

## General Terms & Conditions Wheelabrator Czech s.r.o. for delivery of goods and services

These General Terms & Conditions (hereinafter referred to as „**Conditions**“) govern the rights and obligations between company **Wheelabrator Czech s.r.o.** based in Příbram I., Za Balonkou 269, PSČ 261 01, ID No.: 498 22 977, VAT CZ 49822977, registered in Commercial Register, maintained at Municipal Court in Prague, Section C, insert 31794 (hereinafter referred to as “**The Customer**“) and their Suppliers of goods or services, provided to the Customer during goods delivery or services according order, sent by Customer to the relevant Supplier (hereinafter referred to as “**The Order**“). These Conditions shall be considered to as General Terms and Conditions within the meaning of provision § 273 Act No. 513/1991 laws, Commercial code, as amended. These Conditions govern the rights and obligations of parties to the contract (as defined below) in case, if for the mentioned performance no other written contract between the Company Wheelabrator Czech s.r.o. and the Supplier, beside confirmed order, is entered. In case of discrepancies between the wording of Order and Conditions, the provisions set out in the order shall prevail.

### 1. Definitions

1. “**The Supplier**“ means for the purposes hereof Conditions such entity (natural or legal person) that is listed as Supplier in the Order.
2. “**The Goods**“ means for the purposes of these Conditions such movable (movables), being the subject of purchase and being further specified in the Order. Goods shall mean all movables, which have value and may be subject to the purchase contract between the Customer and the Supplier.
3. “**The Service**“ means for the purposes of these Conditions any activity specified in the Customer Order, required by the Customer from the Supplier to be performed and usually being subject of contract for work or any other agreement.
4. “**The Order**“, or “**The Purchase Order**“, means for the purposes of these Conditions a contract draft, delivered by the Customer to the respective Supplier. The order must contain a specification of goods or services at least to the extent that the subject of performance is definite and clear, including the price for the performance or method of price determining; by goods particularly Customer’s part number specification of quantity, sort, quality, delivery term, or other data, necessary for the specification; by services particularly description of activities, which shall be subject of the performance, term for service realisation, service quality, or other data, necessary for the specification; without these requirements can’t be considered a document as an Order within the meaning of this Conditions.
5. “**The Contract**“ means for purposes of these Conditions (depending on the subject of the contract) a purchase contract, contract for work, or other contract in case of providing Services, entered into between Customer and Supplier according Article 2. of these Conditions.

### 2. Conclusion of Contract

1. The Contract between the Supplier and the Customer is concluded on the base of these Conditions only in the case, when the Supplier delivers to the Customer to the address in the Order specified an Order confirmation within three (3) working days from the day, when the Order was received. In case the Supplier delivers to the Customer Order confirmation after expiry of that period, Contract will be concluded only if the Customer agrees in writing to such delayed confirmation of the Supplier within five (5) working days of receipt of delayed acknowledgment, unless the parties do not agree otherwise in writing.

2. For reasons of clarification it shall be determined, that if not mentioned otherwise in the Order, the Contract will be concluded also, if the Supplier accepts the Order in the above mentioned period via fax or email – (see Appendix – List of competent persons). Any transactions made via fax must be signed by an authorized Person of the party and are considered to be writing will.
3. With exception according to par. 1 of this Article the Contract is concluded at the moment, when the Customer received Order acceptance. Content of the Contract are the Order and these Conditions. If there is no Contract concluded under the above conditions, the Customer is not bound by the Order.
4. Supplier`s Acceptance, that contains any objections, changes, comments to the Order or Conditions or which contains any other deviation from their text shall not have effect on the Order confirmation as defined in par. 1 of this Article, but this shall be a new contract draft. To this new contract draft, the Customer has the right to accept or reject it; in case when the Customer accepts the new contract draft, the Contract is concluded on the day, when the Supplier will be notified in writing of acceptance of his new contract draft.

### **3. Contract subject**

The Contract subject shall be defined in the Order and it will be Supplier`s obligation to deliver goods or provide services according agreed conditions and Customer obligation under the agreed conditions to pay the Supplier the agreed price of Goods.

### **4. General rights and obligations**

1. The Supplier is entitled to use third parties for the fulfilment of the Contract only with the prior consent of the Customer, but for their performance he shall be responsible as for the performance provided by himself.
2. The Supplier shall be obliged to deliver the Customer`s Goods or provide him with a Service properly and timely. By Contract fulfilment the Supplier commits himself to exercise with due proper professional care and responsibility and according to instructions of the Customer. If Goods will be delivered in premises used by the Customer, the Supplier is obliged to respect Customers internal regulations, which he is obliged to meet.
3. The Supplier commits himself, that Goods will be in accordance with relevant valid and effective legal, technical, safety, sanitation and similar standards and regulations on environmental protection (hereinafter referred to as "Standards") at the time of handing over to the Customer and will be delivered in accordance with Customer`s instructions. Likewise Services provided by the Supplier must be in accordance with relevant standards and the Customer instructions.
4. The Supplier is obliged to inform the Customer without delay about all circumstances, which he detects during Contract fulfilment or in connection with, and which may affect the proper performance by the Supplier. The Supplier is also obliged to notify the Customer of the unsuitability of instructions given him by the Customer.
5. The Customer will provide the Supplier on his request cooperation necessary for the proper and timely performance of the Contract.

### **5. Forwarding of Goods and Transfer of Ownership, Service**

1. Unless the Order does not specify otherwise, transfer and receipt of Goods regarding persons or other places of delivery and acceptance, Supplier fulfils his obligation to deliver Goods by its forwarding to the Customer to his address. The transfer and receipt of Goods will be confirmed by signing a transfer protocol of both parties. Transfer protocol may also be the Supplier`s delivery note signed by representatives of both parties.
2. The Supplier must deliver Goods to the Customer complete and without defects (factual or legal), namely in deadline or deadlines (hereinafter referred to as "**Deadline**") specified in the Order. If the Deadline is not specified in the Order, the Supplier commits to deliver Goods to the Buyer without undue delay, no later

than 10 days from the date of the contract. The Supplier is also obliged to provide the Customer Services within the agreed Deadline or Deadlines. If the Deadline for Services is not specified in the Order, the Supplier is obliged to begin to provide Services or provide Service (depending on the nature of Service) according to the Contract without undue delay.

3. The Supplier is obliged to deliver the Customer upon delivery of Goods the documentation (depending on the nature of Goods and as specified in the Contract):
  - Statement of origin of delivered Goods
  - Declaration of Conformity or CE Certificate
  - Any other Certificates (e.g. GOST), if required in the Contract
  - Control protocols
  - Safety data sheets (MSDS)
  - Certificates
  - Declaration of compliance with conditions under which the package on the market is given under the Act No.477/2001Col.
  - Accompanying technical documentation
  - Drawing documentation
  - Operating manuals
  - Documents for project documentation
  - Necessary documentation for customs clearance, all in needed relevant Language and form, or other documents, necessary for proper use of Goods in the Czech Republic or European Union. In the absence of such documents, the delivery is fulfilled properly and on time after their delivery only.

If parts of the Goods supply according to the Contract are also related services, such as installation, commissioning, operator training, then the supply of Goods required are to be duly and timely fulfilled to provide such a supply of related services break down. Simultaneously the Supplier delivers to the Customer list of recommended spare parts, if according to the Contract is requested.

The Goods must be always marked with Customers part number according to the Order otherwise the delivery of Goods is deemed not to be properly fulfilled.

4. The Supplier shall deliver Goods in suitable packaging which assures that the Goods will be not damaged during transport by usual manipulation.
5. The Supplier must deliver the Goods to the Customer free of any liabilities, claims, encumbrances and rights of third parties.
6. The Customer is not obliged to accept the Goods, if they are not complete or if they have some other faults and also, if they do not meet the purpose, for which they were ordered and which was or should have been known to the Supplier. In such case the Supplier is in delay with the Goods delivery as it if had not delivered on time. The Supplier commits to remove performance defects within a reasonable time determined by the customer, or he commits to deliver the Customer new Goods. The Customer has the right to choose the type of subsequent performance.
7. If the place of performance is not the Customers location, the Supplier shall, at the request of the Customer and at his account ensure transport of Goods from place of performance to the place specified by the Customer. The price of thus secured transport must be approved by the Customer in writing before shipment of the Goods.
8. Both parties shall sign the transfer protocol after delivery of defect-free Goods only. If the Supplier does not deliver Goods in time or he does not remedy defects in the Good within the time limit set by the Customer or does not exchange the Goods with new ones (according to Customer`s request), the Customer is entitled to withdraw from the Contract.

9. The right of ownership shall pass to the Customer by transfer to the Customer, even in case, when goods are placed by Contractor to a third party for transport. Risk of damage to the goods passes to the Customer at the same time, in which it passes ownership of the Goods.

## **6. Liability for defects**

1. The Supplier shall be liable for defects, which the Goods have at the time of handover to the Customer. The Supplier shall also be liable for defects arising in the Goods during the Warranty period (as defined below). As far as the Supplier or manufacturer does not provide longer warranty, warranty for delivered Goods lasts 24 months (also "**Warranty period**"). Warranty period starts on following day after the right of ownership to the Goods passes, and in case Goods have to be commissioned, the day after its commissioning. The same Warranty applies on provided Services, if, with regard to the nature of the Service, application of warranty is applicable and unless agreed otherwise in the Contract. Other Regulations, mentioned in Article 6. apply adequately also on Services, insofar as their nature admits.
2. The Supplier guarantees, that during the whole Warranty period the Goods will have properties agreed in the Contract and properties requested by standards or properties usual with regard to the purpose of use.
3. The Supplier shall remedy defects in the Goods promptly, at the latest within 10 working days from the notice by the Customer. All costs associated with the rectification of defects are borne by the Supplier. If Supplier does not succeed to remedy the defects in the given period, the Customer is entitled to exercise his statutory rights, namely he has the right to withdraw from the Contract and furthermore he is also entitled to ensure defect rectification through a third party, at the expense of the Supplier, and in such case the Warranty period shall continue as if the rectification would have been carried out by the Supplier.
4. The Supplier is not liable for defects caused by normal wear and tear, improper use and handling of the Goods or use of Goods for purposes other than those intended.
5. If a dispute arises about the legitimacy of a claim, the Customer ensures the opinion of an expert judge, which states whether it is a defect under warranty or not. If the expert judge opinion states, that it is a defect under warranty, the costs of preparing an expert judges opinion are borne by the Supplier, otherwise these costs are born by the Customer. The expert opinion is binding on both parties and they agree to the conclusions of the expert opinion to proceed. The dispute about legitimacy of the claim does not relieve the Supplier from the obligation to remedy the defect, whereby in case the expert opinion states it is not a defect in the warranty, the Supplier will be paid by costs reasonably incurred to remove defects that are reasonable in the place and time.

## **7. Inspection and testing**

1. By mutual agreement, the Customer has the right to check the goods or services, but the Customer has to notice the term of control by e-mail or fax one working day in advance.
2. The Supplier shall inform the Customer no later than 3 working days in advance of the tests in which the Customer has the right to participate under the Contract.
3. For tests the general practice of the respective industry branch is crucial.
4. The Customer has the right to test the quality of the supplied Goods. If the test proves that the Goods do not meet the Order, the Supplier shall compensate the Customer the costs of this test.
5. If the test shows, that the Goods do not meet the criteria listed in the order, the Supplier shall immediately remove the deficiencies at his own expense. At the request of the customer the test must be repeated.
6. Costs of agreed and repeated tests shall be born every time by the Supplier, including the costs of the trial operation.

## **8. Price and payment terms**

1. For proper and timely delivery of the Goods the Customer shall pay the Supplier the price specified in the Order. If the Supplier is a VAT payer, the price will be plus VAT, pursuant to applicable law, unless the VAT is included in the Order. The price stated in the order is firm and final at it includes all costs associated with the Supplier`s obligations under the Contract.
2. The Customer agrees to pay the price by bank transfer to the Supplier`s account, namely on the base of payment document issued by Supplier and delivered to the Customer (hereinafter referred to as "**The Invoice**"). The Supplier is entitled to issue an invoice up to and after proper handover of Goods (It can be also delivered simultaneously with Goods delivery) only and is obliged to issue the Invoice (by VAT payer) at the date of taxable supply, namely the date of the completion certificate to the Goods, signed by both parties. If there are Services provided to the Customer, date of the transaction will be determined in accordance with applicable legislation. Invoices issued from the Supplier must be factually correct.
3. The origin invoice must be sent to the Customers finance department and must include requirements under applicable laws (for VAT payer VAT invoice requirements and for non-payer of VAT accounting requirements adequately document) and Customers Order number (purchase contract or purchase Order) Unless otherwise specified in the Order or written Contract, invoice due date is 60 days from date of its delivery to the Customer. If the invoice does not contain required particulars, or if incomplete or incorrect, the Customer is entitled to return it (invoice or copy) to the Supplier by the due date for correction or completion. From the date of delivery of a new or corrected invoice, a new, above mentioned period of maturity starts.
4. Price payment for purposes of the Contract means the date when amount of money is debited from the Customer`s account.

## 9. Penalty Clauses

1. If any of the parties comes in delay with any payment under the Contract, the other party is entitled to claim interest on the late payment under applicable laws.
2. If the Supplier delays in meeting the due dates of proper delivery of Goods or Services the Customer is entitled to claim for penalties of 0.5 % of the price of the Goods or Services per day of delay and Supplier is obliged to pay this penalty to the Customer. In case this delay causes damages for the Customer, the Customer is entitled to claim in addition to the penalty, compensation for damages.
3. In case of breach of confidentiality, exclusivity and secrecy of information according to Art. 10 of these Terms, the contracting party which has not breached this duty shall be entitled to require the Contracting Party breaching this obligation, a contractual penalty in the amount of 500.000,- CZK (five hundred thousand Czech crowns) for each of the case of such breach. Payment of such penalty shall not relieve a Party from the obligation to pay damages in full.

Any penalty under the Contract is payable within fifteen days of receipt of the legitimately issued invoice. The right of any party for compensation of damage shall not be affected by payment of contractual penalty.

## 10. Confidentiality and reservation of exclusivity

1. The parties undertake to maintain confidentiality of the facts relating to the other party, subject and fulfilment of the Contract and other facts which they become aware of in connection with the Contract fulfilment and which are not publicly known or available. This commitment extends to other facts which the other party expressly designated as confidential. Hereinafter referred to as "**Confidential Information**".
2. Each party undertakes to ensure that Confidential Information is not disclosed and undertakes to protect the secrecy of the Confidential Information in the same way that protects its own trade secrets, but always at least in such a manner, that is customary in its business area. Each party agrees to use Confidential Information solely for the purposes of the contract.

3. Each party is entitled to disclose Confidential Information to its legal, tax and accounting Advisors (hereinafter referred to as “**Advisors**”) and, to the extent absolutely necessary also to third parties with whose help it fulfils the Contract according to Article 4 Paragraph 1 of these terms and conditions. Should the Consultant or a third party breach the obligation of confidentiality the party having disclosed Confidential Information to them, shall be responsible for this violation. The **Customer** is entitled to disclose Confidential Information to related parties, as defined in § 66a of the Commercial Code. In any case of transmission of Confidential Information to a third party each party shall ensure that the obligation of confidentiality to such third party covers at least the same extent which results from these Terms and Conditions.
4. The parties undertake to preserve the confidentiality obligation under this article terms throughout the Contract duration and after its completion, up until the Confidential Information becomes publicly known and accessible but not by break of the terms of this article.
5. The Supplier agrees to properly secure drawings he received in connection with the performance of the Contract against access of unauthorised persons. The Contractor further agrees not to disclose to third parties any information that could harm competition in the business or otherwise discriminate the Customer. In the event of breach of the obligations contained in this paragraph 5 the Contractor shall pay the Customer a contractual penalty of 500.000,-CZK for any breach of these obligations.
6. Goods which are subject to intellectual property of the Customer and have been made by the Contractor, shall not be delivered to other customers without written consent of the Customer. This obligation also applies to other Goods which use the Customer intellectual property, and to the production and distribution by a third party for which Supplier would be required to obtain a license from the Customer. If the Contractor should breach the duty, mentioned in this paragraph 6, the Supplier shall pay the Customer a contractual penalty of 500.000,-CZK for any breach of these obligations.
7. In case if the Contractor produces or acquires tools, preparations or models for the Customer according to the Order, whose price is included in the price of Goods or Services, ownership in these tools, preparations or models passes to the Customer from the time of purchase or manufacture.
8. In the event, that the Customer provides tools, preparations or models as lease exclusively for manufacture of Goods or for Services for the Customer, the Supplier shall be obliged to store such tools, preparations and models properly and insure them against loss and damage, respectively have liability insurance that will cover any damage due to damage or loss incurred to the Customer. In addition the Contractor is obliged these tools, preparations or models return back to the Customer on demand without undue delay, especially in case of production problems.

## 11. License

1. The Contractor shall be responsible for legal and financial settlements of third party rights to the Goods in such a way, that Goods may be used by Customer or a third party without further restriction or payment (in particular without having to obtain consent(s) using the Goods by Customer or by third parties and in particular without no further payments for licenses or authorizations from third parties, associated with the Goods). For the avoidance of doubt, it is hereby stipulated that the remuneration for the granting of licences and the settlement of other third party rights is already included in the total price paid to the Supplier for the Goods or Services and is final. The Supplier shall be responsible for ensuring that the Customer is entitled to use the Work for the purposes of the Contract without infringing the rights of third parties
2. If the Goods include any work of authorship, and unless otherwise stated in the Order, and if the Supplier is the author or a person entitled to exercise proprietary rights, the Supplier grants the Customer a non-exclusive licence (unless the parties agree in the Contract that the licence shall be exclusive) to use the work in all ways known at the time of conclusion of the Contract, unlimited in time, place and quantity, with the right of the Customer to grant the licence in whole or in part to a third party. In the event that the Supplier produces Goods under the Agreement which are copyrighted works, the relevant provisions of the Copyright Act shall apply to such custom production, provided that the Supplier shall not, unless the parties agree

otherwise, be entitled to grant a license to use such work to third parties. The Supplier shall also secure and obtain the relevant consents of the authors concerned to authorize the Customer to process and modify such work, to combine it with another work or to include it in another ensemble work, to the extent necessary for the purpose for which the Goods were acquired. The remuneration for granting such consents is also included in the total price of the work within the meaning of the preceding paragraph.

## 12. Force Majeure

1. If one of the parties is prevented from performing its obligations by force majeure, that party shall not be in default, but only to the extent and for the period in which performance is undoubtedly prevented by the force majeure.
2. Force majeure shall mean those events (obstacles) that occurred after the commitment independently of the will of the relevant party, have an extraordinary nature, are unavoidable, unpredictable and insurmountable and objectively prevent the fulfilment of obligations under the Contract (e.g. state of war, civil unrest, fire, floods, explosion, terrorist attack etc.). Fulfillment of the obligations shall not be deemed impossible, if it can be done under difficult conditions, with higher costs or after the agreed time.
3. If force majeure event occurs, the affected party shall promptly notify the other party about nature, beginning and end of force majeure event.
4. The liability of the obliged party shall not be excluded and the term of performance shall not be extended if the force majeure occurred only at the time when the obliged party was already in default with the performance of its obligation under the Contract, or if the obliged party did not fulfil its obligation to inform the other party immediately, according to paragraph 3 of this article of these Terms and Conditions.

## 13. Settlement of Disputes

Any disputes arising from the Contract or in connection therewith (with exclusion of courts of general jurisdiction) will be finally decided by the Arbitration Court at the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic ("Arbitration Court"). The arbitration shall be conducted under the Rules and Regulations of the Arbitration Court and by three arbitrators, appointed under the Rules of the Arbitration Court. The venue shall be Prague and the language of the hearing shall be Czech. The parties undertake to fulfil all obligations imposed on them in the arbitral award within the time limits specified in the award. Either of the parties shall be entitled to request the said Arbitration Court to decide the dispute after 30 days from the date on which one of the parties notifies the other of the existence of the dispute, unless the parties resolve the dispute amicably within the said period.

## 14. Final Provisions

1. Conditions are given in Czech, English and German, in the case of differences the Czech text shall prevail. The Order (Purchase Order) can be drawn either in Czech, English or German.
2. For the avoidance of doubt is stated, that these Conditions respectively the Contract do not replace a contract for processing of personal data under the relevant legislation and the Supplier shall not be based on these Terms, respectively Contract, to dispose of any personal data originating from the Customer.
3. The Contract is governed by the laws of the Czech Republic, excluding choice of conflict rules. Unless otherwise specified in the Order, applies adjustment contained in the Commercial Code.
4. The Contract may be changed only by mutual agreement of the parties in a way in which it was closed, especially accepting a New Order, explicitly changing the original Order.

Date: 20.12.2018

Date:



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Martin Švadlenka

Vendor's Signature and Stamp

Vice President of European Supply Chain