

## **General Conditions of Purchase valid in Nemak Slovakia spol. s r.o. (Ltd.)**

### **I. Introductory provisions**

1. These General Conditions of Purchase (hereinafter referred to as „**GCP**“) govern the legal relations between Nemak Slovakia spol. s r.o. (Ltd.), established in Ladomerská Vieska 394, ZIP Code 965 01, Žiar nad Hronom, ID: 36 042 773, The Slovak Republic (hereinafter referred to as „**Nemak Slovakia**“) and each natural or legal person who is a supplier of goods or provider of services under these GCP (hereinafter referred to as the „**supplier**“).
2. Legal relations between Nemak Slovakia company and the supplier are governed by i) these GCP, ii) purchase or other agreement entered into between Nemak Slovakia company and the supplier and iii) generally binding legal regulations of the Slovak Republic, in particular the Commercial Code.

### **II. Basic terms**

1. **Supplier, seller or contractor** shall mean the natural or legal person who has entered with Nemak Slovakia Company into purchase or other contractual agreement relating to a supply of goods or services.
2. **The parties of this contract** shall mean Nemak Slovakia Company and the supplier / seller / provider.
3. **Written form** means a form of letter, fax or electronic mail (i.e. e - mail).
4. **Purchase Order** means the document designated as order for goods or services or made by Nemak Slovakia Company in relation to the supplier.
5. **The goods** shall mean goods or services for Nemak Slovakia Company.
6. **Contract** means the written agreement concluded between Nemak Slovakia Company and supplier, which contains the basic elements: subject matter hereof, the specification of goods or services provided, delivery date, determined purchase price, the price for performance of the services or the method of its calculation. The contract is a document under this name, but also any mutually endorsed and confirmed proposals (e.g. order and its acceptance), with the exception of the contract, by which the real estate property is transferred.

### **III. Ordering of goods and conclusion of the contract**

1. Nemak Slovakia Company orders the supply of goods or services from the supplier always in written form. Any changes in Purchase Orders must also be made in writing. Purchasing Department of Nemak Slovakia Company is authorized to carry out orders on behalf of Nemak Slovakia Company. If other department of Nemak Slovakia Company carries out the order, than attached to this order must be explicitly written confirmation from the Pur-

chasing Department of Nemak Slovakia Company.

2. GCP apply to all orders made by Nemak Slovakia, the execution of order means the acknowledgement of these GCP. Supplier's terms of delivery shall be valid only if expressly confirmed by Nemak Slovakia Company in writing.
3. The supplier is obliged to accept a request from Nemak Slovakia Company within the period specified in the order, or within a reasonable time, but no longer than 3 working days from the date of Nemak Slovakia Company order dispatch.
4. If the order is not accepted by supplier within the period specified in preceding paragraph 3, the order loses its validity and Nemak Slovakia Company is not bound by presented order.
5. Modification of the contract or accepted order is possible only in the form in which it was entered into force, whilst the change of contract or order must be accepted by both parties to the contract.

### **IV. Terms of delivery**

1. The supplier will supply the goods or services to Nemak Slovakia Company on the basis of written and confirmed order or contract awarded under the conditions laid down in these GCP.
2. The supplier shall deliver the goods or services to Nemak Slovakia Company at the place and time specified in the contract or in the order. Delivery of goods or services shall be shown by supplier's delivery note, service protocol, or breakdown of services performed, which shall include accurate and sufficiently precise description of the goods or services (i.e. the type and quantity of the goods or services, place and date of when the goods or services were supplied) confirmed by Nemak Slovakia Company.
3. Time of delivery of goods or services may be set by exact date or period which commences from the date of conclusion of the contract. If the time of delivery of goods or services shall be within the prescribed period, the supplier is entitled to deliver goods or services on weekdays throughout the duration of the specified deadline of delivery.
4. Unless otherwise agreed between the parties to the contract themselves the place of supply shall be registered office of Nemak Slovakia Company in accordance with these GCP.
5. Unless otherwise agreed between the parties to the contract themselves the supplier shall be entitled to determine the route of goods or its part, as well as the means of transport. However, the supplier undertakes to comply strictly with the delivery and shipping regulations, especially with transport routes, transport methods, as well as means of transport and packing of the goods.
6. The supplier shall immediately deliver to Nemak Slovakia Company all documents necessary for treatment with the goods (handling, loading, unloading). Certificates of origin required by

Nemak Slovakia Company (such as declaration of supplier, transport confirmations for the goods in the sense of EWG-CEFTA provisions of origin) shall include all particulars required by Nemak Slovakia Company and the supplier is also obliged to deliver them to Nemak Slovakia Company without any delays. Supplier is obliged to submit certificate of delivery to Nemak Slovakia Company with each delivery of goods and in relation to materials on chemical base also a quality certificate.

7. Supplier shall inform Nemak Slovakia Company in such a case, when delivery subject, i.e. goods or services, are subjected fully or partially to export limitations in compliance with Slovak or any other foreign economic legislative.

### **V. Prices and payment conditions (Rates and charges)**

1. Nemak Slovakia company is obliged to properly and timely pay the purchase price for delivered goods or services, subject to the conditions determined under this paragraph of these GCP.
2. The agreed purchase price is a fixed price without the value added tax (VAT), and the price also includes delivery of goods or services to the place of delivery of goods or services and the cost of packaging and transport (CIP - clause), then all fees, duties and any other direct or indirect costs associated with the delivery of goods to Nemak Slovakia Company.
3. The purchase price of goods or services shall be payable in a currency which has been designated in the contract or order confirmation as the currency in which the purchase price is stated. When determining the purchase price in the foreign currency in which Nemak Slovakia Company pays for delivery of goods or services, it is based on the foreign exchange rate valid at the date of order confirmation or the date of the contract signature.
4. In the case of the supply of further goods or moreover, in the case of additional goods or extra work, as well as to the supply of lower volume of goods, the supplier shall have the consent of Nemak Slovakia Company, eventually further variation order of Nemak Slovakia Company, including a confirmation of the purchase price of such goods supplied under these conditions.
5. The purchase price for goods or services is due no later than within the second day of the second month after delivery of goods or services, but not earlier than 31 days after delivery of goods or services, if the parties to the contract have not agreed a different payment of the purchase price.
6. The purchase price in case of cashless payments is considered paid on the date when it will be debited from the bank account of Nemak Slovakia Company to the supplier's account.
7. If Nemak Slovakia Company accepted the payment of bills, an appropriate discount rate will be paid.
8. Nemak Slovakia Company is entitled to unilaterally claim against the sup-

plier set off with all of their previous claims against the supplier. Nemak Slovakia Company is also entitled to transfer all of their claims against the suppliers, which incurred pursuant to orders or contracts under these GCP, to a third party.

9. The supplier may transfer the claims against Nemak Slovakia Company incurred under contracts within the meaning of these GCP to a third party only with the written consent of Nemak Slovakia Company.

#### **VI. Consequences of breaching the agreed date of delivery or work**

1. Provide that supplier finds out that it is not possible to keep agreed terms of this contract related to delivery of goods or services due to any possible reason he is obliged to notify Nemak Slovakia Company regarding this fact in writing. Notice of extension of the goods or services delivery date, such extension or failure to deliver goods or services on the agreed date, does not affect the delay of the supplier, and also does not relieve Nemak Slovakia Company from the right to apply to Nemak Slovakia's claims associated with supplier's delay related to supply of goods or services by the agreed deadline.
2. If supplier exceeds agreed delivery terms of goods or services supplies accomplishment due to the reasons, for which he is responsible, Nemak Slovakia Company has the right for a liquidated damages the supplier undertakes to pay for each day of delay as minimum reimbursement in the amount of 0.3 % of the purchase price value for delivery of goods or services, but not exceeding 10 % of the purchase price value for delivery of goods or services, unless otherwise stated therein by parties of the contract. In the case of payment of the above liquidated damages the right of Nemak Slovakia Company shall not be affected to liquidate damages incurred as a result of delays in delivering the supplier's goods or services on the agreed date, even if it exceeds the amount of liquidated damages. The contractors as participants of this contract hereby declare that the agreed liquidated damages are not disproportionately high, are not in contrary to good manners, and even with commercial practice.
3. In a case of delay of the supplier to supply goods or services on the agreed date, Nemak Slovakia Company determines to suppliers an appropriate alternative deadline to deliver goods, while setting a reasonable substitute deadline for the delivery of goods or services does not affect the right of Nemak Slovakia Company for liquidated damages to be paid by the supplier within the meaning of paragraph 2 of this Article in these GCP.
4. In case of delay of the supplier to supply goods or services at the agreed time, a Nemak Slovakia Company after it provided an adequate replacement period may require from the supplier to immediately pass the

remainder of the unfulfilled order at their own expense and responsibility to a third party designated by Nemak Slovakia Company. The supplier shall accept and meet such a request of Nemak Slovakia Company.

5. In a case of expiry of such reasonable deadline set by Nemak Slovakia Company to deliver goods or services, Nemak Slovakia Company also have the right to derogate from paragraph 4 of this Article and to terminate the contract, while it is also entitled to claim from the supplier to liquidate damages.
6. If the supplier fails to comply with the orders repeatedly or does not supply goods or services within the agreed deadlines, therefore Nemak Slovakia Company has the right without prior provision of additional period to cancel the contract, whilst Nemak Slovakia Company has also the right to claim damages from the supplier, therefore the company may withdraw from the contract even without prior providing additional period and require compensation of the damage.

#### **VII. Guarantee**

1. The supplier provides Nemak Slovakia Company with guarantees for the fact that delivered goods or services shall fulfill characteristics stipulated in the contract by Nemak Slovakia Company, it shall comply with required technical standards and will not show deficiencies, which might decrease or hinder its value or usage purpose stipulated within the contract.
2. Liability for defective goods or services as well as the rights and obligations arising therefrom shall be governed by the laws in force in the territory of the Slovak Republic, as well as these GCP.
3. The seller further declares that no third parties have the rights to the delivered goods or services at the time of their delivery, while at the same time he declares that Nemak Slovakia Company does not commit the infringement of third party rights by the use of the supplied goods or services. Rights of third parties for the purposes of this section of these GCP are meant primarily and especially ownership, lien, other real rights, easement, further copyrights and patent rights, intellectual property rights and other rights.
4. Delivered goods or services, as well as their delivery must comply with applicable legal provisions and decisions of respective bodies and organizations regarding safety and health protection at work and environmental protection.
5. Guarantee period provided by supplier is one year since delivery goods or services. Guarantee period for spare parts and commercial goods, which themselves are defined separately within the contract, is one year since commencement of operation or since the day of delivery to Nemak Slovakia Company and it expires no later than 18 months since delivery to Nemak Slovakia Company.

6. Defects/faults of the delivered goods or services, such as that supplied goods or services does not have the characteristics specified (required and intended) in the order of Nemak Slovakia Company and found out by Nemak Slovakia Company during the warranty period the supplier removes promptly on request and free of charge - including secondary ancillary costs. If it is not possible or if Nemak Slovakia Company informs supplier that receipt of repaired goods or services is not acceptable for him, supplier is obliged to change faulty parts of the goods or services free of charge for impeccable ones.
7. In inevitable cases, or provided that supplier is at delay with due deficiencies elimination, thus Nemak Slovakia Company may assure repair of supplied goods or services upon supplier's expenses.
8. If there is no possibility to repair or exchange the goods or services, thus Nemak Slovakia Company's right remains untouched regarding the purchase price reduction for delivery of goods or services, alternatively Nemak Slovakia Company has the right to withdrawal from the contract due to its substantial breach.

#### **VIII. Trade secrets and confidential information**

1. Parties to the contract agreed that all facts, information and data contained in the contract or in its annex or which will be listed in its appendices and annexes, that the parties to the Agreement learned in relation to the contract or that the contract participants learned during delivery of goods or services, in particular information on the activities and Nemak Slovakia Company's premises, are confidential (hereinafter referred to as the "**confidential information**"), which both parties to the contract are obliged to maintain and keep confidential, unless otherwise agreed further. Commitment of the parties to maintain confidentiality under the contract is not time limited.
2. Parties to the contract undertake, that shall not disclose further the confidential information without the prior written consent of the other party to the contract to any third parties and they will not allow the third parties access to confidential information without the prior written consent of the other party. Members of the bodies participating in the contract are not considered as the third parties, then employees of the contracting parties, auditors and legal or other advisers of contracting parties who are bound by professional secrecy with regard to disclosure of confidential information by law and persons who are being the controlled or controlling person in relation to participants of the contract, under the provisions of § 66a of the Commercial Code.
3. It shall not be considered for breach of the confidentiality obligation under this Article in respect of confidential information referred to in paragraph 1 of this Article if it is provided to ap-

propriate national authority, as shown by the generally binding legal regulations, the use of all necessary information or documents in any judicial, arbitral, administrative or other proceedings regarding the rights and obligations arising under the contract, as well as their use, when it has become publicly known.

4. The supplier hereby undertakes that he shall indicate the contract or the supply of goods or services for the Nemak Slovakia Company as a reference only with the express written consent of Nemak Slovakia Company.

#### **IX. Other provisions**

1. All realization background papers and production means, such as fixtures, copying models, prototypes, tools, measuring devices, drawings, data carriers etc. which were provided to supplier, remain as property of Nemak Slovakia Company and they must be carefully stored during order realization, and it shall be done upon supplier's expenses. They may be used solely for purposes defined in the contract and they may be provided for third parties only based on explicit Nemak Slovakia Company's written approval. Supplier is obliged to hand over all realization background papers and production means immediately upon Nemak Slovakia Company's request.
2. Tools and other production means paid by Nemak Slovakia Company must not be damaged neither made accessible to third parties without its explicit written approval, which is applicable especially for production purposes.
3. Nemak Slovakia Company reserves all rights for drawings or products made based on its data as well as processes and patents developed by Nemak Slovakia Company.
4. Parties to the contract undertake that they will cooperate in whatever form, they shall take all necessary actions and will act in order to not violate or compromise the rights of the other party to the contract.
5. The parties to the contract hereby agreed that their relationship based by this contract is covered by the law of the Slovak Republic, whilst the application of the law of another State is precluded, it is also ruled out the application of the Vienna Convention on the Contract Law, as well as other international agreements, except that part of the INCOTERMS in these GCP, which uses the commercial clauses of INCOTERMS.
6. The international commercial terms INCOTERMS valid in force at the time of conclusion of the contract within the meaning of these GCP shall apply for the interpretation of all commercial clauses contained in these GCP.
7. Parties to the contract agreed that all disputes arising out of legal relationships arising or resulting from this contract or relating to the contract, including all ancillary legal relations and legal relations regarding the claims for unjust enrichment, compensation claims for liquidated dam-

ages, disputes on the validity, interpretation, termination of contract, shall be decided solely on the general court of Nemak Slovakia.

8. The obligation to deliver a document under these GCP is considered to be fulfilled in a particular case on the day of acceptance of this document, or rejection to accept the document. If in the case of delivery by the postal company delivered shipment is returned as undelivered or undeliverable, such a shipment is considered to be delivered on the day on which operator performed the service (tried to deliver it in the place indicated on the cover of the consignment); seat registered in the commercial register, or a similar register, which is a party to the contract registered in, is critical to the delivery.

#### **X. Final provisions**

1. These GCP are being valid, applicable in force and effective from the date of the 1<sup>st</sup> October 2013.
2. Nemak Slovakia Company is entitled to change the content of GCP, and the changes made to the content of GCP are effective for the supplier only after delivery of a new version of GCP from Nemak Slovakia Company.
3. These GCP form an integral part of the contract concluded between the parties.
4. Nemak Slovakia Company and supplier may modify the rights and obligations different from those provisions stated in these GCP by editing the purchase or other agreement, or in the Appendices. In the event of any inconsistency between the conclusion of the contract and GCP, contractual arrangements are valid. Changes in GCP during the contractual relationship between Nemak Slovakia Company and supplier do not affect those differently modified the rights and obligations in the contract.
5. For matters not covered by these GCP the relationship of the contracting parties is governed by the relevant provisions of the applicable legislation, in particular by the provisions of the Commercial Code.
6. Provided that individual provisions of these General Conditions for Purchase are fully or partially valid and effective, or they will become inapplicable or invalid later on, the validity or enforceability of the remaining provisions is not affected. The contracting parties undertake to approve amendment, by which inapplicable or invalid provisions shall be replaced and if it is legally possible, it shall be done in the sense and for the purpose of such GCP provision, as far as the parties took this issue into account when concluding the contract.

#### **„Integrity and Transparency Helpline“**

In order to maintain the transparency environment in our company we have created the "Integrity and Transparency Helpline". You are encouraged to contact us via e-mail or telephone whenever you want to address any situation you consider is not achieving the transparency (thus it is insufficiently transparent) and respectful security levels that our organization requires. Your comments may be submitted anonymously, but we encourage you to leave your contact information in case a follow up is needed. You can be sure that the information you provide us with, will be kept completely confidential. In order to conduct a full investigation, we need as much specific and factual information as possible.

You can write and send your message by accessing the following non-stop on-line link:

#### **Online Integrity and Transparency Helpline**

Or you can send an e-mail onto the following e-mail address:

**[transparency@alfa.com.mx](mailto:transparency@alfa.com.mx)**