

## General purchase contract

### **Purchaser:**

TATRAVAGÓNKA, a.s.

Štefánikova 887/53

05801 Poprad

Slovak Republic

Registered in the Companies' Register of the District Court of Prešov, Section Sa, File 191/P

Company Identification Number: 31699847

Banks correspondent:

Represented by:

(hereinafter referred to as the „**purchaser**“)

**a**

### **Seller:**

Commercial name:

Seat:

Company Identification Number:

Registered in

Banks correspondent:

Represented by:

(hereinafter referred to as the „**seller**“)

(together hereinafter referred to as the „**contracting parties**“ or individually as the „**contracting party**“)

**conclude  
this General purchase contract**

### **Preamble**

**Purchaser** is a producer of railway freight wagons, bogies for railway freight wagons, subassemblies for railway freight wagons. Commodity to be bought from the **seller** is designated for the production of the **purchaser** within above mentioned scope of business activities.

**Seller** is a ... .

### **I.**

#### **Subject of the contract**

1. Purchase and sale of **seller's** commodity to the **purchaser** shall be performed by individual purchase contracts (hereinafter referred to as „**purchase contract**“).
2. The subject of this contract is to determine general rights and obligations of the **contracting parties** at concluding the **purchase contracts** and commodity deliveries related to these **purchase contracts**.

### **II.**

#### **Concluding of the purchase contract**

1. **The seller** obliges himself to deliver, and the **purchaser** obliges himself to take over and to pay for commodities in quantities, price and terms specified in the **purchase contract**.
2. Written proposal for conclusion of the **purchase contract** shall be submitted by the **purchaser** to the **seller** not later than ..... calendar days before the first delivery term specified in the corresponding proposal of the **purchase contract**.
3. **The seller** is obliged to :
  - (i) deliver to the **purchaser** confirmed proposal for conclusion of the **purchase contract**, or
  - (ii) deliver to the **purchaser** stipulations in the submitted proposal of the **purchase contract**all that not later than 5 calendar days from the date of delivery of the **purchase contract** proposal to the **seller**.
4. Confirmation of the purchase contract that contains annexes, limitations or other modifications shall be taken as refusal of the purchase contract proposal and shall be considered as a counterproposal.
5. By delivery of the **purchase contract** proposal confirmation without any annexes, limitations or other modifications to the **purchaser**, the **purchase contract** is in the given case concluded.
6. Delivered stipulations in the **purchase contract** proposal present a counterproposal of the **purchase contract** by the side of the **seller**. This counterproposal is retractable by the **seller** after 7 calendar days from the date of delivery of this proposal to the **purchaser**.
7. By delivery of the written confirmation of the **purchase contract** counterproposal by the **purchaser** to the **seller**, the **purchase contract** is concluded.
8. Non-delivery of the written statement of the **seller** to the **purchaser** according to point 3(i) or 3(ii) of this article within the term specified in the point 3 is considered, for purposes of this general **purchase contract**, to be a declaration of will of the **seller** by which he accepts without stipulations, modifications or supplementations corresponding delivered **purchase contract** proposal of the **purchaser** and by that the **purchase contract** is concluded. *For the proposal of the **purchase contract** of the **purchaser**, there is defined a time-limit for acceptance of this proposal for.... calendar days from the date of its delivery to the **seller**. The **purchaser** is entitled to cancel this proposal within specified time limit.*
9. The **purchase contract** proposal is considered to be a proposal when it contains at least following data:
  - a) commodity definition – its execution, quality, parameters
  - b) definition of quantity of commodity
  - c) definition of the purchase price in (EURO, SKK, ...)
  - d) definition of commodity delivery terms
10. An example of the **purchase contract** is attached as Annex 1 to this contract.

### **III.**

#### **Purchase price**

1. Agreement about the purchase price is an important requirement and condition of concluding the **purchase contract**.
2. Unless stated otherwise in the purchase contract, the prices are considered in the parity FCA according to Incoterms 2000 and without VAT.
3. Purchase price for delivered commodity is due within 60 days from the date of complete delivery of the commodity based on the properly issued invoice from the

**seller** delivered to the **purchaser**. In order to eliminate any doubts, the **contracting parties** agree that the delivery of the commodity is complete when (i) complete commodity of corresponding delivery is supplied as well as (ii) complete companion documentation and (iii), in case of commodity delivered after 31st of December 2009, delivered commodity is marked with bar code in accordance with provisions of this contract. The **seller** is obliged to deliver to the **purchaser** a properly issued invoice.

4. When the invoice of the **seller** does not contain requirements specified by generally binding legal enactments of the Slovak Republic, or, when it is issued in conflict with the point 3 of this article, the **purchaser** is entitled to return it to the **seller** for correction or supplementation. In such case, the time-limit for the invoice payment will be stopped and a new time-limit will start to run after delivery of properly issued invoice to the corresponding department of the **purchaser**.
5. Payment of the purchase price is performed by cashless transfer to the bank account of the **seller** No.: ..... /..... . When there is different bank account number stated in the issued invoice or in signed **purchase contract**, the **purchaser** is, regardless of this fact, entitled to perform payment of the purchase price to the bank account number of the **seller** stated in this point.
6. In case of delay of payment of the **purchaser** for commodity delivered on the basis of the **purchase contract**, the **seller** has a right to delay charge in the amount of 0,03% from the price due for every day of delay.
7. Informative price list of **seller's** products and expected volume of deliveries are attached as Annex 2 to this contract.

#### IV.

##### Delivery conditions

1. Unless stated otherwise in the purchase contract, the seller is obliged to deliver commodities in parity FCA according to Incoterms 2000 on time and properly.
2. **The seller** is obliged to deliver to the purchaser, together with accompanying documentation, commodity in quantity, quality, execution and of parameters and in terms specified in corresponding purchase contract. Accompanying documentation consists of following documents:
  - a) Delivery note,
  - b) attest (certificate)
  - c) invoice and
  - d) measurement protocol (measurement protocol example is attached as Annex 3 to this contract).
3. If not stated otherwise in the **purchase contract**, the **seller** is obliged to pack and provide the commodity for transportation as stated in the Annex 4. When the commodity is not packed in accordance with the Annex 4 of this contract, the **purchaser** is entitled not to accept corresponding delivery, and obligation of the **seller** to deliver the commodity properly is fulfilled only when the commodity is delivered packed and provided for transportation in accordance with the Annex 4. In the case that the **purchaser** refuses to accept the commodity in accordance with this point, the **seller** is obliged to transport the commodity back on his own expenses.
4. In the case of delay of delivery of the commodity from the **seller** to the **purchaser**, on the basis of the **purchase contract**, the **purchaser** has right for a contractual penalty in an amount of 0,03% from the price of delayed commodity for each day of delay. The claim for contractual penalty does not exclude the **purchaser's** claim for compensation of damage caused by delay.

5. Commodity delivered on the basis of the **purchase contract** has to comply with valid UIC leaflets, provisions of RIV and corresponding reports of ORE/ERRI and TSI.
6. **The seller** is entitled to deliver the commodity to the purchaser, according to the **purchase contract**, before the delivery date only on the basis of explicit written consent of the **purchaser**.
7. Delivery note, submitted when the commodity is delivered to the **purchaser**, has to contain the number of the **purchase contract** and description of the commodity to the extent specified in the corresponding **purchase contract**.
8. The **contracting parties** agree that the seller is obliged to mark the commodity, delivered on the basis of the **purchase contract** to the **purchaser** after December 31<sup>st</sup> 2009, with the bar code in accordance with specification stated in the Annex 5 of this contract.

## V.

### Quality assurance

1. **The seller** shall assure and guarantee that quality of products leaving his factory within this purchase contract will fully comply with quality requirements and standards established and required by the **purchaser**. This requirement refers also to the accompanying documentation and/or certificates and other quality documents, if they are required.
2. In the case that the **purchaser** will decide and introduce arrangements modifying the quality policy, by reason of increasing the level of quality assurance, either in the production processes or in the field of supply policy in order to better satisfy his customer's requirements, the **seller** will also take over and introduce these arrangements into his own processes.
3. In order to introduce uniform and clear mutual conversation between the **seller** and the **purchaser**, the **seller** takes over and obliges himself to integrate to his processes and to fulfil obligations mentioned in the document „General conditions of the TVP suppliers quality“ (hereinafter referred to as „GCS) issued and valid at the **purchaser** to commodity delivery date in terms of corresponding **purchase contract**. GCS are published at the web page of the **purchaser** – [www.tatravagonka.sk](http://www.tatravagonka.sk). The **contracting parties** agree that the **purchaser** is entitled to unilaterally modify the GCS, in such case, he shall notify the **seller** about this fact. Modification of the GCS comes into force for the **seller** within ..... days after its notification.
4. On the basis of regulations and processes mentioned in the GCS to this contract, there shall be annually performed an evaluation of the **seller**.

## VI.

### Guarantee and claims for commodity defects

1. **The seller** is obliged to deliver commodity to the **purchaser** in the quantity and quality required in the **purchase contract**, mainly with regard to agreed quality, volume or weight. Commodity delivered on the basis of the **purchase contract** has to comply with binding technical standards. If the **purchase contract** does not specify quality or layout of the commodity, the **seller** is obliged to deliver the commodity in quality and layout that is suitable for purpose mentioned in the **purchase contract**, or, when this purpose is not stated in the **purchase contract**, for purpose this commodity is usually used for.
2. If the **seller** violates obligation stated in the article VI, point 1 of this contract, such delivered commodity has a defect.

3. **The seller** is liable for defects which has the commodity in the moment of attachment of risk to the **purchaser**, even if the defect becomes evident after this attachment. The **seller** is also liable for any defect, which will occur after attachment of risk to the **purchaser**, if this defect is caused by violation of the **seller's** obligations.
4. **The contracting parties** have agreed that the purchaser is obliged to check delivered commodity within 60 days from its delivery. The purchaser is obliged to draw his claims to commodity defects, which he could discover during ordinary inspection in accordance to the previous sentence, within 60 days from the commodity delivery date.
5. **The seller** guarantee that the commodity, delivered on the basis of the **purchase contract**, will be suitable for using for agreed or usual purpose, or, that it will keep its agreed or usual characteristics for a period of 24 months after the day of introducing the commodity, as a part of the final product, into the operation, but, at most, for 27 months from the commodity delivery date. Guaranty period shall not run during period when the **purchaser** cannot use the commodity because of defects for which is liable the **seller**.
6. Commodity has a legal defect, if sold commodity is burdened by the right of the third party, unless the **purchaser** agreed with this restriction.
7. If the right of the third party, by which the commodity is burdened, results from industrial or other intellectual property, then, the commodity has legal defects if:
  - a) this right uses legal protection according to the legal order of the country, in which the **seller** has its seat, place of business or permanent residence; or
  - b) the **seller** knew, in the time of contract conclusion, or had to know that this right uses legal protection according to the legal order of the country, in which the **seller** has its seat or place of business, or according to the legal order of the country to which the commodity was to be sold or in which it was to be used, and the **purchaser** was familiar, in time of **purchase contract** conclusion, with this sale or place of usage.
8. If the **purchase contract** is considerably violated by delivery of commodity with defects, the **purchaser** can:
  - a) request removal of the defects by exchanging the faulty commodity for new one, delivery of missing commodity and can request removal of the legal defects;
  - b) request removal of the defects by their repair, if they can be repaired;
  - c) request adequate discount from the purchase price; or
  - d) withdraw from the contract

The choice between mentioned claims is up to the **purchaser** and the **purchaser** shall mention his choice in the PSM report according to the point 10 of this article. The **purchaser** shall deliver this report to the **seller**. If the **seller** does not remove defects of the commodity in adequate additional time period, or if he announce before the end of this period that he will not remove these defects, the **purchaser** can withdraw from the contract or can request an adequate discount from the purchase price.

9. If the **purchase contract** is only marginally violated by delivery of commodity with defects, the **purchaser** can request:
  - a) delivery of missing commodity and removal of other commodity defects, or
  - b) discount from the purchase price

The choice between mentioned claims is up to the **purchaser** and the **purchaser** shall mention his choice in the PSM report according to the point 10 of this article. The **purchaser** shall deliver this report to the **seller**. If the **seller** does not remove defects of the commodity in adequate additional time period, or if he announce before the end

of this period that he will not remove these defects, the **purchaser** can withdraw from the contract or can request an adequate discount from the purchase price. In the case of useless expiration of the time period dedicated to the removal of the defects, the **purchaser** is entitled to withdraw from the contract without prior notification about this right to the **seller**.

10. In the case that there are discovered defects on the commodity delivered on the basis of the purchase contract, the employee of the quality control department of the purchaser shall issue a PSM Report (a sheet for PSM Report is published on the purchaser's web page [www.tatravagonka.sk](http://www.tatravagonka.sk)), which shall be delivered to the seller by the employee of the sale department of the purchaser. PSM Report contains mainly delivery identification (name of the commodity, identification of the purchase contract, delivery note ...) and defect description, whereby, an annex can consist of photo-documentation or test results.
11. **The seller** is obliged to submit to the **purchaser** his statement to the filed claims related to the commodity defects within 5 days from the date of PSM Report delivery according to the point 10 of this article. When the **seller** does not deliver his written statement to the **purchaser** regarding the claims within mentioned time period, such act is considered to be manifestation of his will, by which he accepts his responsibility for the defects stated in the corresponding complaint.
12. In the case that the **seller**:
  - a. refuses to remove defects of the commodity claimed by the PSM Report;
  - b. does not start to remove claimed defects after acceptance of delivered complaint within reasonable time period, or
  - c. does not submit his statement to the corresponding complaint within the time period mentioned in the point 11,

the **purchaser** is entitled to remove these defects by his own, using method he wants, at the expenses of the **seller**. Mentioned expenses will be charged to the **seller** after completion of repairs and the **seller** is obliged to pay these expenses immediately after delivery of an invoice.

13. Even if no condition, mentioned in the previous point, is fulfilled, the **purchaser** is entitled to remove defects at the expenses of the **seller**, but only when these expenses don't exceed amount of 50 EURO in an individual case. Mentioned expenses will be charged to the **seller** after completion of repairs and the **seller** is obliged to pay these expenses immediately after delivery of an invoice.
14. **The contracting parties** can make an agreement, despite the point 13 of this article, that, in order to minimize losses from the delivery of faulty commodity, the **purchaser** will repair delivered faulty commodity on his own at the expenses of the **seller**. In that case the **seller** is obliged to elaborate professional repair manual and deliver it to the **purchaser**. The **seller** is responsible for correctness and suitability of the manual. In the case that the **purchaser** will realise repair on his own he has right to compensations for costs really and demonstrably expended on the repair and he will invoice these costs to the **seller**. Costs for the repair are determined by the evaluation of the **purchaser**. The **purchaser** has right to and the **seller** is obliged to pay these costs as well as costs of the **purchaser** that occur when the defect is discovered during production. The **seller** is obliged to pay also costs related to the repair, or exchange of the faulty commodity, on the basis of issued invoice from the **purchaser** without unreasonable delay after its delivery.

15. **The contracting parties** have agreed that the **purchaser** has right, for every reasonably issued PSM Report, to a compensation for costs, in the amount of 100,-EURO, related to the administration activities connected with issue of the PSM Report. **The contracting parties** have agreed that the **purchaser** has except the right to compensation for the costs connected with administrative activities also right to compensation for damage caused by faulty commodity including lost profit as well as compensation for costs expended by the **purchaser** in connection with faulty commodity.

## VII.

### **Withdrawal from the purchase contract**

1. In the case of fundamental violation of the **purchase contract** by the **contracting party**, the other contracting party is entitled to withdraw from the corresponding **purchase contract** without any delay after it learns about this violation.
2. If violation of the contractual obligations by the **contracting party** represents only minor violation, the other **contracting party** is entitled to withdraw from the **purchase contract** in the case that the **contracting party** that is in delay does not fulfil its obligation in the additional time period provided to it, unless the **contracting party** declares in advance that it will not fulfil its obligation.
3. By withdrawal from the **purchase contract**, the **purchase contract** is terminated in the moment when the declaration of will of the **contracting party** entitled to withdraw from the contract is delivered to the other **contracting party**.
4. By withdrawal from the **purchase contract** all rights and obligations of the **contracting parties** related to this **purchase contract** are terminated. Withdrawal from the **purchase contract** has no effect on the claims for compensation of damage caused by violation of the **purchase contract**, nor on the contractual provisions connected with the choice of law, settlement of disputes between the contracting parties and other provisions, which, according to the declared will of the contracting parties or according to their nature, shall be valid even after termination of the **purchase contract**.
5. **The contracting party**, to which the other **contracting party** has performed a financial engagements before it has withdrawn from the **purchase contract**, shall return this payment; at monetary obligation together with interest in the amount of 0,03% / day. If the payment is returned by the party that has withdrawn from the **purchase contract**, it has right to settlement of provable costs connected with it.
6. For the purpose of this contract, or the **purchase contract**, the violation of the contract is fundamental when the **contracting party** that violates the contract has known in the time of signing of the contract, or it was reasonable to predict in that time due to the aim of the contract, which resulted from its contain or from the circumstances in which the contract has been signed, that the other **contracting party** will not have an interest in fulfilling its obligations at such violation of the contract.
7. For the purpose of this contract and the **purchase contract**, fundamental violation of the contract by the **seller** is considered to be mainly:
  - a. delay of the **seller** with the delivery of the commodity for more than 14 calendar days, or
  - b. delivery of more than 10% of faulty commodity within delivery of commodity based on individual **purchase contract**.

## VIII.

### Jurisdiction and choice of law

1. Legal relation established by this contract and legal relation established by the **purchase contract**, including claims of the **contracting parties** resulting from these legal relations, are governed by judicial code of the Slovak Republic with exclusion of provisions of collision standards. (*This point is not used with Slovak suppliers*).
2. Rules contained in the International Rules for interpretation of delivery clauses issued by the International Commercial Chamber in Paris (Incoterms 2000) shall be used for interpretation of used business clauses, unless stated otherwise in the **purchase contract**.
3. **Contracting parties** have agreed that for the purpose of decisions about any disputes, which may occur between them resulting from the legal relationships established on the basis of this contract, or the **purchase contract**, or in connection with this contract, or the **purchase contract**, including disputes about validity, interpretation and termination of this contract, or the **purchase contract**, the authority of Slovak courts is primary, the Regional Court in Prešov is competent to make decision in mentioned disputes. (*This point is not used with Slovak suppliers*)

## IX.

### Duration of the contract

1. This contract is valid and effective from the day of its signing by both **contracting parties**.
2. This contract is signed for indefinite period of time.
3. **The contracting parties** have agreed upon 6 months notice period, which starts to run on the first day of the calendar months that follows the calendar months in which the written termination was delivered to the other **contracting party**.

## X.

### Delivery

1. Delivery of the documents between the **contracting parties** in relation with this contract, or the **purchase contract**, is performed during personal meetings or by the holder of the post licence (the post).
2. Document is considered to be delivered when other **contracting party** takes it over.
3. All documents sent to the **contracting party** via the post are considered to be delivered also in the case when they return to the **contracting party** – sender as undeliverable, but only when they were sent to the address of the **contracting party** – addressee seat stated on the first page of this contract or to some other address, which the **contracting party** – addressee announced to the **contracting party** – sender in the written form after this contract was signed.
4. Legal effects of the delivery occur in the case that the **contracting party** – addressee foils the delivery of the documents by i) refusing of their acceptance ii) not informing the other **contracting party** about his new address, or iii) omitance (mainly by not picking up the stored delivery). The day of delivery is in such case i.) the day of refusal of the delivery by the **contracting party** – addressee ii.) the day when the post informs the **contracting party** – sender that the **contracting party** – addressee was not found at the address or iii.) the last day of the time period for storage of the documents.
5. Any communication between the **contracting parties** that has to be performed on the basis of or in the connection with this contract can be performed via e-mail or other electronic means to the fax number or to the e-mail address of the **contracting party**



contact person. Effects of delivery of any electronic communication between the **contracting parties** occur only when the corresponding communication is delivered in readable form. When the communication is delivered in unreadable form, the **contracting party** – addressee is obliged to immediately inform the other **contracting party** – sender about this fact, otherwise is the communication considered to be delivered.

6. The **contracting parties** agree upon following contact persons:

For the **purchaser**:

Name and surname:  
Telephone:  
Mobile:  
Fax:  
Email:

Name and surname:  
Telephone:  
Mobile:  
Fax:  
Email:

For the **seller**:

Name and surname:  
Telephone:  
Mobile:  
Fax:  
Email:

Name and surname:  
Telephone:  
Mobile:  
Fax:  
Email:

7. Each contracting party is obliged to inform other party in writing about change of contact person to the address mentioned on the first page of this contract. Until delivery of written notification about change of the contact person of the contracting party, all documents sent to e-mail address or fax number of the original contact person of the contracting party are considered to be properly delivered.

## XI.

### Special provisions

1. By signing the individual **purchase contract**, all previous negotiations and correspondence concerning the content of corresponding **purchase contract** are invalid.
2. **The purchaser** is entitled to keep the purchase price, or its part, for goods under complaint.
3. If any of the provisions of this contract, or **purchase contract**, is invalid or ineffective, or becomes invalid or ineffective from any reason, then validity and effectiveness of the other provisions of this contract, or **purchase contract**, shall not be in any case influenced. Instead of invalid or ineffective provisions of this contract, or **purchase contract**, or for settlement of legal relations that are not regulated by this contract, or **purchase contract**, provisions of the Act 513/1991 of the Collection Commercial Code, will be used because they are as close as possible approximate content and purpose of this contract, or **purchase contract**.
4. All bank fees that are charged by bank different from the **purchaser's** bank in relation with this contract or with the **purchase contract** bears the **seller**.
5. By signing this contract, the **seller** confirms that he is familiar with the fact that by violation of his obligations resulting from this contract the **purchaser** could suffer a damage that multiple times exceeds the purchase price of the corresponding **purchase contract**.
6. **The seller** is not entitled, without written approval of the purchaser, to transfer claims against the **purchaser** resulting from the **purchase contracts** signed during duration of this general **purchase contract**. Transfer of a claim against the **purchaser** that is in

violation of this article is considered to be a transfer of a claim in violation of the agreement with debtor according to § 525 paragraph 2 of the act No. 40/1964 Col. Civil Code subsequently amended, and as such it would be invalid.

7. **The contracting parties** have agreed that the **seller** shall submit to the **purchaser**, on the basis of his written request, his statement of finances verified by auditor, profit and loss statement in the full extent and a balance sheet in the full extent (hereinafter referred to as „**financial statements**“) for previous financial year.
8. **The seller** obliges himself to submit to the **purchaser**, on the basis of his written request, monthly profit and loss statement and a balance sheet (hereinafter referred to as „**monthly financial statements**“) for previous calendar month.
9. Each set of **financial statements** and **monthly financial statements**, which is submitted by the **seller** on the basis of this article, shall be signed by persons authorised to elaborate **seller's financial statements** and **monthly financial statements** that truly displays his financial situation and economic actual for a corresponding time period.

## XII.

### Final provisions

1. This contract is elaborated in two equal copies, one for each **contracting party**.
2. Following Annexes present an integral part of this contract:
  - Annex No. 1 – Purchase contract example
  - Annex No. 2 – Informative price list of commodities
  - Annex No. 3 – Measurement protocol
  - Annex No. 4 – Specification of agreed method of packing and securing for transportation
  - Annex No. 5 – Specification of marking the commodities with the bar code
3. This contract and the **purchase contract** can be amended and supplemented solely by written amendments signed by **contracting parties**.
4. **Contracting parties** declare that they understand provisions of this contract, that this contract was concluded seriously and clearly, on the basis of their right and free will, not under pressure and under noticeably disadvantageous conditions and to prove this they are signing this contract.
5. **Contracting parties** agree that all rights and obligations resulting from this contract or from the **purchase contract** are also binding for legal successors of **contracting parties**.

In Poprad, date .....

In ....., date.....

**Purchaser:**

**Seller:**

.....  
TATRAVAGÓNKA, a.s.

.....

.....  
TATRAVAGÓNKA, a.s.

.....