

General Business Terms and Conditions for Construction Work Carried Out by MERO ČR, a.s.

1 Conclusion of the Agreement

1.1 These General Business Terms and Conditions (hereinafter the "General Conditions") of MERO ČR, a.s. (hereinafter the "Customer") regulate the contractual relationship between the Customer and the second party (hereinafter the "Contractor"). The contractual relationship shall only be established on the basis of a presented written order. Any oral covenants, amendments or changes must be in writing, including an express written confirmation by the purchaser. These General Conditions constitute an integral part of the order/agreement (hereinafter the "Agreement") concluded between the Contractor and the Customer.

2 Subject of Purchase and Place of Performance

2.1 The Contractor undertakes to perform the work specified in the Agreement (hereinafter the "Work") at his own costs and risk in compliance with the public procurement documentation and/or with the Contractor's bid for the public procurement (hereinafter the "Contractor's Bid"), and under the conditions set forth by the Agreement, these General Conditions and documents to which they refer. The Customer undertakes to take over the duly performed Work, and, subject to complying with the conditions and covenants of the Agreement, to pay the agreed price for the Work.

2.2 Unless otherwise agreed in the Agreement, the Work shall include the following, in addition to the supplies and works stated in the Agreement:

- a) Preparation of necessary workshop (production and construction) drawings that are necessary for the completion of the Work and do not constitute an annex to the Agreement, including consent to be obtained from the Customer.
 - b) Production of all equipment specified in the Agreement.
 - c) Supply of all parts, materials and equipment that are necessary to perform the Work.
 - d) Construction of and installment of all equipment, including the necessary work and outputs.
 - e) Transport to the place of the Work performance.
 - f) Procurement and provision of certificates for all materials and equipment.
 - g) Individual tests of the Work's functioning, including the preparation of test protocols.
 - h) Procurement of documentation on the actual state of the Work.
 - i) Provision of all instructions for operation and maintenance, and certificates relating to the Work or individual parts thereof.
 - j) Performance of all explorations of the actual state that are necessary to carry out earthwork.
 - k) Delivery of all construction parts and materials that are necessary to commission the equipment that constitutes a part of the Work.
 - l) Performance of all construction and installation work.
 - m) Preparation of all drawings that are not delivered by the Customer.
 - n) Procurement of permits, in particular the following:
 - An official permit to close roads (if necessary), or to take other transport measures.
 - A permit to enter land plots, which is not procured by the Customer pursuant to the Agreement.
 - o) Location of underground mains and equipment that are or may be affected by the work in connection with the performance of the Work.
- 2.3 The Contractor undertakes to hand over the Work at the place determined by the Customer (hereinafter the "Performance Place") in accordance with the delivery conditions stated in the Agreement pursuant to INCOTERMS 2010.
- 2.4 The Contractor undertakes to carry out all supplies and work necessary to fully complete the entire Work. The costs of all supplies, performance and work necessary to fully complete the entire Work shall be included in the Work price.
- 2.5 The owner of the unfinished Work shall be the Customer. The Customer shall obtain the title to all materials, equipment and stock procured in compliance with the Agreement by the Contractor, which will become a part of the Work. The title to all above-mentioned materials, equipment and stock shall pass to the Customer (a) on the day when the payment for such materials, equipment or stock is made, or (b) on the day when the said materials, equipment or stock is delivered to the place of performance of the Work, whichever of these events occurs first.

3 Obligations of the Contractor

3.1 When performing the Work, the Contractor shall be obliged to fulfill or ensure the fulfillment particularly of the following at his own costs:

- a) Generally binding legal regulations.
- b) Applicable Czech technical standards and/or EN standards and recognized technical rules.
- c) Fire protection regulations.
- d) All legal and other generally binding legal regulations to ensure occupational safety and health.
- e) Legal regulations in the field of handling waste, harmful substances, chemical substances and preparations and air protection legal regulations.
- f) Customer's internal regulations.
 - SB-GR-50-1001 Basic safety regulation for employees of external companies on the premises of MERO ČR, a.s.; the said regulation is published on the Customer's website at <http://www.mero.cz/dokumenty-ke-stazeni/>;
 - SB-GR-50-0001 Ecological regulation for personnel of external companies on the premises of MERO ČR, a.s. and on oil pipelines routes; the said regulation is published on the Customer's website at <http://www.mero.cz/dokumenty-ke-stazeni/>;
 - Rules for drawing documentation, which are published on the Customer's website at <http://www.mero.cz/dokumenty-ke-stazeni/>, or the Customer's other internal regulations with which he has been acquainted;
- g) Regulations for operated equipment that is affected by the Work performance from the Customer and/or the owner and operator of such equipment. Unless agreed otherwise, such regulations shall be provided by the Customer to the Contractor upon the fulfillment of the Agreement.
- h) Conditions set forth by the Agreement and these General Conditions.
- i) Conditions set forth in the work permit issued by the Customer, pursuant to the Customer's internal directive SB-GR-02 Work Permit.
- j) Standpoints and resolutions of state administrative authorities, self-government authorities or other relevant authorities.
- k) Technical rules and procedures.
- l) Customer's instructions.
- m) Instructions of manufacturers of the supplies for the Work.
- n) Background documents provided by the Customer.

3.2 The Contractor shall provide originals of the following documents to the Customer no later than along with his request for the takeover of the Work given to the Customer:

- a) One printed copy of a drawing depicting the actual state of the Work, i.e. all supplies and work performed by the Contractor under the Agreement.
- b) Certificates, test protocols, declaration of conformity, material certificates, revision reports, takeover protocols and other documents pursuant to the Agreement.
- c) One printed copy and one digital copy of drawings and other documents pursuant to the Agreement. The drawings shall be provided on CD-ROM in Autocad format (dwg,dgn.), texts in MS Word and tables in MS Excel
- d) Other documents relating to the Work.

4 Performance Deadline

4.1 The Contractor shall be obliged to complete the Work so that it can be handed over within the deadline agreed upon in the Agreement. Should the Contractor fail to provide the agreed documents before the takeover (in particular the requested number of all official acceptance certificates, test protocols, material certificates, operation and maintenance instructions, list of spare parts, revision reports, drawings and documentations of the actual Work performance and other documents stated in Articles 2.2 and 3.2 hereof), the Work shall not be considered duly completed and fit for handover.

5 Price and Invoice Due Date

5.1 The parties have agreed on the Work price in the Agreement (hereinafter the "Work Price"). Unless otherwise agreed, the contractual prices (including unit prices and item prices) shall be fixed and unchangeable prices and shall not be changed in connection with the performance of the Work.

5.2 The Work Price shall be set forth as the price most admissible for the scope of the supplies and work set forth in the Agreement, and such price cannot be exceeded. The Work Price shall be valid until the termination of the Agreement and shall include all costs of the due performance and completion of the Work and the Contractor's profit.

Unless otherwise agreed in the Agreement, the following payment conditions shall apply (subject to using ascertainment protocols and invoicing for partial performance)

5.3 At the beginning of each month (no later than by the third business day), the Contractor shall submit an invoice (tax document) for partial performance of the Work, i.e. for the supplies and work that the Contractor actually performed in the preceding month on the basis of the Agreement, including a list of the supplies and work performed. The performance of such supplies and work shall always be confirmed jointly in the presence of the Contractor's and the Customer's representatives, and shall be confirmed by the signatures of both parties affixed to a protocol (so-called ascertainment protocol). It shall be stated in the ascertainment protocol whether the Contractor fulfilled, failed to fulfill or partially (in percentage) fulfilled the volumes of work and supplies under the Agreement. The Customer shall only pay the Contractor for the supplies and work that the Contractor actually performed on the basis of the Agreement in the preceding month, pursuant to the ascertainment protocol.

5.4 The invoice due date shall be 60 calendar days following the delivery to the Customer at the address of his registered office; the ascertainment protocol signed by the Customer shall be delivered together with the invoice.

- 5.5 Invoices for partial performance shall be paid in the amount of up to 90% of the amount invoiced; the remaining 10% shall be a retention amount (hereinafter the "Retention Amount").
- 5.6 The Retention Amount shall be paid by the Customer to the Contractor within 15 days following the execution of the Work Handover and Takeover Protocol. If the Work was taken over by the Customer with defects and unfinished items, the Retention Amount shall be paid by the Customer to the Contractor within 15 days following the execution of the protocol on removing defects and unfinished items.
- 5.7 The invoice must contain the particulars resulting from generally binding legal regulations and particulars pursuant to Act No. 235/2004, Coll., on Value Added Tax, as amended, or, as the case may be, from a generally binding legal regulation superseding Act No. 235/2004, Coll., (hereinafter the "VAT Act"), and a handover protocol signed by the authorized representatives of both parties shall be attached to the invoice. The invoice shall include the number of the relevant order/agreement. Should the order number not be stated or should an incorrect order number be stated, the purchaser shall not be entitled to pay the invoice and return the same to the supplier without being in default.
- 5.8 The seller shall be obliged to deliver the invoice to the purchaser at the address of his registered office within 15 days following the date of the takeover of the performance by the Contractor, or, as the case may be, following the date of execution of the protocol on removing defects and unfinished items, whichever occurs later. The delivery date pursuant to the VAT Act shall be considered as the performance takeover date in the event of delivering the subject of purchase.
- 6 Contractual Penalty and Default Interest**
- 6.1 Should the Contractor breach his obligation to perform the Work duly and on time under the Agreement, the Contractor shall be obliged to pay a contractual penalty to the Customer in the amount of 0.1% of the Work Price per day of default.
- 6.2 Should the Customer be in default in fulfilling a monetary liability arising from the Agreement, the Customer shall pay a contractual default interest to the Contractor in the amount of 0.01% of the amount outstanding per commenced day of default. The default interest shall be charged by the Contractor to the Customer in the event of the Customer's default by a separate invoice.
- 6.3 The Contractor shall be obliged to pay a contractual penalty to the Customer in the amount of 3,000 CZK for each defect and each commenced day of default (i) to remove the Work defect within the warranty period pursuant to Article 9.4 hereof, and/or (ii) remove the Work defect in compliance with the Agreement, within the deadline agreed between the parties in writing, and otherwise within the shortest possible period of time reasonable in terms of the extent and complexity of the Work defect.
- 6.4 The Contractor undertakes to pay a contractual penalty for non-compliance with safety regulations and using all protective aids; the penalty shall amount to 5,000 CZK for each individual case of breach. The breach shall be recorded in a construction/assembly log by the Customer's representative. The said amount may be offset against the total Work Price.
- 6.5 The entitled party shall charge the contractual penalty to the obliged party in writing.
- 7 Work Handover and Takeover**
- 7.1 The Contractor shall be obliged to complete the Work so that it can be handed over within the deadline agreed in the Agreement. Should the Contractor fail to provide the agreed documents prior to the takeover (in particular the requested number of all official acceptance certificates, test protocols, material certificates, operation and maintenance instructions, list of spare parts, revision reports, drawings and documentation of the actual Work performance and other documents stated in Articles 2.2 and 3.2 hereof), the Work shall not be considered completed and fit for handover.
- 7.2 For the purposes of the Agreement, it shall be deemed that the Work was duly completed on the day of the signing of the protocol from takeover proceedings, which contains the Customer's declaration that he has taken over the Work; the protocol is to be signed by the representatives of both parties authorized to hand over and take over the Work (hereinafter the "Handover and Takeover Protocol"). Should the Work be taken over by the Customer with defects or unfinished items, it shall be deemed for the purposes of the Agreement that the Work was duly completed on the day of the signing of the protocol on removing discovered defects and unfinished items by the representatives of both parties authorized to hand over and takeover the Work (hereinafter the "Protocol on Removing Defects and Unfinished Items").
- 7.3 The signing of the Handover and Takeover Protocol and/or the Protocol on Removing Defects and Unfinished Items shall not affect the Contractor's liability for the Work defects.
- 8 Warranty Period**
- 8.1 Unless otherwise agreed, the warranty period for the Work as a whole including its individual parts shall be five years.
- 8.2 Unless machines, technological equipment and products constitute integral parts of the Work, the warranty period for the supplies of such equipment, products and machines, for which their manufacturer issues a separate warranty certificate, has been agreed upon in the duration of the period provided by the manufacturer, but for no less 24 months; the warranty period for supplies of such equipment, products and machines, for which their manufacturer will not issue a warranty certificate or will not provide a warranty, has been agreed upon in the duration of 24 months.
- 9 Complaints and Defect Removal**
- 9.1 The Customer shall be obliged to raise complaints concerning defects to the Contractor in writing. Defects must be described in a written complaint or it must be stated how they are manifested. The Customer shall state in the complaint how the defects should be remedied.
- 9.2 Should the same defect that was removed by the same technology or material occur repeatedly, the Customer shall be entitled to request that the technology or material used for removing the defect is changed.
- 9.3 The Contractor shall be obliged to inform the Customer in writing within seven days following the receipt of the complaint whether or not the Contractor has recognized the complaint, whether he will remove the defect, when he will commence to remove the defect and within what period of time he will remove it, i.e. whether within the period of time agreed upon in the Agreement or a shorter period. Should the Contractor fail to do so, it shall be deemed that the Contractor has recognized the Customer's complaint.
- 9.4 Should the Contractor fail to commence to remove the Work defects within the warranty period without undue delay, but no later than within seven days following the date of the receipt of the Customer's complaint concerning the removal of the Work defects, or should the Contractor fail to remove the defect within the deadline agreed, the Customer shall be entitled to remove the Work defects at the Contractor's costs at his own discretion himself, or have them removed by a third party at the Contractor's costs. When removing the Work defects, the Contractor shall be obliged to act as quickly and effectively as possible and to exercise the maximum possible efforts that may be requested, otherwise he shall be liable *vis-à-vis* the Customer for any damage caused to the Customer. Where the Work defects are removed by the Customer or a third party proposed by the Customer, such fact shall be without prejudice to the warranty provided by the Contractor under the Agreement.
- 10 Rights and Obligations of the Parties Arising from Force Majeure**
- 10.1 The parties shall be exempt from partial or full non-fulfillment of the contractual obligations in the case of a force majeure circumstance/event.
- 11 Other Covenants**
- 11.1 The rights and obligations of both parties that are not expressly stipulated in the Agreement shall be governed by the applicable provisions of the Civil Code and other generally binding legal regulations of Czech law. This provision shall survive the termination of the Agreement.
- 11.2 These General Conditions and the Agreement, together with all documents referred to thereby, shall express an entire agreement between the parties concerning the subject thereof and supersede and cancel all previous proposals, agreements, obligations, liabilities, representations, warranties, assurances and covenants of any character, written and oral, relating to said subject. The Agreement may exclusively be changed on the basis of an agreement between the parties by written amendments numbered upwards from zero with the signatures of the parties affixed to the same document.
- 11.3 The Contractor declares that he is authorized and fully competent to enter into the Agreement, and that he has obtained all necessary consents from his bodies and third parties that the Contractor needs to enter into and duly perform the Agreement. The Contractor also declares that he does not have any liability *vis-à-vis* any other person, and that there is no claim of the state, financial office or any other state administrative authority or self-governance authority, which would hinder the Contractor to enter into and perform the Agreement.
- 11.4 The Contractor shall not be entitled to assign his rights or transfer his obligations arising from the Agreement with the Customer without the Customer's prior written consent.
- 11.5 Should the parties to the Agreement be dissolved, all rights and obligations arising from the Agreement shall pass to their legal successors.
- 11.6 Both parties shall be obliged to keep confidential all information that (a) concerns the Work, (b) that it directly or indirectly obtained from the other party in connection with the execution and performance of the Agreement, and/or (c) is contained in the Agreement, and/or (d) was disclosed to such party by the other party in connection with the Agreement, and/or (e) concerns the party, its business partners, or information that constitutes business secrets or has the nature of the other party's business secret, or any other confidential information that is familiar to such party (hereinafter the "Confidential Information"), and shall not misuse the Confidential Information. The Confidential Information shall be considered as confidential data in the sense of Section 1730 of the Civil Code, and also as a business secret in the sense of Section 504 of the Civil Code. Publication of information that (a) is or comes to be in the public domain, or is publicly available on grounds other than a breach of the Agreement, or that (b) a party is obliged to publish or make available to an authorized person pursuant to the applicable legal regulations, shall not be considered a breach of the obligation set forth in this article (such published or available information shall remain Confidential Information, and the obligations of the parties concerning handling such information as Confidential Information under the Agreement shall not be affected thereby). Each party shall be obliged to contractually assign its employees and persons on whom it will impose individual tasks in connection with the performance of the Agreement, in order to keep classified information confidential at least to the same extent to which the relevant party keeps such information confidential. The Contractor undertakes to refrain from publishing any confidential information or using it to his benefit or to the benefit of any third parties without the Customer's prior written consent. The provisions of this article shall survive the termination of the Agreement for a period of five years.

- 11.7 The Contractor shall take into account that the Customer is considered to be a public contracting authority pursuant to the Public Procurement Act, and in compliance with the said act, (i) in case of below-limit and above-limit public procurements, he is obliged to publish the Agreement on his profile, including all its annexes and amendments, the Work Price actually paid and a list of subcontractors; (ii) in the case of small-scale public procurements whose price exceeds CZK 50,000, excluding VAT, he is obliged to publish the Agreement, including all its annexes and amendments, on his profile. By his fulfillment of the Agreement, the Contractor agrees with the publication of the said information.
- 11.8 The Contractor shall not be entitled to assign his rights and obligations arising towards the Contractor under the Agreement to any third parties without the Customer's prior written consent.
- 11.9 The Contractor shall be obliged to ensure the take-back of packaging or packaging waste for supplied packaged goods, in compliance with Section 10 of Act No. 477/2001, Coll., on Packaging.
- 11.10 Where the Contractor uses third parties to perform the Agreement, the Contractor shall be liable *vis-à-vis* the Customer in the same manner as if he rendered such performance himself.
- 11.11 The Contractor undertakes to comply with the principles leading to reducing the energy demands within the framework of ISO 50001:2011.