

General Commercial Terms No. 18-8/2014

I. Basic provisions

1. These General Commercial Terms (hereinafter the "GCT") pursuant to the provisions of Section 1751 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended, define the bilateral rights and obligations of the parties hereto during the sale of metallurgical material, chemical fertilisers, plastic granulate and products (hereinafter the "Goods"), the Seller being M TRADE CZ s.r.o., a limited liability company with its registered seat at U libeňského pivovaru 2444/6a, 180 00 Prague 8 - Libeň, Czech Republic, Company ID No.: 280 88 867, Tax ID No.: CZ28088867, registered in the Commercial Register at the Municipal Court in Prague, Section C, File 210691, (hereinafter the "Seller") and the Buyer, who entered into a purchase agreement with the Seller during the effectiveness hereof (hereinafter the "Buyer").
2. If the Seller and the Buyer have entered into a Framework Purchase Agreement, then pursuant thereto they shall enter into partial purchase agreements (hereinafter "Purchase Agreements") exclusively based on these General Commercial Terms. If the parties have not entered into a Framework Purchase Agreement, then these General Commercial Terms shall also be used for definition of the parties' mutual rights and obligations, if a Purchase Agreement entered into between them refers thereto and the GCT are attached to the Purchase Agreement, or the Buyer otherwise confirms familiarity with the contents hereof. In such case, for the Purchase Agreement entered into between the parties hereto, what is arranged herein shall apply for the Purchase Agreement.
3. The Contracting Parties may also agree in the Purchase Agreement or in another way on individual rights and obligations stemming from the GCT, in which case any differing arrangements in the Purchase Agreement shall be given priority over the wording hereof.
v Written form for the purposes hereof shall also be considered fulfilled if notices are delivered by electronic means enabling capturing of their contents and specification of a representative, under the assumption that their contents are clear and comprehensive and that the particular notice has been issued by a person specified in the Framework Agreement, if entered into between the parties hereto, or otherwise by a person who is authorised to represent the particular Contracting Party. However, these provisions shall not apply for legal acts whose purpose is to amend or add to the GCT, for which an arrangement in writing between the parties hereto is always required.
4. Any of the parties' rights and obligations not defined by the Framework Purchase Agreement, the Purchase Agreement or these General Commercial Terms shall be governed by the applicable legislation of the Czech Republic (Czech law).
5. All details specified in the Purchase Agreement along with any other information, documents and materials provided to the Buyer in connection with the signing of a Purchase Agreement, which are not regularly available, are considered the Seller's trade secrets (hereinafter "Confidential Information"), and the Buyer pledges neither to use such Confidential Information for the Buyer's own needs at variance with purpose of the particular Purchase Agreement nor for a third party's needs and pledges not to grant access to such Confidential Information to any third parties without the Seller's prior written consent.

II. Entering into Purchase Agreements

1. Based on the Buyer's demands, the Seller shall produce a written draft version of each Purchase Agreement and ensure its delivery to the Buyer. Such draft version shall constitute an offer as defined by Section 1732 of the Civil Code and shall contain at least the following details:
 - a. definition of the subject of purchase in terms of type and quantity,
 - b. definition of the subject of purchase in terms of quality (with specification of whether or not non-prime material is involved),
 - c. the purchase price and specification of payment terms,
 - d. the delivery deadline.

2. The Purchase Agreement shall be considered entered into as soon as the Buyer accepts the Seller's offer without any amendments or deviations. Delivery of a written notification of acceptance of the draft version of the Purchase Agreement to the Seller shall be considered confirmation of receipt of the offer, as shall the Buyer's de facto acceptance of fulfilment on the basis thereof. Any changes or additions contained in the written confirmation of acceptance by the Buyer shall be considered a new draft version of the Purchase Agreement, which the Seller must approve in writing in order for it to be accepted.

III. Purchase price and payment conditions

1. The Buyer agrees to pay the Seller the purchase price for the delivered Goods as agreed upon in the the Purchase Agreement.
2. The purchase price for the Goods shall be specified in the Purchase Agreement as the price not including value-added tax (VAT). However, the Buyer shall be required to pay the price of the Goods to the Seller including VAT in the amount applicable at the time. This shall not apply, if the fulfilment is carried out via a transferred tax obligation and the Buyer is directly obligated to declare and pay VAT.
3. The Seller is entitled to bill the purchase price of the Goods via an invoice issued by the date of taxable supplies, meaning by the date when the obligation to deliver the Goods is fulfilled in accordance with the contents of the agreed delivery clause pursuant to the ICC Rules for the use of clauses in domestic and international trade, INCOTERMS 2010, and/or another agreed version of INCOTERMS (hereinafter "INCOTERMS"), unless otherwise specified by the Purchase Agreement.
4. The Buyer is required to pay the purchase price by transferring it to the Seller's account specified on the invoice by the due date, meaning within 30 days from the issuance of the invoice, unless another due date has been agreed upon in the Purchase Agreement. The Buyer is required to raise any legitimate objections to the contents of the issued invoice no later than within 3 days from the date of delivery of the invoice.
5. The payment date shall be understood as the date on which the paid amount is credited to the Seller's account, and in the event of the use of factoring by the Seller, to the factor's account.
6. If the Buyer becomes delayed with the fulfilment of any monetary debt or portion thereof, the Seller shall also be entitled to demand payment of a contractual penalty of 0.05% of the owed amount for each day of such delay with payment. The provisions regarding the contractual penalty shall not affect the Seller's entitlement to compensation for damages arising as a result of such situation.
7. The Seller is entitled to demand that the Buyer pay an advance towards payment of the purchase price. The basis for payment of such advance shall be an advance invoice (advance certificate), which must be paid within two days following the date of its issuance, unless the parties agree otherwise in the Purchase Agreement. The Seller is also entitled when entering into a Purchase Agreement to demand that the Buyer also provide acceptable securing of the debt (such as by a letter of credit, a financial guarantee, securing by another entity, issuance of a promissory note or blank bill of exchange, establishment of a lien or another suitable form of securing). If the Buyer fails to fulfil this requirement by the agreed deadline, the Seller shall be entitled to withdraw from the Purchase Agreement.
8. Should any circumstances arise or should the Seller receive information about circumstances from which it can be assumed that the Buyer is or could become unable to satisfy debts owed to the Seller, or should the Seller receive information, which could reduce the trustworthiness of the Buyer (such as the Buyer's entry into liquidation, circumstances providing evidence of indebtedness of the Buyer, the commencement of insolvency proceedings against the Buyer, a delay by the Buyer by more than 60 days with the payment of an owed debt, reduction of the Buyer's rating by a rating agency, reduction or termination of an insurance coverage limit related to the Buyer by the Seller's insurer, etc.), the Seller shall be entitled to demand in writing that the Buyer immediately pay all of the Buyer's monetary debts stemming from already issued invoices, regardless of their due dates, or to require the Buyer to secure such debts sufficiently, in the manner specified in point 7 of this Article. In such case, the Buyer shall be required to satisfy the Seller's demand no later than within 3 days after delivery of the demand. The Seller shall also be entitled after the demand is delivered to require for all yet unfulfilled deliveries the payment of the purchase price in advance, regardless of the already agreed payment terms, or the Seller may withdraw from Purchase Agreements already

entered into.

9. The Seller shall not be required to deliver the Goods and shall be entitled to withdraw from the Purchase Agreement or exercise other rights pursuant hereto if the Buyer fails to fulfil the payment conditions for payment of any monetary debts owed to the Seller, and/or if the Buyer does not provide the Seller with sufficient securing of the debt in accordance with the GCT or if the Buyer fails to fulfil other obligations under these General Commercial Terms. Such actions by the Seller shall neither be regarded as contractual breaches by the Seller nor as the Seller's delay with the delivery of the Goods.
10. The Buyer is not authorised without the Seller's prior written consent to reassign any debts owed to the Buyer by the Seller based on a Purchase Agreement or which have arisen in connection with it to another entity and may not establish a lien for securing of the Buyer's debts or debts of third parties either, nor may the Buyer reassign a Purchase Agreement as such. The Buyer is also not authorised to set off the Contracting Parties' mutual receivables against each other unilaterally for the purpose of clearing. If the Buyer breaches any of these restrictions, the Buyer shall be required to pay a contractual penalty equal to 10% of the nominal value of such receivable reassigned, pledged or set off without authorisation. The provisions regarding the contractual penalty shall not affect the Seller's entitlement to compensation for damages arising as a result of such situation.
11. The Buyer also pledges to notify the Seller promptly in writing of any changes related to tax identification (VAT No.) and/or of any changes in registration for VAT (as a payer or non-payer). If the Buyer breaches this obligation, the Seller shall be entitled to require the Buyer to pay compensation for any damages arising for the Seller as a result of a breach of the Buyer's obligations related to payment of VAT or payment of sanctions or other fulfilment to the relevant tax administrator.

IV. Conditions for delivery of Goods

1. The Seller shall be considered in fulfilment of the obligation to hand the Goods over to the Buyer upon their delivery in accordance with the stipulations of the INCOTERMS delivery clause agreed upon in the Purchase Agreement. The risk of damage to the Goods shall transfer to the Buyer based on the wording of the agreed INCOTERMS delivery clause. Unless otherwise agreed upon in the Purchase Agreement, it shall be assumed that the INCOTERMS clause "from the plant" has been agreed upon - EXW.
2. The Seller shall deliver the goods by the deadline specified in the Purchase Agreement. The Seller is authorised to deliver the Goods even before the expiration of that deadline, if the parties have not excluded such possibility in the Purchase Agreement.
3. If it is agreed upon in the Purchase Agreement that the Seller shall also ensure the transport of the Goods, the Buyer shall be required to delivery to the Seller written instructions for the transport of the Goods to their destination, no later than 5 days after the Purchase Agreement has been entered into, unless otherwise agreed upon in the Purchase Agreement. The instructions shall include all relevant information necessary for the transport of the goods, particularly: identification of the recipient, the unloading location, the work period for retrieval of the shipment, the unloading code if used at the unloading location, etc. If the Seller does not receive the instructions by the agreed deadline or the instructions are incomplete or imprecise, the Seller shall be entitled to postpone sending of the Goods with becoming in breach of the Purchase Agreement as a result. The Seller shall also be entitled to require the Buyer to pay compensation for damages suffered by the Seller as a result of the Buyer's breach of the said obligation.
4. The Seller shall notify the Buyer of the sending of each shipment of Goods within 1 day after it has been sent in accordance with the agreed INCOTERMS delivery clause.
5. When the Goods are handed over to the Buyer from the Seller's warehouse, the Buyer shall be obliged to accept the Goods at the location and by the deadline specified in the Seller's written request for retrieval of the Goods. If the Buyer fails to do so, the Seller's obligation to hand the Goods over to the Buyer shall be considered properly fulfilled upon the expiration of the last day of the period allotted for retrieval of the goods. On that same date, the risk of damage to the goods shall transfer to the Buyer. Upon a delay with the retrieval of the Goods, the Buyer shall also lose entitlement stemming from liability for defects to the Goods, which cannot be prevented during the available method of their storage (such as atmospheric corrosion, dampening or contamination with chemical fertilisers, plastic granulate, etc.). In the event of a delay with retrieval of the Goods, the Buyer shall be required to pay the Seller a

- storage fee of 25 euro cents for each counted ton of goods and for each counted day of storage, not including VAT, and to compensate for any damages arising for the Seller as a result of such situation.
6. Unless otherwise agreed upon in the Purchase Agreement, the Seller shall also be entitled to carry out partial delivery of the Goods, which the Buyer is also required to accept.
 7. If the Buyer to whom the Goods are delivered is an entity registered for VAT in another EU member state, the sale of the Goods shall be subject to fulfilment of requirements set by law governing the Buyer's tax obligations in relation thereto. Delivery documents on the territory of an EU state include relevant transport documents (particularly CMR, CIM, B/L, etc.). If the handover of the Goods is carried out in accordance with an INCOTERMS delivery clause according to which the Seller has no obligation towards the Buyer to ensure cross-border transport of the Goods to the agreed destination, the Buyer shall be required to provide the Seller promptly with appropriate evidence of the export of the Goods to another state and/or to accept against confirmation a delivery document provided by the Seller proving the export of the Goods to another state.
 8. If the Buyer does not accept the Goods during the period and at the location agreed upon in the Purchase Agreement, the seller shall be entitled to withdraw from the Purchase Agreement, to sell the Goods to another interested party and to claim from the Buyer compensation for damages arising for the Seller as a result of such situation.
 9. The documents essential for the takeover and use of the Goods as well as any additional documentation related to the Goods in the extent agreed upon in the Purchase Agreement shall be handed to the Buyer by the Seller together with the Goods, unless otherwise agreed upon.
 10. Unless a special method of packaging the Goods is agreed upon in the Purchase Agreement, the Seller shall be required to package the Goods based on usual packaging practices for the particular type of delivered Goods, and the packaging must be suitable for the sending and transport of the Goods and for their storage and protection.
 11. The packaging for the Goods shall be considered non-returnable, and the Buyer shall become the owner of the packaging together with the acquisition of ownership to the Goods themselves. If the Goods are packaged in metal packaging, the weight of which for a delivery carried out based on a single Purchase Agreement exceeds 100 kg, or if a separate agreement is entered into regarding returnable packaging, the Seller shall remain the owner of such packaging, and for the duration of such packaging being available to the Buyer, the Buyer shall be liable for any damage that the Buyer causes to the packaging.
 12. The Buyer shall be entitled to cancel a Purchase Agreement that has already been entered into by paying a severance fee of:
 - a) 30% of the price of the ordered Goods (including VAT), if the Goods have not yet been produced,
 - b) 100% of the price of the ordered Goods (including VAT), if the production of the Goods has already been commenced.

In such case, the Purchase Agreement shall be cancelled as of the date when the Buyer's notification of exercise of the right to cancel the Agreement is delivered to the Seller and the agreed severance fee is paid to the Seller's account.

V. Ownership right

1. The Goods shall remain the Seller's property until the purchase price is paid in full, including VAT if the Buyer is required to pay it to the Seller ("reservation of an ownership right" is hereby agreed upon).
2. If the Buyer becomes delayed with the payment of the purchase price for the Goods, the Seller shall be entitled based on reservation of ownership right to demand that the Buyer immediately surrender the Goods, and the Seller may arrive at the place of their storage to seize them from the Buyer. In such situation, the Buyer shall be required to enable the Seller to take possession of the Goods and agrees to provide the Seller with all necessary cooperation for such purpose. The Buyer shall cover all costs related to the exercise of the reservation of the ownership right.
3. The Contracting Parties have agreed that in the event of a breach by the Buyer of the obligations specified in point 2 of this Article, the Buyer shall be required to pay a contractual

penalty equal to 10% of the value of the Goods that are not handed over to the Seller, who has exercised the reservation of the ownership right. The provisions regarding the contractual penalty shall not affect the Seller's entitlement to compensation for damages arising as a result of such situation.

VI. Force majeure

1. If during the contractual relationship any extraordinary, unforeseeable and impossible to overcome obstacles arise beyond the extent of the Contracting Parties' ability to prevent them, and such circumstances temporarily or permanently prevent either of the Contracting Parties from fulfilling obligations stemming from the Purchase Agreement, the parties shall notify each other of such obstacles promptly as well as of their anticipated duration and shall agree on further measures for addressing the situation. Such obstacles shall be understood by the parties as force majeure circumstances and shall include in particular labour strikes, war, similar forms of unrest, trade, monetary, political or other measures taken by authorities, natural disasters such as fires, floods, earthquakes, lightning strikes, Arctic freezing preventing or hampering the transport of goods, etc., as well as delays not caused by the Seller affecting deliveries of materials and components, traffic detours or delays, theft of Goods during transport, accidents involving production equipment or parts thereof and similar force majeure circumstances, including decisions or instructions from public authorities, which hamper or prevent fulfilment of contractual obligations. The Contracting Party on whose side any force majeure circumstances have arisen shall not be liable for non-fulfilment of contractual obligations or for delays resulting from such circumstances.
2. If an obstacle resulting from a force majeure situation lasts for a period of no more than 30 calendar days, the Contracting Parties shall be required to fulfil their contractual obligations as soon as the effects of force majeure have subsided, and during such time the delivery deadlines and all other deadlines shall be extended by the period of time during which the force majeure situation continues to last. If a force majeure obstacle lasts longer than 30 calendar days, either party hereto may withdraw from the Purchase Agreement.

VII. Rights stemming from defective fulfilment

1. The Seller is required to deliver the Goods in the agreed quantity, weight, quality and design, based on the specifications in the Purchase Agreement. A fulfilment defect will not be considered to exist and the Goods will be considered to have been properly delivered if the quantity, weight and quality of the Goods correspond to the acceptable tolerance deviation based on the Purchase Agreement, these GCT, valid standards and/or other applicable regulations.
2. The Buyer is required to examine the Goods and to become convinced of their characteristics and quantity promptly following their delivery. The Buyer agrees to inform the Seller promptly following acceptance of the Goods from the shipper about any damage or devaluation of the Goods during their transport and to record such complaints in a relevant shipping document.
3. If the subject of the Purchase Agreement is not "none-prime" Goods and unless otherwise stipulated in the Purchase Agreement, the Seller shall be deemed to have provided the Buyer with a warranty for quality, which shall last 6 months from the date of delivery.
4. If the subject of the Purchase Agreement is "non-prime" Goods (meaning goods from over-production and goods of 2nd and 3rd quality), the Buyer shall forfeit all rights stemming from defective fulfilment pursuant to Section 1916 paragraph 2 of the Civil Code for such Goods.
5. The Seller shall not be liable for defects in Goods resulting from wear caused by regular use or any manner of use which conflicts with the purpose of the Goods based on the Purchase Agreement or documentation related to the Goods.
6. Apparent defects in Goods which were discoverable during an inspection conducted at the time of delivery of the Goods must be reported to the Seller by the Buyer promptly following their discovery, but no later than within 7 days after their delivery. All other defects in the Goods must be reported to the Seller by the Buyer promptly after their discovery, but no later than by the end of the agreed warranty period.
7. Complaints regarding defects in the Goods must be submitted to the Seller in writing and must contain: identification details regarding the delivery to which the complaint pertains (the Purchase Agreement number, the delivery date, the delivery record or shipping document

- number, the invoice number), a description of the discovered defects and their further documentation (such as photographs). Quantity complaints must also be proved by proving documentation (a weight certificate) from an independent party. However, delivery of Goods with tolerance of \pm up to 10% of the quantity agreed upon in the Purchase Agreement shall be considered delivery of the agreed quantity.
8. The Buyer is required to ensure separate storage of Goods that are the subject of complaints, until the date when the complaint is dealt with. Any handling of such Good that would complicate or prevent the complaint process from being followed shall not be permitted without the Seller's prior written approval. If the Buyer breaches the specified obligations or does not allow the Seller access to the Goods that are the subject of the complaint, does not provide required samples of the complained about Goods or otherwise fails to provide the cooperation necessary for qualified evaluation of the complaint, such circumstances shall entitle the Seller to dismiss the complaint and shall invalidate the Buyer's claims related to defects in the delivered Goods.
 9. The Seller is required no later than within 21 days from the date of delivery of the complaint to notify the Buyer in writing of the Seller's stance regarding the submitted complaint. In the event of a legitimate complaint, the Seller shall provide the Buyer with a discount off of the purchase price or shall carry out new defect-free fulfilment under the originally agreed terms or shall eliminate the discovered defects in the Goods by a deadline agreed upon by the Contracting Parties. The Seller shall notify the Buyer of the means of resolving the complaint during disclosure of the Seller's stance regarding the submitted complaint.
 10. Submission by the Buyer of a complaint regarding defects in the Goods shall neither authorise the Buyer to suspend (or withhold) payment of the purchase price for the Goods nor authorise the Buyer to refuse to accept additional deliveries of Goods.
 11. The Buyer's entitlements related to defects in Good shall expire if the Buyer fails to notify the Seller of defects by the agreed deadlines and in the agreed manner.
 12. If the Buyer incurs damages as a result of any breach of the Seller's obligations under the Purchase Agreement (e.g. as a result of defective fulfilment), even without the existence of force majeure circumstances excluding the Seller's liability, the Seller shall be required only to compensate for actual provably arising property damage calculated by the Buyer, but not required to reimburse for lost profit, but up to a maximum of the amount corresponding to 100% of the price of the Goods agreed upon in the Purchase Agreement.

VIII. Final provisions

1. The parties hereto shall attempt initially to resolve any disputes arising in connection herewith through bilateral negotiations. However, should the parties hereto fail to resolve any such dispute amicably, it shall be decided with final validity by the relevant Arbitration Court at the Chamber of Commerce and Agrarian Chamber of the Czech Republic in Prague according to its Rules by three arbitrators appointed pursuant to those Rules. The parties hereby pledge to fulfil all obligations imposed on them in the arbitration ruling by the deadlines stated therein. The arbitration ruling delivered to both parties shall become an enforceable execution title.
2. The provisions regarding the arbitration clause according to point 1 of this Article of the GCT shall not apply if the Buyer is an entity with its registered seat on the territory of the Czech Republic. In such case, each such arising dispute shall be decided by a relevant court in accordance with Act No. 99/1963 Coll., the Code of Civil Court Procedure, as amended, and court jurisdiction shall be determined based on the location of the Seller's registered seat.
3. The Buyer has accepted the risk of a potential change of circumstances following the signing of the Purchase Agreement and therefore is not entitled to enforce any of the rights specified in the provisions of Section 1765 paragraphs 1 and 2 of the Civil Code.
4. These General Commercial Terms shall take effect as of 18 August 2014.