

## **I. Applicability of the Terms and Conditions**

1. Our deliveries, performance and offers are subject exclusively to these terms and conditions. These General Terms and Conditions are an integral part of all purchase contracts concluded with us as the seller in which reference to these Terms and Conditions is agreed. Orders are confirmed with reference to our terms and conditions, which become an integral part of the contract concluded with us. The buyer is made aware of these terms and conditions at the latest during the conclusion of the contract and these terms and conditions are attached as an annex to each purchase contract. Our current terms and conditions are also available on the website [www.aknel.cz](http://www.aknel.cz), which the Buyer acknowledges. AKNEL Group a.s. reserves the right to amend or change these terms and conditions, even repeatedly. The rights and obligations of the Buyer are always governed by the wording of the Terms and Conditions under which they came into effect. Terms and conditions of the Buyer that deviate from or contradict them are not accepted by AKNEL Group a.s., unless expressly agreed to their validity in writing.
2. These terms and conditions shall be deemed to have been accepted at the latest upon receipt of the goods or other performance by us. With reference to Sections 1740 (3) and 1751 (2) of the Czech Civil Code, the conclusion of a contract with an amendment, deviation or with reference to terms and conditions other than ours is excluded; such acceptance of an offer is always deemed to be a new offer, even if the terms and conditions of the offer have not changed substantially. Purchase contracts to be concluded with us as the seller with reference to these terms and conditions (whether on a single document or in the form of an order confirmation) require either a written form or signature and transmission by fax. The same applies to any changes or amendments to the contract.
3. Any legal rights we may have beyond these terms and conditions remain unaffected.
4. These terms and conditions apply to business relationships with entrepreneurs.

## **II. Tenders, scope of performance**

1. The scope of delivery or performance is determined by the written contract or our written order confirmation, or by the offer in the case of a time-bound offer by the seller and its acceptance within the time limit, if the order confirmation is not available in time.
2. Any illustrations, drawings, data on dimensions, weights, performance, consumption as well as other descriptions of goods in the documents belonging to our offer are only approximately determinative, unless they are expressly marked as binding. They do not constitute any guarantee of the corresponding characteristics of the goods. Information about the characteristics of the goods has only a descriptive function; they are only considered to be an agreed characteristic of the goods if they are expressly stated in the contract or in the order confirmation. We reserve the right to change or deviate the characteristics of the goods, provided that these do not materially affect the normal intended use of the specific goods.
3. For operational and technical reasons, in the case of consumables or small parts, we reserve the right to tolerance the delivery of the quantity ranges up to +/- 5%; in the case of delivery of smaller quantities within this tolerance, the buyer is not entitled to compensation.
4. If the Buyer does not refer to the catalogue data in the order, the Buyer is obliged to provide to the Seller general specification on the purpose of use, method of installation, operating conditions and other conditions to be taken into account when processing the order.
5. Protective equipment will be delivered with the goods by express agreement.
6. The buyer is solely responsible for the suitability of the use of the ordered goods for the purpose intended by the buyer, unless we undertake in writing that the goods will be suitable for such purpose. If areas of use are defined for specific goods, they must only be used in those areas. We shall not be liable for any damages or other claims arising from any breach of this provision by the purchaser.
7. Without any limitation, the Seller reserves its rights as the owner and originator and the right to use all cost calculations, drawings and other documents; these may not be made available to third parties. If no contract is agreed, the drawings belonging to the tenders and other documents must be returned to us without undue delay upon request.
8. Side agreements are only effective if confirmed in writing by us. This also applies to the waiver of this requirement for the written form.

## **III. Special features of correspondence by electronic and fax message exchange**

1. If the communication (expression of free will) is communicated by electronic mail (electronic messaging), it is delivered to the recipient when it reaches the recipient's communication device (CD).
2. If the recipient does not call up a communication received by electronic mail on the next business day after the communication reaches his/her CD, the recipient is deemed to have prevented the communication from reaching him/her.
3. The Parties agree that communications sent in the manner provided for in paragraphs 1 and 2 of this Article shall be legally effective.
4. If correspondence between the parties is conducted by fax, delivery of our communication shall be deemed to be evidenced by the submission of a report of the successful transmission of the fax.

## **IV. Price**

1. In the absence of any other agreement, the agreed prices shall be the ex-works prices including loading at the factory but excluding packaging. Costs relating to the buyer's transport requirements shall be charged separately. The agreed prices are always exclusive of VAT, which shall be added at the rate specified by the legislation in force on the date of the taxable transaction.
2. If delivery or other performance by us is agreed upon more than four months after the conclusion of the contract, we reserve the right as seller to charge a reasonably higher price, provided that the circumstances determining the price at the time of the conclusion of the contract, in particular our production or delivery costs (e.g. material costs, wages and statutory levies), have changed substantially after the conclusion of the contract.

## **V. Reservation of ownership**

1. We shall be entitled to require reasonable security for receivables up to 120 % of our receivables excluding VAT, until all our receivables (including any balance or overdraft) due or to become due to us for any reason have been paid.
2. Title to the delivered goods (including packaging and protective equipment, if subject to delivery) shall pass to the buyer only after full payment of the purchase price and any further receivables we may have under the relevant purchase contract. The buyer shall take proper care of the goods during the period of our ownership. At our request, the buyer shall insure the goods still in our possession up to their value against loss, theft and damage and shall collect the insurance claim in our favour.
3. Together with the transfer of the ownership right to the packaging, the obligations for the take-back and recovery of packaging waste set out in Sections 10 and 12 of the Packaging Act and other obligations set out in the Packaging Act for entities that have obligations for the take-back and recovery of packaging waste are transferred to the purchaser in accordance with Section 13(1)(b) of Act No. 477/2001 Coll., on Packaging (hereinafter referred to as the Packaging Act).
4. The buyer is not entitled to alienate or process the goods that are still in our possession, to encumber them with third party rights or to make them part of another item. If the goods have not been duly paid for, we shall be entitled to take back the goods in our possession and enter the buyer's premises for this purpose. If our goods are processed or mixed, etc., we shall be entitled to the rights pursuant to Sections 1074 et seq. of the Civil Code.
5. If the purchaser intends to transfer the goods, which are in our possession to a third party, he must first confirm our reservation of title in writing with officially certified signatures. In the event of a resale, the buyer shall be entitled to assign to us the receivable from his customer up to the amount of all our receivables from him instead of returning the delivered goods.

6. If, after the conclusion of the contract, facts come to light which cast doubt on the buyer's ability to pay or if the buyer becomes in default in the performance of his obligations to us, we are entitled, for the sake of our security, to hand over the goods in our possession or co-ownership only after full payment of our claims.
7. If a third party asserts a claim to the goods or a claim in our ownership or co-ownership, e.g. in the event of enforcement of a judgment, the buyer is obliged to immediately prove our ownership or the right of ownership to the third party / bailiff; in addition, the buyer is obliged to inform us immediately of such measures and to support us in every way in defending our rights. If the goods are handed over to us, this shall not constitute a waiver of the retention of title or a withdrawal from the contract.
8. In the event of our delivery under another legal system in which the reservation of title pursuant to points 1 to 7 above is not applicable, the purchaser shall provide us with security as close as possible to the reservation of title and shall take all legal actions necessary for its proper establishment and effectiveness.

#### **VI. Payment Terms**

1. Unless otherwise agreed, our invoices are payable without any deductions within 10 days from the date of delivery, but no later than 15 days from the date of issue. Payments in cash or by bill of exchange will only be accepted by special agreement. We shall be entitled to charge the buyer's payment first to his oldest debts, even if the buyer's terms and conditions are deviated from, in which case we shall inform him of the method of charging his payment.
2. Payment is deemed made when we can dispose of the amount paid. In the case of a cheque, payment is deemed to be made when the cheque has been cleared.
3. In the event of delay in payment of an amount due to us, the buyer agrees to pay us a contractual penalty of 0.05% on the amount due for each day of delay. The payment of the contractual penalty shall not affect our right to compensation for damages in excess of the contractual penalty or statutory interest for late payment. If the purchaser fails to pay the purchase price even after the expiry of an additional reasonable period, we shall be entitled to withdraw from the contract and claim damages for failure to perform. We shall not be obliged to deliver any further goods to the buyer during the period of the buyer's default.
4. If we become aware of facts that call into question the Buyer's ability to pay, in particular if a cheque is not cleared or if the Buyer stops payments, we are entitled to demand immediate payment of all amounts payable by the Buyer, even if they are not yet due under the original agreement. This also applies if we have accepted a cheque.
5. The purchaser shall only be entitled to set-off, withhold or reduce the agreed price, even in cases of claims or counterclaims, if his counterclaims have been recognised by us or have been finally adjudicated by a court. The purchaser shall only be entitled to exercise his right of retention if his counterclaim is based on the same contractual relationship.

#### **VII. Terms of delivery and performance**

1. Delivery dates or deadlines shall only be binding if expressly agreed; such dates shall require written form or signature and transmission by fax. In the absence of any other agreement, the Seller's factory shall be deemed to be the place of delivery, including loading at the factory but excluding packaging.
2. We shall not be liable for delays in the delivery of goods or other performance due to force majeure or events that prevent or substantially impede our delivery - in particular strikes, lockouts, governmental measures, etc., even in the case of bindingly agreed deadlines or dates; the same shall apply if such an event occurs with our supplier or its subcontractor. Force majeure events entitle us to postpone the delivery or other performance date by the duration of the impediment and a reasonable lead time. If events of force majeure substantially change the economic significance or the content of the delivery or other performance by us, we are furthermore entitled to demand a reasonable adjustment of the contract. If the force majeure event lasts longer than one month, we shall be entitled to withdraw from the contract to the extent of the part of the contract not yet fulfilled. If we intend to exercise our right to withdraw from the contract, we must notify the purchaser of our intention to do so after ascertaining the extent of the force majeure. If we extend the delivery date as a result of force majeure or if we waive our obligation, we shall not be liable for any damages incurred in this connection. However, we may only invoke force majeure if we have informed the purchaser without undue delay.
3. If we are liable for our failure to perform within binding deadlines or terms or if we are in default, the buyer is entitled to a contractual penalty of 0.05% for each full day of delay, but not more than 5% of the value of the performance or delivery in default. Further damages or other claims for delay beyond this amount are excluded.
4. We are always entitled to provide partial or full performance earlier than the agreed terms.
5. Compliance with our obligations to deliver the goods or to otherwise perform shall be subject to the timely and proper performance of the buyer's obligations. The terms of our delivery or other performance shall always be extended by the period of delay of the Buyer in fulfilling its obligations to us (including the payment of agreed advances) and by a reasonable lead time.
6. The delivery period is maintained if the goods have left our factory or we have communicated our readiness to ship them.
7. In the event of our delay in delivery, the purchaser shall be entitled to withdraw from the contract in writing after the expiry of a reasonable additional period of time for performance granted to us after the occurrence of our delay.
8. If the buyer is in default in accepting our performance, we are entitled to claim damages; the risk of damage or accidental destruction of the goods to which the default relates passes to the buyer upon the buyer's default in his obligation to accept the performance.

#### **VIII. Software delivery**

1. In the case of software delivery, we grant the buyer a non-exclusive and non-transferable right to use the software and documentation relating to it for the operation of the products for which the software was delivered. The purchaser may not make any copies or reproductions of the software except for one backup copy. Copyright data, serial numbers or other data identifying the software may not be removed or altered.
2. The Buyer is obliged to prevent third parties from gaining access to the software and documentation by taking reasonable measures. The original data carriers and the backup copy supplied must be kept in a place secured against unauthorised access by third parties. The Purchaser shall instruct its employees expressly to comply with these delivery conditions and the provisions of the copyright.
3. Our liability for loss or alteration of data is limited to the normal cost of restoring the data as would be incurred by making regular and hazardous backup copies.

#### **IX. Transfer of risk of damage to goods and acceptance of performance**

1. The risk of damage to the goods passes to the buyer at the latest upon shipment of the goods to the buyer, even in the case of partial performance or if we have assumed obligations for further performance, e.g. for the costs of shipping, delivery and installation of the goods. If it becomes impossible to dispatch the goods without our fault, the risk of damage to the goods shall pass upon notification of our readiness to dispatch the goods to the buyer.
2. If the dispatch of the goods is delayed due to circumstances beyond our control, the risk of damage to the goods shall pass to the buyer on the date of our readiness to dispatch the goods.
3. The buyer is obliged to accept the goods, even in the case of minor defects.

## **X. Liability for defects**

1. The buyer is not entitled to refuse to accept the goods due to minor defects that do not affect the functionality of the goods. The Buyer shall examine the goods for any defects (including obvious defects, intactness and completeness of delivery, delivery of goods other than those ordered) immediately after delivery of the goods. If the buyer discovers a defect during this process or later, he must notify us in writing within 5 days and specify the defect found in as much detail as possible. If the buyer fails to notify the defect, the goods shall be deemed to be faultless with regard to obvious defects; a claim for an obvious defect in the goods made after this deadline may only be considered justified if it is clear from the nature of the defect and proven that the defect already existed at the time of receipt of the goods but became obvious after the deadline. In the case of a disputable defect, the buyer is obliged to prove the existence of the defect already at the time of the transfer of the risk of damage to the goods. The seller has the right to verify the legitimacy and extent of the defects.
2. We only accept liability for the suitability of the goods for a particular purpose or for certain characteristics of the goods if this has been expressly agreed in writing. Otherwise, the buyer bears the risk of the suitability of the goods for the intended purpose of use. If we have communicated the general technical conditions or other instructions or data concerning the use of the goods to the buyer, the buyer is responsible for compliance with them; the buyer must also communicate these instructions to his customers and oblige them to comply with them. We are not liable for defects caused by failure to comply with the instructions for use of the goods. Our liability for defects in the goods is excluded in particular if and to the extent that damage to the goods or other property of the buyer has occurred as a result of:
  - faulty further processing, assembly or handling of the goods, electrochemical or electrical influences which were not assumed in accordance with the contract
  - defective installation of the subject of delivery by the purchaser or a third party, unless this is due to our erroneous instructions;
  - not respecting the instructions for commissioning, possibilities of use and operation of the subject of delivery specified in its documentation, instructions for use or in our other communications;
  - normal wear and tear not caused by defects in manufacture or materials;
  - improper handling or unprofessional alterations or repairs by the purchaser or a third party, in particular by an unprofessional person or when using non-original spare parts or consumables or cartridges.
3. The return of goods required in the event of a defect is subject to our prior consent, otherwise we are not obliged to accept the goods and the cost of return shipping is borne by the buyer.
4. In the case of repair or replacement in the event of a justified claim, the provisions of Article VII. on the delivery period shall apply.
5. In case of a properly claimed defect for which we are responsible, the buyer has the following rights:
  - The buyer has the right to demand the removal of the defect in the first place. If this is done by repair or delivery of a new item is at our discretion. The associated costs are borne by us, unless they have been increased by the relocation of the goods outside the delivery address; any additional costs resulting from such relocation are borne by the buyer.
  - We are entitled to have a third party remedy the defect. If the removal of the defect is unsuccessful the first time, we have the right to try a second time. If the defect cannot be eliminated even repeatedly, the buyer has the right to withdraw from the contract or demand a discount on the price of the goods.
  - If the claim proves to be unfounded, the buyer shall reimburse us for the costs incurred as a result of such claim.
6. The limitation period for defect claims is one year.
7. In the case of a warranty period, the buyer's right to claim for defects in the goods must be exercised and the claim must be delivered to us within the warranty period.
8. Claims of the buyer exceeding the above liability for defects are excluded.
9. If the buyer claims a defect, he may only withhold or offset payment to the extent in which the claim is accepted by us in writing.

## **XI. Liability for damages**

1. We shall be liable for compensation for damage caused to a person's natural rights or caused intentionally or through gross negligence without limitation.
2. We shall be liable for damages caused by simple negligence up to one half of the purchase price of the goods that were the subject of the relevant contract, excluding VAT. This also applies to claims for damages for defects in the goods or for failure to meet our performance deadline or to fulfil an obligation.
3. Legal liability for damages caused by product defects is not affected by the provisions of these terms and conditions.
4. Notwithstanding the other provisions of this Article, in the case of simple negligence, the amount of compensation for victim's loss shall be limited to CZK 10,000.
5. Any rectification of material defects or indemnification by us shall not constitute an acknowledgement of debt, unless expressly stated otherwise in writing.

## **XII. Other obligations of the buyer, export control**

1. The buyer shall not alter the goods in respects relevant to the safety of the product, in particular the buyer shall not remove or alter the warnings against inappropriate use on the goods. If the buyer breaches this obligation, we may be released from the obligation to compensate for damage caused by the defect in the product.
2. If we recall the goods as a result of a product defect or issue such a warning, the buyer shall assist us and comply with any action we take.
3. The buyer undertakes to inform us immediately of any risks in the use of our goods if he/she becomes aware of such risks.
4. Supplies (goods, software, technology) under the contract may be subject to export controls or restrictions. In the case of sales to other countries, the purchaser undertakes to comply with all applicable restrictions and regulations in this respect; this applies in particular to domestic, European and US-US regulations regarding (Re)export. In the event of resale of our goods, the buyer undertakes to notify his buyer of the export control provisions and to transfer the corresponding obligations to him.
5. In particular, the purchaser undertakes not to allow our performance to be used directly or indirectly in connection with ABC weapons or their carriers. He further undertakes not to allow, directly or indirectly, the final use of our performance for military purposes in a country for which an arms export embargo applies. In particular, the buyer undertakes not to sell, export, deliver, transfer or otherwise make the delivered performance available directly or indirectly to persons, companies, institutions, organizations, or entities in certain countries if this would violate domestic, European or otherwise applicable export control laws, e.g. US export regulations.
6. The Buyer undertakes to make available, upon request, documents on the final use of our performance in order to prove the place and purpose of its final use.
7. The Buyer shall be fully liable to us for damages incurred by us as a result of its culpable violation of export control regulations or US-(Re)export provisions.
8. Performance of our obligations under the Agreement is subject to the granting of any necessary export or import permits or other authorisations required under foreign trade laws or as determined by the relevant governmental authorities and our performance will not be prevented by any other applicable legal restrictions under export control laws.

9. All taxes, fees and duties in connection with our performance outside the Czech Republic shall be borne by the purchaser; if we incur such costs, the purchaser agrees to reimburse us for them.

### **XIII. Confidentiality**

The Parties undertake to keep secret for an unlimited period of time all information made available to each other, which is identified as confidential or recognisable as a trade secret, as the case may be, and not to record, transmit or use it. The Parties shall ensure by appropriate contractual arrangements with their employees and designees that they also refrain from any use, transmission or unauthorised recording of such trade secrets for an indefinite period of time.

### **XIV. Final Provisions**

1. The Buyer may assign its rights or obligations under this Agreement or this Agreement as a whole to a third party only with our prior written consent.
2. The legal relations of the contracting parties are governed by Czech Civil Code 89/2012 Coll. The application of the UN International Convention on the Purchase of Goods (CISG) is excluded.
3. For all disputes arising directly or indirectly from this contractual relationship, the jurisdiction of the court of the Seller's registered office is agreed. However, we may also bring an action in the court of the buyer's domicile.
4. The place of performance for all performance of the parties shall be the registered office of our company.
5. If any provision of this Agreement shall be or become invalid, ineffective or unenforceable in whole or in part, or if there shall be any gaps in this Agreement, the validity of the remaining provisions of this Agreement shall not be affected. The Contracting Parties undertake to agree to substitute for the ineffective or unenforceable provision an effective and enforceable modification corresponding as far as possible to the purpose and intent of the ineffective or unenforceable provision and, in the case of a gap, corresponding to what would have been agreed in accordance with the purpose of this Contract if the Contracting Parties had contemplated such a modification at the time of conclusion of the Contract.