

I. Scope and Conclusion of Contract

1. The presented General Terms and Conditions of Delivery and Installation are the business terms and conditions of Schenck Process s.r.o., ID No.: 41692292, with the registered office at Prague 6 - Ruzyně, Na Hůrce 1041/2, postal code 161 00 (hereinafter also referred to as “we” or “our company”). Our General Terms and Conditions of Delivery and Installation shall apply in the most recent version on the date of conclusion of the respective contract for all of our performances and deliveries (e.g. installation, service, commissioning, repairs, maintenance and other services). The rates of our service charges as applicable on the date of conclusion of the respective contract shall apply in addition to these Terms and Conditions. Surcharges shall be applied for work performed outside regular working hours. Travelling and waiting time shall be deemed as working time.
2. These General Terms and Conditions of Delivery and Installation shall apply exclusively; we do not accept the customer's terms and conditions that are contrary to or deviate from these General Terms and Conditions of Delivery and Installation, unless we expressly approve their validity in writing. These General Terms and Conditions of Delivery and Installation shall apply even if we execute the customer's order without reservations and with knowledge of contrary or deviating terms and conditions of the customer.
3. Our General Terms and Conditions of Delivery and Installation and our rates of service charges, each in the most recent version on the date of conclusion of the respective contract, shall also apply to future transactions with the customer.
4. Our offers are non-binding. No contract shall be made until our written confirmation of the respective order has been given. The scope of our performance shall be set down exclusively by our written confirmation of the order and of the written appendix.
5. not used
6. Changes of contractual terms and conditions shall only be valid upon our written confirmation. This shall also apply to the contractual waiver of these terms and conditions.
7. Our fulfilment of the contract with respect to those parts of delivery that are subject to export regulations shall be subject to the condition that the required licences are granted to us. If we are not granted the necessary licences, we shall inform the customer accordingly without undue delay.
8. Supporting documents and information handed over by us, such as pictures, drawings, information about weights and dimensions, are only binding if we have expressly specified them as a part of the delivery or if we make a reference to them. Unless otherwise agreed, these supporting documents are not guaranteed characteristics, rather they are descriptions or identifications of the delivery or performance. Common deviations and deviations based on legal regulations or representing a technical improvement as well as the replacement of constructional parts with equivalent parts shall be permitted as long as the usability for the contractually agreed purpose is not affected.
9. We reserve our ownership rights and copyrights to all information and supporting documents handed over (e.g. samples, cost estimates, drawings, documentation) – even if made in electronic form. They may not be made available to third parties without our prior written consent.
10. Written form may be replaced by fax, but cannot be replaced by a document in electronic form. Any legally relevant declarations and notifications shall be given in writing to be valid.
11. These General Terms and Conditions of Delivery and Installation are not intended for use in relation to consumers.

II. Prices and Payment

1. Our prices shall apply ex Works, with additional VAT in the statutory amount. The prices are exclusive of packaging and loading that will be determined based on actual costs. The prices are quoted in CZK.
 - a. In the case of delivery within the European Union, the customer must provide us in good time prior to the contractually agreed delivery date with their VAT identification number as a proof of their exemption from VAT. In the event that such notification is not given or not given in good time, we reserve the right to charge the appropriate VAT.
 - b. In the case of delivery outside the European Union, we are entitled to charge VAT in the statutory

amount after delivery if the customer does not send us a proof of exportation within one month after shipment.

2. Cost estimates are only valid if made in writing.
3. Unless otherwise agreed, the customer shall make payments as follows:
30% as of the date of signing the order, 60% after delivery or confirmation of readiness for shipment/takeover, the balance upon transfer of the risk of damage.
Unless otherwise agreed, advance payments are due within 10 days after issuing the invoice.
4. Payments have to be made without any deductions to the account specified in the invoice. The day of payment is the day on which the respective payment was credited to the account specified in the invoice.
5. Payments shall be due within 30 days after issuance of the respective invoice.
6. The offer prices shall only apply to orders for the full scope of the offered performances.
7. Payment due dates are only valid, if due dates for former deliveries have been observed. If this is not the case, all invoices shall be due immediately after being delivered to the customer.

III. Performance, Transfer of Risk, Receiving

1. We reserve the right to make reasonable partial performances and deliveries. The aforementioned reasonableness shall be especially given when partial performances/deliveries to the customer can be used within the framework of the contractual purpose, the fulfilment of the remaining performances/deliveries to the customer is ensured and no substantial additional expenditures or additional costs will be incurred by the customer (unless we declare the willingness to take over these costs).
2. Incoterms 2010 shall be deemed to have been agreed. Deliveries shall be EXW from the place of manufacture, unless otherwise agreed in writing.
3. In case of work performance, the risk of damage shall pass to the customer upon acceptance of the work.
If the customer takes over the transport of the item from the place of manufacture to the place of its use, the customer shall bear the burden of the risk of damage for the duration of the transport.
4. The foregoing provisions on the passing of the risk of damage shall also apply if partial performances are made or if we have to perform another performance.
5. Should any delivery or acceptance be delayed or not to take place as a result of circumstances which are not attributable to us, the risk of damage shall pass to the customer as from the day of the notice of the readiness for shipment or acceptance. We agree to take out the insurance as requested by the customer at the customer's expense.
6. Notwithstanding the customer's rights under Section X. hereof, the customer may not refuse the receipt of performance in the event of insignificant defects or deviations in volume.

IV. Assistance of Customer

1. The customer shall provide the necessary assistance to our personnel (installation, service and/or commissioning personnel) during conduct of our performance (installation, service and commissioning) at their own expense.
2. The customer shall ensure special arrangements for protection of individuals and things at the place of performance. The customer shall provide special protective clothing, if necessary.
3. The customer shall inform our personnel about any applicable special safety rules, providing these are important for our personnel and our performance. The customer shall inform us about any breach of the safety rules by our personnel. In case of any serious breach, the customer may prevent the person who breaches these rules of conduct from accessing the place of performance.
4. If any performance should be made abroad, and residence and/or work permits have to be arranged for the personnel to make such performance, the customer shall support us when dealing with local authorities in applying for, extending or changing such permits, unless different course of action is agreed in individual cases.

5. The customer shall provide heating, light, energy, compressed air, water, driving force and necessary operating connections.

V. Technical Assistance by Customer

1. The customer shall be obliged to provide, at their expense, technical assistance, especially by:
 - a. Providing the necessary, suitable additional workers in the number required for performance and for the required time; the additional workers shall follow instructions issued by our personnel. We shall assume no liability for the additional workers. If a defect or damage is caused by the additional workers because of instructions issued by our personnel, the provisions of Sections X. and XI. shall apply.
 - b. Executing any building, bedding and scaffolding work including the acquisition of the necessary material.
 - c. Providing the necessary functional devices, tools and hoists as well as necessary items and materials.
 - d. Providing necessary dry and lockable rooms for keeping the tools of our personnel.
 - e. Transporting spare parts to the place of performance, protecting the place of performance and materials from harmful influences of any kind, cleaning the place of performance.
 - f. Preparing materials and executing any other actions necessary for the adjustment of the subject matter of delivery and for execution of the contractually agreed test.
2. The technical assistance of the customer has to ensure that performance will start immediately after the arrival of our personnel and can be carried out without delay until acceptance by the customer. If any special plans or instructions are required, we shall make them available to the customer in good time.
3. If the customer fails to fulfil their obligations, we shall be entitled but not obliged, after notifying the customer, to execute the actions that were supposed to be executed by the customer instead of the customer and at their expense. Our other legal rights and claims shall not be affected thereby.

VI. Reservation of Title

1. Ownership of the subjects of delivery shall not pass to the customer until payment has been made in full. If the validity of this reservation of title is subject to certain conditions or special formal requirements in the country of destination, the customer shall ensure that they are fulfilled.
2. The customer may not pledge, sell or assign as security the subject of delivery prior to the passage of title. In the event of attachment and seizure or other dispositions by third parties, the customer must inform the third party about our title and notify us without delay in writing.
3. In the event of actions on the part of the customer in breach of this contract, especially if the customer is in default with payment, we shall be entitled to take back the subject matter of contract (subject of delivery) following a notice. The customer shall be obliged to surrender the subject of delivery. Neither enforcement of the reservation of title, nor the pledge of the subject of delivery by us shall be deemed the rescission of the contract.
4. An application for the initiation of insolvency proceedings concerning the customer's assets shall entitle us to rescind the contract and to demand immediate return of the subject matter of contract (subject of delivery).

VII. Delivery Date

1. Compliance with the agreed delivery and performance date (hereinafter referred to as "delivery date") requires that all commercial and technical issues between us and the customer have been settled and that the customer has fulfilled all of their obligations. If this is not the case, the delivery period shall be extended accordingly. The foregoing shall not apply if the delay is our responsibility.
2. Compliance with the delivery date shall be subject to the condition that subdeliveries to us are correct and on time. We shall notify the customer of any possible delays on our part.
3. The delivery period has been honoured if notice of the readiness for shipment has been given by the end

of that period. If acceptance must be made, the acceptance date and our notice of the readiness for acceptance shall govern timeliness.

4. If failure to comply with the delivery period is attributable to acts of God, labour disputes, delays in procuring government licences or other events outside our scope of influence, the delivery period shall be reasonably extended. This shall also apply if we are in default with rendering our performance. We shall inform the customer about delays that will probably occur.
5. If a shipment or acceptance of the subject of delivery and performance is delayed on grounds for which the customer is to be blamed, the costs incurred due to the delay shall be charged to the customer. We reserve the right to assert further claims for compensation of damage.
6. We reserve the right to dispose of the subject of delivery if the customer has allowed a reasonable period for delivery or acceptance set by us to expire, and/or to deliver it to the customer in a reasonably extended period.

VIII. Delays in Delivery, Impossibility

1. In the event of partial impossibility to comply with the contract, the customer may only rescind the contract if it is proved that partial performance is not in the interest of the customer. If this is not the case, the customer must pay the contractual price attributable to the partial performance. Otherwise, the provision of Section X. shall apply. If impossibility to perform occurs while the customer is in default with acceptance or because of the customer's fault, the customer shall be obliged to pay as if performance took place.
2. If impossibility to perform is not due to the fault of either contractual partner, we shall be entitled to the portion of the remuneration attributable to the work performed by us.
3. If we are in default and the customer incurs damage because of this, the customer shall be entitled to demand a flat-rate default compensation. This default compensation shall be 0.5% for each full week of default as from the day on which the claim was received by us in writing, but for not more than a maximum of 5% of the value of that portion of the total performance which cannot be used on time or in accordance with the terms of contract as a result of the delay.
4. Within the scope of the statutory provisions, the customer is entitled to rescind the contract in case of serious breach of the contractual obligations on our part, if a mutually agreed reasonable period of grace for the rendering of our performance has been allowed to expire during this default. Upon our request in writing, the customer shall provide us with information, within a reasonable period of time, whether they will exercise their right to rescind the contract.
5. Any further claims because of a default in delivery are stipulated in the provisions of Section XI.

IX. Acceptance

1. The work performed by us shall be deemed to have been accepted 2 weeks after our notice of readiness for acceptance unless the customer issues a written notice of existing major defects within this period.
2. The customer is only entitled to refuse acceptance if the defect prevents or significantly reduces the normal and/or contractually stipulated use of the work and/or its value. If the work contains defects not entitling the customer to refuse acceptance, acceptance shall be made under the reservation that the defects are remedied.
3. Refusal of acceptance or reservations against acceptance must be made without undue delay in writing and must be accompanied by the designation and description of the claimed defect.
4. The use of the subject of delivery by the customer for production purposes shall be deemed to be acceptance.

X. Claims because of Defects

1. Claims on the part of the customer because of defects shall require that the customer has duly fulfilled their obligations of inspection and notification pursuant to the applicable legal regulations.
2. For material and legal defects, the customer shall have to following claims for remedy of defects:
 - a. In our discretion we shall deliver a defect-free item or remedy the defect, provided the subject of

delivery is proven to have already been defective upon the passing of the risk of damage pursuant to Section III.

- b. No claims for remedy of defects shall be created by causes which are not attributable to any fault on our part, such as normal wear and tear, unsuitable subsoil, hazardous ambience conditions unknown to us, chemical, electro-chemical or electrical influences, changes to the subject of delivery made without our consent.
 - c. The customer must provide us with the required time and opportunity for subsequent performance. If we are not provided with this opportunity, we shall not be liable for any consequences resulting from such failure. The customer shall only have the right to remedy the defect themselves or through a third party and demand compensation from us for their necessary expenses in emergencies where plant safety is endangered or to avoid unreasonably greater damage, whereby we must be informed immediately.
 - d. In the event of remedial work, we shall bear all of the costs required for the purpose of remedying the defect, particularly transport and travel costs and the costs of labour and materials, provided these costs are not increased because the subject of delivery was moved to a site other than the place of performance. Even in the event of a justified claim concerning a defect, it is necessary to pay for the travel expenses of our personnel from our plant (the place of performance) to the place of installation.
 - e. In the event that the customer culpably contributes to the cause of the defect, especially due to the customer's failure to comply with the duty to avoid or reduce defects, we shall be entitled, after the subsequent repair, to receive compensation for damage corresponding with the customer's contribution to the cause of the defect.
 - f. The customer shall have the right to rescind the contract if the mutually agreed reasonable period of grace for subsequent performance with respect to a defect is allowed to expire. If the defect is only insignificant, the customer may only demand a reasonable reduction of the price. Otherwise, the right to a reduction of the price shall be excluded.
 - g. For installation, repair and other performances, the provision of Paragraph XV.5 shall apply instead of Paragraph X.2.f.
 - h. If the possession of the subject of delivery during the period set down in Section XIV. results in the infringement of intellectual property rights or copyrights, which is attributable to us, we shall generally procure the right to continued use for the customer or alter the subject of delivery in such manner that an infringement of the intellectual property right or copyright no longer exists. If this is not possible under commercially reasonable terms or within a reasonable period, the parties shall be entitled to rescind the contract. We shall indemnify the customer within these periods against undisputed or final and absolute claims of the respective owners of the intellectual property rights.
 - i. Subject to the provision of Section XI., our obligations described in Paragraph X.2.h. are final for the case of infringements of intellectual property rights and copyrights. We have no other obligations created on these grounds.
 - j. The claim to subsequent performance due to the infringement of intellectual property rights and copyrights, which is not attributable to us, shall only exist if:
 - the customer informs us without undue delay in writing, stating the alleged infringements of intellectual property rights or copyrights,
 - the customer provides us with support in possible disputes or lets us perform alternations pursuant to the provision of Paragraph X.2.h.,
 - we are reserved the right to undertake all defensive measures, including out-of-court arrangements,
 - the infringement of intellectual property rights or copyrights is not based on instructions or specifications provided by the customer,
 - the infringement of intellectual property rights or copyrights was not caused by the fact that the customer arbitrarily modified the subject of delivery or used it in a manner not conforming to the terms of contract.
3. All other claims for rectification of defects (especially claims for compensation for damage not occurring to the subject of delivery itself) are defined exclusively in accordance with the provisions of Section XI.

4. In the case of the sale of used products, all claims for rectification of defects shall be excluded unless mandatory liability is set forth under the law.

XI. Liability

1. We are only liable, even in the event of damage caused due to breach of contractual duties, irrespective of the legal grounds (especially in case of claims for compensation for damage not occurring to the subject of delivery itself), in the case of:
 - intent,
 - culpable breach of major contractual obligations,
 - gross negligence on the part of our corporate bodies or executive officers,
 - culpable bodily injury, death and damage to health,
 - defects we have fraudulently concealed,
 - breach of the guarantee of quality or durability unless otherwise agreed upon in individual cases,
 - personal injury and property damage to personal items, provided that such liability necessarily results from the product liability pursuant to the law.
2. In the event of the breach of major contractual obligations, we shall also be liable for gross negligence on the part of executive officers.
3. Our liability for the destruction of data is limited to the costs which would be required for their reconstruction if the data had been properly saved by the customer.
4. Compensation of real damage to property is limited up to the maximum amount of the value of the respective contract.
5. Any further liability – irrespective of the legal grounds – especially in case of compensation for damage not occurring to the subject of delivery itself (e.g. lost profit) shall be excluded in the extent allowed by the law.
6. We shall not be liable for the consequences of defects for which no claims for defects are provided under Paragraph X.2.b.

XII. Insurance Claims

1. To the extent we have direct claims as a joint policyholder against the customer's insurer, the customer hereby gives us their consent to the assertion of such claims.

XIII. Software

1. The general terms and conditions of software providers shall have priority over these General Terms and Conditions for their software products contained in our deliveries. Should such terms and conditions not be available, we shall have them sent to the customer upon request.
2. Our General Terms and Conditions shall be in supplement to the general terms and conditions of other software providers; Paragraphs XIII.3. to XIII.5. shall apply mutatis mutandis. In the event that the general terms and conditions of the respective software provider are invalid, or in case the agreement on their application for the legal relation with the customer is invalid, our Terms and Conditions shall Apply.
3. The customer shall receive a perpetual, simple, non-exclusive right of use to our software products and to the relevant documentation. The grant of sublicenses is not permitted.
4. We are not obliged to provide the source code on which the software product is based.
5. The customer may only process our software products to the extent permissible under the law. The customer may neither remove nor change the manufacturer's product information – especially notices of copyright – without our prior written consent.

XIV. Prescriptive Periods

1. The customer has to raise claims from liability for defects, pursuant to Section 2618 of Act No. 89/2012 Coll., as amended (the Civil Code), always without unnecessary delay after they could and should detect

the defect, but no later than within 2 years after handover of the work. The customer's claims from liability for defects shall be barred after 12 months after notification of the defect.

2. The customer has to raise claims from liability for defects of buildings or works whose success consists in the rendering of planning or monitoring services for buildings, pursuant to Section 2629 of the Civil Code, always without unnecessary delay after they could detect the defect while exerting sufficient care, but no later than within 5 years after handover of the work.
3. With the exception of Paragraph XIV. 4., all other claims by the customer – regardless of the legal basis of claim – shall be barred 12 months after the moment when the prescriptive period started to run.
4. Where the law does not allow for reduction of the prescriptive period, the respective statutory regulations concerning prescription shall apply instead of the aforementioned time limits.

XV. Installation, Repairs and Other Services

For installation, repairs and other services, the following provisions shall apply in supplement:

1. If installation, repair and/or other actions cannot be carried out on grounds for which we are not responsible, the customer shall compensate us for performance already rendered in this connection and for incurred expense.
2. Replaced parts shall become our property.
3. Should the performance be destroyed or deteriorated prior to acceptance through no fault on our part, the customer shall pay us the price minus any savings in expenses.
4. Repair deadlines are only binding if confirmed by us in writing.
5. In the case of installations, repairs and other performances, the customer shall be entitled, within the scope of the statutory regulations, to a reasonable price reduction if a mutually agreed reasonable period of grace for performance was allowed to expire during the respective delay. The right to a reasonable price reduction shall also last in other cases where remedial work has failed. The customer shall only be entitled to rescind the contract if, despite the price reduction, the installation, repair or another service is demonstrably not in the customer's interest.

XVI. General Provisions

1. All taxes, fees and levies in connection with the performance outside the Czech Republic shall be borne by the customer or reimbursed to us by the customer.
2. Personal data shall be stored by us in compliance with the statutory regulations.
3. We shall not reimburse any costs for the return transport of packaging.
4. The customer shall be obliged to procure all necessary licences and/or import and export papers at their own expense.
5. The customer acknowledges that the sold goods may include hardware or software, which are subject to the import or export control laws and regulations of the United States. The customer acknowledges that it is their sole responsibility to comply with the aforementioned laws and regulations. The customer declares to agree that any of the goods supplied by us may not be further delivered or re-exported to any persons/companies or countries which are subject to an embargo imposed by the European Union, the United States or the United Nations and shall apply suitable measures to prevent making such deliveries through the customer.
6. The place of performance and delivery for the customer's obligations in relation to us is the location of the registered office of our company.
7. Should individual provisions of these General Terms and Conditions be or become fully or partially ineffective or invalid, this shall not affect the remaining provisions.

XVII. Applicable Law, Venue

1. If the customer's registered office is located in the Czech Republic, the exclusive venue shall be the location of the registered office of our company. We reserve the right to file an action at the court having jurisdiction over the customer.

General Terms and Conditions of Delivery and Installation

Schenck Process s.r.o.

As of: 21st May 2014



2. If the customer's registered office is located outside the Czech Republic, all disputes arisen from or in connection with a contract that is governed by these General Terms and Conditions shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce in Paris by three arbitrators appointed in accordance with the aforementioned Rules.
3. Legal relations governed by these General Terms and Conditions shall be subject to the law of the Czech Republic with the exclusion of conflicting rules of law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).