



**General Terms of Delivery of JNS elektrotechnika s.r.o. for SIEMENS Products**

Date of issue: 1<sup>st</sup> July, 2014

**A. General Part**

**I. Introductory provisions**

1. These General Terms of Delivery (hereinafter referred to as „Terms and Conditions“) are terms and conditions within the meaning of Section 1751 of the Act No 89/2012 Coll., the Commercial Code, as amended (hereinafter referred to as “Civil Code”). Unless stipulated otherwise in the contract, this legal relationship formed between the party ordering goods, works or services (hereinafter referred to as „Client“) and JNS elektrotechnika s.r.o., as the supplier of goods, works or services (hereinafter referred to as „JNS“ or „Supplier“) is governed by these Terms and Conditions regardless of the type of contract concluded between them. Specification of delivered goods, work performed or services provided (hereinafter referred to as „supply“) is defined by the contract, either in the form of mutual written agreement which is expressly indicated as a contract or in the form of a written order and its written confirmation as mutual expressions of will about the contents of the contract.

2. The Terms and Conditions consist of two parts –general part and special part, whereas the content of the special part is just specifics of goods, works and services provided by an appropriate organisational unit (for example division) of the Supplier. In case of controversy between particular parts of the Terms and Conditions, the special part prevails. In case of controversy between the Terms and Conditions and the contract, provisions of the contract prevail. In case that terms and conditions of the Client are also applied in addition to the Terms and Conditions, then in case of controversy between them and these Terms and Conditions, the Terms and Conditions prevail.

**II. Prices, Payment Conditions and Offsetting**

1. The price is stipulated by agreement and is given without value added tax (hereinafter referred to as „VAT“) which will be added to it under relevant legal regulations. The price does not include transportation, postage, packing charges etc. The price includes remuneration for granting rights to use standard software and firmware, if such software and firmware is the part of the supply.

2. If the Supplier agreed to install, to assemble or to commission the subject of the supply, the Client is obliged to pay the Supplier in addition to the agreed

price also any other costs reasonably incurred in connection with it.

3. The Client must settle the price to the Supplier upon an invoice - tax document issued by the Supplier and sent to the Client. The invoice must contain any and all elements of a tax document in accordance with relevant legal regulations. Due date of the invoice is stipulated in the special part of the Terms and Conditions. The price must be paid to the bank account of the Supplier whereas the amount must be credited to this account without any deductions and any sums unilaterally reduces or withheld. The obligation of the Client is discharged when the amount in question is credited to the account of the Supplier.

4. If an advance payment is provided, Section 1808 (2) of the Civil Code shall not apply. If an advance payment is agreed in the form of payment of part of the purchase price subject to further conditions defined in the contract, such advance payment shall be payable no later than upon the resolution of the insolvency court on bankruptcy of the Client.

5. The Client is entitled to unilaterally set off only such liabilities which are due, enforceable, and neither subject to the statute of limitations nor disputed between the parties provided that the offset was approved in writing by the Supplier. The Supplier is entitled to set off any liabilities against the Client that fall due. The Client shall not be entitled to assign any claim against the Supplier to a third party without prior written consent of the Supplier.

6. If the price is agreed in a foreign currency and if an exchange rate loss arises as a result of default of the Client with its payment so that the price paid converted to CZK by exchange rate announced by the Czech National Bank between CZK and relevant foreign currency on the day of payment is lower than an amount paid and converted to CZK by exchange rate between CZK and relevant foreign currency on the day of maturity of the respective invoice, the Client is obliged to pay such exchange rate loss.

**7. If the Client is in default with payment of an invoiced amount, the Supplier is entitled to a default interest of 0.05 % from the total due amount (including VAT) for each day of default from the Client. The Supplier may invoice the Client the default interest either as an aggregate sum following payment of the due amount or termination of the contract or partially for certain**

**period of default. The Client is obliged to pay the Supplier invoiced amount of default interest within 14 days following the date when the relevant invoice is issued at the latest. The right of the Supplier to damages in full amount is not affected by this. Section § 1805 (2) of the Civil Code shall not apply.**

### III. Delivery and receipt of supply

1. The Client is obliged to accept the duly delivered supply (duly delivered supply means also a functioning work with such defects which do not prevent to use the work for the purpose stipulated in the contract or for the usual purpose regarding the nature of the supply). If the Client is in default with receipt of the supply, the Supplier is entitled to require from the Client payment of all costs reasonably incurred in connection with the default of the Client.

2. The Supplier shall fulfil the Supply upon its delivery to the Client or upon delivery of the respective goods, works or services to an agreed place in an agreed time, even if the Client fails to accept the supply or unjustifiably rejects to accept the supply or unjustifiably rejects to confirm the acceptance certificate. In such a case the Supplier is not obliged to attach the acceptance certificate to the invoice, even if such obligation was agreed by the parties in the contract; a declaration of the Supplier about the relevant fact stated in the first sentence of this article is sufficient.

3. When taking over the subject of the supply, the Client is obliged to inspect it. If this is not possible (not for the reason on the part of the Client), the Client is obliged to arrange the inspect the subject of supply as soon as possible following the delivery of the supply. The Client shall be entitled to claim the defect within 7 days after takeover of the supply.

4. The Client is not entitled to reject the receipt of supply if the supply shows only small or unsubstantial defects which do not influence the functionality of the supply.

5. The Supplier is entitled to deliver the supply in several partial supplies. The Client is obliged to pay appropriate partial amount of the price after delivery of such a partial supply.

6. The Supplier is entitled to ensure the delivery of the supply through a subcontractor. The Supplier is obliged to inform the Client of this. The Supplier is liable for performance of the subcontractor as if the supply was fulfilled by himself.

7. Should the nature of the specific part of the supply allow so, the supply or part thereof may be delivered also through the so-called remote access.

If the contract does not expressly provide whether a specific part of a supply is supposed to be made in the delivery point by the supplier, or through the remote access, whereas the nature of the performance allows both of these options, the supplier is entitled to choose between these methods in its sole discretion without affecting the agreed price of the supply. In the event that the supply or its part is to be performed through the remote access, the ordering party is obliged to allow remote access to the Supplier. Each party to the contract bears its costs associated with the remote access.

### IV. Time of Delivery

1. Delivery of the supply in due time is conditioned by delivery of all necessary documents by the Client in due time, procurement of necessary permits, approvals and authorizations, provision of necessary assistance, adhering to the agreed payment terms and other obligations of the Client. If the requirements mentioned above are not met on time, the time of delivery of supply will be proportionally extended.

2. Performance of the Supplier is also conditioned by the fact that the Client is not in default against the Supplier with any payment for goods delivered on the basis of other contractual relationship concluded by the Supplier and the Client. During the period of such default, the Supplier is not in default with delivery of supply in question and the agreed time is extended by the time corresponding to the aforementioned default of the Client.

3. If an advance payment or advance payments are agreed, the Supplier is not obliged to deliver the goods before such payment(s) are effected.

4. If the supply is not delivered in the agreed time as a result of the force majeure that has arisen in the time from beginning of the contract to the agreed time of delivery, this time for delivery will be proportionally extended. An obstacle preventing the debtor from performance which has arisen beyond its control and where it cannot be reasonably assumed that the debtor averts or overcomes this obstacle or its consequences and which has not arisen in the time when the debtor was in default with fulfilment of its obligation and which has not arisen for economic situation of the debtor is deemed to be the force majeure. In particular, natural disaster (for example flood, storm, unusual heat, unusual cold, unusual drought, tornado, blizzard, tropical storm, hurricane, hail, landslide, volcanic eruption and its aftermath, sink holes, avalanche, earthquake and its aftermath, unusual solar eruptions, fallen space object, etc.), war, strike, lockout, delay or denial of official permits

(especially export permit from the competent authority in the country of the manufacturer), which is necessary for the delivery are deemed to be a force majeure event.

**5. In case of default with the delivery caused by Supplier in the agreed time, the Client is entitled to a contractual penalty amounting 0.05 % of the price of delayed supply or partial supply (excluding VAT) for each day of default, up to 5 % of the price of delayed supply (excluding VAT) from the Supplier.**

6. If the delivery of supply is delayed upon request of the Client, the Supplier is entitled to charge the Client with storage costs, or costs of interruption of work.

7. The Supplier is entitled to deliver the supply even before the agreed date of performance; such performance shall be considered as due and the Client is obliged to accept it.

#### **V. Passing of Ownership and Risk of Damage to Goods**

1. The Client shall acquire the ownership title to the subject of the supply upon full payment of the purchase price.

2. Risk of damage to the supply passes to the Client as follows:

- In case of the supply without installation or assembly upon the acceptance of the delivery (or the agreed partial supply) through the Client or when dispatch or handed over to the carrier. Upon request and on expenses of the Client, the Supplier may provide insurance of the supply against common transport risks,

- In case of the supply with installation or assembly at the moment of fulfilment and delivery of the supply (or an agreed partial supply), or after successful completion of trial run, if it was agreed. If the trial run is agreed, it must succeed the installation or mounting without undue delay. If the trial run is not started within 5 days after installation or assembly and unless agreed otherwise, the risk of damage to the supply passes to the Client within that period.

3. If for reasons on the part of the Client default with receipt of the supply or default with its dispatching or handing it over to the carrier or delay with initiation of or termination of the installation, assembly and trial run occurs, the risk of damage to the supply shall pass to the Client on the first day of such default.

4. The Client shall assume the risk of changes of circumstances according to Sections 1764 to 1766 of the Civil Code.

#### **VI. License Agreement**

1. If application software is a part of the supply, the Supplier is the sole copyright owner of this application software (hereinafter referred to as "AS"), including related knowledge to the use thereof and is authorised to dispose of this AS by itself and without any restrictions.

2. The Supplier transfers the rights of use of the AS to the Client under the conditions specified below:

3. The supplier provides a nonexclusive license to use the AS to the Client. The Supplier continues to be entitled to exercise the right to use the work in a way for which the licence was granted, as well as to grant the licence to third parties. The Client receives a license to use without territorial restriction. The price for a license is already included in the agreed purchase price.

4. The Supplier guarantees that the AS will be working in compliance with the delivered documentation if the delivery of documentation is subject to the contract.

5. The Client agrees not to provide or not to pass the AS nor the documentation to a third party without express consent of the Supplier.

6. The Client is not entitled to adjust, modify or otherwise tamper with the AS except as expressly permitted by law or by the Supplier. To avoid any doubts, the parties have agreed that if the AS is modified, improved or adjusted in any other way by the Client or upon request of the Client by another third party (except when the Supplier approved appropriate modification, improvement or adjustment), the Client bears all risks (including consequences of risks) resulting from the adjustments or modifications or relating to them. In addition, in cases when the Client makes modifications, improvements or any other adjustments of the AS during the contractual warranty period or liability for defects without consent of the Supplier, the warranty liability and defects of the Supplier is excluded, for any defects or deficiencies, which would not arise as a result of such not approved modification, improvement or any other adjustment of the AS.

7. The Client is entitled to make a backup copy of the AS if it is necessary for its use. All backup copies are subject to this License Agreement. All names, trademarks, copyrights (©, ®) and information on the restriction of user's rights must be reproduced on such copies.

8. The Client must not sell, distribute, lend, lease, license nor otherwise transfer the AS or its copies to another persons, and further it must not

transmit or otherwise disclose the AS to a third party, provide consent to its use, including but not limited to any partial use. The above mentioned activities can be done by the Client only with prior written consent of the Supplier. However, the Client has no entitlement to this consent and it may be dismissed without giving reason, or eventually withdrawn.

9. The Client may not provide and/or assign the authorisation which is part of the licence to a third party. If an enterprise of the Client or part thereof, that forms an independent unit, the consent of the Supplier is required to transfer the licence.

10. The Client must neither overprint nor copy documents or other written materials provided with the AS, which are related to it, in its publicly published materials without prior written consent of the Supplier.

11. The Supplier does not guarantee that the AS will meet all requirements of the Client or that it will work in combinations the Client chooses for its use, especially if the requirements and combinations were not known to the Supplier at the time the AS in question was being created.

12. The Supplier is not liable for any direct or indirect, incidental, consequential or economic damage caused by improper application or improper use of the AS, including damage or costs (without limitation) loss related to loss of growth, business activities, goodwill, data or computer programs. Improper application or use means use contrary to the instructions of the Supplier or in conflict with technical terms. Section 2898 of the Civil Code is not affected by this.

## VII. Compensation for Damages

1. ***The total scope of liability of the Supplier towards the Client for harm (damage) suffered by the Client in connection with performance of this contract or a breach of a legal regulation shall be limited up to 10% of the total contractual price for deliveries under this contract (VAT exclusive), applicable to all loss events in aggregate. Only actual damage is to be compensated, lost profit or other types of damage shall not be compensated. The damages are preferably compensated in cash. Potential contractual penalties or other sanctions to be paid by the supplier to the client (if any) shall be fully counted for the above limit for compensation for damage. The limitation stipulated above shall not be applied to compensation for damage caused by wilful misconduct, gross negligence or to the compensation of damages to natural rights of men. The statute of limitations for asserting claims for compensation of damages is one year. The same applies to the right to compensation of damages caused by a defective of the product.***

2. If the obligation of the Supplier to deliver the supply is terminated due to impossibility, the Supplier is obliged to pay damages suffered by the Client if the impossibility of performance was caused by the Supplier. For the extent of compensation for such damages, paragraph 1 of this article shall apply accordingly.

3. If a quality guarantee is agreed by the parties in the contract, this guarantee fully replaces the statutory liability of the Supplier for defects.

4. ***If the performance under the contract is to be provided for the fulfilment of the Client for the benefit of a third party and the Client is not to be the end user or sole user of the goods, works and services, the Client is obliged to ensure by a contract that the third party for which the fulfilment under the contract is provided, and the Client will limit the liability of the Supplier to the same scope as the scope of liability between the Supplier and the Client is limited under the contract or these Terms and Conditions. Should the Client and third party for which the fulfilment under the contract is provided fail to agree such limitation of liability, the Client will be obliged to compensate the Supplier for any damages in an amount equal to the difference between the compensation of damages really paid by the Supplier to a third party and the damages which would otherwise be paid to the third party if the above mentioned limitation of liability of the Supplier was applicable.***

## VIII. Withdrawal from the Contract

1. Parties to the contract may withdraw from the contract only in cases of material breach of the contract or in cases expressly stated in the contract or in the Terms and Conditions or in cases explicitly stated in legal regulations, if the parties may not derogate from such regulations. The withdrawal from the contract comes into effect on the day when served to the other contracting party.

2. Material breach of the contract shall mean:

- default of the Supplier with delivery of the supply which is caused by the Supplier exceeding 30 days. After this period, the Client shall immediately inform the Supplier if it insists on the delivery of the supply. If the Client insists on its performance, it may withdraw from the contract only after the lapse of 30 days after receipt of the notification in question by the Supplier,
- default of the Client with payment of the invoiced amount which is longer than 30 days,
- default of the Client with provision of advance payments exceeding 5 days if the provision of an advance payment was agreed,
- non-cooperation on the part of the Client and subsequent impossibility of performance of the Supplier caused by the Client exceeding 30 days,

e) unauthorized disposal of the results of intellectual property of the Supplier by the Client

f) breach of obligations contained in the Article XI of the general part of the Terms and Conditions.

3. The Party to the contract is entitled to withdraw from the contract with the effect on the day of delivery of the expression of will containing a withdrawal to the other party to the contract if:

a) the competent insolvency court issued a decision on bankruptcy of the other party to the contract,

b) the competent insolvency court rejected the insolvency petition due to insufficient assets on the part of the other contracting party,

c) the other party to the contract suspended its payments,

d) the other contracting party filed an insolvency petition to the insolvency court to issue a decision on bankruptcy of the other party to the contract,

e) enforcement or execution of property of the other party to the contract was conducted to no avail.

4. Parties to the contract are entitled to withdraw from the contract also in case that force majeure prevents from fulfilment of delivery of the supply for a period exceeding 3 months.

5. The Supplier is entitled to withdraw from the contract when the Client is in default with the fulfilment of the financial obligations exceeding 30 days, regardless of whether those financial obligations result from the contract, the party is withdrawing from or any other contract. If the Supplier does not withdraw from the contract, it is not in default with the fulfilment of any obligations arising out of such contract for such time until the Client pays its financial obligation.

## IX. Confidentiality, Personal Data Protection

1. For purposes of the contractual relationship between the Client and the Supplier, "confidential information" means any information or data indicated by the Party to the contract providing the information as "confidential" or similarly described, and in particular, any commercial or technical information and data that one of the Parties to the contract discloses the other, and which relate to the purpose for which the fulfilment of the contractual relationship in question is concluded, on any medium - whether on paper or electronically, including the provision of information via the Internet. If the data or confidential information is communicated orally, the receiving party must be informed of this by oral presentation and then confidentiality must be confirmed by the disclosing party in writing within 3 days from notification.

2. Neither party to the contract is entitled without prior written consent of the other party to communicate confidential information to a third party or to enable access to it in any way, even partially. Parties to the contract are entitled to use received documents, data and information relating to confidential information only for the purpose set forth in the contractual relationship between both contracting parties. The provision of information when performing obligations under the law or the provision of information to the court or arbitral tribunal when asserting any claims or rights of the contract or provisions of information, documents and information to persons who constitute a group (holding) with the Parties to the contract, as well as consultants and other persons participating in the fulfilment of a contractual relationship or activities associated with that contractual relationship, who are legally or contractually bound by the obligation of confidentiality, especially lawyers and tax advisors of the Parties to the contract does not constitute a breach of an obligation to maintain confidentiality. Neither party is entitled to release any person from the obligation of confidentiality in connection with this contractual relationship. The Parties to the contract undertake to ensure that such persons are familiar with the duties of confidentiality and are bound to comply with them in the same extent as the Parties to the contract. The obligation to maintain confidentiality does not apply to:

- Information that is publicly known at the time when the contract is concluded, or which is subsequently published otherwise than by breach of the obligation to maintain the confidentiality of the Party to the contract,

- Information that the Contracting Party must disclose under the law or decision of public authority authorized to do so under the law,

- Information that the Contracting Party demonstrably had in its possession at the time when the party entered into the contract,

- information that is or will be communicated to the Supplier by a third party without the need to restrict their use or confidentiality.

3. The obligation to maintain confidentiality survives even the termination of the contract in question. In the event of breach of duties under this article the infringing party is obliged to pay a contractual penalty of CZK 100,000 for each such violation. The injured party's claim for damages in the full amount is not affected.

4. Client agrees so that the Supplier, in the sense of Act No. 101/2000 Coll., on Protection of Personal Data and on Amendment to Some Acts, as amended by subsequent regulations (hereinafter referred to as "Act on Personal Data Protection"), processed, gathered and kept the Client's personal data mentioned in the contract and other personal data

necessary for providing of services arising from the contract. These personal data shall be processed and kept by the Supplier in the Supplier's internal register for the purposes of fulfillment of its obligations from the concluded contract and for registration purposes.

5. If Client asks the Supplier for information on processing of its personal data, the Supplier shall be obliged, in accordance with the Act on Personal Data Protection, to provide the Client with the information without undue delay and if the Client finds out any inaccuracy in the data processed by the Supplier, it shall be entitled to require correction from the Supplier.

6. If the Client finds out or assumes that the Supplier processes its personal data in the manner, which is in contradiction with protection of private and personal life of the Client or contrary to law, in particular if the personal data are inaccurate with regard to the purpose of processing thereof it may:

- ask the Supplier for explanation,
- require so that the Supplier removed such arisen situation.

This may be in particular blocking, making repair, completing or liquidation of personal data. If the Supplier does not comply with the Client's request, the Client shall be entitled to turn directly to the Office for Personal Data Protection.

7. The Client grants its consent under paragraph 1 of this Article for the period of duration of the contractual relation arisen on the basis of the contract concluded between the Supplier and the Client and for the period of another five (5) years from fulfillment of any and all rights and duties of the Client from such contract.

#### **X. Compliance with Regulations on Export Control**

1. JNS shall not be obligated to fulfil this contract if such fulfilment is prevented by any impediments arising out of national or international foreign trade or customs requirements or any embargoes or other sanctions.

2. If the Client transfers goods (hardware and/or software and/or technology as well as corresponding documentation regardless of the method of their provision) delivered by the Supplier or works and services (including all kinds of technical support) performed by the Supplier to a third party, the Client shall comply with all applicable national and international (re-) export control regulations. At any case, the Client must comply with, with the national, EU- and US-(re-) export control regulations when transferring such goods, works and services.

3. Prior to any transfer of goods, works or services provided by the Supplier to a third party, the Client shall in particular check and ensure using appropriate measures that:

- there will be no infringement of an embargo imposed by the European Union, by the United States of America and/or by the United Nations by such transfer, by brokering of contracts concerning those goods, works and services or by provision of other economic resources in connection with those goods, works and services, also considering the limitations of internal trade and prohibitions of bypassing those embargoes;
- Such goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization unless required authorization is provided;
- the regulations of all applicable Sanctioned Party List of the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein are considered.

4. If required to enable the authorities or the Supplier to conduct export control inspection, the Client upon request by the Supplier shall promptly provide the Supplier will all information pertaining to the particular end customer, the particular place of destination and the intended use of goods, works and services provided by the Supplier, as well as any export control restrictions existing.

5. The Client shall indemnify and hold harmless the Supplier from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any noncompliance with export control regulations by the Client and the Client shall compensate the Supplier for all losses and expenses resulting thereof.

6. The Client shall be obliged to notify the Supplier in writing of any potential re-export of the goods to the country of origin prior to such re-export.

7. If the subject to supply are goods of dual use according to Act No 594/2004 Coll., as amended, the Client shall not be entitled to transfer the ownership title to the goods to any third party without prior written consent of the Supplier.

#### **XI. Compliance with Legal Regulations**

1. The Contracting Parties undertake to comply, among others, with the legislation in the field of fight against corruption, protection of competition, the fight against money laundering and other regulations of criminal or administrative law.

2. The Contracting Parties undertake not to tolerate any form of corruption or bribery, respectively not to lend themselves to it in any way, including their

obligation not to tolerate any illegal payments or other similar performance to public officials (people working in public authorities or in other entities controlled by public authorities) used to make these people influence the official power or provide an unfair advantage in connection with business of the Contracting Party.

## XII. Final Provisions

1. When or if any provision of the contract or these Terms and Conditions becomes invalid, unenforceable, virtual or ineffective, this does not affect the validity, enforceability or effectiveness of other provisions of the contract or these Terms and Conditions. In such a case, the Contracting Parties are obliged to make every effort to conclude an amendment to the contract to replace the invalid, unenforceable or ineffective provision by a new provision that will correspond as close as possible to the originally intended economic purpose. Right to claim the cancellation of the obligation according to Section 2000 of the Civil Code shall be excluded.

2. Within the meaning of these Terms and Conditions a document in writing shall mean a document executed either (a) in a printed form and sent to the other party to the address of the party specified in the contract (1) by registered mail or courier service or in any other manner allowing that a delivery is provided to the sender or (2) by fax to the fax number of party stated in the contract with confirmation of delivery, or (b) in an electronic form and sent by e-mail with electronic signature or electronic sign.

3. The document is deemed to be delivered on the third working day following the dispatch by any manner described above in the previous paragraph to the appropriate address (fax number, email address) of the Contracting Party, even if the receipt of the document by the addressee is assumed.

4. The legal relationship of the Contracting Parties is governed by the law of the Czech Republic, with the exclusion of the Vienna Convention on the Law of Treaties and conflict of laws rules. Unless the contract or these Terms and Conditions stipulate otherwise, rights and obligations of the Contracting Parties are governed by the Act No 89/2012 Coll., the Civil Code, as amended.

5. **Section 558 (2), Section 1728, Section 1729, Section 1744, Section 1757 (2) and (3), Section 1765, Section 1950 and Section 2630 of the Civil Code shall not apply. The Contracting Parties expressly confirm that this contract shall be concluded by them as entrepreneurs within their business. Neither of the**

**Contracting Parties has a weaker position towards the other party.**

6. Any disputes arising from or in connection with the contract will at first be resolved by an attempt to reach an agreement. If the agreement is not reached, the competent court will decide the dispute.

7. These conditions constitute, together with document to which they are attached and annexes to such document, the entire agreement and supersede any previous agreements between the parties related to the subject hereof. The Contracting Parties agreed that in addition to this contract no rights and obligations shall not be dedicated from former or future practice conducted between the Contracting Parties or business customs kept in similar branches or in branch related to the subject of this contract.

8. The Supplier may assign this contract to another party.

9. This contract can only be modified and supplemented by written numbered amendments signed by both parties. The contract or its changes is not deemed to be agreed, until the Contracting Parties agreed in full consent all provisions in written form (in case of order it must be done in form of confirmation of the order in full scope without any deviation) in full extent. For the purpose of the conclusion of the contract or its change an electronic form is not considered as written form.

10. Within the meaning of Section 1752 (1) of the Civil Code, the Supplier is entitled to change these Terms and Conditions. Such changes become effective when served to the Client under Article XII (2) hereof. Within 10 days following the receipt of notification of the change of these Terms and Conditions, the Client may refuse the changes and to terminate these Terms and Conditions by a 30 day notice of termination at maximum.

**B. Special Part**  
**SIEMENS products of the**  
**Division Digital Factory (DF) & Division Process**  
**Industries and Drives (PD)**  
**(for product business)**

**I. Ordering and confirmation of purchase orders**

1. The Supplier will confirm purchase orders of the Order party in a form of "order confirmation" preferably in electronic form, whereas it is true that the confirmation is legally perfect even without guaranteed electronic signature. The purchase order is in effect and binding for both contracting parties upon delivery of the order confirmation.

2. Regarding the fact that catalog numbers of goods of the Order party may differ from catalog numbers of goods of the Supplier as well as the way in which both contracting parties describe the goods and its properties may differ the Order party is obliged to check the order confirmation it received from the Supplier, particularly if the goods, its quantity, price and version correspond to the purchase order and the needs. If the Order party does not enter any objections against the order confirmation of the Supplier within two days after receipt, it is considered that the purchase order confirmed by the Supplier is perfect and therefore binding for both contracting parties.

3. Documentation is included only if the Order party reserved its delivery in the purchase order and subsequently the Supplier confirmed its delivery in the order confirmation.

**II. Price, payment conditions**

1. Prices of goods listed in a price list are approximate and not binding for the Supplier. The Supplier is not liable for printing errors. The price listed in the order confirmation is binding for the Supplier.

2. Unless the contracting parties agreed in writing otherwise, the due time of an invoice (tax document) is stipulated for 14 days after the issue of the invoice by the Supplier.

3. If the contracting parties agreed on the price in CZK and if the exchange rate of CZK and EUR in the foreign exchange market announced by the Czech National Bank changed, so that the price after conversion for EUR on the day of the taxable transaction would lower by more than 2 % or CZK 10,000 than on the day of effect of the contract / order confirmation, the Supplier is entitled to invoice a price in CZK to the Order party that would be increased by the difference resulting from the diversion of the exchange rate in the foreign exchange market (this increase corresponds with the differential amount in

EUR converted to CZK by the exchange rate in the foreign exchange market announced by the Czech National Bank between CZK and EUR on the day of the taxable transaction). This does not apply in the event that the above facts occur due to default in time of the

Supplier with delivery of the supply in question. The taxable transaction usually means the day of delivery of the supply to the Order party.

4. In case that the contract / purchase order of the Order party is issued for the supply amounting less than CZK 5,000 without VAT, the Supplier is entitled to add a one-time flat extra charge amounting CZK 500 without VAT to the price of the supply.

**III. Material extra charges**

1. Material extra charges are applied to products containing precious metals. The amount of the material extra charge for a given item is continuously adjusted by the Supplier in relation to the development of the precious metal prices on the world markets. The Supplier states the amount of the material extra charge as an additional charge to the letter price of goods.

2. The price stated in the order confirmation by the Supplier includes a letter price of goods and an amount corresponding to the material extra charge for a given item, whereas the material extra charge may be charged separately or included in the letter price. If the material extra charge is increased within the time period from the day of order confirmation issued by the Supplier to the day of delivery of the supply to the Order party, the Supplier is entitled to increase the price stated in the order confirmation by the increased material extra charge and to charge the Order party with such an increased price, whereas to avoid reasonable doubts it is agreed that the original price without VAT may be increased by a maximum of 10 (ten) %.

**IV. Reservation of ownership**

1. The Order party takes title to the subject of delivery by full payment of the purchase price.

2. As long as the Order party does not take title to the subject of delivery, it is not allowed to dispose of the subject of delivery in any way without prior written consent of the Supplier. If the Order party disposes of the subject of delivery, it is obliged to notify the reservation of ownership of the contractor to the person towards which the legal act is made.

3. The right of ownership to price calculations, drawings and other supporting documents (hereinafter referred to as "background documents") exclusively belongs to the Supplier, even after provision of them to the Order party. The



background documents may be disclosed to the third party only with prior written consent of the Supplier and have to be returned upon its request without undue delay. The previous sentence of this paragraph is applied mutatis mutandis for the background documents of the Order party; they may be disclosed to the third party, only if the rights and obligations of the Supplier in connection with the supply are passed to the third party in a lawful manner.

#### **V. Delivery conditions**

1. Unless agreed otherwise, the EXW clause enterprise of the producer – Incoterms® 2010, without packaging, is applied.

2. If the goods is innovated or upgraded in a way that does not influence the agreed purpose of use of the goods within the time period from the day of order confirmation to the day of delivery of the supply, the Supplier is entitled to supply the Order party with such modernized version of goods.

3. The Order party checks the completeness of the supply without any delay after its delivery. The Order party shall list any and all apparent defects of the supply (such as damaged packaging, different quantity of packagings in the supply) in the shipping note, or shall reject to accept such apparently defected and/or incomplete supply from the contractual carrier and shall notify the Supplier about such fact without any delay.

#### **VI. Claim rules**

1. The Supplier provides the Order party with contractual guarantee of 12 months for material and production defects of the goods delivered. The guarantee period shall start at the moment the risk of damage to the goods passes from the Supplier to the Order party and shall terminate after 12 months.

2. The contractual guarantee is subject to payment of any and all due liabilities of the Order party towards the Supplier. If the Order party is in delay with payment of any of its due liabilities towards the Supplier when claiming defects of the supply, the Supplier shall be entitled to suspend the handling of the guarantee complaint made by the Order party for the time the Order party is in delay with payment of its obligations toward the Supplier. However, the guarantee period shall not be suspended or extended.

3. The Order party claims apparent defects concerning logistics, quantity using the following communication channel:  
JNS elektrotechnika s.r.o.  
Místecká 801, 739 21 Paskov.

4. The Order party claims any and all other defects using the following communication channel:  
Siemens, s.r.o.

Servisní středisko divizí DF a PD

Zelená 184, 293 06 Bradlec

Telefon: +420 326 713 877

Fax: +420 326 713 951

E-mail: [nd.industry.cz@siemens.com](mailto:nd.industry.cz@siemens.com)

5. The Order party notifies the Supplier about the defects without any delay after their detection, however no later than at the end of the contractual warranty. Claims concerning logistics and/or quantity are notified by the Order party to the Supplier in writing no later than 5 days after the goods delivery. The claim letter shall contain, in particular:

- Company name, registered office, corporate ID number, tax ID number, telephone number, e-mail;
- List of claimed goods, incl. order No. and serial

No. (as specified on the label of the goods);

- Copy of delivery/handover protocol;
- Time the defect first occurred, description of the defect, position of the claimed goods and the contact person of Order party authorized to handle claims;
- Other facts relevant for handling the claim; hereinafter referred to as the "Claim Protocol".

6. The Supplier confirms in writing and without undue delay the receipt of the claim from the Order party. The Supplier decides about the method of handling the claim, based upon the nature of the goods and the nature of the claimed defect.

7. The Supplier undertakes to remove the defect that is justifiably claimed by the Order party as soon as possible, taking into account the availability of the spare parts required.

8. The time limits for removal of defects are extended at least for a period of time during which the Order party did not provide the cooperation necessary for the proper removal of the defect.

9. The Supplier removes the defect that is justifiably claimed by delivery of substitute goods or parts, or by repair of defective goods or parts, or by delivery of the missing article of goods or by rectifying legal defects. The Supplier chooses the appropriate manner of defect removal with respect to the nature of the defect and the goods, and with respect to the highest degree of efficiency and effectiveness of the solution chosen. By removing the defect using one of the solutions mentioned above, the claim made by the Order party is deemed to have been satisfied and the claim procedure finished.

10. The guarantee period is extended by the time during which the Order party, through no fault of

its own, cannot use the subject of the supply due to defects, however no later than 6 months.

11. Claim requirements of the Order party do not arise in cases when there is just a minor deviation of the supply from the quality agreed which do not affect the functionality and use of the goods by the Order party. In addition, in the following cases:

- a) Failure to follow the operating instructions (e.g. operating and preservative rules);
- b) Failure to use oils and lubricants in accordance with the specifications in the operating instructions;
- c) Failure to follow the oil change intervals in accordance with the operating instructions;
- d) Failure to check the condition of the part subject to wear and tear by the Order party and failure to replace them in time;
- e) Mechanical damage or damage by foreign objects, substances and/or accidents;
- f) Goods show signs of repairs or attempted repairs by the service center which was not authorized by the manufacturer;
- g) Goods have been modified, re-assembled, altered and/or changed by a person different than a person authorized by the manufacturer;
- h) Goods have been leased for commercial purposes;
- i) Serial No. and/or manufacturer's label on the goods have been modified, altered and/or removed.

12. In addition, the guarantee does not apply to any damage caused by improper operating conditions (with respect to the purpose of use specified by the manufacturer in the operating instructions), damage due to external influences, specifically due to the effects of mechanical quantities of excessive size, unprofessional assembly, incorrect adjustment and/or failure to follow the instructions specified in the operating instructions (except for the cases when such unprofessional assembly, incorrect adjustment and/or failure to follow the instructions specified in the operating instructions were done by the Supplier or by a person authorized by the Supplier), components and parts which, due to its nature and function, are subject to wear and tear. The Supplier is not liable for any defects and breakdowns of control computers and/or software which occur as a result of intervention in the computer's operating system, installation of not recommended software and/or connection of peripherals not approved by the Supplier.

13. The guarantee is provided exclusively for the Order party, which is not authorized to transfer such right to any third party without the Supplier's previous approval.

14. Unless the procedure according to paragraph 16 below is applied, the Order party dismantles the claimed goods at its own expense and risk and sends them, together with the Claim Protocol, to the Supplier, which shall consider the claim. If the claim is found justified, the Supplier shall deliver repaired spare parts and/or substitute goods to the Order party to a destination in the Czech Republic as agreed by the Parties hereto. Further requirements of the Order party arising out of the Supplier's guarantee liability are excluded. The Supplier shall reimburse the costs proven and effectively spent by the Order party, as mentioned in the first sentence of the present paragraph, up until an amount agreed by the Parties hereto, only if agreed in writing with the Order party.

15. If the Supplier finds that the claimed defect is not subject to the guarantee, and/or that it is not a defect for which the Supplier is liable, and the Supplier has already repaired such defective part or goods, or provided any work and services, the Order party shall pay the Supplier all the expenses incurred by the Supplier with respect to the unjustifiable claim of defects, upon the Supplier's written payment request.

16. **Goods replacement.** In order to speed up the handling of the claim and in order to prevent any damage with respect to the defective part for the Order party, the Supplier offers the option of defective goods removal by their replacement. The Supplier shall notify the Order party in writing. If the Order party does not protest against such solution within 3 business days after receiving the written notice, the Supplier shall proceed in accordance with the following paragraphs of the present clause:

a) The Supplier sends the Order party substitute goods with the identical parameters and properties as the claimed goods. No later than 5 business days from receiving the substitute goods, the Order party sends the claimed goods, at its own expense and risk, to the Supplier's address specified for handling claims and mentioned above. The Order party is obliged to pack the goods that have been replaced in an appropriate and adequately protecting packaging material that conforms to the demands of the chosen mode of transport, properly labeled and accompanied by a copy of the Claim Protocol.

b) If the Order party is in delay with delivery of the claimed goods to the Supplier, the Supplier is entitled to invoice the price of the substitute goods to the Order party, incl. packaging and transportation costs as per the valid price list.

c) If the Supplier deals with the Order party's quality claim by goods replacement, the Order party's claims arising out of or in connection with the quality claim towards the Supplier are deemed to

have been satisfied and the claim procedure is deemed to have been finished.

d) If the Supplier does not accept the Order party's claim, the Supplier shall notify the Order party in writing about such fact without undue delay, and if the claimed part is irreparable, the Supplier shall dispose of it at its expense without returning it to the Order party, unless the Order party requests the Supplier to return such part within the stipulated time limit. If the claimed part is reparable, the Supplier shall notify the Order party about the closure of the claim procedure and, at the same time, shall issue a credit note for the residual value of the goods for the Order party without returning the goods to the Order party. For the avoidance of doubt, the Parties hereto agree that the price of the spare part and the price for sending it to the Order party pursuant to paragraph 16 letter a) shall be charged and set off by the Supplier against a credit note issued in accordance with the previous sentence.

17. **Post-guarantee services.** Based upon orders, the Supplier shall provide post-guarantee services of the goods delivered by the Supplier. The goods shall contain only original spare parts recommended by the manufacturer and the Supplier use only such original spare parts to repair the goods. The Supplier reserves the right to refuse to provide post-guarantee services if the goods have been handled and/or modified unprofessionally.

18. **Return of supply.** The Order party has the option to request the Supplier for refund of the supply or a part thereof without giving any reason, under the following conditions. This does not apply to software and customized design.

a) The Order party asks the Supplier in writing for refund of goods within 5 days at the latest after acceptance of the supply through the communication channel stated in paragraph;

b) The price per item/product has to amount no less than EUR 200 (or its equivalent in CZK), excl. VAT;

c) The goods must be packed in an undamaged and still unopened original packaging;

d) On the basis of a written request for refund of the supply, the Supplier informs the Order party about the price for which the Supplier is willing to take the supply back from the Order party;

e) The Order party confirms without undue delay, if the Order party agrees with the price offer for the back acceptance of the supply or not;

f) Subsequently, the Order party is obliged to transport the supply at its own expense to the location specified by the Supplier under its instructions within 7 business days – typically to the address of the Supplier's premises or factory in the

European Union, whereas the Order party pays the expenses for transportation, incl. packaging;

g) Eventual return of the supply does not affect the due time of the invoice for the supply. The Supplier issues a credit not amounting the price for which the Supplier took back the supply from the Order party according to letter d);

h) The Order party has no legal claim for refund of the supply and the Supplier is entitled to reject the refund of the supply without giving a reason.