

General Purchasing Conditions (GPC) of EFAFLEX - CZ s.r.o

§1 Validity of General Purchasing Conditions (GPC)

1. These General Purchasing Conditions (VPN) apply to all contracts concluded by EFAFLEX - CZ s.r.o., ID: 63271371, Tax ID No.: CZ63271371 based in Oparany, Olši 55, district Tabor, Postcode 391 61, registered in the Commercial Register of the Regional Court in Ceske Budejovice in Section C, File No. 5334, hereinafter referred also to as EFAFLEX or as a the Buyer, Customer or Ordering Party with the other contracting party hereinafter also referred to as the Contractor, Vendor or Seller in the Czech Republic.
2. GPC apply exclusively. Conditions that are contrary to GPC or derogate from the conditions of the Buyer will only be acknowledged by EFAFLEX when EFAFLEX exclusively and in writing agrees to their validity. GPC further apply when EFAFLEX accepts a delivery without reservation and pays for it.
3. GPC also apply to future transactions with the Contractor (Seller) when it comes to transactions of the same kind.
4. These GPC are posted on the EFAFLEX - CZ s.r.o.'s website – www.efaflex.cz – for them being binding on the Parties, simply a link in a contractual document or during negotiations of the parties is sufficient.
5. Incoterms 2010 apply as a supplement and, unless specified otherwise, the DDP condition applies, too.

§2 Conclusion of contract and contract amendments

1. The Contractor (or also the Seller) undertakes to accept an order within one week of the date of placing it. Delivery orders in the planning of orders and delivery orders are binding unless the Contractor submits them in writing, rejects or submits a written requests for change, that with the effect of three days following their arrival.
2. Orders, transactions and delivery orders must be in writing. The written form is also effected by FAX, EDIFACT or email. The subject of performance to be delivered under these conditions is hereinafter referred to also as a delivery.
3. Oral agreements of any kind - including subsequent modifications - are only binding if confirmed in writing by EFAFLEX.

§3 Scope of content and duty to perform

1. The scope of the Contractor's responsibility to perform stems from the specification and description of the actions set on entering into the contract or if that is missing, from the data in bids and brochures of the Contractor.
2. Where there are doubts of the Contractor with respect to the type of performance required by EFAFLEX, the Contractor must immediately notify that in writing.
3. All deliveries must comply with laws, regulations, DIN and VDE standards or with, other sectoral standards or EU standards and other provisions, unless expressly agreed otherwise in writing. The Contractor shall perform the contract so that the environment protection regulations, regulations on occupational health and safety, accident prevention regulations and generally recognized safety and technical occupational health regulations are complied with. At the request of EFAFLEX, the Contractor must at its own expense provide evidence of the compliance with the said provisions.
4. With reference to the provisions of Act No. 22/1997 Coll. as subsequently amended, and related subordinate legislation, the Contractor shall forward to EFAFLEX declaration or assurance of conformity and the instructions for use relating to the delivery. In the invoice, the Contractor shall state the country of origin.
5. EFAFLEX is not obliged to accept partial deliveries and deliveries ahead of schedule, alternatively performance ahead of the deadline, unless that has been agreed in advance in writing.
6. The place of performance is the headquarters of EFAFLEX, or other place of acceptance defined by EFAFLEX in the order.

§4 Performance change

1. If, during the performance of the contract, deviations from the originally agreed specifications prove to be necessary or expedient, the Contractor shall immediately notify EFAFLEX of that.
2. EFAFLEX is then entitled to demand within expectation any changes in the contract relating to the scope of the delivery and the scope of the performance and the delivery time. EFAFLEX must approve the consequences of changes in the contract (such as delivery dates, extra costs, lower costs, etc.)

§ 5 Delivery date

1. The delivery date or the performance date stated in the order or in the delivery order and the delivery dates are binding. Determining for the compliance with the delivery date or the delivery period is the delivery of goods to the EFAFLEX company headquarters or to the recipient to be named by EFAFLEX. If other than DAP or DDP delivery is agreed according to Incoterms 2010, and if EFAFLEX is ready to take over the transport of goods, the Contractor must prepare the goods in time with respect to the time for loading and shipment to be agreed with the carrier. In other cases, the Contractor is liable under the rules of Section 5 clause 4 GPC for delays in the delivery caused by the carrier.
2. If the Contractor assumes any problems concerning the compliance with the delivery dates or similar circumstances that may prevent the delivery or the agreed quality of the delivery, it has to notify EFAFLEX immediately, stating the reasons and the expected duration of the delay.
3. Events of Force Majeure, measures in fight between employer and employees, with the exception of unlawful dismissals, uncaused operational disturbances, official measures and other unavoidable events with EFAFLEX authorise EFAFLEX to resign wholly or partly from the contract as long as those are severe in duration, or would result in substantial reduction of the EFAFLEX's needs.
4. In case of delay in the delivery, legal claims arise to EFAFLEX.
5. Irrespective of that, EFAFLEX is entitled to claim a contractual penalty from the Contractor from the date of the delivery delay amounting to 0.3% of the price of the delivery for each business day of the delay in the performance of the Contractor's obligation. The claim for damages remains entirely with EFAFLEX and is not affected by the aforementioned contractual penalty.

§ 6 Transfer of risk, documents

1. The delivery must take place at no extra charge, unless agreed otherwise in writing. Risk is transferred to EFAFLEX upon the delivery of goods to either EFAFLEX or the recipient appointed by EFAFLEX.
2. Each delivery must be accompanied by a delivery note. Invoices must not be sent simultaneously with the delivery of goods, but must be sent by a specific mail. If the Contractor fails to do so, then the delay of the processing is not on the part of EFAFLEX.

§ 7 Prices and payment terms

1. The price indicated in the order or in the delivery order is binding. It includes all services and ancillary performances, unless paid otherwise, that are necessary for actions to be performed, such as the costs of aids, transport, customs duties, packaging materials and their removal and transportation to a place of use indicated by us, as well as any and all costs and carried out construction and installation works necessary for operational readiness.

Any variations, such as /operations performed on Sundays and holidays/ resulting in higher payments need to be discussed before accepting the contract and must be agreed by EFAFLEX.

2. The statutory value-added tax (VAT) is not included in the price.

3. Invoices must be issued to the latest date in accordance with the applicable tax regulations, especially those concerning value added tax, and must include the tax identification number or the VAT payer identification number. Attention must be drawn especially to the correct indication of the contracting parties and, among other things, it is necessary to keep the order number listed on the EFAFLEX's order. Value added tax is to be stated separately. If an invoice does not meet the above requirements, EFAFLEX is not obliged to payment. The provision of §6 par. 2 sentence 3 of these GPC apply accordingly. Even though EFAFLEX makes the payment, the Contractor is responsible for any damages that may arise to EFAFLEX as a result of incorrect billing. If a competent tax administrator publishes in a manner allowing remote access a statement claiming that the Contractor is an unreliable payer within the meaning of §106 of the Act No.235/2004 Coll., as amended, or the Contractor fails to meet the obligation pursuant to § 96 par. of Act No. 235/2004 Coll., on Value Added Tax, or if the payment for a taxable supply made by the Contractor (subject to VAT) in the home country is to provided wholly or partly by bank transfer to an account managed by the provider of the payment services outside the country (Section 109 of the VAT Act), the Customer is entitled to withhold from each invoiced payment for a provided taxable supply the value added tax and pay that (without having to be called to do so as a guarantor) for the Contractor to the competent tax administrator. Upon the payment of VAT in the amount stated in the invoice (tax document) of the Contractor to the bank account indicated by a competent tax authority in the relevant part of the Contractor 's invoice is deemed paid on the day of debiting VAT from the bank account of the Customer. The Buyer agrees to the use of this procedure of the Contractor, demonstrating the realization of the payment. After the payment of the value added tax to the competent tax administrator in accordance with this Clause, the payment of taxable supply to the Contractor without the relevant value added tax (i.e. only the tax base) is considered by the parties proper payment under this contract (i.e. of the tax base and the amount of the value added tax), and the Contractor is not entitled to payment of interest on arrears, penalties, damages or any other sanctions against the Buyer even if similar sanctions were assessed to it by the tax administrator.

4. For delivery that does not meet the contract and especially for faulty deliveries, EFAFLEX is entitled to withhold payment until proper performance.

5. Unless any specific agreements are entered into, EFAFLEX shall execute the payment within 14 days less a 3% discount or within 30 days net. The payment term will begin earliest with the arrival of the invoice, but not before the goods arrive, or before the performance is accomplished. The payment will be subject to the inspection of the invoice.

6. Without the prior consent of EFAFLEX the Contractor is not entitled to assign, sell, set-off or otherwise handle a claim arising from the contract between EFAFLEX and the Contractor. In the event that the Contractor violates this obligation, it is obliged to pay EFAFLEX a contractual penalty of 50% of the price of the delivery. The claim of EFAFLEX for damages is not affected by the above provision.

§8 Claims for defects and return of delivery, complaints

1. The Contractor provides a guarantee for the subject matter of the contract corresponding to the state of the art at the date of dispatch of the goods concerned, as well as to the applicable legal provisions, regulations and guidelines. If the subject matter of the contract fails to meet the above requirements, the Contractor must notify EFAFLEX in every single case before the commencement of delivery for EFAFLEX stating the reasons. In that case, EFAFLEX is entitled to refuse the delivery even after the receipt that is, within ten working days from the notification of the Contractor, and exercise a legal claim for shortcomings.

2. The Contractor provides a guarantee for the deliveries and services corresponding to the agreed specifications and not containing defects that disrupt or reduce their value or suitability for the regular use or that anticipated under the contract.

3. The incoming inspection of goods shall be carried out by EFAFLEX only with regard to obvious defects, damage during transport, completeness and identity of goods. EFAFLEX may complain those defects within a reasonable time. EFAFLEX reserves the right to make further checks on the goods. EFAFLEX shall report defects as soon as they are by the fact of the ordinary course of trade observed.

To that extent, the Contractor waives any costs of delayed defect claims.

4. In the course of the production, the Contractor is obliged to check the quality and perform goods-out inspection check the quality of its delivery accordingly.

5. If any deviations appear on the goods from what was agreed in the contract, e.g. with respect to the size, chemical or mechanical values, in the event of a dispute, the opinion of a court expert appointed by agreement of both parties, applies. If the contracting parties fail to agree on a court expert, it is up to the parties to choose a court expert of their choice. Costs related to expert assessment shall be borne by the party on whose debit the inadequate values of the delivered goods (material) are.

6. Legal claims relating to defective goods belong to EFAFLEX in full. EFAFLEX is in any case entitled to demand from the Contractor at its own discretion either removal of defects or delivery of a new faultless item, or price reduction, as the case may be. The right to reimbursement of expenses remains expressly reserved to EFAFLEX.

7. If the Contractor after the request made by EFAFLEX fails to carry out additional performance immediately, EFAFLEX has the right in emergency cases, especially for protection against current threats and to prevent major damages, remedy any shortcomings itself at the expense of the Contractor, or have them removed by a third party.

8. If EFAFLEX suffers any costs as a result of defective delivery of the subject of the contract, especially costs of transport, labour, materials or costs of the goods-in inspection that exceeds the usual level, then the Contractor shall bear those costs.

§ 9 Liability, Product quality guarantee

1. Unless otherwise specified, the Contractor provides a guarantee of 24 months for the delivery. The guarantee begins on the date of the delivery fulfilment. The Contractor is liable for any defects in the delivery that are discovered during the warranty period.

2. With the Contractor being liable for any product defects, it is then required to liberate EFAFLEX on the first request from any claims for damages caused by product defect to a third party, if the cause of the product defect lies in its competence and organization.

3. In the context of its liability for insured cases, as advised in the above clause, the Contractor is also required to pay any costs arising from or in the context of any recall of goods made by EFAFLEX. The Contractor will be notified of the content and scope of the goods recall

measure to be carried out, as long as this is possible, and will be given an opportunity to submit its standpoint. Other legal claims remain unaffected.

4. The Contractor agrees that at least during the warranty period it will provide for the insurance of the product relating to potential claims of product liability and possible liability for defects, at a reasonable amount of protection of at least EUR 5 million for personal injury/property damage in lump sum and demonstrate that to EFAFLEX upon its request by e.g. submitting a copy of the insurance contract. Further EFAFLEX's claims for damages against the Contractor remain unaffected.

§ 10 Protective (intangible) rights

1. By the delivered goods and their appreciation by EFAFLEX (as in further delivery, processing or use), the protective (intangible) rights of third parties must not be violated. Protective (intangible) rights mean primarily the rights of inventions, trademarks, patents, industrial designs and intellectual property.

2. The Contractor liberates EFAFLEX from any third party claims of any breach of protective of rights of use of such protective rights, and bears all the costs arisen to EFAFLEX in this regard, if those are on its side.

3. As for property rights being in conflict with a third party property rights, the Contractor shall, recover even for EFAFLEX at its own expense, a permit or certificate for further delivery, processing and use from an authorised person, or has to modify or replace respective parts of the delivery so that the assessment did no longer violate the third party property rights and, at the same time, corresponded to the agreed contractual terms and conditions.

§ 11 Retention of title, equipment, tools

1. EFAFLEX retains the ownership of all the components that it made available to the Contractor. Those may only be used for its intended purpose. Processing or transformation with the Contractor is intended for EFAFLEX. If the reserved goods are processed using items not belonging to EFAFLEX, then EFAFLEX will obtain co-ownership of the new items in the rate of the value of the reserved goods to the other processed items at the time of the processing.

2. The Contractor undertakes to carefully check the delivered materials, and store them properly. Any deviations (such as quantity, quality, etc.) will be immediately reported to EFAFLEX with the Contractor being liable for loss or damage.

3. EFAFLEX reserves the ownership to instruments that EFAFLEX paid for and delivered. The contractor is obliged to use these tools exclusively for the manufacturing of the goods ordered by EFAFLEX. The Contractor undertakes to insure the tools belonging to EFAFLEX at its own expense to a new value against damage by fire, water and alienation.

§12 Packaging, Waste

1. With reference to Act No. 477/2001 Coll., as amended (the Packaging Act and subordinate legislation), the Contractor shall upon the delivery provide EFAFLEX with a statement of the compliance with the conditions of launching the packaging on the market by the Contractor, labelling the material of which the packaging is made and the method of handling the used packaging, alternatively with the Contractor's information on how to ensure taking back of the packaging.

2. The packaging and other waste (expendable supplies and auxiliary material) must be adequately according to the regulations applicable to packaging and in compliance with the regulations either reused, or recycled free of charge for EFAFLEX.

§13 Hazardous substances and substances subject to reporting obligation

1. Where the supplied goods are dangerous substances within the meaning of the Act on Chemicals, a legal material safety data sheet pursuant to the Directive of the European Parliament and of the Council (EU) No.1907/2006 in later versions, including Regulation (EU) No. 453/2010 and reviewed versions of Act No. 350/201 Coll., must be attached to the shipment. If those data change, the Contractor must immediately send the amended version to EFAFLEX without being asked to do so.

§14 Subcontractors

1. Without the prior written consent the Contractor shall not submit a draft contract wholly or partly to a third party. Even if consent is granted, the Contractor remains fully responsible for the performance of the contract. Authorisation of subcontractors by the Contractor shall only be executed upon the prior written consent.

§15 Insolvency

1. EFAFLEX has the right to immediately terminate the contract if initiation of insolvency proceedings is requested for the assets of the Contractor, or when the court opens insolvency proceedings at the Contractor's, or an insolvency petition gets rejected for lack of funds. The above right also applies to situations where the bankruptcy or reorganization at the Contractor's is announced.

§16 Secrecy / data protection

1. The contracting partners undertake to keep all the information resulting from the collaboration strictly secret, unless it is generally known, lawfully obtained from a third party or obtained independently on a third party, and used it exclusively for the purposes of this contract. The protected information includes primarily technical specifications, quantities purchased, prices and information about products and their development, on the existing and future research and development procedures and all information on the other contracting business partner.

2. The Contractor further agrees that it will strictly keep secret all illustrations, drawings, calculations and other documents it has received, and make those available to a third party with the prior written permission of EFAFLEX unless the information they contain is generally known.

3. The contractor shall commit Subcontractors in the same manner.

4. Anytime EFAFLEX requests so, or no later than on the termination of the contractual relationship, all the information coming from EFAFLEX (including any made copies or notes) and borrowed items, shall be immediately and completely returned to EFAFLEX, unless the Contractor on longer needs those to fulfil its contractual obligations. EFAFLEX reserves all rights to such confidential information, including copyrights, trademarks, patents, utility models, etc.

5. Products that will be manufactured according to any designs, documents, models or marked confidential data, may only be used by the Contractor to the contractually designated purposes, especially must not offer or deliver those to a third party.

6. The Contractor shall keep secret any operational and business secrets of EFAFLEX and, in the implementation of the contract, shall only use those helpers to perform and such subcontractors who have committed to secrecy and silence about the data within the meaning of this provision. The above obligation shall apply for an unlimited period.

§17 Place of jurisdiction and applicable law; Partial ineffectiveness

1. Any potential disputes shall be resolved amicably through an agreement. If no agreement is achieved, potential dispute between Contracting Parties shall be resolved by a competent court. The contracting parties hereby conclude this contract within the meaning of § 89a of the Civil Procedure Code, that in case of disputes arising from the concluded contract the power of the courts and their jurisdiction is given as follows: a) The Regional Court of Ceske Budejovice, where the substantive jurisdiction of the regional court will be given, b) the District Court in Tabor, where the substantive jurisdiction of the district court is given. EFAFLEX reserves the right to bring action to any other court.

2. For contractual relationships only the Czech law applies, and the application of the UN Convention on Contracts for the International Sale of Goods is excluded.

3. Should any provision of these GPC prove to be invalid, opposable or unenforceable, or should it become so in the future, it shall not affect the validity or enforceability of the remaining provisions, unless the nature or the content, or from the circumstances for which that provision was created, follows that the part in question cannot be detached from the rest of GPC.

In Olsj, January 1, 2014

EFAFLEX - CZ s.r.o.