

General Conditions and Terms for Supplies of Material and Goods for the Sokolovská uhelná Group

The acceptance of the individual terms defined under an “order – draft contract” at once implies the acceptance of the present General Conditions and Terms for the Supplies of Material and Goods (hereinafter referred to as the “GCTs”) of the Sokolovská uhelná group (hereinafter referred to as “SU”). The present GCTs constitute a body of conditions and terms as defined under Act No. 89/2012 Coll., Civil Code, as amended.

The present GCTs underlie the legal relationship established between SU as a client for material, goods and related services (hereinafter referred to as “supplies”) and the supplier thereof, regardless of the specific type of a contractual arrangement (hereinafter referred to as “contract”) entered into between them, unless the written contract specifies otherwise through its individual conditions and terms of supplies (“ICTs”). The ICTs shall take preference over the present GCTs in the event of any discrepancy.

The present GCTs shall take precedence over the supplier’s general conditions and terms in the event of any discrepancy.

1. ORDER/CONTRACT

A contract (hereinafter also referred to as “order/contract”) must at all times be furnished in writing, namely in the form of a written “order – draft contract”, duly signed by SU, or in the form of a written arrangement between SU and the supplier, which is expressly designated as a “contract”.

No modifications introduced by the supplier in the original order/contract sent back to SU shall be binding upon SU unless confirmed in writing by an SU representative.

The parties represent and warrant that the data provided in the heading of the contract as well as in the business licences is legally and factually correct at the time of the formation of a purchase contract. Each party undertakes to notify the other party of any changes in the data without undue delay.

The parties declare that the persons signing this contract are authorised to do so.

Each order/contract must contain the agreed price or the method of its determination. Without this information, any order/contract shall be deemed void. The price must be stated exclusive of VAT, which will be added in accordance with the relevant provisions of the Value Added Tax Act as in force at the time of the taxable supply.

2. DATES AND PLACE OF PERFORMANCE

The delivery date is binding. The supplier is obliged to notify SU of any circumstances that may result in delayed delivery.

SU may decide whether it will agree to a new delivery date and determine under what conditions, or terminate the order/contract, either in full or in part. In such a case, the supplier is responsible for protecting the delivery up to the date of actual delivery or settlement.

The delivery term shall be extended by the duration of any force majeure event precluding the delivery (see point 14 of the present GCTs).

The contractual obligation shall be deemed complied with once the supply is transmitted at the place determined in the order/contract.

Where the supplier and SU have agreed in an order/contract that the delivery shall take place by mail consignment, the supply shall be deemed completed once it is transmitted to an SU representative unless the ICTs specify otherwise.

The supplier shall not be deemed late with the supply if SU fails to comply with their contractual obligations agreed under the order/contract; in such a case, the delivery term shall be prolonged accordingly.

3. PAYMENTS AND INVOICING

Unless otherwise agreed under the ICTs, SU shall make any payments by wire transfer, within 60 days of the date of issue, by the supplier, of the relevant tax document/invoice (hereinafter referred to as “invoices”). Therefore, the due date falls on the 60th day after the date of the invoice, with the date of payment being the day on which the funds are debited to SU’s account in order to be credited to the supplier's account. That day must be stated in the invoice. If the day falls on a bank holiday, the due date shall be shifted to the nearest following day that is not a bank holiday.

The type of payment field shall show SHA and/or BEN.

With SHA-type payments, SU bears the fees as charged by the transaction bank, while the supplier as the payee pays the fees charged by their own bank or by the intermediary banks, where relevant. The intermediary banks shall charge transfer fees on the amount sent, so the amount eventually credited to the supplier’s account will be reduced by the fees charged.

For BEN-type payments, the supplier as the payee bears all fees; SU bears no fees. Intermediary banks shall charge transfer fees on the amount sent, so the amount credited to the supplier’s account will be reduced by the fees charged.

These payment terms are reflected in the supplier’s price for the delivery.

The supplier shall deliver the invoices in paper format to:
Sokolovská uhelná, právní nástupce, a. s., sekce Účetnictví, Staré náměstí 69, 356 01 Sokolov.

If the supplier wishes to send the invoices by email, the following rules must be adhered to:

- 1) The invoices must be sent to a mutually agreed email address
- 2) The invoices, including any attachments, must be in the PDF format.
- 3) The invoices must be sent as individual files (1 file = 1 invoice + attachments); a single email may contain multiple files. The invoices and their attachments may therefore not be sent separately.

Unless the supplier is able to adhere to the above rules, the invoice with attachments must be sent in paper.

In addition to the specified essentials, each invoice must contain the order number/contract number and be accompanied by all necessary documents and documents or cover letters, as specified under point 11 of the present GCTs. Unless the invoice meets all these essentials, it will not be accepted by SU and will be sent back to the supplier. The invoices must be issued in accordance with the generally binding legal regulations (i.e., in particular the Accounting Act, the Commercial Code and the Value Added Tax Act).

If, through a fault of the supplier, who issues a wrong tax document, SU sustains any loss (e.g., as a result of not being able to claim a VAT deduction), the supplier is obliged to compensate SU for the loss.

SU may offset any receivables due against the supplier.

4. TECHNICAL INSPECTIONS

SU (or any independent organisation hired by SU) may monitor the work on any supply within the supplier's production premises or at the delivery assembly site, in order to ensure that the conditions agreed in the order/contract and in the documentation related to the execution of the order/contract are met in their entirety.

5. DISPATCH/DELIVERY

The supplier is obliged to communicate the date and method of transmission of the supply to SU's responsible employee, in the agreed manner, at least 3 days in advance. The supplier may not provide component supplies or complete the delivery before the agreed delivery date unless they have so agreed with SU's responsible employee.

For each component delivery, the supplier shall attach a regular delivery note or delivery protocol or other document (hereinafter referred to as the "document"), which contains in particular: supplier's and customer's names, name of the delivery, order/contract number and place of delivery. For material deliveries, the document shall in addition contain the packaging No., equipment dimensions in cm, transport weight in kg, storage and handling method and instructions for use. The document must be dated and confirmed by both parties, i.e., it must include the name, position and signature of the representatives of SU and the supplier.

Where SU does not require special packaging for the delivery, the supplier is required to provide packaging that is customary and suitable for shipment according to the type of supply concerned, to avoid damage during transport.

Unless agreed otherwise in the order/contract, the DDP INCOTERMS 2010 term applies to the supplies.

Where a specific delivery term according to INCOTERMS, as in force at the time of the contract, has been agreed under the order/contract, the risk of loss and damage is transferred in accordance with the agreed delivery term.

6. WARRANTY PERIOD, DEFECTS IN THE SUPPLIES, COMPLAINTS AND DEFECT LIABILITY CLAIMS

The warranty period must meet the minimum warranty period defined by law, corresponding to the type of delivery concerned. Unless stipulated otherwise under the ICTs, the warranty period is 24 months, commencing on the date of delivery. During this period, the contractor shall, at their own expense and within the shortest possible time, conduct any replacements, modifications or repairs necessary so that the supply complies with the terms of the order/contract. In the event any modification or repair is necessary, the warranty period is extended by the amount of time, during which the delivery could not be used. If the supply must be replaced, whether in its entirety or in part, the warranty period shall start anew, either in relation to the entire supply or to the replaced part thereof only.

If the two parties so agree, the supplier may provide a discount on the supply concerned.

The supplier is responsible for ensuring that the supply is free from any legal defects, i.e. in particular that it is

not encumbered by third party rights or industrial or other intellectual property rights of parties other than the supplier, or by any rights the supplier is not entitled to exercise.

The delivery is defective if it does not meet the quantity, design and quality requirements specified under the order/contract. The supplier is responsible for any defects in the supply existing at the time of the delivery, even if such defects only become apparent after the delivery. The supplier is also liable for defects in the goods or services that occur during the warranty period.

SU's defect liability claims (complaints) must be applied with the supplier through a written notice, without undue delay after they have been identified by SU. Any apparent defects in the supplies at the time of the delivery must be applied by SU with the supplier within 30 days of the receipt of the supplies. When applying a defect, SU shall include in the dedicated complaint report a description of the defect, the circumstances accompanying its occurrence, the place of handover of the supply for the complaint procedure and the requested mechanism of removing the defect, including the time limit for the removal. The supplier undertakes to respond to any complaint without undue delay, by informing SU, within 24 hours of receiving SU's complaint, of the method, in which the complaint will be addressed, and at the same time undertakes to draw up and send to SU a written report detailing the causes that led the occurrence of the defect, including the corrective action applied and the deadline for the removal of the defect.

If the place of the handover of the claimed supplies to the supplier is the site of SU, unless the parties agree otherwise, the supplier shall take the supplies over to remove the defect at their own expense (transport, packaging, etc.). SU and the supplier shall draw up a report on the handover and takeover of the claimed supplies. SU shall provide the supplier with any cooperation required to establish the causes of the defect and its removal.

The supplier is obliged to remove the defect at no charge, at their own expense, and start removing the defect with no undue delay after it is claimed by SU.

If the supplier is able remove the defect by repairing or replacing the subject of the supply with new and defect-free items within 15 days of SU's claim, SU is obliged to accept the method of settling the complaint proposed by the supplier; otherwise SU has a unilateral right of choice as regards the settlement of any defect claim as stipulated by the Commercial Code, and the supplier must agree to the settlement mechanism proposed by SU.

If multiple defects occur during the warranty period (at least 3) or if the same defect repeatedly (at least twice) occurs with regard to a particular supply, SU may withdraw from the order/contract.

Unless the supplier initiates the removal of a claimed defect within the agreed time limit, SU may have the defect removed at the supplier's cost, which shall be reimbursed by the supplier within 30 days.

7. SUBCONTRACTS

Unless they obtain SU's prior consent, the supplier may not subcontract the order/contract or a major part thereof to any third party. To this end, the supplier is required to transmit to SU the trade names of their major subcontractors. SU reserves the right to withhold the approval of certain subcontractors.

8. CONFIDENTIALITY

The supplier shall maintain the confidentiality of all data and information contained in any order/contract and refrain from disclosing such data or information to any third party without SU's prior written consent. The supplier may only use such data and information for the purposes specified in the order/contract. Without SU's prior written consent, the supplier must not quote an order/contract for the purpose of recommending or promoting their own services. This also applies to any other documentation related to the supply (e.g. photographs, video recordings, etc.).

9. INSURANCE

The supplier shall take out and maintain in force all necessary policies in order to obtain coverage, at an appropriate amount, of their liability with regard to any hazards that may arise during the performance of an order/contract, or their liability under law or with regard to any contractual obligations under an order/contract

If the supply requires the supplier's activity within SU's premises, the supplier is required to submit a copy of a third party liability insurance policy taken out by the supplier, before commencing their activity. In the case of a request for entry permit for vehicles of the supplier or any third parties negotiated by the supplier (carriers) into the campus of SU a.s., the supplier/carrier shall submit a copy of a motor liability insurance at the minimum amount of CZK 100/100 million (damage to property/health damage) and pay the appropriate entry permit fee.

10. OWNERSHIP RIGHT, RISK OF DAMAGE

With regard to intellectual property rights, the supplier provides assurances that the rights of third parties will be

respected and will not be infringed upon in the course of the order/contract or during the subsequent use of the supplies included in the order/contract. The supplier undertakes to hold SU harmless from any third party legal claims brought against SU. Unless stipulated otherwise under the ICTs, the supplier grants SU all proprietary rights to the knowledge, information, inventions and results generated during, or resulting out of the performance of any order/contract.

Unless stipulated otherwise under the ICTs, all documents, software, special tools, models etc. prepared by the supplier or on their behalf in accordance with the order/contract shall become SU's property if they are included in the price for the order/contract.

For goods supplies, SU shall acquire the ownership right to the goods once the latter are delivered, or once SU acquires the right to handle the goods, which at once marks the point at which the risk of damage passes to SU, unless otherwise agreed in the ICTs.

11. DOCUMENTATION TRANSMITTED BY THE SUPPLIER

Within the meaning of this article, documentation denotes:

- accompanying documentation: delivery protocol, certificate of quality and completeness for the products, declaration of conformity within the meaning of Act No. 22/1997 Coll., laying down technical requirements for products and amending and supplementing certain acts, test reports relating to inspections and tests completed and detailing the results of the tests, documents on the materials used and related certificates, inspection books and passports, installation and maintenance instructions for equipment and operating instructions.
- Design documentation and drawings: design documentation and manufacturing documentation, calculations for critical parts, bills of materials.

The documentation that forms part of the supply is specified in the respective order/contract.

12. WITHDRAWAL

SU has the right to terminate an order/contract, unilaterally and without compensation, in the event of a substantial breach of the obligations specified under the order/contract by the supplier, in the event of the supplier's bankruptcy or liquidation, or in the event of a substantial change in the characteristics of the supplier as an entity.

SU has the right to terminate an order/contract as required, subject to compensations agreed with the supplier. The maximum amount of compensation equals the reasonable expenses incurred; the supplier shall not be compensated for lost profit or for any costs that do not constitute expenses. The supplier is required to provide trustworthy proof for all expenses incurred, and SU must receive the object the expenses relate to against the calculated compensation unless otherwise agreed under the compensation arrangement. The supplier must be notified of the withdrawal from any order/contract at least 7 days in advance.

Failure to comply with the delivery date, with the subject of performance defined in the specifications, with the required quality standard or the contract price constitutes a material breach of this purchase contract and—unless the buyer and the seller agree otherwise—may be grounds for immediate withdrawal, by the buyer, from the contract, with no compensation of the loss incurred by the seller.

13. SUPPLIER'S DEFAULT

If the supplier fails to comply with their obligations in executing an order/contract or those under the agreed warranty terms, SU—after their call for redress sent by registered mail with acknowledgement of receipt has remained unanswered—has the right to handle the supply, or allow a third party to handle the supply, or make repairs or adjustments to the supply, at the expense and at the risk of the supplier; this shall be without prejudice to the responsibilities and guarantees assumed by the supplier.

14. FORCE MAJEURE

Both SU and the supplier have the right to suspend their obligations under an order/contract for as long as an event excluding liability (hereinafter referred to as "**Force Majeure**") continues to apply. Force Majeure denotes an impediment that has occurred independently of the will of the obligated party, preventing the party from fulfilling its obligations to the extent that it cannot reasonably be assumed that the obligated party would avert or overcome the impediment or its consequences and that it could anticipate the impediment at the time of the contract.

Force Majeure event primarily denotes: strike, epidemics, fire, natural disaster, mobilisation, war, insurrection, seizure of goods by state administration bodies, embargo, ban on transfer of foreign currency, involuntary regulation of electricity consumption, terrorist attack, decision or instruction by a state authority, which prevent the fulfilment of the contractual obligations, etc.

Force Majeure excludes the claim to a contractual fine against the party affected by Force Majeure.

The party invoking Force Majeure must notify the other party in writing without delay and take any action to mitigate the consequences of the default on the contractual obligation concerned and discuss further action with the other party.

If a Force Majeure event lasts for more than 20 days, both parties may withdraw from the contract.

15. APPLICABLE LAW, DISPUTE RESOLUTION

Unless stipulated otherwise under the present GCTs, the orders/contracts shall be governed by Czech laws.

Any issues not regulated under the present GCTs shall be governed by the relevant provisions of the Civil Code.

Unless an amicable settlement of a dispute is reached between SU and the supplier, the dispute shall be resolved in the court having local jurisdiction within the territory of SU's registered office.

16. GUARANTEE FOR THE SELLER'S TAX PAYMENT, SELLER'S OBLIGATIONS RELATED TO VAT

An order/contract shall include the supplier's representations and warranties made to SU to the effect that:

- (a) the supplier duly fulfils their obligations vis-a-vis the state administration in a timely fashion, especially that the supplier duly pays the Value Added Tax in a timely fashion and submits their VAT returns in a timely and transparent manner; and
- (b) the supplier is not in an economic situation which would put into risk their ability to duly comply with their trade obligations or their obligations vis-a-vis the state administration in a timely fashion, including their tax obligations; and that in view of their financial, economic and commercial situation, there is no imminent threat of such a situation occurring where the supplier could lose their ability to properly meet their trade obligations or their obligations vis-a-vis the state administration; and
- (c) no insolvency proceedings have been brought against the supplier and there is no threat of such proceedings being brought against them, since the supplier is not in a situation that could be qualified as bankruptcy as defined by the law, and neither is such situation likely to arise with regard to the supplier; and
- (d) the supplier has never been involved in, and there is no risk of them ever in the future becoming involved in a tax evasion scheme, and there is no risk of the supplier themselves curtailing their tax obligation; further, the supplier has never participated in an effort to elicit an undue tax advantage and they will never proceed in a way that could be qualified at any time in the future as eliciting an undue tax advantage; etc.
- (e) the supplier shall make sure that all their representations and warranties made to SU remain valid and effective, true and complete throughout the term of the contractual relationship.

On request, the supplier shall provide SU with a confirmation from the tax administrator to the effect that the supplier does not have any overdue tax obligations.

The supplier shall, without undue delay, and in any event within no more than 3 (three) business days after they became aware thereof (or after they could become aware thereof had they exercised proper care) inform SU in a demonstrable manner in writing of any changes in the circumstances described under (a) to (e), including a detailed specification of the changes, where applicable with supporting documents in the form of related commercial documents, decisions by public authorities or court decisions.

The supplier understands that if, during the performance of an order/contract, a change occurs on the part of the supplier that will be notified; and/or a change will occur that will not be notified but SU will be able to demonstrate that it has occurred, etc., SU shall have the right to withdraw from the contract (either in its entirety, or with regard to any component supply) and/or suspend collecting supplies from the supplier until the situation is redressed or until SU is provided with reasonable assurances it will be held harmless from the impending regressive claim.

In the context of Section 109 of Act No. 235/2004 Coll. of the VAT Act, as in force since 1 January 2014, the supplier:

- is obliged—where the total amount to be paid for a supply transaction exceeds the amount set by law—to provide in the tax documents or other documents (e.g. orders, contracts) relating to the transaction in question their account published by the tax administrator in the register of payers; at the same time, the supplier provides SU with guarantees with regard to any loss resulting from their indicating in their tax documents or other documents (e.g. orders, contracts) relating to the supply an account that is not published by the tax administrator in the payer's register, and undertakes to reimburse SU for any damage thus incurred
- is obliged to promptly inform SU of any change in their account published by the tax administrator; if they fail to do so and, as a consequence, the tax administrator claims any unpaid tax from SU as a guarantor, the loss thus incurred by SU (i.e., the tax paid by SU as a guarantor) shall be recovered from the supplier
- agrees that if, despite the supplier's assurances, SU establishes, before making a payment, the amount of which exceeds the amount set by law, that the account provided by the supplier is not the one published by the tax

administrator, the payment for the supply shall be made to the account the tax administrator has published in the payer's register

- agrees that if, after the payment has been effected, it is established that the account communicated by the supplier to SU for the purpose of the payment was not the one published by the tax administrator in the register of payers at the time of the payment, and the tax administrator claims a payment from SU as a guarantor, the loss thus incurred by SU (i.e., the tax paid by SU as a guarantor) shall be recovered from the supplier

- agrees that if, after the payment has been effected, it is established that on the date of the taxable supply, the supplier was labelled as an unreliable taxpayer by the tax administrator, and, as a guarantor, SU is required by the tax administrator to pay the outstanding tax, the loss thus incurred by SU (i.e., the tax paid by SU as a guarantor) shall be recovered from the supplier.

- must not assign any receivables resulting from the business relationship without SU's written consent

understands that in the case of factor transactions/assignment and administration of receivables by a third party, if the amount of any specific receivable exceeds the amount set by law, the supplier is obliged to ensure and, if necessary, prove that the typical features of this contractual relationship apply, in particular:

- the receivable has been assigned under a written agreement on the assignment of receivables to a factoring company with which, as a rule, the supplier operates a long-term agreement to secure the financing and administration of receivables, which implies the obligation to offer to the factoring company (all) receivables arising from their taxable transactions with the client (supply of goods/services) of SU,
- at the time of the assignments, the receivables were before maturity,
- the price has been set at the nominal value of the receivables assigned (possibly reduced by a discount),
- the assignment has been promptly communicated to SU in a proper manner,
- under the assignment, the client has the option—providing other conditions are met—to obtain pre-financing for the assigned receivables before maturity from the factoring company, at a reasonable amount determined by the agreement,
- once SU's payment is received at the factor's account, the transaction is settled with regard to the supplier with the payment of the receivable at up to its nominal amount (possibly reduced by any discount), or with the additional payment for pre-financing from the factor to the account of the supplier (i.e., the original provider of the taxable supply), which has been published by the tax administrator

- agrees that if it is established after the payment that any of the aforementioned conditions was not met with regard to the factoring/assignment/indirect payment, and that, as a guarantor, SU is required by the tax administrator to make a payment, the loss thus incurred by SU (i.e., the tax paid by SU as a guarantor) shall be recovered from the supplier.

17. FINES

In its contracts SU introduces reasonable sanctions against suppliers, which apply if the supplier fails to comply with the terms of an order/contract, in order to motivate the suppliers through such sanctions to comply with the agreed terms.

The following sanctions apply unless stipulated otherwise by the contract:

- (a) if the supplier illegitimately withdraws from an order they have accepted, the supplier shall pay the following contractual fine to SU:
 - a. contractual fine equivalent to 50% of the value of the goods where the supplier withdraws from an accepted order at a point where more than 50% has lapsed of the period between the issue of the order and the delivery date
 - b. contractual fine equivalent to 75 % of the value of the goods where the supplier withdraws from an accepted order at a point where more than 50% has lapsed of the period between the issue of the order and the delivery
 - c. contractual fine equivalent to 100 % of the value of the goods where the supplier withdraws from an accepted order at a point where more than 75% has lapsed of the period between the issue of the order and the delivery date, or if the delivery term has already expired

For the purposes of paragraph 17(a), "period" denotes the number calendar days between the ordering day / day of the contract

and the agreed delivery date (supply of material/goods).

- (b) in the event the supplier is late with the delivery of a supply in accordance with an accepted order, the supplier shall pay a contractual fine equivalent to 0.5% of the price of the goods for each day of the delay over the delivery date confirmed by the supplier. If SU sustains any demonstrable loss in connection with the late delivery, the supplier shall also be obliged to pay damages to SU.

18. CODE OF CONDUCT

For the Sokolovská uhelná group, this Code of Conduct constitutes a moral obligation guiding the behaviour and the actions of all employees towards the company, state administration authorities, business partners, co-workers and the public. The company views its good reputation and trust as a priority task.

19. RELATIONS WITH SUPPLIERS

Suppliers are selected in accordance with internal management acts of the company relevant to this area and in accordance with competition rules (as defined by the Public Procurement Act, as amended).

The company considers corrupt practices of any kind to be inadmissible; it respects all contractual arrangements, adheres to payment discipline and regards all information on relations with its suppliers as confidential. The company does not abuse its market position and only uses legitimate business channels in its activities.

The present GCTs have been in force since 1 July 2017