectly due to circumstances of *force majeure* according to Section 374 of the Czech Commercial Code, including but not limited to such events as:
- natural disasters
  - earthquakes, storms, fires, flooding, etc.
  - armed conflicts, wars, conflicts, terror attacks
  - labour disputes, total or partial strikes affecting the Supplier or the Client
  - labour disputes, total or partial strikes affecting the parties' suppliers, service providers, transportation contractors, the postal authorities, public services, etc.
  - imperative injunctions issued by the authorities (prohibition on imports, embargo), financial default or operational failure of a subcontractor or supplier
  - operating accidents, machine breakdowns, explosions in particular
- 8.2.2 Each party shall notify the other without delay of any occurrence of circumstances of *force majeure* which it becomes aware of and which in its opinion is likely to affect the performance of the Contract.
- 8.2.3 Should the balance of the Contract be affected by a case of *force majeure*, causing prejudice to either of the Parties, the

latter pledge to negotiate the necessary modification in good faith.

- 8.2.4 If the duration of the hindrance caused by circumstances of *force majeure* exceeds 10 working days, the parties shall get together within 5 working days of the expiry of this timescale to determine in good faith if or in what conditions the Contract should be pursued or should be rescinded.

## 9. Prices quoted for the goods

- 9.1 The prices quoted shall be factory gate prices, net of tax and customs duties. The prices shall be billed to the Client as per the terms of the Contract.
- 9.2 The prices quoted shall cover only the goods and services specified in the Supplier's Offer. The packaging and labelling of the goods are standard and in line with standard practice in the profession.

## 10. Payment

### 10.1 Payment deadlines

- 10.1.1 Unless the parties expressly agree otherwise, invoices must be paid within 30 days of the date on which the goods are delivered.
- 10.1.2 Any other clause which sets / any request which attempts to secure a payment deadline which is longer than this deadline of thirty days, which is itself in keeping with common practice in the mechanical engineering industry, shall be considered as unfair with reference to Section 369a of the Czech Commercial Code implementing European Directive EC 2000/35 of 29 June 2000.
- 10.1.3 The Client may not unilaterally alter contractually agreed payment dates under any circumstances and on any grounds, even in case of a dispute.
- 10.1.4 Early payments shall not give rise to a rebate unless this is expressly agreed by the parties beforehand.

### 10.2 Late payment

- 10.2.1 In accordance with Section 369/1 of the Czech Commercial Code and European Directive EC 2000/35 of 29 June 2000, any late payment shall give rise to the accrual of interest for late payment at the most recent refinancing rate quoted by the European Central Bank plus seven points.
- 10.2.2 Any late settlement of a payment instalment may result, at the Supplier's sole discretion, in all payment terms lapsing and any outstanding moneys becoming payable immediately, in the application of Clause 10.6 of the GTC (the retention of title), and the right of lien. Any rebates that may have been granted will automatically be cancelled; the cost of recovering the debt will be born by the debtor. Future Orders will only be accepted by the Supplier against payment in advance of a pro forma invoice.
- 10.2.3 In the event of any payment difficulties, the Clause 10.6 of the GTC (retention of title clause) will apply and the Supplier may suspend its deliveries.
- 10.2.4 Should the Supplier avail itself of any one or more of these provisions this shall not prevent it from availing itself of the retention of title clause featuring in Clause 10.6 of the GTC.

### 10.3 Deterioration of the Client's financial position

- 10.3.1 Should a financial or a credit insurance establishment note that the Client's financial position has deteriorated and should this be demonstrated by a significant delay in payment, or should the Client's financial position differ significantly from the data which was provided initially, the Supplier shall only deliver the goods in return for immediate payment on delivery or payment in advance against a pro forma invoice.

10.3.2 In case of a late payment, the Supplier shall have the right to avail itself of retention of title clause under Clause 10.6 of the GTC over any goods and ancillary supplies earmarked for / delivered to the Client

10.3.3 Should the Client sell, transfer, pledge or vest its business assets and goodwill or a significant proportion of its assets and / or equipment, or should the Client's bill of exchange not be returned as accepted within seven days of being sent for payment, the Supplier shall be entitled to proceed with any of the following steps without notice:

- to declare that any terms of payment have lapsed and therefore request immediate payment of any moneys which are still owed to it in any capacity whatsoever,
- to suspend delivery of any consignments,
- to rescind all pending Orders, to appropriate all down-payments, tools and parts which are in its possession, until full payment and appropriate compensation has been agreed and paid according in particular to Clause 3.6.1 of the GTC and following.

#### 10.4 Cross-compensation / Setting-off of payments

10.4.1 The Client shall be barred from unlawfully cross-compensating / setting-off any moneys that are due to it against the moneys that it owes to the Supplier or from invoicing to the Supplier any moneys for which the latter has not expressly acknowledged responsibility.

10.4.2 Any unilateral cross-compensation / sett-off of moneys by the Client shall be deemed to constitute a payment default and shall be dealt with in accordance with the provisions of Clause 10.2 of the GTC above concerning late payment.

10.4.3 The parties shall however be entitled to cross-compensate / sett-off moneys owed by either side lawfully or by Contractual arrangement.

#### 10.5 Legal payment guarantee in case of subcontracting as part of chain of corporate contracts as per French law

10.5.1 Where the contractual relationship between the Client and its own principal is governed by French Law and the Contract between the parties forms part of a chain of corporate Contracts as per French law no. 75-1334 of 31 December 1975 (hereinafter "**Chain of Corporate Contracts**"), then the Client shall have a legal obligation to ensure that its own principal approves the Supplier. The Client shall also have a legal obligation to ensure that its principal approves the Supplier's terms of payment.

10.5.2 In addition to Clause 10.5.1 of the GTC, should the Client's principal not be the end-client within the Chain of Corporate Contracts, the Client pledges to demand that its principal abide by the formalities stipulated by France's law of 1975. In accordance with article 3 of France's law of 1975, should the Client fail to present the Supplier to its principal or to secure its participate's approval of the Supplier, the Client shall be barred from invoking the provisions of the Contract against the Supplier. This bar shall apply among other things to claims concerning any non-compliance of the goods with the specifications. However, in accordance with the aforementioned article, the Client shall remain bound to perform its contractual obligations towards the Supplier.

10.5.3 For the purposes of this Clause 10.5 of the GTC, France's law of 1975 shall be deemed to be an internationally enforceable set of provisions that are applicable through the Client to any end-clients based abroad.

#### 10.6 – Retention of title clause

10.6.1 The Supplier shall retain full title over the goods covered by the Contract until all components of the price thereof, both principal and accessory, have been paid in full. The handing over of commercial papers shall not constitute effective payment. Any failure to make even a single payment instalment may result in these goods being claimed back by

the Supplier. The acceptance of this clause results for the Client from the placing of its Order governed by these General Terms and Conditions. Notwithstanding the application of this clause, the Client shall be responsible for any damage which the goods may cause or incur as of the date on which they are delivered or upon taking back the goods, at the Client's expense, as decided by the Supplier.

10.6.2 This Clause 10.6 of the GTC figuring on the back of the commercial documents issued by the Supplier (acknowledgment of receipt of Orders, Offers etc.), and it shall apply to Client who accepts it by concluding the Contract.

## 11 Liability

### 11.1 Definition of the Supplier's liability

11.1.1 The Supplier's liability shall be strictly limited to respecting the Contract and its documents such as listed in Clause 2 of the GTC and the Supplier's liabilities, obligations and corresponding Client's remedies as set out in the Contract are sole and exclusive remedies and are in lieu of and shall fully replace any and all liabilities, obligations and remedies which may be given by the governing law(s) of the Contract. This is because the Client, acting in its capacity as the "commissioner", shall be deemed to be able, owing to its professional competence in its field of activity and owing to the industrial production resources which it possesses, to accurately define the specifications of the goods in accordance with its own industrial requirements or with those of its clients.

11.1.2 The Supplier shall be responsible for performing the work requested by the Client in keeping with the standards of its profession.

11.1.3 The Supplier shall not be liable for

- faults or defects arising from materials supplied by the Client,
- faults or defects arising from a design created by the Client,
- faults or defects arising wholly or partly from normal wear and tear of any parts, or from damage or accidents caused by the Client or by third parties, changes in the utilisation process of the goods compared to the Client's or the Supplier's specifications, any abnormal or unusual use of the goods, or any use of same which does not comply with the stated purpose of the goods with common practice, with the Supplier's guidelines or recommendations, or with the subsequent storage, transport or repackaging conditions,
- any loss of traceability of the goods by the Client.

### 11.2 Warranty limitations of the Supplier's liability

11.2.1 Subject to other limitations set out below in this Clause 11.2, the parties have agreed in accordance with Section 379 of the Czech Commercial Code that the aggregate and total Supplier's liability for foreseeable direct tangible damages arisen due to Supplier's breach of its contractual or legal obligation within the performance of this Contract may amount to fifty percent (50%) of the price of individual goods under the respective Contract, and therefore the Supplier's liability for any and all direct tangible damages is limited by the said amount.

11.2.2 Pursuant to Clause 11.1 of the GTC the Supplier shall not be responsible for repairing the deleterious consequences of faults committed by the Client or by third parties in connection with the performance of the Contract.

11.2.3 The Supplier shall not be liable for damage arising from the Client's use of technical documents, information or data originating from the Client or imposed by the latter.

11.2.4 The parties have agreed in accordance with Section 379 of the Czech Commercial Code that they do not foresee any indirect or intangible damage such as: loss of production, loss of earnings, loss of opportunity, commercial damage, loss of profit and loss of revenue (hereinafter referred to as the "**Indirect Damages**"), and therefore under no circumstances

shall the Supplier be liable for compensating any and all Indirect Damages.

- 11.2.5 Should any specific penalties and/or compensation have been agreed by the parties beforehand, these shall be deemed to constitute sole, full and final compensation to the exclusion of any other remedy or compensation.
- 11.2.6 The Supplier's civil liability for all causes with the exception of physical injury and the consequences of gross negligence on its part shall be limited to the replacement within a normal period of time, of the part recognised as defective or non-conforming, after examination by the Supplier, or to the reimbursement of the parts, which may not in any case exceed a sum of money amounting to the sale price of the batch which the defective part formed part of. or the price of the unitary item concerned, whose performance is challenged.
- 11.2.7 The replacement of parts may not under any circumstances justify late payment or a refusal to pay the invoices concerned by the application or the request for the application of this warranty.
- 11.2.8 The Client hereby guarantees the Supplier that it has secured an undertaking from its insurers and from third parties with whom it maintains a Contractual relationship not to bring claims against the Supplier or its insurers in excess of the abovementioned limits and exceptions.

## **12 Amicable settlement of disputes**

- 12.1 The parties hereby pledge to endeavour to settle any disputes which may arise between them amicably prior to resorting to the arbitration court.

## **13 Miscellaneous**

- 13.1 If one or more of the provisions of these General Terms and Conditions were to prove to be null and void or impossible to apply, the other provisions would remain applicable. Should this be the case, the parties hereby undertake to replace, pursuant to mutual agreement, the invalid, ineffective or unenforceable provision by another provision which shall be in compliance with the purpose of the Contract and with the will of the parties expressed upon the conclusion of the Contract.
- 13.2 The fact that the Supplier does not apply any one of the provisions of the General Terms and Conditions in no way means that it has waived its right to avail itself of same, unless such waiver is in writing and signed by the Supplier. No waiver shall be deemed to be a continuing waiver unless so stated in writing.
- 13.3. The Client shall ensure that its business practices are in accordance with all applicable laws, directives and regulations, particularly with, but not limited to, anti-corruption and corporate duty of vigilance.

## **14 Applicable law – Settlement of disputes**

- 14.1 Should the parties be unable to settle any disputes that arise between them amicably, each party shall be entitled to file a petition to solve the given dispute to the Arbitration Court of the Economic Chamber of the Czech Republic and Agrarian Chamber of the Czech Republic, according to Act No. 216/1994 Coll. and 224/1994 Coll., as amended, and in accordance with its Rules of Conciliation and Arbitration.
- 14.2 All disputes arising from the Contract or in connection with it which will not be solved by negotiations between the Parties shall be finally settled by the Arbitration Court of the Economic Chamber of the Czech Republic and the Agrarian Chamber of the Czech Republic under its Rules of Conciliation and Arbitration by three arbitrators appointed in accordance with the following rules. The Client and the Supplier shall each decide on one arbitrator registered in the Register of the arbitrators, these two arbitrators decide on the third presiding arbitrator. If the two arbitrators do not agree on the third presiding arbitrator, the third arbitrator will be

appointed in accordance with valid Rules of Conciliation and Arbitration of the Arbitration Court of the Economic Chamber of the Czech Republic and Agrarian Chamber of the Czech Republic.

- 14.3 The arbitration shall be held in Prague in Czech language.
- 14.4 The arbitrators shall take into consideration the will of the parties as expressed in the contract and all evidence presented. The decision(s) of the arbitrators shall be final and both parties undertake to fulfil and execute the said decision(s).
- 14.5 The Contract shall be governed by and construed in accordance with Czech law.