



BOHEMIA RINGS s.r.o. GENERAL COMMERCIAL AND DELIVERY TERMS

Effective as of 1 January 2019

I. General Provisions

1. These General Commercial and Delivery Terms (hereinafter referred to as "**GCDT**") are terms of business within a meaning of a provision of Section 1751 and provisions set out below of the Act No. 89/2012 Coll., Civil Code. The purpose of these GCDT is a detailed arrangement of obligations arising from contracts between the seller – BOHEMIA RINGS s.r.o. and the buyer – a natural person or legal entity carrying on business in sale of goods and provision of services related to the sale of goods or making of a work. If these GCDT refer to the buyer, seller, purchase price, goods and its delivery, they shall have the same meaning for the ordering party, contractor, price for a work, the work and its making, in the case the making of a work is a subject of the contract.
2. The GCDT along with particular terms conditions comprised in the general contract, purchase contract, contract for work or the order confirmation (hereinafter referred to as the "**Contract**"), form an entire agreement of the contracting parties on the conditions of sale and replace all prior verbal or written arrangements between the parties. In the case that the Contract implies agreements of the contracting parties conflicting with these GCDT, then the arrangements of the Contract shall be given precedence over these GCDT.
3. The GCDT shall be binding for the contracting parties as of the date of conclusion of the Contract provided that the relevant Contract refers in writing to the GCDT and the GCDT are attached to the Contract or the buyer confirms in the Contract or in another way that he is acquainted with the contents of the GCDT.
4. Any amendments of, and alterations to, the GCDT, and any amendments of, alterations and supplements to, the Contract, are permissible only if made in writing, and after a prior approval expressed by both contracting parties.
5. The legal agreements made by electronic or other technical means enabling recording of the contents and determination of the acting person are considered to be the legal agreements made in writing provided that their contents are specific and understandable and the particular legal agreement is made by the person stated in the Contract. This provision is not applied for the legal agreement pursuant to the clause 4 of this article hereof.
6. All data stated in the Contract and any information, documents and the other particulars provided to the buyer by the seller in relation to the Contract, which are not commonly available, shall be deemed a trade secret of the seller (hereinafter referred to as the "**confidential information**"). The buyer undertakes that without a prior consent of the seller he shall not use the confidential information for personal purposes conflicting with the purpose of the Contract nor shall he disclose such information to third parties.
7. In the case that the buyer fails to meet any of his contractual obligations or legal obligations, the seller may either insist on fulfilment of such obligations or, he may withdraw from the Contract. In both the cases, the seller shall be entitled to compensation for the damage incurred to him due to non-fulfilment of the buyer's obligations.

II. Packaging

1. If the contracting parties fail to reach an agreement on a special packaging of goods, at the request of the buyer, the seller is obliged to pack the goods as commonly for the particular type of the goods delivered according to its internal packaging regulation (PI_QK_01), suitable for dispatch and transport of the goods delivered, in the way needed for storage and protection of the goods (i.e. "*industrial packaging*" pursuant to Act No. 477/2001 Coll., providing for packaging, as amended).
2. The seller has concluded a contract on joint performance with an authorized company EKO-KOM a.s. pursuant to the provision of Section 13, ss. 1 (c) of the Act No. 477/2001 Coll., providing for packaging, as amended (registration No. S00028266), on the basis of which the authorized packaging company arranges the fulfilment of the obligations of back taking and the use of all packages launched by the seller in the market or into the circulation.
3. Unless otherwise agreed between the seller and the buyer, packages are not considered as a reusable package and remains at the buyer's disposal (the buyer becomes the owner of the packages when he takes over the goods). In the case of reusable packages, the contracting parties shall agree on terms of their return to the seller. In the event a special reusable packages agreement is concluded, the seller shall remain the owner of such packages and the buyer shall bear a risk of loss on the packages for the period of time when the packages are at the buyer's disposal.
4. If the reusable packages return is agreed the buyer is obliged to notify the seller upon its request and without undue delay of the current number of reusable packages in the seller's possession, which are at the buyer's disposal. Upon the seller's request, the buyer is then obliged to return the reusable packages to the seller, in the delivery clause FCA the buyer's works, unless otherwise agreed by the Contract.

III. Price and Terms of Payment

1. The agreement on the amount of the purchase price for goods or on the way of fixation of the purchase price is a prerequisite of origination of the Contract.
2. The price for goods stated in the Contract is exclusive of the value added tax (hereinafter referred to as the "**VAT**"). The buyer is obliged to pay the price for goods after its increase by the current VAT rate. This is not applied if the fulfilment is made in the regime of a transferred tax liability and the buyer is obliged to make returns of VAT.
3. The seller shall be entitled to raise the purchase price for goods in the case that during the period the price is agreed for, including the period following the execution of a draft purchase contract (the "*order*") by the seller, until the time of delivery of goods, the substantial increase in some decisive production costs necessary for production of goods, i.e. particularly an increase in prices for rolled materials, an increase in prices of energy, fuels, freight, occur. The seller shall notify the buyer of the amount of the purchase price in writing, supplying evidence of the method of this calculation. A change of the purchase price is effective by delivery of the notice to the buyer. In case of disagreement with the adjusted purchase, the buyer is entitled to withdraw from the purchase contract by a written notice delivered to the seller within 10 days after the first effective day of the adjusted purchase price.
4. The seller is entitled to charge the purchase price for goods on the basis of an invoice issued as of the tax point, i.e. as of the date when the obligation to deliver goods is fulfilled in accordance with the contents of the delivery clause agreed pursuant to ICC Rules for the use of the clauses in an internal and international trade, INCOTERMS 2010, or another agreed version of INCOTERMS (hereinafter referred to as "**INCOTERMS**") unless otherwise agreed by the Contract.
5. The buyer is obliged to pay the purchase price for goods to the seller's account stated in the tax document within the term of payment, i.e. within 30 days after the date of the invoice issue unless another term of maturity is agreed in the Contract. The buyer is obliged to apply valid objections to the contents of the tax document issued not later than 5 days after the date of its delivery.
6. The date of payment shall be considered the day when the amount corresponding to the full amount of the purchase price /net and effective/, or another buyer's pecuniary debt is credited to the seller's bank account.
7. In the case of the buyer's default of payment of any pecuniary debt or any part of it, the seller shall be entitled to demand interests on late payment amounting to 0.03% of the outstanding sum per each day of default.
8. The seller is entitled to demand an advance payment of the purchase price for goods; the advance payment shall be made on the basis of an advance payment invoice (down payment request), payable within 30 days after the date of issue of the down payment request unless another term of maturity is agreed by the contracting parties in the Contract. On conclusion of the Contract, the seller shall be entitled to request reasonable securing of the buyer's debt (a letter of credit, bank guarantee, guarantee of another entity, issuance of a promissory note or blank bill of exchange, establishment of a lien, or another reasonable securing). In the case that the buyer fails to meet the request in the agreed term, the seller is entitled to suspend the production/dispatch of goods or to withdraw from the Contract.
9. In the case that the seller has obtained information of circumstances, which may imply that the buyer is or could become unable to pay his debts towards the seller, or other information which may reduce trustworthiness of the buyer (bad financial situation, liquidation, circumstances indicating over indebtedness, bad payment morality, default longer than 30 days etc.), the seller shall be entitled to demand of the buyer immediate payment of all obligations arising out of all invoices made out to date, regardless of their maturity date, and/or demand of the buyer sufficient ensuring of the obligations to the extent pursuant to the clause 8, article III hereof. The buyer is obliged to comply with the seller's demand within 5 days after the day of receipt of such demand at the latest. The seller shall be also entitled to demand an advance payment for all supplies not delivered to date regardless of the previously agreed payment terms, or to withdraw from the Contract.



10. The seller is entitled to arrange the insurance covering the risk of a non-payment of the buyer's debts at a relevant commercial insurance company. In cases where the volume of the buyer's debts including the price of ordered/semi-finished supplies (the "commitment"), exceeds the applicable insurance limit, the seller is entitled to demand an advance payment to cover the part of the purchase price not covered by the insurance limit.

11. If the buyer's commitment exceeds the applicable insurance limit, the seller may suspend deliveries of goods whose price exceeds the applicable insurance limit (without resulting in late goods delivery on the seller's side) until the moment the amount of the total commitment is reduced under the level of the insurance limit or until the sufficient security of the buyer's future debts is provided. This provision shall not be applicable to the supplies of goods whose purchase price has been paid in advance.

12. The seller is not obliged to deliver goods or he is entitled to stop production of already ordered goods or he is entitled to withdraw from the Contract and apply other rights pursuant to the GCDT, unless the buyer meets the terms of payment concerning payment of any obligations towards the seller, or unless the buyer provides the seller with sufficient security of debts, or meets other duties pursuant to this article hereof. Such a seller's action is not considered as a breach of the Contract or a seller's delay in goods delivery.

13. The buyer is not entitled to assign any his receivables from the seller arising from the Contract or in connection thereto to another entity or arrange for a pledge related to such receivables to secure his debts or third persons' debts without the seller's previous consent. In the case of breaching the buyer's obligation, there has been a contractual penalty agreed amounting to 20% of the nominal value of the receivable assigned without authorization or pledged. Also, the buyer is not authorized for a one-sided setting off his receivables against his claims towards the seller.

IV. Terms and Conditions of Delivery of Goods

1. Unless otherwise agreed in the Contract, the seller meets his obligation to deliver goods to the buyer (i.e. the duty to deliver goods) by delivery of goods in accordance with the contents of the agreed delivery clause pursuant to INCOTERMS. The seller shall mark goods clearly and sufficiently as a shipment for the buyer. The risk of damage (i.e. the risk of loss and damage) of goods passes to the buyer in accordance with the contents of the agreed delivery clause pursuant to INCOTERMS.

2. The seller shall deliver goods during the period agreed in the Contract as the delivery time. The seller is entitled to deliver goods ahead of schedule unless such delivery is refused by the buyer after being notified by the seller of readiness of goods to deliver. The buyer is not entitled to demand delivery of goods ahead of schedule.

3. The delivery time may be reasonably exceeded by the seller by the period needed for removal of obstacles preventing the seller from his fulfilment. The seller shall forthwith notify the buyer of such obstacles and make a maximum effort to speed up the removal of the obstacles. In the case that the producer finishes production of semi-finished products, from which the goods are made, even at the end of the period agreed as the delivery time, the seller is entitled to deliver goods within 10 calendar days following the approved delivery time without resulting in a delay in goods delivery on the seller's side. The seller shall be also entitled to exceed the delivery time by a period corresponding to the period of the buyer's default of fulfilment of his obligations towards the seller, arising even from any other Contract.

4. The buyer is entitled to request the suspension of the goods production ordered under the Contract (postponement of the agreed delivery time) no later than 5 calendar weeks prior to the agreed delivery time. This buyer's requirement is without prejudice to his obligation to take over the goods in such a deferred delivery time, which shall not be longer than 6 calendar months from the initially agreed delivery time. If the buyer requests the suspension of the production of the ordered goods within a period of less than 5 calendar weeks prior to the agreed delivery time, the goods will be produced according to the Contract concluded between the seller and the buyer regardless of such buyer's request and the buyer is obliged to take over the goods within the agreed delivery time.

5. In the case where the subject of the Contract is the processing of the material or of the semi-finished product provided by the buyer and if such material or semi-finished product provided by the buyer does not correspond to the technical specification included in the Contract, the seller reserves the right to proceed in accordance with the provisions of Section 2594 and Section 2595 of the Act No. 89/2012 Coll., Civil Code.

6. If it is agreed in the Contract that the seller concludes or procures a carriage contract, the buyer shall be obliged to deliver to the seller written forwarding instructions for transport of goods to the place of destination, while negotiating terms and conditions of the relevant Contract, however, not later than 10 days before the expected date of goods dispatch, unless otherwise agreed in the Contract. The written forwarding instructions shall include all relevant information prerequisite for transport of goods, namely identification of the recipient and the place of unloading of goods, working hours for acceptance of the consignment, specification of public holidays and other limitations or interruptions on the side of the recipient concerning unloading. In the case that the seller does not obtain the instructions in the agreed term or such instructions are incomplete or inaccurate, he shall be entitled to postpone the date of dispatch of goods, which shall not be deemed as a breach of Contract by the seller. The seller shall be entitled to demand payment of property injury incurred by a breach of the buyer's duty to submit a proper and timely instruction for transport of goods.

7. Each delivery shall be notified by the seller within the period of 24 hours after dispatch pursuant to the agreed delivery clause of INCOTERMS.

8. If the seller is not obliged to the buyer to conclude the carriage contract, the buyer is obliged to take over goods or to ensure its take over by 10 days at the latest after notifying by the seller of readiness of goods to dispatch.

9. The seller shall be entitled to make a partial delivery of goods and the buyer is obliged to take over the partial delivery.

10. Where goods are prepared by the seller for dispatch "ex stock" (i.e. goods produced and prepared for dispatch for the buyer within the approved delivery time), the seller shall send the buyer a notification (information) on delivery readiness – expedition (hereinafter referred to as the "Notification"). The buyer shall be bound to send the seller so-called "reference" with instruction to send goods (hereinafter referred to as the "Reference") so that not later than 10 days after sending the Notification the goods would be handed over to the carrier for a transport to the buyer. In the case that due to the reason on the buyer's side (buyer's inactivity, failure to send the Reference, request for sending the goods after expiration of the 10-day period, etc.) the goods are not dispatched within the 10 days following the date of sending the Notification (hereinafter referred to as the "Shipping period"), the seller shall be entitled to charge a contractual penalty amounting to EUR 0.75 /CZK 20,- per each ton of goods/day for the period of the first 30 calendar days following the shipping period until the date of actual shipping – goods dispatch. Where the goods are not shipped for the reasons on the side of the buyer even during the 30-day period, the seller shall be entitled to increase the contractual penalty to EUR 1.5/CZK 40,- per each ton of goods/day, or, after the prior notification and provision of additional reasonable period for sending the proper Reference (at least 5 working days), to sell goods in a convenient way at the buyer's expenses or withdraw from the Contract.

11. The prerequisite condition for dispatch of goods by the seller is also proper payment of all due liabilities by the buyer out of all contractual relations. In the case that goods are prepared for shipping and the seller is not obliged to deliver goods for the reasons on the side of the buyer (see the article III hereof) or for any other agreed reasons or the reasons stipulated by law, and the defects preventing from shipping of the goods are not removed even within the shipping period, the seller shall be entitled to impose a contractual penalty in the amount and following the method specified in the clause 9, article IV. hereof.

12. In the case that goods are delivered to the buyer – an entity registered as a payer of value added tax (DPH/VAT) in any other EU country, the sale of goods shall be subject to the regime of tax liability transferred to the buyer. The corresponding forwarding documents, namely consignment note, CMR, CIM, Bs/L etc., shall serve as delivery documents in the territory of the EU country. In the case that the goods are delivered pursuant to a delivery clause, according to which the seller has no liability towards the buyer to conclude a carriage contract, the buyer shall be obliged to deliver forthwith to the seller a due evidence of the acceptance of the goods, or accept the delivery document provided by the seller, evidencing the delivery of the goods.

13. The buyer undertakes to notify the seller, without any delay, of all changes related to its tax identification (VAT number), or of a change of regime in VAT registration (payer – non-payer). In the case of a breach of this duty by the buyer, the seller shall be entitled to demand compensation of all damage, incurred to the seller due to VAT payment or payment of a sanction or another payment to a tax administration.

14. Upon the acceptance of goods from the forwarder, the buyer undertakes to inform the seller about any damage of goods' devaluation in the course of the transport and he will put down his reservations into the relevant forwarding document. The buyer shall be further obliged to proceed in accordance with the instructions stated in the relevant Certificate of Insurance.

15. If the buyer, despite the seller's demand, fails to take over the goods at the time and place agreed under the Contract, the seller is entitled to charge the buyer a contractual penalty amounting to 75% of the purchase price of such goods which was not taken over. Concurrently, the seller is entitled to withdraw from the Contract, sell the goods to another interested party or to claim damages against the buyer for possible damage incurred. This provision shall also apply to the case where the subject of the Contract is the processing of the material or of the semi-finished product provided by the buyer.

16. The seller reserves the right to withdraw from the Contract and sell the goods to another interested party also if the insolvency proceedings against the buyer are initiated.



V. Proprietary Rights for Goods and Reexport Prohibition

1. The goods shall remain in the ownership of the seller until the buyer has paid the purchase price of goods, inclusive of VAT (so called "reservation of ownership").
2. The buyer shall be entitled to sell or process goods with the reservation of ownership only during customary business activity, under customary business conditions, and unless he is in default of payment, provided that on the sale of such goods he shall notify his customer of the existence of the reservation of ownership. The buyer shall not be entitled to dispose such goods otherwise, particularly establish a right of lien on such goods or provide any other security in favour of any third party.
3. In the case that the buyer is in default of payment for the purchase price of goods, the seller shall be entitled, due to reservation of ownership, to require the buyer to hand over forthwith such goods and to arrive to the place of storage to take over such goods. The buyer shall be obliged to allow the seller to take over the goods and provide all necessary cooperation. All costs related to application of the reservation of ownership shall be borne by the buyer.
4. The buyer shall be entitled to export the goods outside the EU states subject to the previous written consent of the seller. Not later than at the conclusion of the Contract, the buyer shall be obliged to notify in writing the seller of further export of goods to any other EU country as well as of return import to the Czech Republic. In the case of a breach of the buyer's obligations, the contracting parties agreed on a contractual penalty at the amount corresponding to 20% of the purchase price for goods (exclusive of VAT) illegally exported outside EU or to another EU country or imported back to the Czech Republic. The seller's claim for damages is not affected by the provision.

VI. Force Majeure

1. In the case that during the duration of the contractual relationship an unusual, unforeseeable and insurmountable obstacle temporarily or permanently prevents one of the contracting parties from fulfilling its obligations under the Contract, independently of the will of any of the contracting parties, the contracting parties undertake, without undue delay, to notify each other of such obstacles in writing, their expected duration and discuss further measures. The "obstacles" include events of the force majeure such as strike, war, other unrests, commercial, monetary, political or other measures made by any authority, natural disasters, such as fire, flooding, earthquake, lightning strike, Arctic frosts making transport of goods impossible or limiting the transport, etc., also delays in deliveries of materials and components not caused by the seller, traffic closures or delays, thefts of goods during transportation, production accidents and similar events caused by force majeure, including a resolution or instruction of a competent government authority which shall disturb or disable fulfilment of contractual obligations. The contracting party on which side such circumstances of force majeure occurred shall not be responsible for failure to fulfil contractual obligations nor for a delay incurred.
2. In the case that the obstacle caused by force majeure persists over the period of the maximum of 30 calendar days, the contracting parties shall be bound to meet their obligations arising from the Contract as soon as the effects of force majeure have passed off, whereas the delivery terms and all other terms shall be postponed for a period of the force majeure. Should the obstacle caused due to force majeure persists longer than 30 calendar days, either of the contracting parties shall be entitled to withdraw from the Contract.

VII. Rights of Faulty Performance - Complaints

1. The seller shall be obliged to deliver the subject of the Contract in the agreed quantity, quality and design as to the technical specifications and production documentation stated in the Contract, technical conditions or in any other document approved by the contracting parties.
2. The buyer is obliged to inspect goods and check the goods' properties forthwith upon a delivery of the goods.
3. The seller shall provide the buyer with a guarantee for goods quality for the period of 12 months after the goods delivery day unless other length of the guarantee period is agreed in the Contract.
4. Apparent defects of goods which could be revealed in an inspection on take over of the goods must be notified by the buyer to the seller, without undue delay, within the maximum of 15 days after the goods delivery. The other defects of goods must be notified by the buyer to the seller immediately after their detection, nevertheless, until the end of the agreed guarantee period at the latest.
5. Any complaints regarding defects of goods must be made in writing and must include identification data of the delivery under complaint (Contract number or order confirmation, date of delivery, forwarding document number, smelting number, invoice number, etc.), description of detected defects, supplemented by evidence of the defects and choice of a claim for faulty performance. The buyer shall be obliged to make the goods under complaint available to the seller in order to verify the complaint rightfulness.
6. The buyer shall be obliged to ensure a separated storage of the goods under complaint until the date of the settlement of the complaint. A free disposal of such goods which would make the complaints procedure more difficult or impossible, is inadmissible without the seller's prior consent. Should the buyer breach this obligations and does not enable the seller to become convinced of the existence of the defect, or does not make the goods available to the seller, does not provide the seller with samples of the goods under complaint at the seller's request, or does not provide the seller with sufficient documents for the complaint so the seller could not calculate adequate discount on the purchase price, these facts may become the reason for rejection of the complaint and may cause a loss of the buyer's claim arising out of delivered goods defects.
7. Immediately upon the receipt of a buyer's complaint, the seller is obliged to initiate a complaint inquiry so that the seller would notify the buyer of his attitude to the complaint within 30 days at the latest. In the case of a justified goods complaint, the seller, after the consultation with the buyer, shall be obliged according to the nature of defect and if not agreed otherwise, firstly to remove the defect within the reasonable time due to the nature of the defect and repair difficulty and, if this is not possible to provide new faultless fulfilment under the originally agreed conditions or to provide a price reduction.
8. A defect complaint of goods shall not authorize the buyer to suspend (withhold) a payment of the purchase price for goods or reject take over of other goods deliveries. The buyer's claims concerning goods defects cease to exist unless the buyer notifies the seller of the defects in the agreed periods and in the agreed way.
9. The seller is not responsible for defects of goods, incurred due to wear and tear caused in the usual way of using the goods or due to such using of the goods which is contrary to the purpose of the Contract or documentation related to the goods.
10. In the event that damage occurs on the part of the buyer due to the seller's breach of any obligations under the Contract (e.g. as a result of a defective goods delivery), unless force majeure circumstances excluding the responsibility for the damage occur, the seller shall be liable only to settle the actual and proven property damage quantified by the buyer, not to settle the loss profit, and up to the amount corresponding to 100% (one hundred percent) of the goods purchase price. If a damage incurred due to breach of various obligations arising from the Contract on the part of the seller occurs, the total liability of the seller for damages caused to the buyer shall in no case exceeds 100% (one hundred percent) of the total purchase price.

VIII. Final Provisions

1. The contracting parties shall settle any dispute which might arise out of, and in relation to this Contract by a mutual agreement and in a conciliatory manner. If the contracting parties fail to agree on an amicable solution of the dispute, a relevant arbitration court at the Chamber of Commerce of the Czech Republic and the Chamber of Agriculture of the Czech Republic in Prague shall definitively according to its Rules, by three arbitrators in accordance with the Rules of that Arbitration Court. The contracting parties undertake to meet all duties placed on them in the arbitration decision in the periods stated therein. The arbitration award delivered to both the parties shall be an executable executory title.
2. Provisions concerning the arbitration clause of this article hereof shall not be applied provided that the buyer as to the Contract is an entity residing in the Czech Republic. In this case any disputes incurred are heard by the competent courts pursuant to Act No. 99/1963 Coll., as amended – Code of Civil Procedure, whereas local jurisdiction shall be specified according to the registered office of the seller.
3. The buyer has taken over the risk of a change of circumstances after conclusion of the Contract and therefore he is not entitled to claim his rights stipulated in the provisions of Section 1765, sub-section 1 of Act No. 89/2012 Coll., Civil Code, as amended.
4. Legal relations arising out of, or in relation to the Contract as well as matters not stipulated in these GCDT shall be governed by the Czech material law, particularly by the provisions of Act No. 89/2012 Coll., Civil Code, as amended.