

## **GENERAL CONDITIONS OF SALE TATRAVAGÓNKA a.s. Poprad**

### **Preamble**

These General Conditions of Sale of the company TATRAVAGÓNKA, a.s. for sale of the products (hereinafter referred to as “GCS”) govern legal relations of the company TATRAVAGÓNKA, a.s. with seat at Štefánikova 887/53, 058 01 Poprad, SR, registered in the Companies Register of the District Court Prešov, Section: Sa, File no.:191/P, Company ID: 31699847, VAT ID: SK2020514496 (hereinafter referred to as the “Seller“) and its customers (hereinafter referred to as the “Purchaser“ and together with the Seller in the text as the “Contracting parties”) for sale of all Products of the Seller purchased by the Purchaser, or purchased to his account by means of a Purchase agreement (on Product sales) or by means of a confirmed order (hereinafter as the “Purchase agreement), the inseparable part of which are these GCS. The individual provisions of the Purchase agreement prevail over the GCS, unless otherwise specified.

These Conditions together with the Purchase Agreement represent legally binding contract between the Purchaser and the Seller about purchase of the Products.

### **I.**

#### **SUBJECT OF THE AGREEMENT, SUBJECT OF THE PURCHASE AND DEFINITIONS**

1. The subject of the Purchase agreement is a reward transition of proprietary right of the purchase subject from the Seller to the Purchaser and governing of mutual rights and obligations of the Contracting parties. The subject of the purchase is the Product of the Seller with accessories specified in the Purchase agreement.
2. By signing/acceptance of the Purchase agreement, the Seller obliges himself to deliver ordered Product with accessories to the Purchaser in the agreed delivery date and to transfer proprietary right of the Product to the Purchaser. The Purchaser obliges himself to pay agreed purchase price in time and to accept the Product at the agreed place and in time.
3. Definition of terms:
  - **Offer** – shall mean Product sale offer submitted by the Seller to the Purchaser upon request from the Purchaser and it includes GCS and other documents specified in the offer (e.g. technical specifications).
  - **Products** (or individually as the **Product**) – shall mean any products to be sold or delivered by the Seller to the Purchaser under the Purchase agreement in the defined specification.
  - **Technical documentation** – complete technical documentation of the Product in Slovak language including all modifications made during manufacturing of the Product.

## **II. CONCLUDING OF THE PURCHASE AGREEMENT**

1. The offers of the Seller are valid for 20 days, unless otherwise specified therein. Upon request of the Purchaser, the Seller shall send the offer to the Purchaser.
2. Price for the Products is specified in the Purchaser's Offer. If the delivery is performed continually or in stages, the Seller can modify Product prices due to change of the exchange rates, taxes, duties, transportation costs, payments and purchase costs. The Product price is specified without VAT and other taxes, payments and transportation costs, except cases when something else is specified in the Offer. These costs shall be borne by the Purchaser beyond the scope of offered prices and they shall be specified in the Offer as the individual expenses.
3. Proposal for conclusion of the Purchase agreement (hereinafter as the „**Order**“) as such, or proposal for submission of the offer, delivered to the Seller by the Purchaser is not a call for start of performance by the Seller and, as such, it does not establish any rights and obligations of the Contracting parties. The Seller starts performance of the agreement after conclusion of the Purchase agreement in accordance with the conditions specified therein.
4. The Purchase agreement is concluded on the day of its signing by both Contracting parties. If the Contracting parties did not conclude a separate purchase agreement, the Seller shall deliver the Product to the Purchaser on the basis of confirmed order of the Purchaser in accordance with amount, agreed price and delivery conditions sent to the Seller by a letter, electronic system, email or fax. The Order shall contain identification of the Purchaser, type and amount of the Product, form and amount of documentation, price and delivery conditions – delivery date. In case, the Order does not include all information, the Seller shall immediately inform the Purchaser about the errors of the Order and if the Purchaser does not deliver the corrected Order, the Seller will not take the Order into consideration. By sending of a proposal for conclusion of the Purchase agreement, the Purchaser agrees with these GCS without any limitations.
5. The Seller shall deliver a confirmation of the Order to the Purchaser within 7 calendar days from the date of delivery of the Order to the Seller. In case the confirmation is not delivered within specified time period, it shall be deemed that the Seller does not accept the Order.
6. By delivery of the Order confirmation to the Purchaser without any additions, reservations or other changes, the individual Purchased agreement is thus concluded and these GCS apply to this agreement.
7. The Purchaser does not have an exclusive right for provision of Product deliveries from the Purchaser.

## **III. PURCHASE PRICE**

1. The amount of the purchase price and the currency shall be specified in the Offer.
2. The price is specified without VAT. VAT will be calculated to the price in accordance with the corresponding legal regulations applicable on the date of taxable payment.
3. The Purchase price includes a unit price, which is applicable in the time of Purchase agreement conclusion according to the valid Offer in the parity EXW TATRAVAGÓNKA, a.s., Štefánikova 887/53, Poprad, SR.

4. The Purchase obliges himself to pay the purchase price determined by the Seller applicable in the time of the Purchase price conclusion or on the day of Product delivery (if price modification occurred). The Purchase price is considered to be paid on the day when it is charged to the bank account of the Seller.
5. The Seller shall account the purchase price to the Purchaser in the form of an invoice issued on the basis of a delivery list/acceptance protocol confirmed by the authorised forwarder, the Purchaser or by other authorised person.

#### **IV.**

#### **PAYMENT CONDITIONS AND ADVANCE PAYMENT**

1. The Seller has to receive payment for the Products before he delivers the Products to, or before he provide the Products for taking over by the Purchaser, or, when it is agreed in written, within the time period specified in the Offer, or, if such time period is not specified, within the maturity date – 14 days from the invoice issue date. In case that the maturity date is Saturday, Sunday or a holiday, the Purchaser is obliged to settle the invoice on the last previous working day. The payment shall be settled to the bank account specified by the Seller. Meeting the payment terms is a significant contractual condition. By means of control of his credits, the Seller verifies meeting of the payment conditions by the Purchaser.
2. The Purchaser is obliged to pay the advance payment of the purchase price by the bank transfer in agreed currency, within the agreed time period and in the amount specified in the Purchase agreement, if it has been agreed, on the basis of a pro-forma invoice issued by the Seller. If the Purchaser is in delay with settlement of the advance payment of the purchase price, the Product delivery period shall be prolonged by the period of delay. Based upon an agreement of the Contracting parties, delay of the Purchaser with settlement of the advance payment is considered to be a significant violation of the Purchase agreement.
3. All payments that are performed or that have to be performed by the Purchaser according to the Purchase agreement have to be performed without any limitations or conditions and without any deduction or freezing of any amount, whether in the form of an inclusion, or in any other form.
4. The pro-forma invoice is not an invoice for VAT purposes. The Seller shall issue a final accounting invoice for the Purchaser immediately after delivery or acceptance of the Product by the Purchaser. The final invoice has to meet all requirements in accordance with the applicable legal regulations, and it shall contain inclusion of already paid advance payment.
5. The Contracting parties have agreed that in case the invoice does not contain formal or content items required by the applicable legal regulations of SR, the Purchaser is authorised to return this invoice without settlement immediately, but not later than three days after its receipt, with a written rationalisation. In such case, the maturity period stops and a new maturity period starts from the date of issue of invoice corrected by the Seller.
6. The Seller and the Purchaser are authorised to unilaterally change numbers of bank accounts or bank, but they have to inform the other Contracting party about this fact in advance, and, at the same time, they have to ask the other Contracting party to perform any payments to the new bank account. Mentioned changes will not have any effect upon invoice maturity. In case the above mentioned change is not announced, the paying

- Contracting party is authorised to pay any amount to the last bank account number announced/informed by the other Contracting party.
7. In case that identification of payment performed by the Purchaser does not clearly identifies to which invoice this payment is related, the payment will be considered to be a settlement of a penalty invoice with the soonest maturity date and, subsequently, a debt with the soonest maturity period as a result of unpaid purchase price.
  8. Together with the invoice, the Seller shall send to the Purchaser also a copy of an acceptance protocol/delivery note.
  9. In case of Purchaser's delay in making a price payment or a part thereof, the Purchaser shall pay the Seller the interest in the amount of 0.03% from the unpaid amount for each day of delay, even for a started one, if not otherwise stipulated in the agreement. The Purchaser is obliged to pay the delay interest. By that, the right of the Seller to withdraw from the Purchase agreement according to these GCS is not affected.
  10. In case of Purchaser's delay in making the price payment, or a part thereof, for more than 21 days, the Seller is authorised to withdraw from the Purchase agreement or its part, whereby he is authorised to be compensated by the Purchaser for demonstrably created loss and damage, including lost profit and loss of production capacity.
  11. In case the Purchaser is in delay with fulfilment of any of his financial obligations towards the Seller, the Seller is authorised to:
    - a) Immediately stop further Product deliveries up to the settlement of the whole debt by the Purchaser, or up to provision of such assurance in favour of the Seller, which will be identified as acceptable and sufficient by the Purchaser without stop of Product deliveries would mean violation of the Purchase agreement by the Seller, or termination of the Seller's right to immediately withdraw from this Purchase agreement according to these GCS and without such stop of Product deliveries would establish any claim of the Purchaser for compensation of damage (actual damage, or lost profit) or application of delay claims,
    - b) Deliver further products only after the Purchaser pays him the purchase price of each next ordered Product delivery in advance (change of payment conditions to advance payment in the full scope).
  12. If the Seller obtains an information that the Purchaser has filed, or the third party has filed against him, a proposal for declaration of insolvency, bankruptcy was declared upon his property, or a declaration of insolvency has been rejected due to lack of property, or he entered a liquidation, or an execution has started against him that could jeopardize his business activities or solvency, the Seller is authorised to immediately stop Product deliveries for the Purchaser without stop of Product deliveries would mean violation of the Purchase agreement by the Seller, or termination of the Seller's right to immediately withdraw from this Purchase agreement according to these GCS and without such stop of Product deliveries would establish any claim of the Purchaser. The above mentioned is applicable also in case when the information about proposal for declaration of insolvency, about rejection of declaration of insolvency due to lack of property, entering the liquidation or about start of an execution, which could jeopardize business activities or solvency, relates to a person who performs rights of controlling person against the Purchaser as defined in the corresponding stipulations of the Act no. 513/1991 Coll. Commercial Code subsequently amended.

13. In case of occurrence of receivables after maturity period against the Purchaser, the seller is authorised to include such receivables to his potential obligations against the Purchaser.

## **V. DELIVERY CONDITIONS**

1. Unless not specified otherwise in the Purchase agreement, the place of product delivery is the seat/business place/plant of the Seller, the delivery condition EXW TATRAVAGÓNKA, a. s., Štefánikova 887/53, Poprad, SR according to © 2010.
2. If the nature of the Product enables so, successful passing of the final technical acceptance precedes the delivery of the Product (mainly in case of larger and technologically more demanding Products – wagons).

## **VI. DELIVERIES**

1. The Seller shall deliver the Products to the Purchaser according to the agreed delivery condition Incoterms® 2010; he shall submit the corresponding documents and enable him to acquire proprietary rights for the Product in accordance with the Purchase agreement and these GCS. The Seller shall and the Purchaser has agreed that the delivery of the Products based upon the Purchase agreement shall be performed in the agreed delivery terms. Each individual delivery depends upon the Purchaser's proper performance stipulated in the Purchase agreement (in particular the obligations related to Product acceptance and payment of the agreed purchase price) with respect to the portions of the Products delivered or delivered earlier.
2. By means of a suitable and demonstrable way, the Seller shall inform the Purchaser about the precise date of the Product delivery at least 3 calendar days in advance. The Seller is not in delay with Product delivery to the Purchaser in case the Purchaser is in delay with payment of the additional payment for the Purchase price or with payment of the agreed Purchase price, if the parties agree so.
3. The Purchaser, or a person authorised by him, or a forwarder appointed by him, is obliged to take over the Product, which is clearly marked as a delivery for the Purchaser and which is delivered in accordance with the Purchase agreement, and to confirm delivery/acceptance of the Product with his signature on the delivery note or on the acceptance protocol, which contains number of the delivery note/protocol, identification of the Purchaser, type and amount of delivered Products, date and place of delivery/acceptance.
4. According to the Purchase agreement, delivery is a condition when the Product is ready at defined delivery place according to the accepted Purchase agreement and according to the delivery parity specified in the Purchase agreement.
5. According to the Purchase agreement, non-acceptance is a condition when the Purchaser does not accept the Product in agreed amount according to the Purchase agreement despite the fact that the Seller has prepared the Product for delivery in the agreed place and time of delivery.

6. According to the Purchase agreement, acceptance is a condition when the Purchaser accepts the Product in agreed amount, according to the Purchase agreement, prepared for delivery in the agreed place and time of delivery.
7. The Contracting parties have agreed that the real amount of delivered Products is an amount indicated in the delivery note/acceptance protocol, unless the Seller or the Purchaser duly demonstrates incorrectness of delivered amount.
8. The Purchaser obliges himself to check delivered amount, type and condition of the Product before verification of the delivery note/acceptance protocol. By confirming the delivery note/acceptance protocol, the Purchaser confirms that he has accepted the Product in the agreed amount, quality, that he has checked the type, colour, product bar code, condition of the Product and that he accepts it. The Purchaser shall send the confirmed delivery note to the e-mail address [sales@tatravagonka.sk](mailto:sales@tatravagonka.sk) within 2 calendar days from delivery of the Product. In case of any doubts, the date of Product delivery is the date of protocol signing. The obligation of the Seller to deliver the Product is fulfilled when he hands over the accessories to the Purchaser after signing of the delivery note and he enables the Purchaser to handle the product within his premises in the time of agreement performance.
9. In case the Product is delivered in the packing marked with “Return” or “Property of TATRAVAGÓNKA, a.s.”, the Purchaser is obliged to handle such packing of the Seller with sufficient care so that technical condition and functionality of the packing is not damaged. After emptying, the Purchaser shall return lent packaging at his own expenses and in undamaged condition to the Seller in the FCA parity, or to the forwarder in the DAP parity (Incoterms® 2010). The Seller lends packaging to the Purchaser free of charge for the maximal period of 60 days, starting from the day of Product delivery to the destination place. After this period, further use of the container by the Purchaser shall be charged as a lease of movable assets in the amount of ..... - €/day without VAT and it will be invoiced always at the end of the calendar month.
10. Together with the Product, the Seller shall hand over to the Purchaser also the technical documentation of the Product (if it is provided) in one copy and the product accessories, mainly papers necessary to use and to repair the Product (e.g. Instructions for use, service conditions, maintenance manual, etc.). The Contracting parties acknowledge that all rights to the Technical documentation handed over by the Seller to the Purchaser and to the information included in this documentation represent a business secret of the seller and they belong exclusively to the Purchaser.
11. Without prior written consent of the Seller, the Technical documentation shall not be provided and/or disclosed by the Purchaser to the third parties. Otherwise, the Purchaser shall be responsible for all damage caused by such act.
12. The Purchaser can use the Technical documentation solely for operational maintenance and repairs of the Products delivered on the basis of the Purchase agreement.
13. The Purchaser is authorised to provide the Technical documentation to the third parties without a consent of the Seller solely in the following cases and for the following purpose:
  - a) For maintenance of the Products delivered on the basis of the Purchase agreement,
  - b) For repair of the Products delivered on the basis of the Purchase agreement,
  - c) For provision of spare parts and spare components of the Products delivered on the basis of the Purchase agreement.

14. In case of Seller's delay in delivery of the Products for more than 30 days, the Seller shall pay a contractual penalty in the amount of 0.03% from the value of delayed Products for the 31<sup>st</sup> and every other day of delay. The maximal overall amount of this contractual penalty shall be determined by the agreement between the Contracting parties to the amount of 10% from the overall purchase price.

## **VII. PRODUCTION, MONITORING AND INSPECTION**

1. The production, monitoring and inspections of the Products shall be performed by the Seller and his workers from quality management department authorised on the basis of general requirements of EN 10204, 3.1. The Purchaser shall have an option to conduct its own inspection and monitoring of production of the Products and their parts on working days from Monday to Friday at 07.00 – 14.00 at his own expenses. The Purchaser shall inform the Seller of its intent to exercise the above specified right in appropriate advance, at least 3 working days in advance.
2. Each design modification of the Product shall be agreed between the Contracting parties in writing in advance. Agreement on design modification includes an agreement in which Product deliveries the modification shall apply and its effect upon the Product price and delivery dates. Agreement on design modification shall be an amendment to the Purchase agreement and it shall be elaborated in the written form and signed by both Contracting parties.
3. Using of an additional material for manufacturing of the Product of the same or higher quality as specified in the Technical documentation does not require Purchaser's approval.

## **VIII. ACCEPTANCE**

1. The Purchaser shall accept the Products in accordance with the contract. The acceptance shall be made by means of signing the final acceptance protocol or verification of a delivery note by both Contracting parties. If the Purchaser fails to accept the Products in the corresponding amounts within 15 days after a time limit specified in the Purchase agreement for the reasons not at the Seller's fault, the Seller is entitled to unilaterally sign the final acceptance protocol, which shall have the same legal consequences as if it were signed by both Contracting parties, at the same time, the Seller is entitled to compensation of damage created to him in connection with non-acceptance of the Products by the Purchaser.

## **IX. CLAIMS FOR PRODUCT DEFECTS**

1. The Purchaser, or a forwarder (person) authorised by him, is obliged to check delivered Product (Product for acceptance by the Purchaser) immediately after its delivery or at its acceptance. The Purchaser is obliged to claim apparent defects of the Product immediately, but not later than 48 hours from the date of Product delivery. For the purpose of this paragraph, the apparent defects are a difference between actually

delivered Product amount and the amount specified in the delivery note or the invoice, or delivery of other Product type as specified in the Purchase agreement.

2. The Seller is liable for defects the Product has in the moment when the risk of product damage passes to the Purchaser and which were caused by violation of the Seller's obligations. The Seller's obligations and the Purchaser's rights resulting from the quality warranty are influenced by above mentioned.
3. The Seller is not liable for any defects that were caused after passing of risk of the Product by the external events and were not caused by the Seller or persons, who helped the Seller to meet his obligation resulting from the Purchase agreement, or if the Purchaser knew about the Product's defects in time of Product acceptance or he had to know about them, due to consequences under which the Products were accepted, except the case when the Product defects relate to such product properties, which the Product should have according to the Purchase agreement.
4. In time of acceptance of the Product from the Seller, the Purchaser is obliged to thoroughly check the Product, in other case he is authorised to claim defects discovered during the inspection only in case, if he demonstrates that the Product had had these defects in time of its acceptance by the Purchaser.
5. The Contracting parties have agreed upon a 24 month warranty period (warranty of quality), which starts from the date of delivery, acceptance of the Product respectively, whereby the Seller obliges himself that during specified period the product will be capable to be used for usual purpose and that it will retain its agreed characteristics, if not specified otherwise in these GCS.
6. The Contracting parties have agreed that the warranty period shall cease to exist before expiration of 24 months from delivery or acceptance of the Product, mainly in case if the Product will be modified, assessed, changed or disassembled by the Seller or the third parties without prior written consent of the Purchaser. In such case, the warranty period of the Product shall expire on the day that precedes the day during which the above mentioned unauthorised interference takes place.
7. The Purchaser shall file claims for defects without unreasonable delay within 14 days after discovery of a defect, or after he could discovered a defect during performance of professional care, but not later than the end of the warranty period, otherwise, the Seller shall be not liable for worsening or new defects of the Product that were caused by discovered defects at the time from their discovery up to their notification to the Seller. Information about discovered defects shall be delivered in written form to the address of TVP and it has to contain the following data:
  - a) Precise specification of claimed component, including potential manufacturing, serial numbers,
  - b) Number of claimed pieces,
  - c) Detailed description of a defect and a photo-documentation,
  - d) Place, in which the claim subject is situated, and
  - e) Contact person.

In case provided information is not complete, the claim proceeding cannot start and the Purchaser will be asked to add necessary information. The Purchaser is obliged to immediately access the claim subject for an inspection of TVP employee, if TVP asks for such inspection.



8. The Seller provides warranty for quality of the Product only in case the Product is used in accordance with the following conditions:
  - a) The product shall be used in accordance with its technical designation, with common mean of its using, with appropriate professional care, with the operational manual (if it was submitted), technical standards,
  - b) The product or its individual subassemblies shall not be modified, changed, adjusted or disassembled by the Purchaser without prior written consent of the Seller,
  - c) The Product maintenance shall be in accordance with the maintenance manual (if it was submitted) and it shall be performed properly and on time,
  - d) Other than the original spare parts or parts without corresponding quality shall be installed into the Product,
  - e) The Product shall not be used by the Purchaser or by the third person in contradiction with the operational manual (if it was submitted) and/or in contradiction with the purpose, for which it was designed;
  - f) The Product shall not be damaged due to an accident or due to intentional act or act of negligence by the Purchaser or by the third party,
  - g) The Product shall not be subjected to the environment, for which it was not designed and it shall not be exposed to unallowable loading/overloading.

In case any of the above specified condition is not met, the warranty period of the Product shall end before expiration of agreed 24 months on the day that precedes the day on which any of the mentioned conditions is violated, disregarding the Purchaser's fault. In specified cases, the Seller is not liable for the product's defects.

9. Guarantee of quality of the Product or its individual parts shall not apply to the parts subjected to natural tear and wear due to their using and to potential cartridges of the individual components.
10. The Purchaser is obliged to tolerate the necessary restrictions connected with performance of the warranty maintenance/repairs of the Product. The Purchaser has no legal right to borrow a substitute Product free of charge during performance of the warranty repairs. The Purchaser is not authorised to claim any costs for a rent of the Product and any other additional costs that occur to the Purchaser in connection with claiming the liability for Product defects. The Purchaser acknowledges that provided guarantee for the Product quality does not apply to mentioned costs.
11. The Seller obliges himself to deliver his statement regarding a claim within 20 working days from the date of receiving a written claim sent by the Purchaser.
12. If the Purchase agreement is violated only in a non-fundamental way by delivery damaged Product, on the basis of the claims for defects, the Purchaser is entitled to request only the removal of the Product defects. If the Seller does not remove the defects of the Products within reasonable additional time period (not less than 90 days), or if he announces before expiration of such time period that he will not remove the defects, on the basis of the claims for defects, the Purchaser is entitled to request only reasonable deduction from the purchase price.
13. If the defected Product (or its part) is being repaired, the warranty period is stopped from the period from the date of defect notification up to the date of Product (or its part) repair, and after repair it continues. If the defected part of the Product (or its part) is replaced by a new one, which does not have any defect, the warranty period starts from the beginning from the date of replacement.

14. The Purchaser is not entitled to remove or to provide removal of the Product defects on his own, or through the third parties, without prior written consent of the Seller.
15. The Purchaser is not entitled to freeze the purchase price, or its part, due to the Product defects.
16. The Purchaser is obliged to provide that the Product is used in accordance with its technical designation, in a way common for its using, with appropriate professional care, in accordance with the operational manual, technical standards, that it is not exposed to environment, for which it was not designed and that it is not exposed to inadmissible loading/overloading.
17. The Seller is not responsible for Product defects that occur after transfer of the risk to the Purchaser and that were not caused by the Sealer's failure (e.g. normal tear and wear).
18. All warranties, reservations and other conditions expected by the law are excluded by these GCS in the broadest possible extent that is allowed by the applicable law.

## **X. TRANSFER OF RISK**

1. Danger of damage/all risks (including a risk of accidental loss or damage of the Product) shall be transferred to the Purchaser (I) from the moment of handing over and/or acceptance of the Product by the Purchaser, or (II) from the moment when the Purchaser is allowed to use the Product, but the Purchaser, who was obliged to accept the product, does not accept it due to the reason which the Seller is not responsible for.
2. Any damage that potentially occurs on the Product after the transfer of the risk to the Purchaser has no influence upon the Purchaser's obligation to pay the agreed purchase price.

## **XI. TRANSFER OF TITLE**

1. Title to the Products shall pass to the Purchaser from the moment of effecting the entire payment of the price. Until the purchase price is paid, the Product is in ownership of the Seller. Title to the Products shall pass from the Seller to the Purchaser after allocation of the purchase price to the Seller's bank account, or after settlement of the purchase price in cash.

## **XII. DELIVERY**

1. Delivery of any documents between the Contracting parties in connection with the Purchase agreement shall be performed during a personal meeting or by a holder of the post licence (post).
2. A document is considered to be delivered after it is accepted by the corresponding contracting party.
3. All documents sent to the other contracting party by the post are considered to be delivered also in case they return back to the sender as an undeliverable, if they were sent to the address of the contracting party – addressee specified at the beginning of this

document, or to some other address indicated in the written form by the addressee to the sender after conclusion of these conditions.

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) omission (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 the Purchase agreement 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 indicated by the corresponding contracting party or in the Purchase agreement. Effects of delivery of any electronic communication between the contracting parties occur only when the corresponding communication is delivered in legible form. When the communication is delivered in illegible 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. Each contracting party is obliged to inform other party in writing about change of contact person to the address specified on the first page of the Purchase agreement. 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.

### **XIII. FORCE MAJEURE**

1. The Purchase agreement is not violated, if any of the contracting parties cannot fulfil its contractual obligations due to the obstacle that occurred independently of the will of the corresponding party and it hinders the party from fulfilling its obligations, if it cannot be reasonably assumed that the corresponding contracting party would avert such obstacle or its consequences and that it expects such obstacle in time of creation of an obligation (e.g. war, national strike, earthquake, floods, fire, terrorist attack, interruption of oil supplies, natural calamity, etc.). On the basis of the request of the other contracting party, the corresponding contracting party shall submit a document regarding existence of circumstances that exclude liability that shall be issued by the corresponding authorities or organisation representing interests of the original country. The above specified does not apply to the obligation of the Purchaser to settle the purchase price of the Products in time.
2. The contracting party affected with the circumstances specified in the paragraph 1 shall inform the other contracting party about these events and estimated time of their duration within 7 days after the contracting party learns about such events.
3. Unless otherwise agreed between the contracting parties, any deadlines agreed in the contract shall be prolonged by the time period of duration of circumstances that exclude liability (force majeure). If this time period shall exceed 45 calendar days, any of the contracting party is entitled to withdraw from the contract without any negative legal consequences, but without a right to any damage compensation or other claims. Before termination of the contract according to this paragraph, the contracting parties shall

negotiate about potential change of the content of the Purchase agreement. If such negotiations are not successfully concluded within 10 calendar days, it is possible to withdraw from the contract.

#### **XIV. CONFIDENTIALITY AND INTELLECTUAL PROPERTY RIGHTS**

1. All drawings, technical documentation, data, etc. (hereinafter referred to as the “documentation”), which relate to the Products or to their production are Seller’s property. The Seller shall determine which documentation shall be provided to the Purchaser providing that the above mentioned will not limit the Purchaser in using, operating and maintaining of the Products. The Purchaser can use the documentation provided by the Seller without an obligation to pay any fees only for the purpose of using, repair and maintenance of the Products.
2. The Purchaser and the Seller oblige themselves that all data and facts about the other contracting party and about its activities, which will be obtained in connection with the Purchase agreement and its performance, including but not limited to existence and content of the Purchase agreement, know-how, technical procedures, etc., shall be deemed as confidential information that represent also a trade secret of the Seller, which will not be disclosed to the third party and will not be used for other purpose than for performance of this Purchase agreement.
3. Obligation of confidentiality shall not apply to information and facts, which:
  - a) are in public domain or will become in a public domain without violation of confidentiality obligation by the party, which receives such information; or
  - b) were demonstrably available or known to the Seller or to the Purchaser before the Purchase agreement enters into force and they were not a subject of any confidentiality obligation; or
  - c) were obtained by the Seller or by the Purchaser from the third party, which is not liable to keep confidentiality against the other contracting party; or
  - d) shall be disclosed and made available according to generally binding legal regulations, instructions of the stock exchange or request of the authorised bodies in the extent defined by the generally binding legal regulations
4. Termination of the Purchase agreement due to any reason does not have an influence upon the above specified confidentiality obligations, which shall remain applicable even in case of termination of the Purchase agreement due to any reason.

#### **XV. PREMATURE TERMINATION/EXPIRATION OF THE CONTRACT**

1. The Purchase agreement is automatically terminated in the moment when:
  - a) A decision of liquidation or termination of one of the contracting parties is adopted,
  - b) A competent office submit a notice/proposal for liquidation, bankruptcy, commercial insolvency, agreement with creditors, rehabilitation or other similar steps with the legal provisions,
  - c) The party transfers rights and obligations arising from the Purchase agreement without prior written consent of the other party – this provision shall not apply to transfer of

mentioned rights and obligations of the Seller to the financing bank; such transfer can be performed without the Purchaser's consent.

Occurrence of the above mentioned circumstances shall have the identical legal consequences as if the rights and obligations arising from the contract are incorrectly performed by the party affected by these circumstances. By the above mentioned, the claim of the other party to the compensation of damage, created due to termination of the contract, is not affected.

2. In case of significant violation of this contract by the contracting party, the other contracting party is entitled to withdraw from the contract without any delay after it learns about such violation.
3. By the withdrawal from the contract, the contract is terminated, when a manifestation of will of the contracting party entitled to withdraw from the contract is delivered to the other contracting party.
4. By the withdrawal from the contract, all rights and obligations of the contracting parties arising from the contract are terminated. But the withdrawal from the contract does not apply to the indemnification claim, claim for the contractual penalty and other provisions, which shall remain applicable even after termination of the contract.
5. For the purpose of this contract, the following is deemed to be the significant violation of the contract:
  - a) Delay of the Purchaser in settlement of the advance payment for the purchase price according to the paragraph 4 point III of this contract,
  - b) Delay of the Purchaser in settlement of the purchase price by more than 60 calendar days.

## **XVI. JURISDICTION AND CHOICE OF LAW**

1. The legal relationship established by the Purchase agreement, including all claims of the contracting parties arising from such legal relationship, shall be governed by the Slovak legal order. The contracting parties have agreed to exclude application of the UN convention on contracts regarding international purchase of goods (Wien 1980).
2. Both parties shall try to settle any potential disputes through mutual agreement. In case the contracting parties do not find any agreement, an authority of the Slovak courts (the competitive court to settle such disputes is the District Court in Poprad) is decisive for settlement of all disputes arise between the parties on the basis of the legal relationship established by or in connection with the Purchase agreement, including disputes over validity, interpretation and termination of the Purchase agreement. The language of the proceedings shall be the Slovak.
3. Other mutual rights and obligations that are not governed by the Purchase agreement or in these GCS shall be governed by the applicable Commercial Code and by the other generally binding legal regulations of the Slovak Republic in specified order..

## **XVII. OTHER PROVISIONS**

1. After conclusion of the Purchase agreement, any preliminary negotiations and correspondence between the parties related to the content of the Purchase agreement become null and void.
2. The Seller is authorised to transfer his rights and obligations arising from the Purchase agreement, or its part, to the third person, but he is obliged to inform the Purchaser about this fact in advance in written form. By his signature on the Purchase agreement, the Purchaser agrees with such transfer.
3. For interpretation of used business provisions, the rules contained in the International rules for interpretation of the delivery provisions issued by the International Commerce Chamber in Paris (Incoterms® 2010) shall be used.
4. If any of the provisions of the Purchase agreement, becomes invalid or ineffective after signing of the contract, then validity and effectiveness of the other provisions of the Purchase agreement, shall not be in any case influenced. Instead of invalid or ineffective provisions of the Purchase agreement, or for settlement of legal relations that are not regulated by the Purchase agreement, those provisions of the Act 513/1991Col. Commercial Code will be used that are as close as possible to the content and purpose of the Purchase agreement.
5. In case of dispute between the provisions of the Purchase agreement and non-mandatory provisions of generally binding regulations of the legislative of the Slovak Republic, the provisions of the Purchase agreement shall prevail. In case of dispute between the provisions of the Purchase agreement and provisions of generally binding regulations of the legislative of the Slovak Republic, which can be excluded through an agreement between the Contracting parties, the provisions of the Purchase agreement shall prevail, and provisions of generally binding regulations of the legislative of the Slovak Republic shall be deemed to be expressly excluded.
6. In case of nay disputes between the provisions of the Purchase agreement and the provisions of the GCS, the provisions of the Purchase agreement shall prevail.
7. For the legal relationship established by the Purchase agreement, only these GCS shall apply. Application of any general business conditions of the Purchaser to the legal relationship between the Purchaser and the Seller established by the Purchase agreement is expressly excluded, even in the case when the provisions of these GCS and/or the Purchase agreement do not contradict such general conditions.
8. The Seller reserves the right to modify these GCS. In case of planned modification, the Seller shall inform the Purchaser about such modification at least 20 days before new wording of the GCS become effective. In case the Purchaser does not agree with the modification of the GCS, he has the right to withdraw from the Purchase agreement within the period until modified or new GCS become effective. In such case, the Purchaser has no right to any indemnification, loss profit or other claims. The Seller is entitles for a compensation of damage occurred to him due to Purchaser's withdrawal from the Purchase agreement.
9. By sending of the Purchase agreement proposal to the Seller, the Purchaser confirms that he becomes familiar with all provisions of these GCS and that these provisions are comprehensive to him. The Purchaser conforms that he had a sufficient time period for

studying the GCS and that the Seller had provided him with a possibility to make potential comments to the GCS.

10. The Seller is not obliged to assess and he is not liable for suitability of using the Product for the purpose determined/expected by the Purchaser. The Purchaser confirms that he inquired and that he was truly informed by the Seller in full extent about characteristics, parameters and features of the Product (which suit him in full extent without any reservations), about method of operation, assembly and maintenance of the Product, about potential dangers, which arise from incorrect use of the Product.
11. These GCS enter into force on 19. 06. 2015

In Poprad, date 19. 06. 2015

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TATRAVAGÓNKA, a.s.

