



## CONDITIONS FOR THE PURCHASE OF WORKS

### PREAMBLE

1. These general conditions for the purchase of works (hereinafter referred to as “NP\_SoD”) regulate the relations in purchasing of works between the company ABB s.r.o., with registered office at Štětкова 1638/18, postcode 140 00 Praha 4, company identification No.: 49682563, incorporated in the Commercial Register maintained by the Municipal Court in Prague in section C, insert 79391 (hereinafter referred to as “Purchaser”) and the Contractor. Any and all deviations from NP\_SoD must be agreed upon in the respective Contract. Rights and obligations of the contracting parties not regulated in the Contract or NP\_SoD shall be governed by the Act No. 89/2012 Col., Civil Code.

### DEFINITIONS

2. In these NP\_SoD, the mentioned terms shall have the following meanings:
  - “Contract” means an agreement concluded between the parties or Purchaser’s offer to create a contract, under the conditions and in the scope as confirmed by the Contractor, including all its annexes and amendments.
  - “Works” means creation, assembly, maintenance or repair of a particular thing or performance of another activity with a materially expressed result according to the specification mentioned in the Contract.

### FORMATION OF THE CONTRACT AND INFORMATION ON THE SUPPLIER

3. The offer to create a Contract proposed by the Purchaser shall be confirmed by the future Contractor in a term mentioned in the offer. If the term is not determined, then within five (5) working days after the offer delivery. In case of any deviations in the confirmation from the offer, the Contract shall not be created. This confirmation shall be deemed to be a new offer by the future Contractor, which shall create a Contract only on condition that the Contractor receives Purchaser’s statement of consent within fifteen (15) days from the delivery of the new offer.
4. Prior to the formation of the Contract, the future Contractor shall present the Commercial Register statement (not older than three (3) months) to the Purchaser. If the Contractor is a natural person, who is not incorporated in the Commercial Register, he shall present a copy of a Trading Certificate. If the competence of the person signing the Contract on behalf of the Contractor is not arising from presented documents, the person shall present a power of attorney to the Purchaser.

### WORK INFORMATION

5. All data concerning weight, dimensions, power output parameters, prices and other information mentioned in catalogue and price lists shall be binding only to the extent that they are by reference expressly mentioned in the Contract.

### DRAWINGS AND TECHNICAL DESCRIPTIONS

6. All drawings and technical documents relating to the Works submitted by one party to the other, prior or subsequent to the formation of the Contract shall remain exclusive property of the submitting party and can only be used for the production, assembly, putting into operation, operation and maintenance of Works.
7. Without consent of the submitting party is the other party not allowed to use such documents, procure copies thereof, reproduce and disclose them to a third party. The end user of the Works shall not be deemed as such third party, as well as the persons cooperating with the Purchaser during the performance of an order for the end user of the Works.

### TESTS BEFORE SHIPMENT

8. Should the Works be subject to shipment, tests before shipment have to be carried out. Unless agreed otherwise, tests are being performed at the Contractor’s place during the normal working hours and in accordance with the regulations applicable in the country where the Works are to be operated. Should the place of operation not be

specified in the Contract, the tests shall be carried out in accordance with the regulations applicable in the Czech Republic.

9. Unless agreed otherwise, the Contractor shall notify the Purchaser of the date these tests are to be performed, at least ten (10) business days in advance, to enable the Purchaser to be represented at the tests. If the Purchaser cannot participate on the notified dates, the Contractor shall offer one additional period for testing.
10. The Contractor shall bear all costs for the tests, except for the travelling, accommodation and other expenses of the Purchaser’s representatives, which shall bear the Purchaser.

### PERFORMANCE OF WORKS

11. The Contractor shall ensure that the Works are carried out and are in accordance with any laws, regulations and rules which are applicable to the Works at the place of its operation at time of hand-over. Should the place of operation not be specified in the Contract, the laws, regulations and rules of the Czech Republic shall apply. Unless agreed otherwise, compliance with laws, regulations and rules prevails over compliance of the Works with the Contract.
12. Unless agreed otherwise, the Contractor shall before signature of the Contract provide the Purchaser with list of its material suppliers for approval. Should a need to change or amend the list occur after signature of the Contract, such a change shall be valid only after prior written approval by the Purchaser.
13. If practical, the Contractor shall maintain an erection or assembly logbook, record in it the progress with performance of Works according to agreed timetable and enable the Purchaser to audit the logbook. The Purchaser is entitled to make entries into the logbook with specific orders and requests for performance of the Works and the Contractor shall on a regular basis confirm fulfilment of such orders and requests.
14. The Contractor undertakes to comply during performance of Works with all regulations applicable at the site of performance, including, but not limited to, internal, environmental protection, occupational health and safety and fire protection regulations. Both parties shall inform each other in writing of the risks on their sides of performance, which might have impact on employees of the other party. The Contractor shall at its own costs ensure that its employees comply with the above regulations and that its employees are protected from the above risks.
15. Should the Contractor perform the Works at the Purchaser’s site or at site arranged for by the Purchaser, it shall use for this purpose only the premises and/or areas delimited by the Purchaser. The Contractor shall ensure for visible designation of its staff by Contractor’s name. After completion of Works, the Contractor’s staff shall immediately return assigned access cards for access to the Purchaser’s site or site arranged for by the Purchaser.

Items, tools and other things which are used for performance of the Works or which are to become part of the Works shall be duly stored by the Contractor at places designated for this purpose by the Purchaser and the Contractor undertakes to protect those against theft or loss and maintain those in orderly and clean condition. After completion of Works, such designated places shall be rendered to original or agreed state and handed over on time to the Purchaser by means of written protocol.

### PASSING OF RISKS OF DAMAGE

16. Risk of damage to the Works shall pass to the Purchaser at hand-over of the Works.

## VARIATIONS

17. The Purchaser is entitled at any time to require variations of the Works, until the Works have been handed-over.
18. The requests for variations shall be in writing and shall contain an exact description and scope of the variations required.
19. Within 10 (ten) days after receipt of a request for a variation of the Works, the Contractor shall notify the Purchaser, in writing, whether and how the variations can be carried out, resulting alternation to the price of the Works and time of delivery of the Works. Should the Contractor fail to notify the Purchaser of the impact on price and time of delivery, it shall be deemed as agreed, that the variations shall have no impact to the price and delivery time.
20. Should the Contractor duly notify the suggested adjustment of price and/or delivery time according to Art. 19, but the subsequent agreement on price and/or delivery time adjustment is not reached, without the Purchaser's waiver of the variation of Works, the Contractor shall carry out the requested variation of the Works and the price and/or delivery time adjustment shall be settled according to Art. 56.

## TAKE-OVER OF THE WORKS

21. After installation of the Works at the site of its operation, the Contractor shall carry out acceptance tests in order to prove fulfilment of Works completion requirements as per the Contract. The Articles 8-10 above apply accordingly.
22. Should the acceptance tests reveal any defects of the Works, which prevent the Works from use for the intended purpose or which prevent safe use of the Works, the Contractor undertakes to remedy the defects without undue delay and carry out new acceptance tests.
23. Integral part of the due take-over of the Works shall be hand-over of the documentation to the Works, necessary for take-over and operation of the Works and possible other documentation requested in the Contract. Manuals and/or instructions regarding safe operation and maintenance of the Works must always be in Czech language.
24. The Purchaser shall sign a written protocol on hand-over of the completed Works, with attached protocol on successful completion of acceptance tests. In the hand-over protocol the Purchaser shall list the possible defects with deadlines for their remedy. As of issuance of the hand-over protocol the warranty period starts to run.

## CONTRACTOR'S DELAY

25. Should the Contractor not be able to deliver the Works duly and/or on time, he shall immediately notify the Purchaser and at the same time inform him of an additional term of proper fulfilment.
26. The Contractor is in delay with the delivery of the Works if the Works are not completed and handed-over to the Purchaser at time specified in the Contract. The Contractor is not in delay for a period in which the Purchaser is in delay with taking-over of the Works. Delay of the Contractor entitles the Purchaser to contractual penalties against the Contractor, from the agreed date of take-over of the Works.
27. The contractual penalty shall be payable at a rate of 0,1% of the total price of the Works for each commenced day of delay.
28. The Purchaser is entitled to damages caused by breach of any Contractor's obligation, which is sanctioned according to the Contract or these conditions by a contractual penalty in the amount exceeding the contractual penalty.

## SHIPPING DISPOSAL, PACKAGING

29. The Contractor shall send the Works in such a packaging to ensure sufficient protection from damage during the transportation and possible storage in corresponding premises of the Purchaser. The Purchaser shall notify the Contractor of shipping instructions latest ten (10) days before the date of delivery.
30. The Contractor shall inform the Purchaser in time, latest in the invoice, of the kind, quantity and price of returnable packaging that is part of the supply. The Contractor undertakes to repurchase this packaging from the Purchaser for the invoiced price.

## PAYMENT CONDITIONS

31. The price is determined by an agreement in the Contract as a fixed and final price. The price entails everything mentioned in the technical specification of the Works, as well as all the expenses, fees, and other costs of the Contractor, relating to performance of Works in its entirety, in particular, but not limited to, the manufacturing, shipment, delivery, assembly, erection, commissioning and testing of the Works. Should the Works entail any intellectual property, the price is deemed to include all possible royalties, fees and other payments connected with right of the Purchaser to use the Works for the intended purpose as per the Contract.
32. The invoice is due in sixty (60) days from its delivery. The right to issue an invoice will emerge on the day of the take-over of the Works.

The parties have agreed that the invoice shall always include the following information:

- the number of the Contract and/or the Purchase Order (or description of Works)
- the invoiced amount in total
- bank connection of the contractual parties

33. The Contractor shall issue an invoice without request, even where the law on VAT determines, that the Contractor shall issue an invoice only at Purchaser's request.
34. The Contractor shall on request provide the Purchaser with a certificate of its tax domicile.
35. Before expiration of the maturity date, the Purchaser is entitled to return the invoice, missing one of the legal or above agreed terms or entailing incorrect data, without payment. The Contractor shall, according to the nature of the inaccuracy, correct or issue anew the invoice. By the return of the invoice, the original maturity date stops running. The whole maturity date starts running again from the day of delivery of corrected or newly issued invoice.
36. The Purchaser may withhold a part of the price of the Works from the Contractor amounting to 10% as a security for due fulfilment of the Contractor's obligations from the Work's defect liability and warranty undertakings. If the Purchaser will use this right of his, he shall release the security after an irrevocable bank guarantee is issued by a reputable bank, which provides a similar security for the period exceeding the warranty period for two months.
37. If the Contract requires the Purchaser to pay to the Contractor price or part of the price before take-over of the Works, the Purchaser may condition fulfilment of such payment obligation by provision of sufficient security for the fulfilment of the Contract by the Contractor. This may be effected by provision of a bank guarantee or other tool acceptable for the Purchaser. Should the Contractor not provide such a security duly and in time, the Contractor may ask for the payment for the Works only after the take-over.
38. The Purchaser may offset any monetary claims against the Contractor from the Contract against the price of the Works. The Contractor may offset monetary claims from the Contract against the Purchaser only with Purchasers' consent.
39. The Contractor hereby declares that its intention is not to breach obligation to pay VAT which will arise on the basis of the Contract and that the Contractor is not in situation preventing it from fulfilment of its obligation to pay VAT and undertakes not to get into such situation. The Contractor shall not evade obligation to pay VAT and/or unlawfully demand any tax benefit in connection with the Contract. The Contractor further declares that the price according to the Contract does not significantly and apparently differ from the regular price of the same Works. Provided any of the situations mentioned in this clause occurs the Contractor undertakes to immediately notify the Purchaser and to indemnify the Purchaser for all costs, expenses and damage resulting from the application of the Purchaser's statutory guarantee for payment of the VAT by a tax authority.

## QUALITY, WARRANTY AND LIABILITY FOR DEFECTS

40. The Contractor shall, upon request by the Purchaser, in a suitable manner provide a quality assurance of the performance of the Works (present quality management plans, control plans, test plans, quality control protocols, test protocols). The Contractor shall provide the quality assurance at its own costs. For this purpose, skilled

representatives of the Purchaser shall have access to the premises of the Contractor.

41. The warranty period is thirty six (36) months. The warranty period for project documentation is for the period for which the remedying of its defects is economically or technically relevant, however for minimum of five (5) years from take-over of Works.
42. Should a defect occur during the warranty period, the Contractor shall immediately after a notification of defect by the Purchaser adopt sufficient measures to their remedy or to satisfaction of other claims from defects. The Contractor shall provide remedy in a technically feasible term. The contractual parties have agreed that a technically feasible term for removable defects shall be forty eight (48) hours after notification, for irremovable defects until ten (10) days after notification. If the Contractor fails to satisfy the claims in terms mentioned above, the Purchaser is entitled to remedy at Contractor's expenses, in particular to have at his expenses the defects removed by a third person, require a discount from the price or withdraw from the Contract.
43. The Contractor's delay with remedying of the defects entitled the Purchaser to a contractual penalty as per Art. 27 above.

#### **INSURANCE**

44. The Contractor shall to his own account establish and keep effective or make sure they will be established and kept effective during the performance of the Contract a third party liability insurance amounting to at least six million Czech Crowns (CZK 6,0 mil.).

#### **CONFIDENTIALITY OF INFORMATION**

45. The Contractor shall treat the information he gains from the Purchaser in connection with the fulfilment of the Contract, including the Contract itself, as confidential information.
46. The Purchaser may ask for a contractual penalty amounting to CZK 100,000 for every single violation of undertaking of the Contractor under Art. 45 above.

#### **FORCE MAJEURE**

47. Both parties are entitled to suspend performance of their obligations under the Contract for the time of duration of the circumstances excluding the liability (hereinafter referred to as "Force Majeure"). The Force Majeure is deemed to be the obstacle which arose independently of the liable party's will and that prevents this party from performing its obligation, provided that it cannot be reasonably expected that the liable party could avert or overcome such an obstacle or its consequences, and further that the occurrence of such an obstacle was unpredictable at the time of formation of the Contract.

Examples of the Force Majeure include especially: strike, epidemic, fire, natural disaster, mobilisation, war, insurrection, seizure of goods, embargo, ban on foreign exchange transfer, electric power taking regulation that is not culpable, terrorist attack etc.

48. The Force Majeure makes it impossible to claim contractual penalties against the party affected by the Force Majeure.
49. The party claiming to be affected by the Force Majeure shall notify the other party of this event without delay in writing and take all possible measures to reduce the consequences of non-performance of the contractual obligations.
50. Should the Force Majeure last for more than one (1) month, both parties are entitled to withdraw from the Contract.

#### **WITHDRAWAL FROM THE CONTRACT**

51. In case of material breach of the Contract (including these NP\_SoD) is the Purchaser entitled to withdraw from the Contract. Material breach shall in particular, but not limited to, mean a violation of an obligation:
  - to complete and hand-over the Works duly and/or in time; or
  - to fulfil the obligation from the liability for defects duly and/or in time; or
  - to fulfil warranty obligations duly and/or in time; or
  - according to Art. 44 NP\_SoD; or
  - according to Art. 45 NP\_SoD; or
  - according to Art. 57 NP\_SoD..

52. The above mentioned does not affect the right of the contractual parties to withdraw from the Contract for reasons provided in law.
53. The withdrawal from the Contract does not affect sanction and reparation claims, especially claims for contractual penalty, interests on late payment and compensation for damage.

#### **ASSIGNMENT**

54. The Contractor is not entitled to assign any of its rights and/or obligations from the Contract to any third party without prior written approval by the Purchaser.

#### **SETTLEMENT OF DISPUTES**

55. The Contract shall be governed by the substantive law of the Purchaser's country
56. Any and all disputes under the Contract, including the disputes in connection with formation and validity thereof, shall be settled by the Arbitration Court at the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic in Prague in accordance with the Act No. 216/1994 Col., on arbitrary proceeding. The arbitration board shall consist of three (3) arbitrators. The parties shall appoint one (1) arbitrator each. The third arbitrator, the chairmen, shall be appointed upon agreement of the first two arbitrators. Should these arbitrators fail to reach an agreement, the third arbitrator shall be appointed by the chairman of the above-mentioned Arbitration Court.

#### **COMPLIANCE**

57. The Contractor hereby warrants that it will not, directly or indirectly, and it has no knowledge that other persons will, directly or indirectly, make any payment, gift or other commitment to its customers, to government officials or to agents, directors and employees of the Purchaser or any other party in a manner contrary to applicable laws (including but not limited to the U.S. Foreign Corrupt Practices Act and, where applicable, legislation enacted by member States and signatories implementing the OECD Convention Combating Bribery of Foreign Officials) and shall comply with all relevant laws, regulations, ordinances and rules regarding bribery and corruption.
58. Nothing in the Contract shall render the Purchaser liable to reimburse the Contractor for any such consideration as mentioned in Article 57 given or promised.
59. The Contractor's violation of any of the obligations contained in Article 57 above may be considered a material breach of the Contract and shall entitle the Purchaser to terminate the Contract with immediate effect and without prejudice to any further right or remedies on the part of the Purchaser under the Contract or applicable law. The Contractor shall indemnify the Purchaser for all liabilities, damages, costs or expenses incurred as a result of any such violation of the above mentioned obligations and termination of the Contract.
60. The Contractor herewith acknowledges and confirms that he has received a copy of ABB's Code of Conduct and the ABB Supplier Code of Conduct or has been provided information on how to access the Codes of Conduct online (portal: [www.abb.cz](http://www.abb.cz); after running search of: "Code of Conduct" and/or "ABB Supplier Code of Conduct" through the search window, you will receive a reference to page where you may download the document in pdf. format). The Contractor agrees to perform its contractual obligations under the Contract with substantially similar standards of ethical behavior as those contained in the both ABB's Codes of Conduct.
61. The Purchaser has established the following reporting channels where the Contractor and its employees may report suspected violations of applicable laws or the Code of Conduct:

- Telephone: number +41 43 317 33 67; or
- Web portal: [www.abb.com/integrity](http://www.abb.com/integrity)