GENERAL TERMS AND CONDITIONS  
version PURCHASE 01/18

The General Terms and Conditions are issued in accordance with § 1851 et seq. Act No. 89/2012, the Civil Code and Act No. 134/2016 Coll., On the Award of Public Contracts

SUBJECT OF THE GENERAL TERMS AND CONDITIONS AND DEFINITIONS

Subject of the General Terms and Conditions  
These General Terms and Conditions regulate the conditions for the contractual relationship arising from the Contract, which is the result of the procurement procedure carried out under Act. No. 134/2016 Coll., On the Award of Public Contracts (hereinafter also referred to as the “Contract”) and which is concluded between the Contracting Party Czech Republic – Interior Ministry, ID number 00007064, with its registered office at Nad Stolou 936/3, postal code 170 34, Prague (hereinafter referred to as the “Order Party”) and the other Contracting Party i.e. Supplier (hereinafter referred to as the “Supplier”).

Order Party  
In accordance with these General Terms and Conditions, the Order Party is a public contracting authority within the meaning of Act no. 134/2016 Coll., On the Award of Public Contracts.

Supplier  
In accordance with these General Terms and Conditions, the Supplier is a person with whom the Order Party is concluding the Contract, based on the results of the relevant tender procedure carried out in accordance with Act no. 134/2016 Coll., On the Award of Public Contracts.

Performance  
Performance according to these General Terms and Conditions means the subject of the obligation, which arose from the Contract concluded between the Order Party and the Supplier, based on the results of the relevant tender procedure carried out in accordance with Act no. 134/2016 Coll., On the Award of Public Contracts.

Contracting Parties  
According to these General Terms and Conditions, the Contracting Parties mean the Order Party and the Supplier together.

Binding nature of the Terms and Conditions  
These General Terms and Conditions determine in a binding manner the terms of the Contract, of which they are part of.

1. PRICE FOR PERFORMANCE

1.1. The price for the Performance stipulated in the Contract is the final price, the highest permissible, non-exceedable price, and includes all license fees, transport costs, customs duties, packaging and delivery costs, etc. and takes into account risks, bonuses, discounts and other influences in relation to the total period of performance under the Contract. The price determined in this way also includes the costs of travel and work of the technician during service trips, the price of spare parts and service at the place of installation, unless otherwise stipulated in the Contract.
1.2. The price for the Performance shall be adjusted by a possible statutory percentage change in value added tax, from the effective date of the relevant change in accordance with legal regulations.

1.3. The price for the Performance is in Czech Crowns, unless otherwise stipulated in the Contract.

2. PAYMENT CONDITIONS

2.1. The Order Party shall pay the price for the Performance specified in the Contract on the basis of an invoice issued by the Supplier.

2.2. The Supplier is obliged to issue an invoice within 10 days from the date of signature of the relevant acceptance protocol resp. delivery note by both Contracting Parties.

2.3. The due date of a duly issued invoice is 30 days from the date of its demonstrable delivery to the Order Party to the address specified in the Contract, except in the case when the invoice is delivered within the period from 1.12 of the given year until 31.1 of the following year, which is due within 60 days from the date of its demonstrable delivery to the Order Party.

2.4. The invoice must contain the number of the Contract, the requisites of a commercial document according to Act No. 89/2012 Coll., The Civil Code and in case the Supplier is a payer of value added tax, also the requisites of a tax document according to Act No. 235/2004 Coll. On Value Added Tax. In the event that the invoice does not have the appropriate requisites or is not issued in accordance with the Contract, the Order Party is entitled to refuse payment to the Supplier on the basis of an incorrectly issued invoice and is entitled to return the incorrectly issued invoice to the Supplier. The due date of the invoice starts from the demonstrable delivery of a duly issued invoice to the Order Party. The Supplier is obliged to deliver to the Order Party 1 original invoice and 1 copy of the issued invoice.

2.5. The price for the Performance stated on the invoice shall be deemed to have been paid at the moment of debiting the relevant financial amount from the Order Party's bank account specified in the Contract in favour of the Supplier's bank account specified in the Contract.

2.6. The originals of the relevant acceptance protocols resp. delivery notes signed by authorized representatives of both Contracting Parties shall be attached to the invoice; otherwise the Order Party will not accept the invoice. The acceptance protocol resp. the delivery note contains an overview of the provided Performance, so that it is possible to unambiguously identify the provided Performance, which is the subject of the invoice.

2.7. The Order Party does not provide the Supplier with a financial advance for the subject of Performance.

3. LIABILITY FOR DEFECTS AND WARRANTY

3.1. The Supplier provides a contractual warranty for the provided Performance for a period of 24 months from the date of the duly delivered Performance, i.e. from signature of the acceptance protocol or other document proving the acceptance of the duly provided Performance by both Contracting Parties. The Order Party is obliged to lodge the claimed defect without undue delay.

3.2. The Supplier warrants and is responsible for ensuring that the delivered Performance complies with the specifications agreed in the Contract and is free of factual defects and legal defects. By guaranteeing the quality, the Supplier undertakes that the subject of purchase is suitable for use for the usual purpose for a certain period of time or that it will retain its typical properties.
3.3. The Supplier is responsible for ensuring that the Performance under the Contract does not affect the rights of third parties, including rights to intellectual property.

3.4. If the entire contractual price for the Performance has not been paid by the time the claim for a defect is lodged, the Order Party shall not be in arrears with the payment of the contract price until the claim has been fully resolved.

3.5. The assertion of a claim for liability for defects does not affect the Order Party's claim for damages.

3.6. The warranty period does not run for the duration of the defect for which the Supplier is responsible, from the time of notification of the defect by the Order Party until it has been completely resolved by the Supplier.

4. SANCTIONS

4.1. In the event of a delay in fulfilling the obligations under the Contract, the Supplier is obliged to pay the Order Party a contractual penalty in the amount of 0.5% of the total price of the Subject of Performance including VAT specified in the Contract for each day of delay or for each hour of delay, depending on whether the period of Performance in the Contract is specified in days or hours, unless otherwise stipulated in the Contract.

4.2. In the event of the Order Party's delay in paying duly issued and delivered invoices, the Supplier is entitled to claim statutory interest on arrears.

4.3. The Contracting Parties agree that the obligation to pay a contractual penalty does not exclude the right for compensation for damages in full. Unless otherwise stipulated, the payment of any agreed contractual penalty does not relieve the obligated Contracting Party from the obligation to fulfill its obligations.

4.4. The contractual penalty and statutory interest on arrears are payable within 30 days from the date of delivery of the written request from the entitled Contracting Party for its payment by the obligated Contracting Party, unless a longer period is specified in the request.

5. SUBCONTRACTORS

5.1. The Supplier is entitled to provide Performance under this Contract through a subcontractor only to the extent to which it has reserved this right in the submitted tender in the public procurement procedure and only through the subcontractors listed there. In all other cases, the Supplier is entitled to provide performance through the subcontractor only with the prior written consent of the Order Party.

5.2. The Supplier shall be liable for the performance of subcontractors in the same way as for his performance, including liability for consequences arising.

6. LICENSES

6.1. In the event that the Subject of Performance under the Contract is also a performance that fulfills the characteristics of a copyright work pursuant to Act No. 121/2000 Coll., On Copyright, on Rights Related to Copyright and on Amendments to Certain Acts (hereinafter the "Copyright Act") and it is a so-called standard software, the provided license is governed by the standard license conditions of the delivered software product, with the Order Party having a non-exclusive, transferable, time unlimited and territorial unlimited right to use the copyright for all uses in accordance with the purpose of the Contract, unless the Contract stipulates otherwise.

7. TRANSFER OF OWNERSHIP AND TRANSFER OF RISK
7.1. By acceptance of the Subject of Purchase, the risk of damage passes to the Order Party and the Order Party acquires ownership of the Subject of Performance.

8. CONFIDENTIALITY AND CONFIDENTIAL INFORMATION

8.1. The Contracting Parties undertake not to disclose to a third party confidential information, circumstances and data which they have learned or obtained in connection with the implementation of the Subject of Performance of the Contract, nor to provide them to other persons without the prior express consent of the other Contracting Party. This provision governing the protection of confidential information does not apply to information that must be disclosed, provided or communicated in accordance with applicable law, including EU law or a binding decision of an authorized public authority. The Supplier expressly agrees to the publication of the entire text of the Contract, including all Annexes.

8.2. Trade secrets within the meaning of the Civil Code are also considered as confidential information.

8.3. Information provided by the Supplier to the Order Party in connection with the implementation of the Subject of Performance of the Contract shall be considered confidential only if the Supplier has notified the Order Party of their confidentiality in advance in writing and the Order Party has confirmed to the Supplier in writing its commitment to confidentiality. If the Supplier’s confidential information is provided in writing or in the form of text files on electronic data carriers (media), the Supplier is obliged to notify the Order Party of the confidentiality of such material also by marking it at least on the title page or front side of the media.

8.4. In this connection, the Contracting Parties undertake to inform all persons who will participate in the Performance of the Contract about the above obligations of confidentiality and protection of confidential information and further undertake to ensure compliance with these obligations by all persons involved in the Performance of the Contract.

8.5. Furthermore, all data contained in the Order Party's system that are to be, have been or will be entered into it by the Supplier, the Order Party or third parties, as well as data obtained from it, are unconditionally considered to be the Order Party's confidential information. Notwithstanding the other provisions of this Contract, the source codes of the Order Party's information system, the provision of which to a third party could endanger the security of the Order Party's data in this or another information system are also considered confidential information of the Order Party.

8.6. Notwithstanding the foregoing, information shall not be considered confidential which:

a) has become publicly available without this publication infringing legal obligations;

b) has been demonstrably available to one of the Contracting Parties before the conclusion of the Contract and at the same time are not subject of an obligation of confidentiality based on another contract concluded between the Contracting Parties;

c) is demonstrably the result of a procedure which the receiving Contracting Party reaches independently, by its own activities regardless of the Performance of the Contract;

8.7. The Contracting Parties have the right to use, provide and make available confidential information to third parties only to the extent and under the conditions necessary for the proper performance of the rights and obligations arising from the Contract.

8.8. Termination of the Contract for any reason shall not terminate the provisions of this Article of the Contract governing confidentiality obligations and the effectiveness of the provisions on
sanctions. These provisions shall remain in full force and effect even after the termination of this Contract.

9. EFFECTIVENESS OF THE CONTRACT, WITHDRAWAL

9.1. Termination of the effectiveness of the Contract does not affect the provisions of the Contract and these General Terms and Conditions concerning claims for liability for defects, claims for liability for damages and claims for contractual penalties, provisions on information confidentiality and protection, or other provisions the nature of which implies that they should last after termination of the effectiveness of the Contract.

9.2. The Contract may be further terminated by a written agreement of the Contracting Parties, which will include the settlement of mutual obligations and receivables.

9.3. Each of the Contracting Parties may withdraw from the Contract in cases stipulated by the Contract or the law, in particular pursuant to the provisions of § 1977, § 1978 and the provisions of § 2002 et seq. of the Civil Code and under the conditions of § 2004 and § 2005 of the Civil Code. The effects of withdrawal from the Contract shall take effect on the day of delivery of the notice of withdrawal to the relevant Contracting Party.

9.4. The Order Party is also entitled to withdraw from the Contract if the insolvency court has issued a decision on the manner of resolving the Supplier's bankruptcy as a debtor in insolvency proceedings; the Supplier enters into liquidation, or there is another, albeit de facto substantial, reduction in the scope of its activities, which could have a negative impact on its ability to fulfil its obligations under this Contract.

9.5. The Order Party also has the right to withdraw from the Contract if the Supplier ceases to meet the conditions of basic and professional competencies or technical qualification set out in the tender conditions for the implementation of the public contract, the result of which is the Contract.

10. CONTROLS AND AUDITS

10.1. The Supplier is obliged to co-operate as a person obliged to perform financial control in the sense of § 2 letter e) of Act No. 320/2001 Coll., on Financial Control in Public Administration and on Amendments to Certain Acts (the Financial Control Act), as amended, and to provide the Order Party and the auditing bodies with the necessary cooperation in performing financial control.

10.2. The Supplier undertakes to ensure that the rights of the above mentioned audit institutions to carry out audits, inspections and verifications apply equally, under the same conditions and according to the same rules, to any subcontractor or any other party benefiting from the funds provided under the Contract.

11. GENERAL PROVISIONS

11.1. The Supplier is obliged to proceed with professional care, according to the best knowledge and abilities, to monitor and protect the legitimate interests of the Order Party and to proceed in accordance with its instructions or with the instructions of its authorized persons. The Supplier is obliged to notify the Order Party in justified cases of any unsuitability of the Order Party's instructions.

11.2. The Contracting Parties have expressly agreed that the Supplier shall be liable to the Order Party for pecuniary and non-pecuniary damage.
11.3. The Supplier undertakes to notify the Order Party of all circumstances that could lead to a restriction of the Order Party's activities during the Performance of the Contract or endanger the operation of the Order Party, especially in relation to the products, equipment, software equipment and environment used.

11.4. The Supplier is obliged to notify the Order Party of the potential risks of damage and to take measures, in a timely and proper manner, that completely eliminate the risk of damage or (if it cannot be completely eliminated) to reduce damage as much as possible. If it is a matter of preventing the occurrence of damages, which are not caused by the Supplier, the Supplier has the right for reimbursement of necessary and purposefully incurred costs agreed in advance by the Order Party.

11.5. The Supplier is obliged to notify the Order Party in a timely manner of any imminent defects or failures of its Performance, as well as to provide the Order Party with all information necessary for the Performance of the Contract and immediately notify the Order Party in writing of obstacles that prevent it from fulfilling the Subject of the Contract and performing other activities related to the Performance of the Subject of the Contract.

11.6. The Order Party and the Supplier further undertake to communicate or provide without undue delay to the other Contracting Party all necessary access to factual and technical information that is necessary for the proper Performance by the Supplier.

11.7. The Supplier is obliged to have in force all authorizations, licenses and certificates for all activities under the Contract for the entire period of Performance of the Contract.

11.8. The Supplier shall not have access to real data when providing the Performance of the Contract. All debugging and testing work must be performed on test data provided by the Order Party to the Supplier, or the Supplier shall supply them and agree their validity for testing purposes with the Order Party.

11.9. The Supplier is not entitled to connect any of its own devices or to mediate any logical access to the Order Party's ICT infrastructure working with real data. In the event that the Order Party and the Supplier jointly eliminate a defect in the Subject of Performance or in the data, access to real data is possible only under the supervision of the responsible employee of the Order Party and only for the purpose of eliminating the defect.

12. FINAL PROVISIONS

12.1. This Contract may not be transferred without the prior written consent of the other Contracting Party, or be part of a transformation project pursuant to Act No. 125/2008 Coll., On the Transformation of Companies and Cooperatives, without the prior written consent of the other Contracting Party.

12.2. The Contracting Parties do not wish that, in addition to the express provisions of this Contract, any rights and obligations be derived from past or future practices established between the Parties, or generally, or in the industry relating to the subject matter, unless specified otherwise. In addition to the above, the Contracting Parties confirm that they are not aware of any business customs or practices established so far between them.

12.3. The Contracting Parties exclude the application of the provisions of § 557 of the Civil Code to this Contract.

12.4. The Order Party's rights arising from this Contract or its breach expire within 10 years from the date on which the right could be exercised for the first time.
12.5. Pursuant to § 1765 of the Civil Code, the Supplier assumes the risk of a change in circumstances, in particular in connection with the price for the provided Performance, the requirements for the provided Performance and the license conditions of the manufacturer.

12.6. If any of the provisions of the Contract proves to be apparent (null and void), the impact of this fault on the other provisions of the Contract shall be assessed similarly in accordance with the provisions of § 576 of the Civil Code.

12.7. All disputes arising from the legal relationship established by the Contract and in connection with it shall be resolved in accordance with the generally binding legal regulations of the Czech Republic and the courts of the Czech Republic.

12.8. The Contracting Parties are entitled to agree in the Contract on a different arrangement than stipulated in these General Terms and Conditions version TP 01/18.

12.9. These General Terms and Conditions version TP 01/18 are effective from 1.2.2018.