

## ARTICLE I DEFINITIONS

- a) **Seller** - shall mean ABO Valve s.r.o., ID No. 49609050, with its seat at Dalimilova 285/54, Chomoutov, 783 35 Olomouc, Czech Republic, registered at the Commercial Register kept by the Regional Court in Ostrava under file No. C 10719, its subsidiaries, branches and divisions.
- b) **Products** - shall mean any equipment, parts, materials and work specified in the Seller's offer.
- c) **Buyer** - shall mean the party who enters a contract with the Seller for the Products.
- d) **Conditions** - shall mean the terms set out herein and any special terms attached to these terms which are agreed by both parties.
- e) **Contract** - shall mean the written agreement between the Seller and the Buyer for the supply of Products in consideration of the price (hereinafter the "**Contract Price**"). If there is no written agreement, then the Contract shall mean Order Confirmation as is specified below in Art. II (b) including all documents to which the Order Confirmation refers.
- f) Where reference is made to abbreviations described by the Incoterms standard, the parties agree to interpret those as per Incoterms 2010.

## ARTICLE II ORDER

- a) The Seller's offer shall be open for acceptance by the Buyer for thirty days from the date of issuance, unless stated otherwise.
- b) Any order placed by the Buyer against the Seller's offer will not constitute a Contract until accepted in writing by the Seller (hereinafter the "**Order Confirmation**"). By placing the order based on an offer, the Buyer accepts these Conditions.
- c) Any dates quoted for delivery of the Products shall be treated as an estimate only and shall not give rise to any Seller's liability for failure to deliver or complete the Products within such time.
- d) These Conditions are deemed to be an integral part of the Contract and together with the Contract form the entire agreement between the Seller and the Buyer. No other document, correspondence or statement shall be part of the Contract unless specifically referred to in the Contract. Any drawings, datasheets, performance specifications or other figures included in the Seller's offer are indicative only.
- e) The Seller may deviate from the provided drawings, datasheets, specifications or other figures included

in the Seller's offer, if the result guarantees the same or better functionality of the Products affected by such deviation.

- f) In case of any discrepancies between these Conditions and any Buyer's terms, these Conditions shall take precedence.
- g) In the event that the Buyer submits the Order and the Contract is not subsequently concluded due to reasons attributable to the Buyer (including, but not limited to, cancellation of the Order, whether permitted or not), the Buyer shall be liable to the Seller and held the Seller indemnified for all reasonable administrative, material, and other costs already incurred by the Seller in connection with the Order, based on the principles of pre-contractual liability.

## ARTICLE III PRICE

- a) The Contract Price is based on basic catalogue models plus adjustments required by the Buyer as they are specified in the offer. Any further adjustments not included in the offer are not included in the price.
- b) All prices are in Euros with delivery term as specified in Art. (V) (d) (hereinafter the "**Delivery Point**"), and exclusive of VAT or other applicable taxes and fees, unless stated otherwise in the Contract.
- c) Unless agreed otherwise, transport, freight, insurance, customs and other dispatch expenses are not included in the Contract Price and are the expense of the Buyer.
- d) The Seller provides only standard packaging for pallet shipping. If the Buyer requests other packaging, it shall notify the Seller of its requirements in writing within one week since the Order Confirmation. The Buyer shall bear all costs of other than standard packaging.
- e) Certificate EN10204 - 2.2 is included in the Contract Price where applicable. Other certificates are on request at additional charges.
- f) The Seller is entitled to unilaterally change, to the fullest extent allowed by the applicable law, prices, discounts and other contractual terms after the Order Confirmation if:
  - 1) the Buyer requests additional changes (including change of amount ordered) after the Order Confirmation is issued.
  - 2) the documents and information provided by the Buyer are incomplete or do not correspond to the actual conditions.
  - 3) the underlying conditions for the pricing (e.g. price of material) significantly change between

time of the offer and agreed date of performance.

- g) The Seller is not obliged to perform any additional changes of the Products requested by the Buyer before the execution of the relevant amendment to the Contract.  
Depending on the state of performance of the Contract, the Seller may, at its own discretion, upon Buyer's request for additional changes suspend the performance of the Contract until parties agree on further procedure. This procedure shall apply to all changes requested by the Buyer which affect agreed contractual terms, especially price, payment terms and delivery dates and places.
- h) Any additional expenses incurred by the Seller such as special drawings, special modifications, special tagging, special packing, cost of storing due to Buyer's delay as well as any other expenses shall be charged to the Buyer and shall be payable upon delivery of invoice within the due date stated on the invoice.

## ARTICLE IV PAYMENT TERMS

- a) The Buyer agrees to pay the Contract Price specified in the Contract at the due date to the Seller's bank account stated in the Contract or on the original invoice. Failure to pay at the due date, in the form and in the amount specified on the Seller's invoice or Contract constitutes substantial breach of the Contract.
- b) Any change of payment terms must be agreed in writing before the maturity of the invoice.
- c) Any request to pay to a different bank account must be submitted in writing and verified with a phone call to the other party.
- d) Deliveries or shipments of the Products to the Buyer are always subject to the approval of the Seller. If Buyer's financial condition changes between date of offer issuance and estimated date of delivery, the Seller may decline to make shipments or deliveries hereunder except upon receipt of payment or satisfactory security.
- e) If payment of any sum due to the Seller is delayed by the Buyer beyond its due date or if the Buyer is in default with issuance of the letter of credit, the Seller may without prejudice to any other rights:
  - 1) suspend any further deliveries to the Buyer until full payment is received, and/or
  - 2) charge the Buyer interest on due amount of 0.05 % per each day of default.
  - 3) The Buyer shall also reimburse the Seller for all costs incurred in collecting any late payments, including, but without limitation, attorney fees and court costs.

- f) The Buyer shall not set-off any of its claims towards any amount due to the Seller. If the Buyer breaches this obligation, the Seller shall be entitled to the contractual penalty in the amount of 20 % of the offset amount. Payment of this penalty does not relieve the Buyer from its obligations not to perform set off.
- g) If the parties agreed on payment via letter of credit, then the Buyer agrees to submit a draft letter of credit to the Seller for prior approval. The letter of credit must be confirmed by a reputable bank approved by the Seller in advance. If the Buyer fails to submit the draft letter of credit to the Seller for approval or
- issues the letter of credit without the Seller's prior approval, the Seller may suspend the performance as provided for in Art. VIII below.
- h) Other conditions applicable to the letter of credit shall be agreed by the parties in the Contract.

## ARTICLE V DELIVERY

- a) The Seller will endeavour to deliver the Products to the Buyer on the date estimated in the Order Confirmation. The actual delivery date may be influenced by the availability of components, public holidays, factory closures, force majeure events and other factors. The Seller will keep the Buyer reasonably informed about any changes in delivery date estimate.
- b) If delay in delivery or completion is caused by the Buyer or his subcontractors or by force majeure or lack of the Buyer's instructions including any tests or inspection beyond those specified in the Contract, then the time for delivery or completion shall be extended for a period corresponding to such delay.
- c) Where binding delivery dates are explicitly confirmed by the Seller, then if the Seller is more than fifteen business days late with delivery of the Products in accordance with the Order Confirmation, the Buyer shall be entitled to liquidated damages at the rate of 0.5% of the Contract Price of the item delayed for each full week of delay up to a maximum of 5% of the Contract Price of the item delayed. These liquidated damages are accepted by the Buyer as the sole compensation for the Seller's failure to deliver on time. Payment of such damages shall not relieve the Seller from obligations to complete delivery of the Products.
- d) Unless otherwise agreed in writing by the Seller and the Buyer, the Delivery Point is the Seller's factory in Olomouc, the Czech Republic, at FCA condition. If, based on the Buyer's request, the transport of the Product is ordered by the Seller, the conditions of the delivery, responsibility and liability according to

- the FCA do apply, i.e. the Seller is not liable for damages and deficiencies caused during the transport
- e) Partial as well as early shipments are possible.
- f) Products will be supplied with documentation as specified in the Contract.
- g) The Seller will notify the Buyer in writing when the Products are available for collection at the Delivery Point. After receiving such notification, the Buyer is expected to arrange collection within one week from receipt of such notice and inform the Seller on operational details.
- h) If for any reason the Buyer fails to collect the Products within the period stipulated in Art. V (g) above, then on the last day of this period:
- 1) risk of loss to the Products shall pass to the Buyer,
  - 2) the Products shall be deemed to have been properly delivered and accepted by the Buyer without any reservations and
  - 3) the Seller, at its sole discretion, may store the Products until the Buyer picks them up, whereupon the Buyer shall be liable for all related costs and expenses (including, but not limited to, storage and insurance) at a minimum rate of EUR 100 per day,
- i) Where delivery terms place the obligation on the Buyer to arrange transportation, the Buyer must confirm in writing to the Seller the destination country of the transport including the exact address.
- j) Seller does not ensure shipments beyond the contractual Delivery Point and, therefore, all claims of lost or damaged Products in transit beyond Delivery Point must be filed directly with the transportation company.
- k) Any failure of the Buyer to provide appropriate instructions, documents, licenses and/or authorizations necessary for delivery of the Products shall be treated as a failure of the Buyer to accept delivery of the Products. Any orders uncollected by the Buyer for more than sixty days from the estimated date of delivery may be treated as cancelled and the Products deemed returned.
- l) If the Seller is unable due to any cause beyond his reasonable control, e.g. force majeure event, to dispatch or ship the Products, the Seller may arrange on the Buyer's behalf storage of the Products. Upon Seller's notification that the Products are in the storage, the risk of loss for the Products shall pass to the Buyer and any payments due on delivery of the Products shall be paid as if the Products had been delivered to the place stipulated in the Contract. The cost of storage and insurance shall be borne by the Buyer.

- m) Following delivery of the Products in accordance with the Contract and unless expressly notified by the Buyer to the Seller in writing within five days from the delivery of the Products, the Products shall be deemed as accepted by the Buyer without any reservations.
- n) Upon acceptance of the Products the Buyer shall be responsible for the storage, operation and maintenance of the Products in accordance with manufacturer's instructions and with hindsight to the nature of the Product and the environment in which it operates, except for defects or deficiencies which are covered by the Warranty as specified in Art. IX.
- o) Returns of transportation packaging and other packaging are not accepted by Seller. The Buyer is obliged to dispose of packaging at its own expense.
- p) The Buyer agrees to indemnify, defend and hold harmless the Seller for all claims, losses, damages or expenses, including reasonable attorney's fees, arising out of any misrepresentation by or on behalf of the Buyer or any violation by the Seller (including any subsequent buyers or transferees and/or any of their agents, brokers, forwarders or representatives) of any import or export laws or regulations, including without limitation to those of the EU, US, Japan, Canada and the UK.

## ARTICLE VI TESTING

- a) Products manufactured by the Seller will be subject to the Seller's standard tests in accordance with the applicable standards.
- b) Any additional testing or inspection requested by the Buyer must be agreed in the Contract in advance with the Buyer bearing all the costs.
- c) If the Parties agree in writing that Buyer will attend performance of a test, then the Buyer will be given notice in writing at least seven days before the test date.
- d) If the Parties agree in writing that the Buyer will inspect manufacturing of the Products, then the Buyer shall send notice to the Seller at least seven days before intended start of inspection. In the notice, the Buyer shall state duration of the inspection, number of attendees and all other necessary information. The Seller reserves the right to limit number of attendees due to safety and capacity reasons.
- e) If the Buyer's representative fails to attend an agreed test or inspection, then it shall be deemed as if the Buyer's representative attended the test or inspection and raised no objections. The Buyer itself shall be solely liable for the costs of its representative's visit.

- f) Where an inspection by the Buyer has taken place, the Seller shall not be liable for claims of any defect in the Products that were apparent during the inspection and were not disputed by Buyer at the time of inspection.

## ARTICLE VII

### TITLE

- a) Title to the Products included in the Contract shall pass to the Buyer once the Seller has received the whole Contract Price minus the retention money, if applicable.
- b) Where the Seller retains title to the Products, the Buyer is not allowed to sell such Products further, neither shall the Buyer allow establishment of any rights of third parties to such Products. Further, the Buyer is not allowed to remove or obliterate any nameplates or other identifying symbols which the Seller may have affixed to any part of the Products.
- c) If the Buyer breaches any of the obligations stipulated in Art. (VII) (b), the Seller shall be entitled to the contractual penalty in the amount of 20 % of the price of the Products affected by such breach. Payment of this penalty does not relieve the Buyer from its obligations.
- d) Where the Seller retains title and the Products are combined with other products not supplied by the Seller, the Seller shall become co-owner of the newly created asset.
- e) Where the Seller retains title to the Products, the Products shall be insured at full replacement value by the Buyer starting from collection or delivery and including storage, erection and commissioning. Evidence of such insurance shall be made available to the Seller upon request. If the Buyer fails to ensure the Products as provided in this Art. (VII) (e), then the Seller shall be entitled to the contractual penalty in the amount of 20 % of the price of the Products affected by such breach. Payment of this penalty does not relieve the Buyer from its obligations to insure the Products.
- f) If the Buyer fails to pay the Contract Price to the Seller in accordance with the Contract for any Products delivered to or collected by the Buyer, the Buyer accepts the Seller's right to enter the Buyer's premises to take possession of such Products.

## ARTICLE VIII

### TERMINATION AND SUSPENSION

- a) Should the Buyer be in default with the performance of the Contract, including, but not limited to, any payment or issuance of the letter of credit, or with the performance of any other of its obligations, then

the Seller may suspend its performance of the Contract without being in default with the performance of its obligations. The suspension will last until the Buyer performs all its obligations.

- b) The Seller may, at its discretion, decide to continue to perform the Contract even before the cause of the suspension is removed.
- c) Where possible, the Seller should notify the Buyer of the commencement of suspension in writing at least five days in advance.
- d) In case of suspension, all the deadlines stipulated for the Seller shall be postponed by a period corresponding to the duration of the suspension. In that case, the Buyer shall pay any and all costs and fees associated with the postponement of the deadlines, including, but not limited to, fees related to the extending the validity of the letter of credit as well as storage costs.
- e) In case of suspension exceeding two weeks, before the renewal of the performance, the Parties shall enter into an amendment providing for delivery deadlines, the Contract Price and other terms and conditions unless the Seller declares in writing that it does not insist on the amendment.
- f) The Buyer may withdraw from the Contract only in cases explicitly specified in the Contract.
- g) The Seller may withdraw from the Contract, among others in cases explicitly specified in the Contract and:
- 1) in the event of a material breach of the Buyer's obligations. Material breach of the Buyer's obligations is deemed to exist, without limitation, in case of a default with any payment due under the Contract for a period exceeding sixty days,
  - 2) if the Buyer becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors,
  - 3) if the Buyer is in delay with the performance of its obligations for more than sixty days.
- h) Termination of the Contract in whole or in part including withdrawal from the Contract by the Buyer is permissible only with the prior written consent of the Seller, which may be provided against the payment by the Buyer to the Seller of all Seller's costs, charges, expenses and loss of earnings in respect of all work undertaken, in progress, or completed, or arising as a result of such termination. Indicative termination charges are as follows:

- 1) 5 % of the price of the terminated Contract amount if the Seller has not begun production or assembly of the Products,

- 2) 20 % of the price of the terminated Contract if the Seller has not begun production or assembly of the Products but has ordered components,
  - 3) 50 % of the price of the terminated Contract if the Products are already in the process of production,
  - 4) 80 % of the price of the terminated Contract if 80% of the Products is finalized,
  - 5) 100 % of the price of the terminated Contract if the Products are being finalized, already produced, ready for packing or already packed for shipment.
- i) The Seller shall send to the Buyer invoice for the respective amount of termination charge together with documents demonstrating these costs within thirty days from the termination of the Contract.

## ARTICLE IX

### WARRANTY

- a) The Seller guarantees that under proper storage, installation, use, care and maintenance the Products supplied will be free from defects in design, materials and workmanship for a period of twelve months from installation, or twenty-four months from shipment from the Seller's factory, whichever event occurs earlier (hereinafter the "Warranty Period").

The Seller and the Buyer may agree in written on an extended warranty. The duration and conditions of extended Warranty will be individually agreed by both sides in writing (hereinafter "Extended Warranty")

- b) The Seller does not provide warranty for resistance against chemical or stress corrosion.
- c) No warranty of merchantability or fitness for a particular purpose is intended or given.
- d) Any Products supplied under the Contract that were not manufactured by the Seller shall be subject to the warranty provided by their supplier (if any).
- e) If the Buyer agrees with the Seller on an Extended warranty, the Buyer is obliged to follow the specific instructions set by the Seller.

- 1) For the storage of the Products, the Buyer must strictly adhere to the valid Operating Instructions for the respective types of Products, which are available on the manufacturer's official website. Especially the instruction on Transportation and Storage.
- 2) After the expiration of the standard Warranty period stipulated in the Article XI, section a),

the Buyer is required to regularly inspect the Products at intervals of at least every two years. Specifically, the Buyer must ensure:

- Sealing inspection
- Inspection and potential replacement of parts prone to wear and tear,
- If there is a necessity to replace specific parts of the equipment, the Buyer must use only qualified service or contact the service department of ABO valve s.r.o.
- Maintain and adhere to the maintenance plan, including date of inspections,
- In the event of any damage to the protective coating, ensure appropriate treatment to prevent material corrosion.

In addition to the above mentioned conditions required by the manufacturer, the Buyer is also obliged to comply with all common and generally known conditions and rules for the use of the product and its maintenance in the working conditions where the product is used.

- f) The Buyer commits to follow the procedures specified by the Seller stipulated in points 1) and 2) of section e).
- g) In case of failure to comply with the procedures stipulated in points 1) and 2) of section e), the Extended Warranty for the Buyer is immediately null and void without any claim for financial compensation related to the costs of provision this Extended Warranty.
- h) The Seller's warranty shall apply only if:
- 1) the Buyer gives written notice to the Seller of the defect during the Warranty Period and within fourteen days since the Buyer discovers or ought to have discovered the defect. Notification of the defect must be in written form and must be substantiated by documents evidencing the validity of claim,
  - 2) the defective parts shall be returned by the Buyer free of charge to the Seller's factory unless agreed otherwise in writing. No returns will be accepted for the Products lacking a clearly visible return number obtained from the Seller,
  - 3) upon delivery of the allegedly defective Products, the Seller reasonably verifies Buyer's claim that the Products are defective.
- i) The Seller shall not be liable for defects of the Products if:

- 1) the Buyer makes any further use of the Products after giving warranty claim notice pursuant to Art. IX (e) (1), 2)

the defect arises because of:

- damage during transport, or
  - damage occurred due to event of force majeure,
  - normal wear and tear, or
  - Buyer's failure to follow Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products.
- 3) the Product was used negligently, tampered with or otherwise improperly handled,
  - 4) the Buyer alters or repairs the Products without the prior written consent of the Seller.
  - 5) It is a Product during its production or assembly were used parts or accessories (e.g. actuator) supplied by the Buyer, or were used a parts or accessories (different from the standard ABO production or offer made) demanded specifically by the Buyer.

- j) Any Products returned to the Seller shall be cleaned of all process related materials (hereinafter the "Decontamination"). Products returned without the Decontamination shall be quarantined and subjected to a Decontamination at the Buyer's expense. In all cases the Buyer shall indemnify the Seller for all losses, costs, claims, damages including injury or death associated with contamination of the Products.

- k) For acknowledged warranty claims, the Seller shall choose, at its sole discretion exercised to the fullest extent allowed by the applicable law, one of the following options:

- 1) replacement of the faulty Products and shipping to the Buyer at no costs for the Buyer, or
- 2) repair of defective parts at the Seller's factory and shipping to the Buyer at no costs for the Buyer.

- l) The Seller does not provide any warranty for replaced or repaired Products.

- m) No further reimbursement besides options stated in Art. IX (h) applies.

- n) All installation, safety manuals and operation instructions are available to be downloaded at [www.abovalve.com](http://www.abovalve.com).

### ARTICLE X AUTHORIZED RETURNS

- a) Besides warranty as specified in Art. IX, the Seller also provides the Buyer with possibility of authorized returns. Following conditions apply:

- 1) the return request is made by the Buyer within fifteen days following delivery of the applicable Product(s) to the Buyer and
- 2) the Product(s) are in good, reusable condition and remain standard products (i.e. not custom-made or obsolete) and
- 3) the Buyer shall prepay all transport charges of returned Products to the Seller's premises in Olomouc, Czech Republic, and
- 4) returns will not be accepted for fully or partially damaged Products.
- 5) For standard Products without any adjustments requested by the Buyer returned in perfect sellable conditions the Seller shall reimburse to the Buyer 70 % of the Products price.
- 6) For standard Products without any adjustments requested by the Buyer, however, with any special assembly involved, such as automated valves, and returned in perfect selling conditions, the Seller shall reimburse to the Buyer 50 % of the Products price.
- 7) All other Products and all Products produced upon specific Buyer's request will not be accepted as returns.
- 8) Transport, packing, customs and similar fees are non-refundable.
- 9) From the product price to be reimbursed in accordance with Art. X (a) (5), (6) and (7) above, shall be deducted shipping, restocking and reconditioning fees in the amount determined by the Seller.

- b) No returns will be accepted for the Products lacking a clearly visible return number obtained from the Seller.

- c) Condition of returned Products shall be assessed exclusively by the Seller.

- d) The paid Purchase Price shall be reimbursed to the Buyer based on a credit note issued by the

Seller.

### ARTICLE XI LIABILITY

- a) The Seller shall not be liable for any indirect or consequential loss including, but not limited to, indirect loss, loss of profit, loss of use, loss of production or loss of opportunity suffered by the Buyer, arising in connection with the supply of Products in the Contract.
- b) The Seller's maximum aggregate liability in relation to the supply of the Products, regardless whether such liability is contractual, based on tort or of any other nature, shall not exceed 10 % of invoice price of the affected Products including any possible contractual penalties or liquidated damages.
- c) This limitation is applicable to the fullest extent permitted by the applicable law.
- d) The Seller shall not be liable for any damage, injury, errors or omissions caused by the Buyer's, or the Buyer's sub-contractor's personnel whether under the Seller's supervision or not.
- e) The Seller shall not be liable for any loss, injury, death or damage of any kind whatsoever resulting from the sale or use of the Seller's Products for any purpose other than that specified in the Contract.
- f) Seller will not be liable for any costs, charges, or damage arising from errors or omissions in any drawings, designs, software and other information issued. The Buyer is responsible for the accuracy and reliability of all designs, drawings, information and other details or materials supplied by the Buyer to the Seller.
- g) The Seller is not responsible for any defects of the Product or/and is not responsible for any damages, injury, errors or omissions caused by the Product if during its production or assembly parts or accessories (e.g. actuator) supplied by the Buyer were used, or parts or accessories used (different from the ABO standard production or offer made) were demanded specifically by the Buyer
- h) The Seller is not responsible for defects of the Product or/and for any damage, injury, errors or omissions caused by the Product if the product was used in contrary to the instructions stated in Article IX. Paragraphs e) of these terms and conditions in the cases referred to in Article IX, paragraph i) of these terms and conditions.
- i) The Seller represents that it has concluded an insurance contract for damage caused by defective products or work, caused by activity and / or relationship including insurance of pure financial loss. The insurance certificate might be provided upon the Buyer's written request.
- j) The Seller further represents that the Seller is liable only to the extent covered by the insurance and that the Buyer will receive the amount in which the performance required by the Buyer is covered by the

insurance indemnity paid by the insurance company and only after the Seller receives the corresponding insurance indemnity from its insurance company.

- k) In case, the Seller takes over from the Buyer any parts or accessories for the purpose of Manufacturing or completing the, the parties agreed that the Seller is not liable for any damage caused by manipulating with this part or accessory, exceeding the amount of EUR 50.

## ARTICLE XII

### INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- a) All copyrights, patents, trademarks, trade secrets, know-how and other intellectual property or proprietary rights pursuant to the laws of any jurisdiction worldwide (hereinafter the "IP Rights") associated with or relating to the Products shall belong solely and exclusively to the Seller.
- b) The Seller retains all IP Rights, whether registered or unregistered, including without limitation, copyright of all documents, drawing rights, design rights, developed programmes, software, models and other data provided or developed during the Contract. Unless otherwise stated by the Seller, the Buyer shall have the right to use the drawings, designs, software and other information provided for use in respect of the installation, commissioning, operation and maintenance of the Products.
- c) Such drawings, designs, software and other information are submitted in strict confidence on the understanding that such shall be used for the sole purpose of the Seller's offer and any subsequent contract, operation and maintenance. Each party will keep the contents of the Contract and all prior and subsequent discussions and submissions confidential and shall not disclose it to any third party and shall restrict access to the same from its own employees on a need-to-know basis.
- d) The parties may not provide or disclose any information, documents or photographs relating to any contract entered into between the parties to third parties without prior express written consent of the other party, except for subcontractors and other persons involved in the performance hereof, provided that such persons are also bound by an obligation to maintain confidentiality within the same scope as the parties. Parties shall restrict access to the same from its own employees on a need-to-know basis.
- e) In case of breach of the obligations set out in Art. XII (c) and (d) hereof, the Buyer is obliged to pay to the Seller a contractual penalty in the amount of EUR 50,000 for each individual occurrence of breach of these obligations, even repeatedly.

- f) Obligations following from this Art. XII shall remain valid for a period of ten years from the termination of any contract between the Buyer and the Seller.
- g) Seller reserves the right to change, discontinue or alter the design and construction of the Products without prior notice and without further obligation.

## ARTICLE XIII FORCE MAJEURE

- a) The Contract shall be extended by a reasonable period if performance of the Seller's obligations in accordance with the Contract is delayed by any condition which is beyond the Seller's control and was not caused by the Seller including, but not limited to, natural disasters, earthquakes, floods, hurricanes, named tropical storms, lightning strikes, ice storms, blizzards, icebergs, pack ice, air and sea disasters, explosions and fire, epidemics, acts of God, acts of public enemy, war, terrorism, national emergency, invasion, insurrection, riot, strike, lockout, blockade or other industrial disputes, any laws, rules, regulations, orders, directives or requirements of or interference by any government or government agency, inability or delay in obtaining supplies of adequate or suitable materials, power outage or other circumstances, whether existing at the date of the Contract or arising thereafter, which the Seller could not have reasonably avoided or overcome.
- b) The Seller shall notify the Buyer in writing as soon as possible of any occurrence of force majeure Event including its predicted duration and also about termination of such event.
  - a) Each party shall always endeavour to minimize any delay in performance of the Contract caused by the force majeure event. Where an event of Force Majeure shall continue for a period of more than ninety days from the Seller's notification to the Buyer, then either party may terminate the Contract. All direct costs for work completed, work in progress and committed costs incurred by the Seller up to the date of Contract termination shall be payable by the Buyer.

## ARTICLE XIV COMPLIANCE

- a) The Buyer shall comply with all applicable laws, regulations and ordinances, and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Contract.
- b) The Buyer is entitled to import the Products to a third country only with the prior written consent of the Seller. If the Buyer breaches this obligation, the Seller shall be entitled to the contractual penalty in

the amount of 20 % of the price of the imported Products. Payment of this penalty does not relieve the Buyer from its obligations not to import Products to the third countries.

- c) The Buyer must comply with all laws governing export/import control and regulation, including, without limitation, laws governing re-exporting.
- d) The Buyer must not pay, offer or promise to pay, directly or indirectly, anything of value for purposes of influencing an official decision or seeking influence regarding to any such decision from a person or organization affiliated with any government body, organization or business entity owned in part or in whole by a government body.
- e) Personal data, which will be handed over to Seller during the implementation of the Contract, will be processed in accordance to applicable statutory regulation and especially in accordance to Regulation (EU) 2016/679 of the European Parliament and Council of 27 April 2016 on the protection of natural persons with regards to the processing of personal data and on the free movement of such data.

- g) Any provision of the Agreement that by its nature should apply after any termination or expiration of the Contract, including (but not limited to) the following provisions:

Compliance, Confidentiality and Governing Law shall survive any such termination or expiration.

- h) These Conditions or the Contract may only be amended or modified in writing and needs to be signed by an authorized representative of both parties.

#### **ARTICLE XV FINAL PROVISIONS**

a) The Buyer is not entitled to assign any receivables arising out of or in connection with the Contract without prior written consent of the Seller.

- b) The Buyer undertakes not to encumber any of its receivables arising out of or in connection with the Contract with any pledge for the benefit of a third party.
- c) If the Buyer breaches obligations stipulated in Art. XV (a) and (b), the Seller is entitled to claim a contractual penalty in the amount of 20 % of the value of the receivable that was assigned or pledged.
- d) The construction, validity and performance of the Contract shall be governed by the laws of the Czech Republic.
- e) All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or three arbitrators appointed in accordance with the said Rules. Seat of the arbitration shall be Vienna, Austria. Language of the proceedings shall be English.
- f) If any provision of these Conditions is held by any competent authority to be invalid in whole or in part, the validity of the other provisions hereof and the remainder of the provision in question shall not be affected. In the event of such occurrence, the parties shall, in so far as it is legally permitted, agree on the replacement of the relevant provision with a valid one achieving the same or a similar purpose.