

General Terms and Conditions for Contractors at Acquiring Assets, Services and Works in MG Odra Gas, spol. s r.o.

1 Introductory provisions

- 1.1 The provisions of the New Civil Code (Civil Code Act No 89/2012 Coll., as amended) apply to these General Terms and Conditions (hereinafter VOP). Headings and breakdown of these VOP are shown just for clarity and do not have any effect on their interpretation and meaning. Unless the context indicates otherwise, in these VOP the following terms have the meaning as follows:
- „Buyer“ – means MG Odra Gas, spol. s r.o. if it acts in a given agreement as an orderer, client, customer, buyer, purchaser, etc.
 - „Seller“ – means the other party of a contractual relationship that is to deliver performance (i.e. especially an item, work, performances, etc.). This entity acts mostly in a specific agreement or order, denoted as a seller, supplier, contractor, irrespective of whether it is a legal entity or a natural person. Each seller is obliged to get familiar with these VOP and abide by them.
 - „Order“ – is a written buyer's proposal directed to concluding a specific agreement. In an order, at least the subject of performance, its price, place and time is specified. Any other orders than in writing are excluded. Part of the order are also these VOP unless otherwise stated in the order. After the order is accepted, it becomes an agreement. The buyer may call off the order until the buyer receives seller's acceptance. Hereby the provisions of law and seller's general terms and conditions enabling the buyer to withdraw from the order or agreement are not affected.
 - „Contract“ – is an order accepted by the seller, thus the expression of the will of both contracting parties in writing on the base of which the seller is obliged to deliver performance to the buyer according to the order and these VOPs.
 - „Supply“ – is the subject of performance stated in the contract or it also means the process or state of contract fulfillment (delivery of the subject of performance, i.e. a tangible or intangible item, work and the like).
 - „Performance“ - is either the very subject of the contract stated in the contract (tangible or intangible item, work and the like), or it also means a process whereby the contracting party fulfills its obligations resulting from it.
 - „Procedural acceptance of performance“ means the acceptance of performance or supply, thus the delivery and acceptance of performance together with simultaneous confirmation of the delivery and acceptance (e.g. with a delivery note, acceptance protocol, etc.).
- 1.2 Through the acceptance of the order in writing the seller confirms that the seller got familiar with its content and the content of these VOPs and the seller unreservedly agrees with them and has the will to fulfill duly agreed terms and parameters of the order. The contract is concluded at the moment when the buyer receives order acceptance from the seller.
- 1.3 The buyer's order acceptance by the seller that contains objections is a new order (a proposal for contract conclusion in a wording that differs from the order) and in order to conclude a contract, the buyer shall make another order acceptance in writing.
- 1.4 Unless the order is made in writing, or the seller made its acceptance in writing in an adequate form, or the seller made its acceptance with objections without buyer's consent, the buyer is not obliged to accept possibly made supply or performance, or the buyer is entitled to return accepted supply or performance within 21 days from such acceptance. However, the parties can resolve such a situation by a settlement in writing.

2 The right of ownership

The right of ownership for supply or performance (for both tangible and intangible items) passes to the buyer through acceptance (mostly it accompanies the delivery and acceptance of a delivery note, acceptance protocol or other document with similar meaning) or, if the procedural acceptance cannot be made, in a method usual in commercial relations. The buyer is not obliged to accept the supply or performance that has any defects.

3 The transfer of damage risk

The risk of damage passes to the buyer only together with due acceptance of supply or performance, including all required documents.

However, the parties can expressly agree in the contract that the transfer of damage risk can happen also at a different moment, e.g. at the moment when the supply or performance is given to the first forwarder for transport.

4 Terms of delivery, packaging

4.1 Place of acceptance is the place stated in the order - contract. Unless stated otherwise in the contract, place of acceptance is always buyer's address unless the nature of supply or performance suggests different place of acceptance (e.g. at some services, works and the like).

4.2 Unless stated expressly otherwise in the order that the price is without transport to destination, it is deemed to be included in the price and is part of seller's supply or performance. Similarly, packaging and supply loading is included in the price.

4.3 If, based on the contract-order, the performance is supplied residing in a repair, adaptation, revision or installation, or it is other work or works executed on the item-subject of supply or performance sent to the buyer, place of acceptance, unless stated otherwise, is orderer's address, unless other place of orderer's entry control is expressly agreed.

4.4 Each supply or performance shall be accompanied by a delivery note (or a document with similar meaning) containing: order number, name of the person who prepared it, item number, item description, serial number (if any), amount, and unit price. The buyer reserves the right to return the supply at seller's expense and also withdraw from the contract if a delivery note or a document with similar meaning is not provided or it does not include required information according to this provision.

4.5 The condition of due acceptance is the delivery of performance or supply, including the documentation specified by these VOPs, contract, practices established between the parties or in a given industry or by law and other regulations (e.g. technical standards, certifications, declarations of conformity, test documents, etc.).

4.6 The seller shall always notify the buyer of the date of supply or performance with reasonable advance notice. Otherwise the buyer is entitled to refuse acceptance.

5 Sanctions

5.1 In case of seller's delay with delivering supply or performance within an agreed time the seller is obliged to pay to the buyer contractual penalty in the amount of 0.1 % from the total value of supply or performance for each commenced day of delay till due fulfillment of the obligation or till buyer's withdrawal from the contract because of the delay. The maturity of contractual penalties is 30 days from invoice delivery. The buyer has the right to waive unilaterally any part of contractual penalties to the seller. The contractual penalty arrangement does not affect the right for damage compensation as well as the seller's obligation to fulfill the supply or performance emerging from the contract.

6 Payment and invoicing

6.1 Payments are always made by wire transfer and payment is understood as debiting the relevant amount from buyer's account.

6.2 Invoicing is only possible after procedural acceptance of supply or performance. The maturity of duly issued invoices is 30 days from their delivery to the seller.

6.3 Invoices shall include the requirements specified by respective legal regulations, namely by the Value Added Tax Act effective as of the day of chargeable performance or as of the payment day, as well as by the Accounting Act effective as of the same date. All tax documents shall always include order-contract number, name of the person who prepared it, number of each order-contract item (if any), place where the

item was delivered, item description, item serial number, volume, unit prices, and a photocopy of the acceptance protocol.

- 6.4 If a sent invoice does not have tax document essentials or the above information is not stated in it, or it is incomplete or incorrect, the seller is entitled to return it (or its copy) within maturity date to the seller for repair or completion. In such a case new 30 day due date starts running from the day of demonstrable reception of duly corrected invoice.
- 6.5 The address for invoice delivery is MG Odra Gas, spol. s r.o., Na Popinci 1088, 739 32 Vratimov.

7 **Price**

The price in the order-contract is always stated in existing currency determined by the buyer for a unit or operation, in total and always stated exclusive of VAT. The price includes all costs related to the delivery and procedural acceptance of performance. It is final and non-negotiable. As to the price of transportation of supply or performance and packaging, see VOP provision 4.2.

8 **Liability for defects**

The seller is responsible for any defect that the goods show at the moment of transfer of supply or performance damage risk to the buyer even if the defect becomes apparent later on. The buyer can exercise buyer's right from defects to the seller within the period of 24 months from the transfer of damage risk. Should any defect occur in this period, it is deemed that the defect was in the supply or performance already at the moment of damage risk transfer, i.e. at the moment of the delivery of supply or performance to the buyer unless it is proved that the defect occurred due to improper treatment, intentional damage or due to improper maintenance. The buyer is obliged to check and control the supply or performance, i.e. goods, work and the like, as soon as possible after the supply or performance was made available to the buyer within contract fulfillment (thus usually before delivery or supply).

Should defective goods be delivered to the buyer or should a defect occur within 24-month warranty period, the contract is violated in a significant way unless agreed otherwise in the order. In such a case the buyer is entitled at buyer's discretion:

- require the delivery of spare or missing performance or supply, thus especially of goods or work or works, at the expense of the seller, or
- require the repair of defective performance or supply if defects are serviceable, at seller's expense, or
- require adequate discount, or
- require the elimination of legal defects, or
- withdraw from the contract.

Should the seller fail to settle the claim of supply or performance within 10 days, it is deemed that the claim is justified.

9 **Quality warranty and post-warranty service**

The seller provides quality warranty for each performance delivered to the buyer.

Warranty period is 24 months from the day of procedural acceptance of supply or performance by the buyer unless the contract or the nature and purpose of supply or performance use suggest a longer period. Should the seller or a seller's supplier or manufacturer state in contract documentation, other enclosed documents or supply or performance packaging longer quality warranty, that longer warranty period applies. It holds true that longer quality warranty is provided to the buyer also when the seller has provided the warranty period longer than 24 months for similar supply or performance to other contractual partners in a given year.

The content of quality warranty are the buyer's rights stipulated in the contract, warranty certificates or other documents prepared, issued or delivered together with the performance itself.

However, the scope of buyer's rights and obligations resulting from quality warranty is given by these VOPs, at least in the extent similar to the scope of rights and obligations that the buyer has usually towards the seller in case of performance defect occurrence at the moment of transfer of risk of damage to items. Thus it is especially the right for repair or replacement within a reasonable period, however no later than within 30 days, the right for discount and the right for withdrawal from the contract in case the claim is not settled within 30 days. As to other issues, the rights and obligations of parties resulting from performance defects in warranty period shall be applied appropriately to the provisions as per art. 2016 of the New Civil Code.

The buyer is obliged to ensure that defects are eliminated always within warranty period without delay after they are reported, however no later than within 30 days. It is the seller's obligation, unless a shorter

period is specified in the contract or seller's warranty terms, to review claimed performance or supply within two business days and determine without delay the method of defect removal, and notify the buyer of it in writing. Commenced repair works shall be properly and continuously continued until they are completed, except for technologically necessary breaks. After the repair is made or the performance is replaced, warranty period is extended by the time of duration of the entire claim and repair, and in case of replacing the performance for another one the warranty period starts from the beginning.

After warranty period is over, the seller is obliged to provide the buyer access to post-warranty service under standard price and other conditions throughout the usual period after the end of warranty period for a given type of performance.

10 **Withdrawal from contract, changes and other provisions**

10.1 The buyer reserves the right to withdraw unilaterally from the contract-order or its part in case of the following circumstances:

- the performance shows the defects existing at the moment of delivery and acceptance, or performance defects occur in warranty period and the claims from them are not satisfactorily settled in accordance with the contract, order, warranty certificate and these VOPs within 30 days from making the claims,
- the delay in delivering supply or performance is longer than one week from the specified delivery date,
- any other provision of the contract or these VOPs is not fulfilled, especially as to warranty.
- mass manufacturing defects are detected whereby specific performance delivered to the buyer is still free of apparent defects or is repaired or replaced, however at other buyer's customers frequent or repeated, same-type or similar defects occur for the performance similar to the one delivered to the buyer, beyond a reasonable rate. ***The seller is not entitled to assign or otherwise transfer the contract or individual rights and obligations or their parts resulting from the order-contract to a third party, unless the buyer agrees with such assignment or transfer in writing.***

10.2 If the contract is concluded for an indefinite time period, the notice period is one month and starts running on the first day of the month following notice delivery.

11 **Applicable law**

11.1 All possible disputes resulting from the order-contract are governed by legal regulations of the Czech Republic and in connection with them they shall be decided by a general, materially respective court, locally specified according to the buyer's registered office.

12 **Trade secrets, final provisions**

Contracting parties undertake to respect confidentiality in relation to third parties with regard to the material or non-material information they become aware of in connection with fulfilling the order and according to these VOPs. Such facts constitute the subject of buyer's trade secrecy.

The buyer makes the seller aware of the VOP text at buyer's web pages as well as in the order-contract itself.

These VOPs become part of the contracts and orders that are concluded with the buyer unless expressly agreed otherwise in writing. These VOPs shall be used where the contract does not state something else.

These General Terms and Conditions come into effect on 1 May 2014.

In Vratimov, 23 April 2014

Ing. Kristina Červenková Ing. René Hrnčárek
Executives of MG Odra Gas, spol. s r.o.