

# General Terms and Conditions of the Institute of Public Health in Ostrava

## 1. General Provisions

- 1.1 These General Terms and Conditions (hereinafter referred to as "GTC") contain general provisions related to a procedure while concluding contracts (hereinafter referred to as pre-contractual provisions) and the contents of contractual relations concerning the contracts on making laboratory analyses and expert's opinions (hereinafter referred to as "Contract for Work" or "Contract"), and stipulate detailed regulation of rights and duties of contracting parties within their cooperation.
- 1.2 These GTC shall be applied for regulation of contractual relations in case that a relevant Order or Contract for Work refer thereto, or if negotiations of the parties show the will to follow them.
- 1.3 The contracting parties are: a customer as the Ordering Party on the first part and the Institute of Public Health in Ostrava as the Contractor on the other part. For purposes of these GTC it is applied that the Ordering Party may be only a person who is in the position of an entrepreneur in his/her business activity. The GTC become a part of the pre-contractual provisions by entering into negotiations between the Contractor and the Ordering Party and a part of contracts upon their conclusion.
- 1.4 The contractual relation between the Ordering Party and the Contractor, as defined in the article 1.1 hereof, is governed by the Act No. 89/2012 Coll., Civil Code, as amended (hereinafter referred to as "Civil Code").
- 1.5 Draft contract may be in a form of:
  - a) a Contractor's offer delivered to the Ordering Party, a part of which includes the GTC, or the offer refers to the wording of the GTC, whereas the text of the GTC is public-available to the Ordering Party on the Contractor's website,
  - b) an Ordering Party's offer (order) delivered to the Contractor, from which the Ordering Party's will to follow the GTC is obvious,
  - c) a draft Contract for Work.The offer shall identify unequivocally the person who makes the offer, determine the subject of performance (Work), method of settlement of the price for Work; it shall be written (even when using electronic means), and delivered to the other party.
- 1.6 The contractual relation (Contract for Work) between the Contractor and the Ordering Party may be concluded:
  - a) by written confirmation (acceptance) of the Contractor's offer by the Ordering Party or by acceptance of the Ordering Party's offer/order by the Contractor,
  - b) by commencing implementation of the Work by the Contractor on the basis of the offer/order delivered by the ordering party. Unless the offer/order is accepted expressly, the Ordering Party shall make a consent with the contents of the GTC by commencing implementation of the Work.
  - c) by signing the written Contract for Work.Later receipt has effects of timely acceptance if the offeror notifies the other contracting party of such acceptance without any delay at least in oral form, and confirms that the offeror considers the acceptance to be timely or starts conducting in accordance with the offer.
- 1.7 If the offer is not accepted without any reservations, the contractual relation is not established. In the event that the offeror attaches its counterproposals or annexes to the offer or draft contract, the contractual relation is established at the moment of confirmation of the proposals by the addressee of the offer, even in case of such an annex, reservations, limitation or other alteration that do not change conditions of the offer substantially.
- 1.8 If the Ordering Party refers to its general terms and conditions in its offer submitted or at acceptance of the offer, which are in contradiction with these GTC, the contract shall be concluded, however, with the contents intended to the extent to which both general terms and conditions are not in contradiction. Mutually contradictory or indefinite provisions of the general terms and conditions shall not be applied. It is applied even in the case that such a procedure is excluded by the Ordering Party's general terms and conditions. However, either contracting party may inform in writing the other party within 3 (three) calendar days after acceptance of the offer that it refuses the procedure. In that event the contract is not concluded.
- 1.9 If a draft contract is submitted to the Ordering Party in an adhesion way (as a form), the contracting parties thereby exclude application of Section 1799 and Section 1800 of Civil Code.

## 2. Performance of Work

- 2.1 Performing Work the Contractor proceeds independently, properly and in accordance with all effective legal regulations, certificates on accreditation and authorization, technical and qualitative standards, contract and documents being presented.
- 2.2 If any cooperation of the Ordering Party with performance of Work is required (e.g. delivery of samples, submission of project documentation or decisions of administrative bodies, presence at the place of search, arrangement of entry to the place of implementation of Work etc.) and the Ordering Party fails to provide the cooperation in time, the period of execution is extended by the Ordering Party's delay due to late provision of its cooperation. Alternatively, the Contractor reserves the right to withdraw from the Contract pursuant to the article 6.1 and request the price for work performed for the Ordering Party as at the date of withdrawal, by which the Contractor's claim to damages is not affected.
- 2.3 Before commencing Work, the Contractor, exerting professional care, is obliged to find out whether there are no hidden obstacles impeding proper execution of Work. The Contractor is obliged to notify the Ordering Party without any delay of relevant existence of such obstacles and propose any alternative solution. In that event the periods for execution of Work are extended. In case that any hidden obstacles could not be found out with professional care before commencing Work and after their finding the Contractor notifies the Ordering Party without any delay of their existence, the term of execution of Work is extended by the period from the Ordering Party's written notice of the obstacles until their removal.
- 2.4 The Contractor undertakes to notify the Ordering Party upon request of the state of execution of Work and its individual parts and, in case of occurrence of any alternative possibilities of execution of Work, to ask the Ordering Party for its conceptual approval of the method of execution.
- 2.5 The Contractor shall arrange, at its own expenses, all aids, tools and materials necessary for execution of Work in accordance with the contract, except the materials and samples provided by the Ordering Party for the purpose of laboratory research.

- 2.6 The Contractor reserves the right to implement Work or its part through a fully qualified accredited subcontractor.
- 2.7 The Contractor is not in delay with execution of Work and is not responsible for any damage in case that any extraordinary, unpredictable and insuperable obstacles incurred independently on its will (i.e. the cases of "force majeure") prevent the Contractor, temporarily or permanently, from performing the obligations under the contract. For the purposes of the contractual relations concerned, e.g. natural disasters, unfavourable climatic conditions making execution of Work impossible or more difficult are deemed to be the cases of force majeure. If a case of force majeure occurs, the contracting parties undertake to regulate the contractual relation reasonably to the particular circumstances so that the purpose of the contract could be reached. If the contracting parties fail to agree, the party claiming force majeure has the right to withdraw from the contract.

## 3. Handover of Work

- 3.1 Work is finished by execution of a written Record (report, certificate, attestation etc.) in the extent required and quality corresponding to the quality system. After proper completion of Work according to the contract, the Contractor shall hand over Work to the Ordering Party. The Ordering Party is obliged to accept Work completed.
- 3.2 Work may be handed over: by delivering through a holder of a postal licence to the address of the registered office, place of business or to the address stated in the contract, further in an electronic way or by personal delivery to the workplace of the Contractor against an authorized person's signature. Work may be also sent cash on delivery. Unless otherwise stated in the Contract, the personal delivery is carried out at the Contractor's workplace. In case that the Ordering Party fails to withdraw Work sent through the holder of a postal licence, and it is returned to the Ordering Party with a notice on its return, Work is deemed to be delivered by the date of its return. If the contract does not determine expressly the method of handover of Work, the Contractor may decide on the method of delivery.
- 3.3 In case that any reasonable doubts about ability to pay the price for Work by the Ordering Party occur during the term of the contract, the Contractor can exercise a lien on execution of Work. In that event the Contractor shall not hand over the finished Work and, without any delay, shall notify in writing the Ordering Party of exercising the lien.

## 4. Price for Work and Terms of Payment

- 4.1 The contracting parties can agree on provision of an advance payment amounting up to 100% of the price for Work, or on provision of earnest money.
- 4.2 The Ordering Party shall pay the Contractor the price specified in the contract for Work properly executed. The price for Work includes all activities stipulated by the contract and it shall not be changed and regulated in another way than by an agreement of the contracting parties, except for the cases in which the price for Work is agreed on the basis of estimation (see the article 4.4.). In case that price quotation with unit calculation forms a part of the contract (or the basis for execution of Work), unless otherwise stated by the contract, the calculation is deemed to be the calculation for which its completeness is not guaranteed. The Contractor may ask for an increase in the price if any need of activities not included in the calculation occurs while executing Work. The Ordering Party may, without any delay, withdraw from the contract if the Contractor requires an increase by more than 20% in the price comparing the original calculation. In that event the Ordering Party is obliged to indemnify the Contractor for the part of the price corresponding with the extent of the partial execution of Work according to the calculation.
- 4.3 The price for Work can be agreed by a fixed amount, estimation, arrangement of maximum financial framework, reference to the Agreement on the price attached ("Price calculation") or the Contractor's price list, effective in the period of conclusion of the contract (including the inflation clause).
- 4.4 If the price is agreed by estimation, it can be expressly stated in the contract that the agreed price is only approximate, dependent on a kind and number of analyses, agreed in advance or unknown ones, arisen later in the course of performance of Work. In the contract there can be the number and kind of analyses required limited on the part of the Ordering Party by a financial amount, i.e. by arrangement of maximum financial framework.
- 4.5 In case of additional Contractor's finding related to exceeding the price estimated by more than 20%, the Contractor is obliged to notify the Ordering Party in writing of the newly set price without any delay. If the Ordering Party fails to agree, it can withdraw from the contract within one-month notice period. If it fails to do that without any delay after delivery of the notice on the higher price, it is applied that it agrees with the increase in the price.
- 4.6 Value added tax shall be charged to the price according to the applicable legal regulation.
- 4.7 The Contractor's claim to payment of the price for Work arises by its implementation. The price for Work shall be charged to the Ordering Party on the basis of an invoice, in which relevant advance payments having been already paid shall be taken into consideration.
- 4.8 The tax document (invoice) must include all requirements stipulated by legal regulations and it is due within 21 days after its issue, by electronic transfer to the Contractor's bank account stated in the heading of the contract, or in cash.
- 4.9 In case of absence of a proof of delivery, the invoice is deemed to be delivered on the third day after its issue.
- 4.10 In case of recurring or continuing performance and in the situation that the Ordering Party is in delay with payment of the invoice(s), the Contractor is entitled to suspend performance of the subject matter of the contract until the Ordering Party fully pays all delivered invoices, the due date of which has expired, if they refer to the subject matter of the contract. For that period of time the Contractor is not in delay with performance of its obligation.
- 4.11 In case of recurring or continuing performance the provision of Section 1950 of Civil Code is not applied between the contracting parties.
- 4.12 The limitation period for receivables arisen between the contracting parties is extended from 3 (three) to 4 (four) years. It does not refer to the receivables by virtue of damages.
- 4.13 As to using acquittance, the contracting parties exclude the provision of Section 1952, Sub-section 2 and Section 1995, Sub-section 2 of Civil Code.

## 5. Sanctions, Complaints, Liability for Defects

- 5.1 In case of the Ordering Party's delay with payment of the price for Work, the Ordering Party is obliged to pay the Contractor the interest on late payment in the statutory amount (currently according to the Decree No. 351/2013 Coll.).

- 5.2 At acceptance of the completed Work or its part, the Ordering Party is obliged to inspect it properly and check all parameters, quantity and quality of the execution of Work. Work is completed even in case of existence of defects that do not prevent it from serving to its purpose. The Ordering Party is obliged to accept the completed Work (see the article 3.1), with or without any reservations. Concerning any apparent defects (e.g. wrong marking and identification of the Ordering Party, measuring places, places of sampling, apparent mistakes in writing and counting), the Ordering Party is obliged to apply the reservations in writing (by registered post), immediately upon acceptance of Work at the Contractor's place, and in case of delivery through a holder of the postal licence, not later than 3 calendar days after its delivery, otherwise the right arising from the liability for faulty performance cannot be conferred. The Contractor is responsible for defects of Work at the moment of its handover. In case that the Ordering Party finds later other than apparent defects of Work, the Ordering Party is obliged to inform the Contractor without any delay, in writing (by registered post). All applicable reservations must include exact specification of the defect and its extent. The Contractor shall consider the applied claim and make a decision concerning it within 30 days after receiving the reservations. The Ordering Party's claims regarding defects of Work are considered as the cases of immaterial breach of the contract unless proved the contrary by the Ordering Party.

## 6. Termination of the Contract

- 6.1 The Contractor may withdraw from the contract in cases of material breach of contracting provisions on the part of the Ordering Party. Such material breach is considered the Ordering Party's delay with provision of necessary cooperation or failure to provide the advance payments agreed for the period longer than 30 days after receiving a written notice of the Contractor on breach of the obligation. The Contractor is further entitled to withdraw from the contract provided that the Ordering Party is in liquidation or an effective decision on bankruptcy is issued on the part of the Ordering Party.
- 6.2 If the contract is terminated ahead of schedule by withdrawal for reasons the Ordering Party is responsible for, the Contractor is entitled to require the price for work performed for the Ordering Party, by which the claim to damages is not affected.
- 6.3 Withdrawal from the contract is effective by the date of delivery of the written notice to the other contracting party. In case of absence of a proof of delivery, the withdrawal is deemed to be delivered on the third day after its delivery by mail.
- 6.4 The Contractor is obliged to return all materials and documents to the Ordering Party without any delay.
- 6.5 Validity of the contract concluded for an indefinite period of time can be terminated by a written agreement of the contracting parties or by unilateral withdrawal made by any contracting party in a three-month notice period commencing on the first day of the month following delivery of the written notice to the other contracting party. In case that the Ordering Party fails to withdraw the notice sent through a holder of the postal licence and it is returned with that note, the notice is deemed to be delivered.
- 6.6 Concerning the contract with recurring or continuous performance, concluded for a definite period of time, unless otherwise agreed therein, it is applied that the period of duration of the contract is extended by one calendar year provided that either of the contracting parties is not willing to express their will not to extend the contract within the period of at least one month before the day of termination of the contract.

## 7. Data Protection

- 7.1 The Contractor may, in connection with performance of the subject matter of the contract come into contact with any information that
  - a) forms business secret of the Ordering Party or Contractor and/or
  - b) means personal data pursuant to Act No. 101/2000 Coll., as amended, and/or
  - c) represents the subject of protection pursuant to Act No. 121/2000 Co., Copyright Act.
- 7.2 The Ordering Party acknowledges that the Contractor considers price quotations, unit price of the analyses, places and quantity of sampling to be the business secret, as they refer to competitively important, recognizable, appraisable, and not available facts in the business world, related to the activity of the Contractor.
- 7.3 Either contracting party is entitled to treat the information in accordance with the article 7.1 and 7.2 only in connection with performance of their contractual obligations expressly stipulated in writing. They are not entitled to release any information to any third person without a prior written consent of the other party or if they are bound by any legal regulations. The Ordering Party undertakes to pay the Contractor or a third person any damage caused by breach of the confidentiality obligation or any other obligation mentioned in this article.
- 7.4 The Ordering Party further agrees and is aware of the fact that the Contractor may be obliged on the basis of Act No. 106/1999 Coll., providing for free access to information, as amended, and Act No. 340/2015 Coll., providing for register of contract, to publish the contract on work in the register of contracts or make any information related to the contract and legal relation established thereby accessible or provide any information not excluded from publishing or making accessible by the above-stated acts or other legal regulations.

## 8. Other Provisions

- 8.1 The Contract and these GTC can be altered, amended or cancelled only by written, continuously numbered amendments thereto, that shall be determined and lawfully signed by both participants in the contract. Such amendments are subject to the same contractual regime as the Contract.
- 8.2 The contracting parties shall deliver written documents to addresses stated in the heading of the contract unless they are notified of a change in the delivery addresses.
- 8.3 For delivery of written documents by any contracting party to the other party, the Ordering Party and Contractor agreed that the consignment sent by registered mail is considered to be delivered also in the case that the addressee refuses to receive the consignment or fails to withdraw it within the relevant period.
- 8.4 These GTC come into force and effect as of 1 January 2017.

Ostrava, dated 9 December 2016

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