

# Business Terms and Conditions for Entrepreneurs and Legal Persons of Jihostroj a.s.

## I. General Provisions

1. These General Business Terms and Conditions (hereinafter referred to as “**GBTC**”) of Jihostroj a.s., Company Identification No.: 466 78 212, Tax Identification No.: CZ46678212, with the registered office: Budějovická 148, 382 32 Velešín, incorporated in the Companies Register kept by the Regional Court in České Budějovice, Section B, Insert 502 (hereinafter referred to as the “**Seller**”), are executed in compliance with the provisions of the Act No. 89/2012 Coll., Civil Code, as amended (hereinafter referred to as the “**Civil Code**”), and regulate the relationships between the Parties to the Purchase Agreement, whereas the Seller is one Party and the Buyer is the other Party (hereinafter referred to as the “**Buyer**”).
2. As of a day of concluding the Purchase Agreement, these GBTC become an integral part of the contractual relationship concluded between the Parties, define and supplement some parts of the relationship, unless provided otherwise by a specific Agreement.
3. In compliance with these GBTC, the Buyer may be:
  - a. **Entrepreneur in compliance with Section 429 of the Civil Code.** For purpose of these GBTC, entrepreneur means a person performing a gainful activity in trade or similar manner, at his/her own account and liability, with the intention to perform it continuously to gain a profit within his/her business activity, provided that the entrepreneur specifies his/her Company Identification No. in the Order.
  - b. **Legal person in compliance with Section 118 et seq. of the Civil Code.** A legal person is an organized unit which is identified by law as having legal personality or whose legal personality is recognized by law. A legal person may have the rights and obligations being in compliance with its legal nature, regardless the subject matter of its business activity.
4. By concluding the Purchase Agreement, the Buyer expresses its consent to these GBTC.
5. GBTC, Personal Data Protection Conditions and Warranty Claim Code are always available in the current wording on the Company’s official website <http://www.jihostroj.com>, section “**Hydraulics**”.
6. Any provisions different from these GBTC may be agreed in the Purchase Agreement. Any divergent provisions contained in the Purchase Agreement prevail over the provisions of these GBTC. Any possible existing general business terms and conditions of the Customer apply and are binding only in case they are expressly recognized and confirmed in writing by the Seller.
7. These GBTC do not apply to the contractual relationships established between the Seller and the Buyer who is a consumer in compliance with Section 419 of the Civil

Code and Section 2 (1) a) of the Act No. 634/1992 Coll., on Consumer Protection, as amended (hereinafter referred to as the “**Consumer Protection Act**”), whereas the legal regulation contained in Section 1810 et seq. of the Civil Code and the Seller’s special business terms and conditions determined for Consumers apply exclusively to such relationships.

8. When concluding and performing the Purchase Agreement, the Seller acts within its business activity. The Seller is an entrepreneur who supplies the goods directly to the Buyer.
9. The Seller may amend or supplement the wording of these GBTC.

## II. **Conditions for Sales of Goods and Services**

1. The minimum value of an order is determined by the Seller in the amount of EUR 50.
2. The Seller’s offers are not binding any they may be cancelled anytime for all the data, including the price, quantity, delivery dates and delivery methods.
3. The Seller excludes the automatic acceptance of a draft to conclude the Purchase Agreement with an amendment, reservation, limitation or deviation by the Buyer. Such Buyer’s reaction is not considered as offer acceptance but as a new draft which the Seller would have to confirm to the Buyer again in writing if the Seller does not decide to accept the changed conditions of the Agreement by direct performance (supply of goods to the Buyer).
4. The Buyer’s order is considered as binding and its cancellation is possible only with the Seller’s express consent. The Purchase Agreement is considered as concluded at the moment when the Seller confirms the order acceptance in writing or when the supply is realized in compliance with the order (supply of goods to the Buyer).
5. Any amendments, supplements or cancellations of the order are recognized and are binding for the Seller when they are confirmed by the Seller to the Buyer in writing.
6. The order may be cancelled without the Seller’s consent only if the order cancellation is delivered to the Seller before the order is delivered or along with it.
7. Any amendments, supplements or cancellations of the order may be made only within 5 working days after the order is confirmed by the Seller.
  - a. If the Parties agree upon an amendment, supplement or cancellation of the order, the Buyer undertakes to refund to the Seller the expended costs to full extent (costs, damages, fees and expenses incurred to the Seller due to the order cancellation, supplement or amendment).
  - b. The orders concerning the goods and services adjusted according to the Buyer’s wish (in compliance with drawings, designs or specifications submitted or required by the Buyer) may not be amended, supplemented or cancelled.
8. Only written agreements and arrangements are binding for the Parties. Any oral agreements or amendments to the concluded Agreements shall not be taken into account without their written confirmation.

### III.

#### Offer of Goods and Services

1. The Buyer has a possibility to get acquainted with the Seller's assortment on the Seller's website. In this context, viewing of the assortment may not be understood as a draft to conclude the Purchase Agreement. The goods and services are sold only by means of the Buyer's inquiry. The Buyer has a possibility to inquire for the goods from the Seller's assortment, eventually the Buyer may inquire for the goods according to its own ideas and wishes (hereinafter referred to as the "Customized Goods").
2. In case of the Customized Goods, the Buyer shall provide the Seller with the necessary documents (especially drawings, designs and other specifications of goods) based on which the Seller shall assess its ability to produce and supply the required goods. The Seller informs the Buyer of its ability to produce/not to produce the inquired goods or services as soon as possible. If the Seller is able to produce the Customized Goods according to the Buyer's specifications, the Seller shall provide the Buyer with a price offer corresponding to the Buyer's requirements.
3. The scheme of goods, layouts, data concerning weight, performance, dimensions and other characteristics of goods, as specified in the catalogues, brochures, price lists and other materials, are for convenience only. The Seller does not provide any warranty and does not assume any liability for the accuracy of this data.
4. The Seller reserves a right to structural and production changes and changes in the technical parameters of goods and services if they do not unreasonable affect the Buyer's interests, purpose of usage of goods, and if they are usual within the business contact.
5. The product descriptions do not constitute in any case any quality warranty for goods pursuant to Section 2113 of the Civil Code.
6. The Seller does not guarantee for any possible print mistakes in the catalogues, brochures, price lists and other printed materials.
7. The Buyer agrees with usage of the remote communication means when concluding the Purchase Agreement. The costs incurred to the Buyer for usage of the remote communication means in connection with the conclusion of the Purchase Agreement (costs for Internet connection, phone calls) shall be paid by the Buyer itself whereas such costs shall not differ from the basic rate.
8. The Buyer assumes a risk of change of circumstances in the meaning of Section 1756 (2) of the Civil Code.
9. The Purchase Agreement is concluded in the Czech language. The Seller is entitled to conclude the Purchase Agreement also in the English or German language if the Buyer sends an inquiry in any of these languages.
10. The Purchase Agreement shall be archived by the Seller in an electronic/paper form and shall not be accessible.
11. The Seller does not conclude any Agreement whose subject matter is repeated performance.

### IV.

#### Price, Delivery Period, and Payment Terms

1. With respect to the nature of goods (or services), the Seller sets the purchase price for goods (or services) firstly based on the received Buyer's inquiry. The Buyer shall inquire for the goods or services directly at the Seller by means of the electronic communication at the Seller's e-mail address: [salesHD@jihostroj.cz](mailto:salesHD@jihostroj.cz). The Seller shall send the Buyer an unbinding price offer corresponding to the Buyer's inquiry. In addition to the purchase price, the price offer shall contain also the delivery period. The price stated in the offer is guaranteed to the Buyer for a period specified in the offer. By accepting the price offer the Buyer expresses its consent to the amount of prices set in the Seller's price offer. The confirmed price offer is considered as binding and its cancellation is possible only with the Seller's express consent.
2. The Purchase Agreement between the Seller and the Buyer is concluded when the order acceptance is delivered by the Seller via electronic mail to the Buyer's e-mail address.
3. The price does not include any customs duties, transport costs, insurance, packaging charges and other fees which shall be borne by the Buyer.
4. The invoiced price is due within 30 days after the Seller's tax document is issued.
5. Unless agreed otherwise in writing, all the Seller's prices are based on standard packaging, ex works (Incoterms 2010, EXW condition).
6. The Seller reserves a right to increase the price of goods (or services), reflecting any possible increase of the Seller's costs, caused by a factor beyond the Seller's control.
7. The Seller is a value added tax payer. The Seller shall issue a tax document in compliance with the Act No. 235/2004 Coll., on Value Added Tax, as amended, after the purchase price of goods (or services) is paid and shall send it to the Buyer in a paper form along with the ordered goods.
8. The Buyer's obligation to pay the purchase price is met when the relevant amount is credited to the Seller's account.
9. In case the Buyer is delayed with payment of the invoice for goods (or services), the Buyer undertakes to pay the Seller a contractual penalty of 0.03 % of the amount due for each commenced day. This does not affect the Seller's right to compensation.
10. In case of delay with payment of the invoice for goods (or services), the Seller is entitled to:
  - a. Withdraw from the Purchase Agreement;
  - b. Suspend any further supplies;
  - c. Withhold the payment;
  - d. Postpone meeting of its obligations until the invoice is paid;
  - e. Extend the delivery period also for other business transactions with the Buyer.

## **V. Supply of Goods or Services**

1. The Seller undertakes to pack the goods in a manner usual for their storage and protection.

2. The Seller undertakes to supply to the Buyer the subject matter of the Purchase Agreement in the agreed quantity, quality and design, along with all the documents belonging to the goods.
3. Unless agreed otherwise, the delivery (shipment) place is the Seller's registered office or the Seller's shipment warehouse located at the address: Budějovická 148, 382 32 Velešín (hereinafter referred to as the "delivery place").
  - a. The Seller informs the Buyer of the possibility to pick up the goods at the delivery place.
  - b. The Buyer shall ensure the takeover of goods at the delivery place, at its own expense and liability.
  - c. Based on an agreement of the Parties, the goods may be supplied also to a different place (hereinafter referred to as the "agreed place"). If agreed by the Parties, the Seller shall ensure the transport of goods for the Buyer according to the Buyer's requirements to a place determined by the Buyer.
4. The type and method of transport shall be selected by the Buyer itself with regard to the characteristics of goods (if agreed by the Parties, it may be selected by the Seller). The costs related to the supply of goods to the agreed place shall be borne by the Buyer (transport, packaging, insurance charges, etc.).
5. The Seller is not liable for any damages and is not obliged to assume any liability in connection with the compensation of damage caused by transport or by delivery of goods.
6. If the Buyer does not take over the goods or does not provide the Seller with reasonable instructions concerning the supply of goods to a different place at the delivery time, the Seller is entitled to:
  - a. Store the goods in its storage premises until the goods are factually supplied to the Buyer, whereas the Buyer is responsible to the Seller for all the associated costs and expenses (such as storage fees, insurance, etc.);
  - b. Sell the goods, and if the invoice or proforma invoice has been already paid for the goods, the Seller is obliged to pay the Buyer, after a claim is applied, the yield from the sales of goods after deducting the storage costs, sales costs and other justified claims of the Seller, which the Seller is entitled to set off unilaterally against the Buyer's receivable.
7. In case it is necessary to deliver the goods repeatedly to the agreed place by reasons on the Buyer's side, the Buyer is obliged to pay the costs related to the repeated delivery of goods.
8. Upon the takeover of the goods from the forwarder, the Buyer is obliged to inspect the integrity of packaging and in case of any defects announce this fact immediately to the forwarder. In case it is found out the packaging is damaged, which shows evidence of unauthorized intrusion into the consignment, the Buyer is not obliged to take over the consignment from the forwarder. If the Buyer takes over the consignment from the forwarder, the Buyer does so with a reservation and specifies the type of damage in the forwarder's handover certificate.
9. The Buyer who took over the consignment with a reservation announces this fact without undue delay to the Seller at the address: [salesHD@jihostroj.cz](mailto:salesHD@jihostroj.cz) and attaches the handover certificate from the forwarder; we recommend to attach also the photo documentation of damage or intrusion into the packaging (not necessary).

10. The Buyer undertakes to inspect the contents of goods, especially the type of goods, quantity and documents, on a day when the goods are taken over. It is necessary to announce any possible discrepancies immediately after they are found out at the address: [salesHD@jihostroj.cz](mailto:salesHD@jihostroj.cz).
11. Any breach of the obligation under Clause 7, 8 and 9 of this Article is considered as a significant breach of the Agreement by the Buyer. In case the goods are taken over by the Buyer and the Seller is not notified of any defect without undue delay, it shall be deemed the Agreement has been performed in a proper and timely manner.

## **VI. Risk of Damage and Unforeseeable Obstacles**

1. The risk of damage passes from the Seller to the Buyer at the moment when the takeover of goods (or services) is enabled at the delivery place or at the agreed place.
2. If the Seller is not able to meet its obligation to supply the goods in a timely and proper manner due to a force majeure event, strike, lock-out or due to other unforeseeable obstacles which may not be averted even when exerting reasonable care, no matter if such obstacles incur in the Seller's operation or in the operation of any of its suppliers, the delivery period shall be extended by the period when such obstacle lasts. If it is not possible to meet, wholly or partially, the obligations under the concluded Agreement due to the above-mentioned circumstances, or if the performance of the Agreement becomes unreasonable for either of the Parties in relation to the provided consideration, such Party is entitled to withdraw from the Agreement, wholly or partially.

## **VII. Retention of Title**

1. The title passes from the Seller to the Buyer after the total purchase price is paid, in compliance with Section 2132 of the New Civil Code.

## **VIII. Warranty for Quality**

1. The Seller provides quality warranty for the goods for 24 months after a day when the goods are supplied at the delivery place or until 3.000 service hours are reached, whichever occurs first.
2. The Buyer undertakes to notify the Seller of all the found defects or insufficiencies without undue delay, otherwise the claim on their elimination or repair shall extinguish.
3. The Buyer is obliged to announce the defects (hereinafter referred to as the "**Warranty Claim**") in writing.
4. In compliance with Section 2161 of the Civil Code, the Seller is responsible to the Buyer for the fact the goods do not have any defects upon the takeover. At the moment when the Buyer takes over the goods, the Seller is responsible to the Buyer especially for the following facts:

- a. Goods have the characteristics agreed by the Parties, and if the characteristics are not agreed the goods have the characteristics which the Seller or a manufacturer described and which the Buyer expected with respect to the nature of goods and based on the advertisement made;
  - b. Goods are suitable for the purpose which has been defined by the Seller or which the goods of this type are usually used for;
  - c. The quality or design of goods corresponds to the agreed sample or template if the quality or design has been determined according to the agreed sample or template;
  - d. Goods are supplied in the corresponding quantity, volume or weight; and
  - e. Goods comply with the legal requirements.
5. The quality warranty does not apply especially to cases when the defect or damage is caused by:
- a. Ordinary wear and tear, caused by usage of the goods;
  - b. Unprofessional installation, manipulation, service or neglected maintenance;
  - c. Mechanical damage;
  - d. Unpermitted interferences with the goods and adjustments of goods by the Buyer if the defect is caused by such interference or adjustment;
  - e. Removal or damage of a seal if the goods are sealed;
  - f. Overvoltage;
  - g. Damage by natural disasters or force majeure;
  - h. Incorrect usage;
  - i. Usage in conflict with the service manual ([www.jihostroj.com/en/hydraulics/service-manual](http://www.jihostroj.com/en/hydraulics/service-manual));
  - j. Usage in conflict with the generally known rules of usage;
  - k. Usage under conditions which do not correspond as regards temperature, dustiness, humidity, chemical and mechanical effects of the environment being determined directly by a manufacturer or resulting unambiguously from the nature of goods;
  - l. Defects on goods resulting from the drawing, design or specifications provided or required by the Buyer;
  - m. Falsification of documents - tax document shows evidence of changes made or if the goods contain different serial number than specified in the tax document.
6. The right from quality warranty shall be applied only at the Seller. Pursuant to Clause 2 of this Article, the Buyer shall notify the Seller of all the found defects or insufficiencies in writing at the e-mail address: [salesHD@jihostroj.cz](mailto:salesHD@jihostroj.cz). Based on an agreement of the Parties, the Buyer shall subsequently send the goods to the Seller's address: Jihostroj a. s., Budějovická 148, 382 32 Velešín. The consignment shall contain:
- a. Complete packaging of the claimed goods;
  - b. Copy of the proof of purchase;

- c. Detailed defect description;
  - d. Buyer's contact data which is necessary to settle the Warranty Claim (name, surname, address, e-mail, phone No.);
  - e. Required method of Warranty Claim settlement (repair, exchange, discount, completion of the missing items, withdrawal from the Purchase Agreement) - the Buyer may not change the selected option without the Seller's consent; it shall not apply if the Buyer asked for repair of the defect which shows to be irreparable.
7. The Seller shall issue to the Buyer a written confirmation of the applied Warranty Claim and send it electronically to the Buyer's e-mail address, whereas the confirmation shall contain:
  - a. Seller's identification;
  - b. Buyer's identification;
  - c. Identification of goods;
  - d. Defect description;
  - e. Date when the Warranty Claim was applied by the Buyer;
8. After the Warranty Claim procedure is terminated, the Seller shall add the following data to the Buyer's written confirmation:
  - a. Date and method of Warranty Claim settlement;
  - b. Confirmation of the method of Warranty Claim settlement and its duration;
  - c. Eventually written justification of Warranty Claim rejection.
9. The Seller undertakes to repair the defect on goods (or services) or to exchange the defective goods (or services) free of charge in case of a justified Warranty Claim.
10. If the defect occurs repeatedly even after the positive Warranty Claim settlement (3 and more times) or if the defect elimination or exchange of goods (or services) is not possible, the Buyer may apply other rights from defective performance, especially the right to a reasonable discount from the purchase price or right to withdraw from the Agreement. In case of defects which do not affect the proper functionality of goods (or services), the Customer is only entitled to a reasonable discount from the purchase price.
11. The Seller undertakes to settle the applied Warranty Claim as soon as possible and without undue delay, latest within 40 days after the Warranty Claim is applied, unless the Seller and the Buyer agree upon a longer period.
12. After the Warranty Claim is settled, the claimed goods (or services) shall be sent to the Buyer's address via a courier services provided. If the Buyer requires the goods to be sent to a different address than stated in the order form, the Buyer is obliged to notify the Seller of this fact in a sufficient manner.
13. The Buyer undertakes to take over the claimed goods (or services) from the forwarder.
  - a. The Buyer shall be informed of the delivery date. The provisions of Article V hereof are binding for the Buyer upon the delivery of the claimed goods.
  - b. If the Buyer is not reached at the time of delivery, the Buyer may pick up the claimed goods in compliance with the forwarder's call for pickup. If the Buyer

does not manage to take over the goods within the additionally stipulated period, the claimed goods shall be returned back to the Seller. If the Buyer asks for repeated shipment of the claimed goods, the Buyer shall bear the costs associated with the repeated delivery of goods.

- c. The consignment containing the claimed goods, not taken over by the Buyer, shall be returned to the Seller and stored. If the Buyer does not show any interest in the repeated delivery of goods within the settled Warranty Claim within 6 months after the Warranty Claim is settled, the Seller reserves a right to sell or liquidate the goods. In case the goods which have not been picked up are sold, the Seller shall pay the Buyer the yield from the sales, after the Buyer applies a claim. The Seller is entitled to set off unilaterally the costs incurred in connection with the sales of goods (e.g. price for repair, storage of goods, costs associated with the sales of goods and other justified claims).

14. Other rights and obligations of the Parties relating to the Seller's damage liability are regulated in the Seller's [Warranty Claim Code](#).

## **IX. Withdrawal from the Purchase Agreement**

1. The Seller does not enable to the Buyer to withdraw from the Purchase Agreement concluded remotely, without stating a reason within 14 days after the goods are taken over.
2. The Parties are entitled to withdraw from the Purchase Agreement, especially if:
  - a. The Buyer does not properly and timely pay the purchase price for goods (or services);
  - b. The Buyer does not provide sufficient collaboration within the Warranty Claim, repairs and supplies of services or goods;
  - c. In case of a serious breach of the Agreement by either of the Parties.
3. All the mutual rights and obligations of the Parties resulting from the established contractual relationship shall extinguish at the moment when the withdrawal from the Purchase Agreement is delivered to the other Party.

## **X. Export Conditions**

1. If the goods are to be supplied outside the EU, the Buyer is responsible for observance of all the legal regulations or rules regulating the import of goods to a destination country and for payment of all the customs imposed.
2. All the goods (or services) shall be paid to full extent, including VAT, before the goods are shipped. The Buyer shall ensure the delivery of goods (or services) at its own expense and liability.

## **XI. Personal Data Protection**

1. In compliance with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter referred to as “GDPR”, General Data Protection Regulation), we process your personal data in accordance with Article 6 (1) b) of GDPR, to perform the Agreement.
2. The method of processing of the Buyer’s personal data is described in a separate document called Personal Data Protection.

## **XII. Commercial Messages and Saving of Cookies**

1. The Seller does not send any commercial messages - so-called newsletters.
2. The Buyer agrees with saving of the so-called cookies on its computer. In case it is possible to purchase on the website and meet the Seller’s obligations resulting from the Purchase Agreement without saving the so-called cookies on the Buyer’s computer, the Buyer may anytime withdraw its consent according to the previous sentence.

## **XIII. Deliveries**

1. Deliveries for the Buyer may be realized to the Buyer’s electronic address (e-mail) specified in the inquiry. The Buyer agrees with this communication method.
2. The Seller undertakes to deliver to the Buyer only messages relating immediately to the placed order.

## **XIV. Settlement of Disputes and Complaints**

1. The Seller shall attempt to settle any disputes resulting from the Purchase Agreement amicably - by an agreement with the Buyer.
2. Any disputes resulting from and relating to the Purchase Agreement shall be settled in compliance with the Czech law and shall be decided by the Czech courts having territorial jurisdiction.
3. Processing of the Buyer’s complaints is ensured by the Seller at the address: [salesHD@jihostroj.cz](mailto:salesHD@jihostroj.cz); the Seller shall send the information concerning the complaint settlement to the Buyer’s electronic address.
4. A supervisory body in the field of the personal data protection is the Office for Personal Data Protection, with the registered office: Pplk. Sochora 27, 170 00 Praha 7, Company Identification No.: 70837627, Internet: <https://www.uoou.cz/>.
5. The Seller is entitled to sell the goods based on a trade licence. The trade inspection is performed by the Municipal Office of Kaplice within its competence, with the

registered office: Náměstí 70, 382 41 Kaplice, Internet: <https://www.mestokaplice.cz/>.

## **XV.**

### **Final Provisions**

1. In case any of the provisions of the Agreement is or becomes obsolete, ineffective or invalid, by any reason, it shall not cause the invalidity or ineffectiveness of the Agreement. The Parties undertake to replace the relevant invalid provision by a provision whose factual contents are identical or most similar to the provision being replaced, whereas the purpose and meaning of the Agreement shall be kept, or a legal regulation corresponding most to the purpose and meaning of the Agreement shall be applied.
2. These General Business Terms and Conditions come into force and effect on 1 September 2020.