

## **GENERAL SALES TERMS AND CONDITIONS**

No. 01/2024.

**VÍTKOVICE CYLINDERS a.s.**

**with their registered office at Vitkovice 3041, 703 00 Ostrava**

listed in the Commercial Register maintained by the Regional Court in Ostrava, File No. B 2260,

IN: 258 49 026

(hereinafter referred to as the "Seller")

### **Preamble**

1. If the Buyer and the Seller expressly agree in writing (in paper or electronic form) on deviations in the Purchase Contract and its Amendments, such deviations shall prevail over the text of these General Sales Terms and Conditions (hereinafter referred to as the "T&Cs").
2. These T&Cs apply to the sale of steel cylinders, bundles of cylinders, pressure vessels, containers, their accessories and related services between the Seller and the Buyer.
3. Communication may be in writing or electronically, including by plain email without an advanced electronic signature, only between the responsible persons of the parties specified in the order confirmation, unless otherwise specified below.

### **Contract formation**

4. A purchase contract is concluded once the Buyer accepts the Seller's written proposal for the conclusion of a purchase contract (hereinafter referred to as the "Offer") in writing, without reservation, within 5 days of receipt of the Offer, and in any event within 10 days of the dispatch of the Offer by the Seller, or if the Buyer does not reject the terms and conditions set out in the Offer in writing within the same time limit. The Offer shall include at least the subject, price, delivery date; unless stipulated otherwise, the INCOTERMS delivery term is presumed to be FCA.
5. The Buyer shall deliver the paper original of the signed Offer to the address of the Seller's registered office within the aforementioned time limit, or deliver, within the aforementioned time limit, a scan of a signed pdf of the Offer or an unqualified acceptance of the Offer bearing the electronic signature of the signatory at the address of the Seller's electronic portal [sales@cylinders.cz](mailto:sales@cylinders.cz).
6. A purchase contract (hereinafter referred to as "Contract") is concluded on the date of delivery of the written Offer acceptance to the Seller pursuant to point 3, or on the Buyer's failure to object by the last day of the time limit pursuant to point 4 of these T&Cs. Late acceptance shall carry the legal effect of acceptance if the Buyer confirms this to the Seller in writing.
7. Acceptance of an Offer containing any additions or variations shall not lead to Contract formation even if such additions or variations do not materially alter the terms of the Offer. In such case, a Contract is only concluded if the Seller confirms the new Offer and delivers it back to the Buyer.
8. Any change or addition to or cancellation of a Contract concluded between the Buyer and the Seller (collectively hereinafter also referred to as "Contracting Parties" or "Parties") is only possible in writing. An Amendment to a Contract shall come into force between those present on the date it is signed by the Buyer and the Seller, otherwise on the date of delivery of the signed Amendment by the last Party in accordance with Section 3 of these T&Cs.
9. An exception to the previous rules concerning Contract formation and conclusion of Amendments applies where the Seller, who has received an Offer from the Buyer, expresses their consent to the Offer by transmitting the required item that is the subject of purchase within the time limit set for the acceptance of the Offer.

### **Delivery terms**

10. The Seller undertakes to transmit to the Buyer the tangible movable items and their components (hereinafter referred to as the "Goods"), along with the documents relating to the Goods, and allow the Buyer to acquire the right of ownership in accordance with the Contract and these T&Cs. The Buyer undertakes to accept the Goods and pay the Seller the Purchase Price for them.
11. Tangible movable items yet to be manufactured shall not be deemed to be Goods within the meaning of the preceding rule if the Buyer has undertaken to deliver to the Seller a substantial part of the items required for the manufacture of the Goods or a substantial part of the Seller's obligation consists in the performance of activities.

12. The Seller shall deliver the Goods to the Buyer in the quantity, quality and design agreed under the Contract. If the quality or design of the Goods is not specified in the Contract, the Seller is required to deliver the Goods in the quality and design corresponding to the relevant technical standard, and at the same time in accordance with all generally binding legal, technical, safety and other rules applicable to the Goods under the legal system of the Czech Republic, which the Buyer acknowledges. If the Buyer fails to accept the bundles at the time announced by the Seller, the Seller shall be entitled to store the Goods at the Buyer's risk and expense. The storage costs will be charged at the rate of € 2 per m<sup>2</sup> of the surface area of the bundle (or pallet) a day, commencing from the 10th day after the announced date.
13. The Seller is required to transmit the Goods to the Buyer with the documents relating to the Goods at the time and place agreed in the Contract at his own expense and risk. Unless otherwise agreed in the Contract, the place of delivery is the Seller's registered office.
14. The proof of delivery of the Goods is the Delivery Note made by the Seller and signed by the carrier.
15. Partial deliveries are permissible where the parties have expressly agreed to do so in the Contract.
16. The Goods must be packaged in a manner suited to the agreed type of Goods and the agreed method of transportation to prevent damage to the Goods during transportation to the agreed place of delivery and to ensure safe handling and storage of the Goods. The packaging and fixing material used shall only be returned if expressly agreed in the Contract. In such a case, the returnable packaging must be marked with the packaging number, the owner of the packaging and a clear indication that the packaging is to be returned; otherwise it will be considered non-returnable.
17. The Seller is required to transmit to the Buyer the documents necessary to accept and freely dispose of the Goods on a timely basis and at any time upon delivery of the Goods at the latest. The documents must be legible, clear, without errors and marked with the Contract number. Unless otherwise requested by the Buyer, the documents must be drawn up in the Czech language.
18. If the Buyer is required to provide accessories or other counterperformance, the Buyer undertakes to provide such counterperformance no later than 3 weeks before the delivery date under the Contract. If the Buyer fails to deliver the accessories or other performance by the deadline under the previous sentence of this paragraph, the Buyer undertakes to pay the Seller the costs of storage of the work in progress. The storage costs will be charged at the rate of € 1 per m<sup>2</sup> of the surface area of the bundle (or pallet) per day, commencing from the agreed date of delivery of the accessories or other counterperformance. The Seller shall then also have the right to unilaterally set a new delivery date for the Goods.

#### **Quality guarantee, defect liability claims**

19. The Seller shall provide the Buyer with a guarantee covering the quality of the Goods delivered over periods to be individually agreed under the Contract, or, failing that, a period of 24 months from the date of proper delivery in accordance with Incoterms. For vessel bundles, the guarantee applies only to bundles that have been operated/used in accordance with the Operation and Maintenance Manual that will be supplied with the Goods to the Buyer.
20. If the guarantee period indicated in the Contract differs from that in the guarantee, the indication in the guarantee certificate shall prevail. If the guarantee period in the Contract differs from that on the packaging, the indication on the packaging shall prevail. If the guarantee period in the guarantee certificate differs from that on the packaging, the indication in the guarantee certificate shall prevail.
21. The Buyer is required to notify the Seller of any quantity or obvious defects within 3 days of delivery of the Goods to the Buyer. The Buyer is entitled to notify other defects within the time limit for complaints determined by the length of the guarantee period. A defect has been notified in a timely manner if the notification is delivered to the Seller on the last day of the guarantee period. An additional requirement for a design change or replacement of an approved accessory after delivery that was not specified and agreed to in the Purchase Contract does not constitute a defect.
22. The Buyer is required to notify/claim with the Seller any identified defects in writing, by letter or email. The Buyer shall describe the identified defect or indicate how it manifests itself and notify the Seller of the defect liability claim they seek to exercise. The Seller shall forthwith communicate the date by which the defect will be removed. The defect liability claim exercised by the Buyer is binding upon the Seller.
23. The Seller is required to start removing the identified defects in the Goods according to the defect liability claim exercised by the Buyer within 7 working days of receipt of the defect notification. If the Buyer chooses to have the defect removed or new defect-free Goods delivered, the Seller shall

set a reasonable completion time limit. Upon delivery of new Goods, the Buyer shall return the defective Goods according to the Seller's notified shipping instructions. If requested by the Buyer, the Seller may send their agent to inspect the defect in order to assess it.

24. The Seller is not required to remedy alleged defects they do not recognise. The Seller is required to always use new and original spare parts for guarantee repairs.

#### **Payment terms**

25. The Buyer shall pay the Seller the Purchase Price set out in the Contract, which includes all costs associated with the Goods, including packaging, transportation, etc. Value added tax determined at its statutory rate in accordance with Act No. 235/2004 Coll., on value added tax (hereinafter referred to as the "VAT Act"), as amended, shall be added to the Purchase Price. The Purchase Price shall be paid to the Seller by wire transfer against a fiscal receipt—an invoice (hereinafter referred to as the "Invoice"). The invoice must be delivered to the Buyer and it must contain in particular:
- Purchase Contract/order number,
  - the scope (quantity) and subject matter of the Contract
  - the contract price per unit of quantity and the total price in the agreed currency,
  - the account number and bank routing code to which the payment is to be made,
  - the Invoice's payment term, which shall commence on the date of delivery of the Invoice to the Buyer,
  - the essentials of a fiscal receipt under the VAT Act.
26. The Buyer shall pay the Purchase Price by way of a transfer order to the Seller's account number specified in the Seller's Invoice; they shall be deemed to have met the duty pay the Purchase Price on the day the amount is credited to the Seller's bank account specified in the Invoice.
27. Unless the payment term for the Purchase Price is expressly agreed in the Contract, the Buyer shall pay the Purchase Price before the Goods are dispatched to the Buyer.
28. If the Parties are late honouring the terms of their payment duties, the contractual penalty shall be equivalent to 0.05% of the amount due for each day of delay.
29. If the Buyer's first payment covers the principal, no interest shall be charged on the costs and interest.
30. The prices of the goods are based on the prices of the raw material as charged on the date of order confirmation and will be updated if the raw material or energy prices change by more than +/- 5% in line with the Europe Sections & Beams index (raw materials) and the EEX index (energy).
31. The shipping costs are based on the shipping prices agreed on the day of order confirmation and will be updated if they change by more than +/- 5%.
32. Further information on the calculation will be specified in the order confirmation and the Purchase Contract.

#### **Protection of trade secrets, confidentiality**

33. The Buyer is required to maintain confidentiality of technical, organisational, commercial and other information, especially sensitive information of a confidential nature (prices, pricing formulas, discounts, margins, order progress information), the disclosure of which to a third party could harm the interests of the Seller during the term of the obligation or after its termination and could be used to restrict competition.
34. Competitively sensitive confidential information includes, but is not limited to, any documents, calculations, plans, materials, notes, drawings, trade secrets, as well as any information contained therein, and any technical, financial and commercial information relating to the business activities of the Parties.

#### **Protection of industrial and intellectual property rights**

35. All technical documentation (drawings, technical documents, calculations, procedures, instructions, etc.) that the Seller provides to the Buyer for the manufactured Goods is the exclusive intellectual property of the Seller. All technical designs and other solutions and procedures that are captured in the Technical Documentation and that are marked accordingly constitute the subject of the Seller's exclusive intellectual property.
36. The Buyer may not disclose or make available the Technical Documentation to any third party or

to use it for their own benefit or for the benefit of any third party without the express written consent of the Seller. The Buyer may use the Technical Documentation only in connection with the Goods delivered. This obligation does not apply to administrative or other public bodies or authorities insofar as they exercise statutory oversight or other supervision under the relevant legislation. If these rights are breached, the Seller may charge the Buyer with a penalty equivalent to 100% of the Purchase Price. The application of this sanction shall be without prejudice to the right of the Seller to use legal redress in seeking damages for any harm incurred in connection with the infringement of these intellectual property rights.

37. If the subject of performance delivered under the Contract constitutes a tangible outcome any activity that is protected by industrial or other intellectual property rights, its further use must be specified in the Purchase Contract.

#### **Force majeure**

38. "Force Majeure" denotes any event beyond the Seller's reasonable control which materially prevents, hinders or delays the proper performance of the Seller's obligations and which the Seller is unable to avoid or overcome despite exercising due care.
39. In connection with the manufacture, shipment and delivery of the Goods hereunder, the Seller shall not be liable for any delay and/or reduction in performance caused in whole or in part by war, strike, accidents, fire, flood, acts of God, delay in transportation, shortage of materials or order of any governmental authority or other causes beyond the Seller's reasonable control or where the Seller's performance has been rendered impossible by the occurrence of an unforeseeable event, which renders performance by the Seller impracticable.
40. In each of these cases, the Seller shall use reasonable efforts to attempt to prevent, mitigate or eliminate the causes giving rise to the force majeure event. The Seller shall be entitled to comply with their duties within a reasonably extended period of time and to divide the performance among their customers in accordance with the principle of fairness.
41. Any force majeure event must be notified in writing to the other Party within 3 days of the occurrence of the event.

#### **Withdrawal from the Contract**

42. Either Party shall be entitled to withdraw from the Contract in the event of a material breach of the Contract by the other Party. Withdrawal from the Contract must be made in writing.
43. A material breach of the Contract on the part of the Buyer means in particular a breach of the obligation to pay the Purchase Price to the Seller in a proper and timely manner.
44. Upon withdrawal from the Contract, all rights and obligations of the Parties shall cease to apply, with the exception of any contractual penalties, default interest, the obligation to pay damages, defect liability claims, claims under the collateral and other rights under provisions which, by their nature, are intended to survive the withdrawal from the Contract (e.g. confidentiality duty, industrial and intellectual property rights, etc.).

#### **Final provisions**

45. Any legal acts between the Buyer and the Seller must be made in writing to be valid. No other form of expression of intent shall establish the Parties' obligations. They must not be construed in contradiction with the provisions of the Contract or its Amendments.
46. The Seller and the Buyer declare that they will not import any rights or obligations beyond the scope of the Contract and these T&Cs from past or future practices established or generally observed between them or from the industry of the goods supplied.
47. No obligation under the Contract and these T&Cs is a fixed obligation unless otherwise provided in the Contract.
48. The rights and obligations of the Parties, as well as legal relations arising or resulting out of the Contract, shall be governed by the concluded Contract, these T&Cs, the Civil Code (Act No. 89/2012 Coll., as amended) and other generally binding Czech laws.
49. All disputes arising out of or in connection with the Contract shall be resolved by the Parties by mutual agreement. In the event that the disputes cannot be resolved amicably, the competent first instance court having the jurisdiction to resolve the dispute shall be the local general court at the Seller's registered office.
50. If any provision of these T&Cs or of a particular Contract is or becomes invalid or ineffective or is



to be disregarded by operation of law, the validity, effectiveness or legal effect of the remaining provisions shall not be affected. In such event, the Parties shall promptly execute an amendment to replace such invalid or ineffective provision with a provision that most closely matches the intent and purpose of the original provision.

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These General Sales Terms and Conditions are formed and come into force on 20<sup>th</sup> September 2024