



## Introductory Provisions

These General Terms and Conditions (hereinafter "GTCs") regulate the contractual relationship between the Buyer (an individual or a legal entity with the place of business or registered office outside of the Czech Republic) and ALBIXON a.s., with its registered office at Zbraslavská 55/5a, 159 00 Prague, Czech Republic, VAT No. CZ26117274, incorporated in the Commercial Register maintained by the Metropolitan Court in Prague under file no. B 13162 (the "Seller"). These GTCs form an integral part of the purchase contract entered into by and between the Buyer and the Seller (the "Contract"), which stipulates the supply of goods (the "Goods") by the Seller to the Buyer. By virtue of execution of the Contract or an amendment thereto, the Buyer confirms that it has become acquainted with the wording of these GTCs, accepts them and agrees to follow the provisions hereof.

The written form shall be preserved even where the legal acts are conducted by electronic means, which enable recording of their contents and identification of the person acting, including communication via [www.albixonportal.com](http://www.albixonportal.com). Where used in these GTCs, the terms "written" or "in writing" do not include communication via SMS or social media messaging.

In case of any conflict between the individual provisions of the GTCs and the individual provisions of the Contract, the provisions of the Contract shall prevail.

The Seller shall be entitled to modify or amend the GTCs. This provision is without prejudice to the rights and obligations that may have arisen during the term of the previous version of these Terms and Conditions.

## 2. Conclusion of the Contract

2.1. An order of the Goods shall be placed by the Buyer. Each one of the Buyer's orders must be delivered to the Seller in writing or be created by the Buyer at the [www.albixonportal.com](http://www.albixonportal.com) internet portal, and must contain at least the following material information:

- a) Identification of the Seller and the Buyer indicating their business name / name and surname, registered office / place of business, identification number;
- b) Reference to the offer, if any;
- c) Description of the Goods ordered;
- d) Required quantity of the Goods, including their technical specification;
- e) Contractual price, if known to the Buyer from the Seller's price list;
- f) Required date and place of delivery of the Goods; unless otherwise agreed, the Seller's registered office shall be deemed to be the place of delivery of the Goods;
- g) Indication of who provides and pays for the shipping of the Goods;
- h) First name, surname and signature of the person authorised to act for the Buyer in the matter at hand.

2.2. Upon delivery of the Buyer's order, the Seller shall send to the Buyer a confirmation of the order or a new offer to conclude the Contract. The order confirmation or the new offer shall, as a rule, contain the requisites stipulated in paragraph 2.1. of these GTCs. If a confirmation of the order or a new offer is not sent to the Buyer within 7 (seven) days of delivery of the order to the Seller, the order shall expire, and no Contract shall be concluded. An order may be confirmed by post, fax or means of electronic communication pursuant to paragraph 1.2. The Seller is not obliged to confirm orders placed by the Buyer.

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2.3. Acceptance of the Seller's offer by the Buyer with an amendment or deviation modifying, even though only marginally, the terms and conditions of the Seller's offer, shall not constitute acceptance of the Seller's offer. A contract shall only be concluded after agreement on all its requisites is reached. Acceptance of the Seller's offer made by the Buyer may not contain any amendments, reservations, limitations, deviations or other changes and may not refer to any terms and conditions other than these GTCs. Unless expressly accepted by the Seller, the Buyer's terms and conditions shall not form part of the Contract.

2.4. A Contract shall be concluded between the Parties upon delivery of the order confirmation to the Buyer or by unconditional acceptance of the Seller's new offer by the Buyer. If the order of only some of the Goods is confirmed by the Seller, the Contract shall be concluded between the Parties with respect to the confirmed part of the order. If the order confirmation contains a change other than a mere reduction of the amount of the Goods to form the subject of an individual Contract, such an order confirmation shall constitute a new offer to conclude an individual Contract. The other Party may accept such an offer by the deadline and in the manner identical to those applicable to the Seller's acceptance of the Buyer's order.

2.5. Any amendment to the contents of the Contract must be made exclusively in writing. In the event of an amendment to the Contract, the amount of any additional costs associated with such an amendment shall be calculated and mutually agreed, and such an amount of the agreed additional costs shall be expressly specified in the Contract, and by virtue of such a procedure, the Buyer agrees to pay these additional costs to the Seller.

### **3. Price**

3.1. The price for the delivery of the Goods shall be stipulated by the Contract.

3.2. The purchase price for the Goods shall be governed by the Seller's pricelist of Goods valid as of the date of the Contract. The Seller shall be entitled to modify the pricelist unilaterally. Upon the conclusion of the Contract, the price for the Goods shall become binding. The contractual price is determined under the assumption of one-time seamless delivery of the Goods without any interruption on the part of the Buyer. Should additional costs arise for reasons on the part of the Buyer, the Buyer agrees to pay such additional costs to the Seller in full. The price of the Goods does not include the costs of shipment of the Goods to the place specified by the Buyer. Unless agreed otherwise, the Seller shall only provide for the shipment of the Goods based on the Buyer's order and at the Buyer's expense.

3.3. If the Contract contains the Buyer's obligation to make an advance payment to the Seller, the Seller is not obliged to commence performance until the advance is paid by the Buyer to the Seller. Should the Buyer default in the advance payment, the Seller's cannot be deemed to default in its performance, and the term of delivery of the Goods by the Seller shall be extended by the duration of the Buyer's default.

3.4. The price of the Goods does not include assembly, installation of the Goods and their subsequent servicing. The servicing of the Goods (i.e. including purchase of any spare parts) shall be conducted by the Buyer at its own expense. The costs associated with the supply of any spare part to the Buyer shall be paid by the Buyer.

3.5. If a legal regulation on the charging of VAT other than that applicable on the date of the Contract applies at the time of taxable supply, i.e. on the date of handover of the Goods under the Contract or

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payment of the purchase price, the Seller is obliged to adjust the agreed price in accordance with the new legislation. The Parties agree to respect the adjusted price. The adjusted price shall apply to all the provisions of the Contract. If the Buyer does not have a valid tax identification number (DIČ) assigned for VAT purposes in the relevant EU Member State as of the date of delivery of the Goods or provision of the service, the Buyer is obliged to pay to the Seller the amount of the VAT applicable in the Czech Republic on the date of delivery of the Goods or provision of the service. The price of the supply of the Goods shall be increased by such an amount.

## 4. Payment Terms

4.1. Payments agreed by the Seller and the Buyer to be made by wire transfer shall be deemed made at the time when they are credited to the Seller's account. Payments agreed by the Seller and the Buyer to be made in cash shall be deemed made upon acceptance of the cash by a person authorised to do so by the Seller.

4.2. The Buyer is obliged to pay the part of the price under the Contract less the advance payment made on the basis of an invoice – tax receipt issued by the Seller unless the payment has already been made in full based on an advance invoice. The Buyer is obliged to make the above-specified payment before the due date stipulated in the invoice.

4.3. Should the Buyer fail to pay the price or any part thereof by the due date, the Buyer shall be deemed to default in the payment beginning on the following day, and the Buyer shall be obliged to pay to the Seller a contractual penalty in the amount of 0.05 % of the outstanding amount for each day of default. The contractual penalty arranged herein shall be without prejudice to the Seller's claim for the compensation for damage to the full extent. In the event of the Buyer's default, the Seller is entitled to compensation for damage in addition to the default interest.

## 5. Delivery of Goods

5.1. The Seller shall supply the Goods to the Buyer by the deadline agreed in the Contract. The Seller may extend the term of delivery by the period for which the performance of the Seller's obligation under the Contract was prevented by an extraordinary unforeseeable and insurmountable obstacle occurring independently of the Seller's will, including, without limitation, an obstacle caused by a natural phenomenon (earthquake, flood, harsh weather conditions), mobilisation, armed conflict, civil unrest, electricity outage, traffic accident, police check, shipwreck, closure of a road or harbour, or by the period for which the performance of the Seller's obligation was prevented by an obstacle specified in Article 5.2. hereof. The Seller shall inform the Buyer of the obstacle without undue delay, including information whether and, if applicable, when the Seller will be able to perform its obligation under the Contract. The Buyer is not entitled to claim from the Seller any compensation for any damage incurred by the Buyer due to the above-specified obstacles.

5.2. If proper delivery of the Goods by the Seller is prevented by obstacles at the place of delivery or its surroundings, the Buyer shall bear any and all costs necessary to remove such obstacles (e.g. reloading of the Goods, using a mobile crane, structural and other modifications of the place of delivery or its surroundings, other actions by the Seller or the carrier, delivery of the Goods in several consignments, etc.), and the Seller is not obliged to meet its obligations under the Contract until the Buyer provides for the removal of such obstacles or until the obstacles cease to exist. The Seller is obliged to deliver the Goods only to a place accessible to the truck shipping the Goods. The Buyer is obliged to inform the Seller in due time that the place of delivery is not accessible as described above, and shall determine a suitable place for the unloading of the Goods; otherwise the carrier shall ship

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the Goods to an accessible place as close as possible to the place of delivery, and the Buyer is obliged to unload the Goods at that place at the Buyer's cost.

5.3. The Buyer is fully liable for the acceptance of the Goods under the concluded Contract. If the Buyer authorises any third person to take over the Goods under the Contract, including a carrier selected by the Buyer (the "Authorised Person"), the Buyer is fully liable for the correctness of the authorisation and the conduct of the Authorised Person entitled to take over the Goods. The conduct of the Authorised Person shall be deemed conduct of the Buyer. The Seller is not liable for damage caused to the Buyer by such an Authorised Person.

5.4. If the Seller or a carrier selected by the Seller hands over the Goods in accordance with the Contract at the place of delivery stipulated by the Contract to a person acting as a person authorised by the Buyer to take over the Goods, it holds that the Seller or the carrier selected by the Seller had good faith in the authorisation of such a person. The Seller is not liable for any harm incurred by the Buyer should it become apparent that such a person was not actually authorised by the Buyer to take over the Goods under the Contract.

5.5. The risk of damage to the Goods (e.g. loss or deterioration of the quality of the Goods), as well as any and all additional costs shall pass from the Seller to the Buyer upon delivery of the Goods to the Buyer at the place of delivery stipulated by the Contract. The same shall occur if the Buyer fails to take over an item despite the Seller enabling the Buyer to dispose of such an item.

5.6. The Buyer is obliged to unload the Goods supplied by the Seller at the time of delivery and the place of delivery agreed in the Contract, at the Buyer's cost and under its responsibility, and, for this purpose, procure suitable technical means, e.g. a forklift, crane or suitable number of properly trained adults for the unloading of the Goods. The Buyer shall unload the Goods on the agreed date within two hours of the commencement of the unloading determined by the Seller; otherwise the Buyer is obliged to pay to the Seller a compensation in the amount of EUR 30 for each commenced hour of default until the completion of the unloading. The Buyer agrees to accept any and all packaging supplied with the Goods. The driver of the carrier's vehicle shall allow the Buyer to unload the Goods, but is not obliged to participate in the unloading of the Goods. The Seller recommends that the Buyer procures

- Technical equipment or at least 4 persons for unloading the roof in a box;
- At least 4 persons for unloading the assembled roof;

5.7. Loads can only be attached and manipulated with in accordance with applicable regulations, i.e. international standard ISO 12480. Emphasis is put on the protection of health of the people present in the area of manipulation and on the protection of property against damage, including the load itself. If the pool features disposable slings (white attachments), these are only designed for lifting the load so that the prescribed slings can be passed through. Disposable slings must not be used for moving the pool around. The pool can only be placed on a flat and clean surface free from stones and other projections that could damage its bottom. Wooden space bars with a length exceeding the width of the pool can be used in sufficient number to avoid deformation of the pool (the space bars must not be placed at intervals exceeding 30 cm). Holes and other features of the pool resembling manipulation elements are for production purposes only and are not designed as suspension elements. As a result, they do not feature a sufficient tensile strength.

All manipulation of the swimming pool ("load") is subject to the applicable regulations, i.e. international standard ISO 12480. Responsible individual: crane operator with a valid certificate

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The load must be attached/tied in accordance to the regulation concerning load binding. The load can only be manipulated using labelled slings of the corresponding load capacity and length. Unlabelled slings (or suspension points) are not considered to be slings/means of suspension. Responsible individual: slinger with a valid certificate (card)

The slings used must comply with the applicable regulations and must feature the corresponding load capacity. Responsible individual: slinger with a valid certificate (card)

5.8. Should the Buyer for any reason fail to take over the Goods under the Contract, already on its way, at the agreed time and at the place stipulated by the Contract, the Buyer is obliged to pay to the Seller the costs of the shipping of the Goods back to the Seller and their subsequent shipping to the Buyer, prior to such shipping.

5.9. The agreed term of delivery of the Goods cannot be changed unilaterally. If the Buyer informs the Seller prior to the commencement of the shipping of the Goods that the Buyer will not take over the Goods at the agreed time for any reason, the Buyer is obliged to pay to the Seller a cancellation fee corresponding to the price of the already agreed shipping of the Goods and a storage fee of 4,- EUR for each commenced day until the Goods is released from storage for shipping to the Buyer.

## 6. Title

6.1. The Buyer shall acquire the title to the Goods only upon the payment of the purchase price to the Seller in full.

6.2. The Goods are protected by copyright, in particular the ALBIXON, BRILIX, G2, ALBIXON BOX, ALBIXON NOBOX protected designations. No provision of the Contract and the GTCs may be construed as transfer of the title to the Buyer or granting of a licence to the use thereof. The Buyer is only eligible to use the Seller's trademarks, business names, domains and any other marks and symbols, photo-documentation, videos, animated documents and other materials for the purpose of identifying and promoting the Goods, solely with the Buyer's prior written consent and solely in the scope specified in such a consent. The Buyer may not take advantage of the above for its own benefit and for other business activities undertaken by the Buyer without the Seller's/Contractor's express specific consent, in particular to promote other goods or services, alter the above or pass it as other goods, in order to avoid the likelihood of confusion etc. The Buyer agrees to maintain confidentiality of all the information provided. This also applies to the use of the industrial property rights applicable to the delivered Goods. Any breach of these rights shall give rise to entitlement to compensation for the damage incurred and other entitlements provided for by the legal regulations protecting the rights.

6.3. In case of the Buyer's default in the takeover of the Goods or payment, the Seller becomes entitled to sell the Goods (items) in a suitable manner at the Buyer's account following prior notification to the Buyer and provision of a sufficient grace period for the performance of the Buyer's obligation.

6.4. The Seller is not obliged to hand over the Goods or provide any other performances if the Buyer is in default vis-à-vis the Seller in any payment or other performance under any concluded Contract, and the above shall not establish the Seller's default in the performance of its obligations, where the time limit for performance of any of the Seller's obligations under any Contract shall be extended by the duration of the Buyer's default.

## 7. Liability for Defects

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7.1. In the event of the Buyer's default in the payment of the price under the Contract, the Buyer shall automatically lose the entitlement to any claims based on defective performance. In such a case, no warranty is provided.

7.2. The Buyer has become acquainted with the design of the Goods and their characteristics, technical description and parameters, operating procedure and its outcomes, any deviations that do not prevent normal use of the Goods, the materials used and their characteristics, as well as with the requirements for the maintenance and operation of the Goods. The Buyer has also been acquainted with the contents of other documents that form an integral part of the Contract, in particular the wording and contents of the relevant Handover Records and Illustrations of the construction procedure and completion of the pool frame. The Buyer has expressly become acquainted with the construction preparation procedure that must be ensured by the Buyer prior to the installation of the Goods at the place of performance, as well as with the recommended procedure for completion of the construction following the takeover of the Goods. Changes in shape, dimensions or characteristics caused by incorrect construction preparation or completion, groundwater or rainwater effects, soil pressure or other external influences do not constitute grounds for warranty claims. The Buyer has been informed that it is necessary to encase the utility shaft with concrete. It holds for all types of roofs that particular care must be taken in any handling of the product or parts thereof, in particular with respect to the safety of children. The Buyer acknowledges that the roof structure and the panelling is made of materials specifically designed for the relevant use, i.e. roofing. External influences may cause deformations (bending) of the panelling of the roof structure. Such deformations ensue from normal characteristics of the materials used, do not prevent the use of the Goods and do not constitute basis for warranty claims. Surface finish of the structural elements of the roof is made according to the standards applicable to their use. If the roof structure features no surface treatment, the Seller prohibits the use of oxygen-based (ozone) chemicals based on active oxygen. The Buyer has been informed about the necessity for professional and safe connection of electrical devices related to the work and their inspection prior to the connection to the power supply and commissioning.

When installing a skimmer pool or an overflow pool and its equipment housing, care must be taken to ensure regular supervision of the construction company and its procedures, as well as regular photographic documentation of the construction works; these works must be carried out in line with the recommendations found in the current version of the document entitled Structural preparation. This includes in particular:

- Survey and excavation - a detail of the excavation for the concrete slab and the positioning of the pool's technical equipment (equipment housing)
- Step by step levelling of the excavation bed and drainage of the concrete slab - installation of the drainage system
- Concreting the slab - concreting, installation of the wire mesh, final layer of concrete
- Step by step placing of the pool body and the installation of the pool equipment
- Step by step bracing of the pool and subsequent placing of soil around it
- Step by step concreting of the thermal construction depending on the type of pool (overflow/skimmer)
- Step by step concreting of the underside of the overflow edge for overflow pools
- Step by step preparation of the ground layer for the finish

If a complaint is filed and the proceedings are started, the Seller will request the photographic documentation to assess the legitimacy of the claim.

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7.3. The Buyer has become acquainted with the contents of the Warranty Claim Rules that specify in detail the scope, conditions and manner of enforcement of the Seller's warranty for product defects.

7.4. The Buyer acknowledges that the advertisements, images or multimedia presentations are of informative nature and the characteristics agreed by the Parties and signed by the Seller prior to the execution of the Contract apply to the concluded Contract.

## **8. Contractual Penalties and Compensation for Damage**

8.1. If the Seller is in default in the handover of the Goods, the Seller shall pay to the Buyer a contractual penalty in the amount of 0.05% of the price of the Goods for each day of default on the basis of a tax receipt – invoice issued by the Buyer.

8.2. Should the Buyer default in any payment under the Contract, the Buyer shall pay to the Seller a penalty in the amount of 0.05% of the price of the Goods for each day of default.

8.3. The payment of such a penalty shall be without prejudice to the claim for compensation for damage, i.e. also lost profits, including the amount by which the compensation for damage exceeds the penalty, if any.

8.4. If the Buyer fails to take over the Goods by the deadline stipulated by the Contract and if the price of the shipping is stipulated in the Contract, the Buyer shall pay to the Seller 100% of the price of the shipping.

## **9. Force Majeure**

9.1. The Contractor may be exempt from the obligation to pay damages if the Contractor proves that an unforeseeable obstacle beyond its control has temporarily or permanently prevented the Contractor from performing the Contract, which obstacle arose independently of the Contractor's will (Force Majeure) after the Contract was entered into without the Contractor being able to avoid such obstacle.

9.2. For the purposes of the Contract, Force Majeure shall include, in particular, natural disasters such as earthquakes, floods, hurricanes, fires, wars, revolutions, rebellions, pirate attacks, political coups, general strikes, boycotts or embargos, massive blackouts or disruptions of crude oil supplies, terrorist attacks, epidemics, quarantines and other unforeseen and unavoidable events. Force Majeure shall be deemed to include adverse weather conditions not allowing the work to be performed.

9.3. If a Force Majeure event occurs, the Contractor shall notify the Client in writing without undue delay; similarly, it shall also notify the Client that such circumstance has ceased to exist. Failure to comply with this obligation shall result in the termination of the right to rely on Force Majeure.

9.4 The Contractor's obligations under the Contract shall be temporarily suspended for the duration of Force Majeure. If the performance of the Contract becomes impossible due to Force Majeure, the Parties shall agree on the corresponding amendment to the Contract in relation to the subject, price and time of performance of the Work by means of an amendment to the Contract. In the absence of agreement, either Party shall be entitled to withdraw from the Contract by unilateral declaration sent by registered letter to the other Party.

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## 10. Withdrawal from the Contract

10.1. If any of the obstacles specified in Article 5 hereof prevents the Seller from performing its obligations vis-à-vis the Buyer on a continuous basis, or if any of the obstacles continues to prevent the Seller's performance for a period exceeding 30 days, the Seller may unilaterally withdraw from the Contract by means of a written notice. In such a case, the Seller shall refund to the Buyer the price for the Goods paid or its part less the expenses incurred by the Seller that have been beneficial for the Buyer. In such a case, the Seller is not liable vis-à-vis the Buyer for the non-performance of the obligations under the concluded Contract or for the damage caused by such non-performance; thus, the Seller is not liable vis-à-vis the Buyer for damage arising from contracts concluded by the Buyer with other parties, in particular for consequential or indirect damage.

10.2. The Seller may unilaterally withdraw from the Contract also in cases stipulated by the Contract or the law. The Seller may withdraw from the Contract if the Buyer enters into liquidation or if insolvency or other similar proceedings are initiated against the Buyer. Furthermore, the Seller may withdraw from the Contract or suspend the delivery of the Goods if the Buyer default in the payment of any of the Buyer's due obligations vis-à-vis the Seller for a period exceeding 15 days. The Seller may also withdraw from the Contract if the Buyer materially or repeatedly breaches any of the Buyer's obligation under the Contract and, despite corresponding written notification, fails to arrange for a remedy within a reasonable grace period of at least 10 calendar days.

10.3. In the case of withdrawal from the Contract, the Contract shall terminate on the day following the day of delivery of a written notice of withdrawal to the other Party. The notice of withdrawal shall be delivered to the address of the other Party via registered mail. The notice of withdrawal shall also be deemed delivered on the date when the registered letter is returned as undeliverable or upon the addressee's express refusal of accept the letter.

10.4. Termination of the Contract by withdrawal shall not prejudice the Parties' obligation to pay any contractual penalty or compensation for damage or other harm, and shall not prejudice any other provisions of the Contract surviving its termination.

## 11. Common Provisions

11.1. The unenforceability, invalidity or ineffectiveness of any of the provision of these GTCs or the Contract shall not prejudice the enforceability, validity or effectiveness or the remaining provisions of these documents. If any of the provisions of the GTCs or the Contract is invalid for any reason, in particular due to variance with the applicable legal regulations, such a provision of a legal regulation shall be used in its place that is closest as to its contents to the contents of the invalid provision. At the request of either Party, the Parties agree to immediately replace the invalid provision with a new provision (arrangement) that stipulates the mutual rights and obligations of the Parties in a legally acceptable manner and reflects their original will with respect to the intentions of such an invalid provision of the GTCs or part of the Contract.





## 12. Final Provisions

12.1. By virtue of the conclusion of the Contract or acceptance of these GTCs, the Buyer confirms to have been acquainted with the technical description of the Goods that conforms to the expectations raised by advertising and description, and provided with sufficient technical information, as well as acquainted with the conditions of operation, servicing and maintenance and with these GTCs, which the Buyer considers to be binding and which are available at [www.albixonportal.com](http://www.albixonportal.com) and [www.albixon.com](http://www.albixon.com).

12.2. The Buyer agrees with the Seller using information on the Buyer, whose correctness the Buyer guarantees, provided in the Contracts or other documents, for the purposes of offering other Goods and services, sending of commercial communications, as well as for the purposes of company records and statistics.

12.3. By virtue of execution of the Contract with the Seller, the Buyer agrees that for the term of the Contract the Buyer shall not undertake competing activities that could harm the Seller's business, in particular that he shall refrain from the following without being granted prior consent, licence or other authorisation by the Seller:

- a) Manufacture the Goods that are the subject of the concluded Contracts
- b) Copy, imitate or otherwise use the technical designs used by the Seller in the manufacture of the Goods or provide such technical designs to third parties;
- c) Present the Seller's Goods as its own Goods or as the Goods of another entity or commit any other acts of unfair competition vis-à-vis the Seller.

For each case of breach of the individual obligations under this article hereof by the Buyer, the Buyer is obliged to pay to the Seller a contractual penalty in the amount of EUR 100,000 (in words: one hundred thousand euros). The payment of any penalty shall be without prejudice to other claims by the Seller.

12.4. Unless the Contract or these GTCs stipulate otherwise, the applicable provisions of Act No. 89/2012 Sb., the Civil Code of the Czech Republic, as amended, apply to the concluded Contracts. The legal relationships following from the Contracts shall be governed by the laws of the Czech Republic, and the court in whose district the Seller's registered office is located shall have subject-matter jurisdiction in any disputes.

12.5. The present General Terms and Conditions shall enter into effect on 15. 02. 2023.