

Terms and Conditions of Purchase of Koenig & Bauer Grafitec s.r.o.

1. Definition

Unless otherwise stated hereinafter, the below defined terms included in these Terms and Conditions of Purchase shall have the following meaning:

„**Supplier**“ shall mean an individual or a legal person that supplies Products to KBA-Grafitec based on the Contract.

„**Supply**“ shall mean a supply of Products in accordance with Article 8.2 of Terms and Conditions of Purchase confirmed by KBA-Grafitec through its signature in the delivery note or other adequate document.

„**Invoice**“ shall mean a tax certificate issued by the Supplier in accordance with the Contract, the Framework Contract and these Terms and Conditions of Purchase. An invoice must have all requirements laid down by the legal regulations of the Czech Republic.

„**Main Relationship**“ shall mean a contractual relationship established between KBA-Grafitec and its contractual customer in which KBA-Grafitec shall, as a supplier, provide its customer with a fulfilment the part or the accessories of which shall be the Products. The contractual customer may be a final customer or one of the companies of the KBA Group.

„**INCOTERMS 2010**“ shall mean a complex of international rules for the interpretation of delivery clause in the foreign trade issued by the International Chamber of Commerce in Paris with effects from 1 January 2011.

„**KBA**“ shall mean a company Koenig & Bauer AG, having its registered office in Wurzburg, Federal Republic of Germany, entered in the Commercial Register maintained by the court in Wurzburg, section B, number HRB 109, being a mother company and a sole shareholder of KBA-Grafitec.

„**KBA-Grafitec**“ shall mean a commercial company Koenig & Bauer Grafitec s.r.o., having its registered office in Dobruška, Opočenská 83, post code 51819, Company reg.-no.: 15886701, Tax-ID no.: CZ15886701, entered in the Commercial Register maintained by the Regional Court in Hradec Králové, file no. C 18852.

„**Civil Code**“ shall mean the act no. 89/2012 Coll., Civil Code, as amended.

„**Business Day**“ shall mean any day in a week from Monday to Friday, except for rest days pursuant to act no. 245/2000 Coll., on Public Holidays, as amended.

„**Products**“ shall mean, regardless their specific designation in the Contract, movable things determined individually or according to the quantity, whereby the Supplier undertakes to supply such thing to KBA-Grafitec based on the Contract. A Product shall include all things, services and rights associated with the Products, or, where appropriate, forming parts or accessories thereof, which are necessary for the proper use of Products and the functionality thereof and which are specified in the Contract, in the possible Framework Contract, in the Terms and Conditions of Purchase, or which arise from the nature of the Products.

„**Take-Over**“ shall mean Take-Over of the Products by KBA-Grafitec within a meaning of Article 8.5 of Terms and Conditions of Purchase.

„**Framework Contract**“ shall mean a contract concluded between KBA-Grafitec and the Supplier, or, where

appropriate, between KBA and the mother company of the Supplier, which specifies basic conditions of the supply and sale of Products by the Supplier to KBA-Grafitec.

„**KBA Group**“ shall mean KBA and any affiliated commercial companies, which are subject to a joint management of KBA and form a company group with it. KBA-Grafitec also falls into the KBA Group.

„**Contract**“ shall mean a purchase contract or a contract for work, or, where appropriate, another similar contract concluded between KBA-Grafitec and the Supplier in accordance with Article 3 of Terms and Conditions of Purchase, the subject-matter of which is the supply of Products by the Supplier to KBA-Grafitec.

„**Contract Price**“ shall mean a price agreed in the Contract, which KBA-Grafitec undertakes to pay to the Supplier for Products supplied based on the Contract in accordance with Article 4 and 5 of Terms and Conditions of Purchase.

„**Contracting Party**“, or, where appropriate, „**Contracting Parties**“ shall mean, individually, KBA-Grafitec and the Supplier, or, collectively, KBA-Grafitec and the Supplier.

„**Subcontractor**“ shall mean a third party that supplies the Product or a part thereof to the Supplier or which provides the Supplier with any things forming parts or accessories of the Products according to the Contract or services or rights associated with the Products.

„**Act on VAT**“ shall mean the act no. 235/2004 Coll., on the Value Added Tax, as amended.

2. Introductory Provisions

2.1. **Subject-Matter of Terms and Conditions of Purchase.**

These Terms and Conditions of Purchase are worked out in accordance with section 1751 of Civil Code and stipulate basic rules and conditions by which all contractual relationships of the Contracting Parties are governed when purchasing and supplying Products to KBA-Grafitec, unless other terms and conditions are explicitly agreed in the concluded Contract or the Framework Contract.

2.2. **Part of the Contract.**

These Terms and Conditions of Purchase shall form an integral part of every Contract for the supply of Products to KBA-Grafitec in which KBA-Grafitec is a contractual party as a customer and which was concluded on the effective date of these Terms and Conditions of Purchase at the earliest. These Terms and Conditions of Purchase constitute, together with the Contract and the possible Framework Contract, an entire agreement of the Contracting Parties in relation to supplies of Products.

2.3. **Prior Arrangements.**

Any oral or written declarations, guarantees, negotiations, public tenders, letters of intent and commercial practice not explicitly stated or not included through an explicit reference in the Contract, in the possible Framework Contract or in these Terms and Conditions of Purchase shall not be binding on any Contracting Party in connection with the supply of Products according to the Contract, unless otherwise explicitly agreed in writing.

2.4. **Binding Effect.**

By the conclusion of the Contract, the Supplier agrees, with binding effect, to all rights and duties included in these Terms and Conditions of Purchase. The Supplier is obliged to comply with these Terms and Conditions of Purchase, including all alterations hereof and amendments hereto.

2.5. **Precedence of the Contract and the Framework Contract.** In case of any discrepancy or divergent arrangements of the Contract, the possible Framework Contract and these Terms and Conditions of Purchase, the provisions of the Contract and the Framework Contract shall take precedence over the divergent arrangements of these Terms and Conditions of Purchase.

2.6. **Business Terms and Conditions of the Supplier.** The commercial conditions of the Supplier are ineffective and inapplicable to the contractual relationships established by the Contract, except for cases when KBA-Grafitec grants its explicit written consent to the fact that the selected specific provisions of the Business Terms and Conditions of the Supplier shall replace specific provisions of these Terms and Conditions of Purchase. The Take-Over of Products or payment of the Contract Price for them by KBA-Grafitec shall not mean any consent to the Business Terms and Conditions of the Supplier, even if the Business Terms and Conditions are referred in the delivery note or another document of the Supplier signed by KBA-Grafitec.

2.7. **Relation to Business Usages.** The Contracting Parties, in accordance with the provisions of section 558 ss. 2 of Civil Code, hereby declare that in legal transactions between them, account shall not be taken of business usages maintained in general or in a given industry, and that business usages shall not take precedence over non-compelling provisions of the Civil Code.

3. **Conclusion of the Contract**

3.1. **Subject-Matter of the Contract.** By the Contract, the Supplier undertakes to supply Products to KBA-Grafitec and to transfer ownership title to these Products to KBA-Grafitec, whereby KBA-Grafitec undertakes to take over Products, to assume them to its ownership and to pay the agreed Contract Price for them to the Supplier. By the Contract, except the sale of Products, the Supplier may also bind itself to manufacture and to subsequently supply Products or to provide other associated services.

3.2. **Written Form of the Contract.** The Contract can be concluded, altered and cancelled only in a written form, which is kept, for the purposes of these Terms and Conditions of Purchase, even if sent by electronic mail (i.e. by email sent from a corporate address of the Contracting Party also without guaranteed electronic signature) or by facsimile.

3.3. **Proposal of the Contract.** A proposal for the conclusion of the Contract shall be considered a written order of Products made out by KBA-Grafitec and delivered to the Supplier, or a counterproposal of the Supplier within a meaning of Article 3.5 of these Terms and Conditions of Purchase delivered to KBA-Grafitec. An oral order shall be binding on KBA-Grafitec only if it is confirmed in writing. A Contracting Party is authorized to recall a proposal of the Contract, if the recall is delivered to the other Contracting Party before the other Contracting Party sent the acceptance of the proposal.

3.4. **Conclusion of the Contract.** The Contract is concluded at the moment when (i) a written Supplier's confirmation of the unconditional acceptance of the order of KBA-Grafitec is delivered to KBA-Grafitec, or (ii) two (2) Business Days from delivery of the order of KBA-Grafitec to the Supplier have expired, without the Supplier explicitly rejected the order of Products; in such a case, the Supplier manifests its will to be bound with the order of KBA-Grafitec, or (iii) the Supplier follows the order of KBA-Grafitec and supplies the required Products to KBA-Grafitec, or (iv) KBA-Grafitec confirms, with its explicit written manifestation of the will, the counterproposal of the

Supplier within a meaning of Article 3.5 of these Terms and Conditions of Purchase, whichever is the earliest.

3.5. **Acceptance of the Proposal of the Contract with Reservation.** The Supplier's confirmation of the acceptance of the order of KBA-Grafitec which includes any amendments, reservations, limitations or other changes or which includes a reference to the Business Terms and Conditions of the Supplier shall be considered a rejection of the order of KBA-Grafitec, (even if such amendments or deviations do not substantially change the conditions of the proposal of the Contract), and, at the same time, a counterproposal of the Supplier. A counterproposal of the Supplier which KBA-Grafitec did not accept through an explicit written manifestation of the will within a period of ten (10) Business Days from the delivery thereof shall be considered rejected. If the Supplier still supplies the Products to KBA-Grafitec and KBA-Grafitec takes over such Products, the supply of Products shall be subject to the original terms and conditions listed by KBA-Grafitec in the order including these Terms and Conditions of Purchase, whereby the counterproposal of the Supplier shall be considered rejected by the Supplier and a Contract is concluded pursuant to Article 3.4 point (iii) of these Terms and Conditions of Purchase.

3.6. **Change of the Contract upon Request of KBA-Grafitec.** KBA-Grafitec may request for a change in quantity or the specification of Products any time before the Supply of Products is realized. The Supplier is obliged to satisfy this request for a change, unless the state of completion of the Product or the production capacity of the Supplier hinders it; the Supplier is obliged, within five (5) Business Days from the delivery of the request for a change, to inform KBA-Grafitec of impacts of this change on the deadline of the Supply of Products, or, where appropriate, on other agreed terms and conditions. If the Supplier fails to inform KBA-Grafitec of impacts of the change required within this period, it is obliged to supply the Products changed in this way within deadlines and under the terms and conditions agreed in the Contract and in these Terms and Conditions of Purchase.

4. **Contract Price**

4.1. **Amount of the Contract Price.** KBA-Grafitec is obliged to pay to the Supplier for the supply of Products a Contract Price the amount of which is agreed in the Contract or the possible Framework Contract. The Contract Price is agreed as a fixed price. The Supplier assumes the risk of a change of circumstances in accordance with the provision of section 1765 ss. 2 and section 2620 ss. 2 of Civil Code. Unless otherwise provided in the Contract, the Contract Price is determined in euro (EUR) and it already includes the value added tax at the currently applicable rate.

4.2. **Composition of the Contract Price.** Unless the Contract states otherwise, the Contract Price shall include, in addition to the value of Products, also all costs associated with the supply of Products, including the costs for transport and packaging, insurance of transport, payments of all taxes, import licences or other fees required or associated with the import of the Product to the state, where the Supply of Products by the Supplier shall occur, except for payment of customs. No additional fees, costs or expenses of any kind, unless they are explicitly specified in the Contract in addition to the Contract Price, shall be accepted and paid by KBA-Grafitec.

4.3. **Costs for Transport to be paid by KBA-Grafitec.** If the Contract explicitly specifies the price ex works or from the sales warehouse of the Supplier (delivery parity EXW, registered office of the Supplier, pursuant to INCOTERMS 2010), the Supplier has to carry out the transport to the

place of the Supply of Products always at the lowest costs, unless KBA-Grafitec determines a certain type of transport. Extra costs for rapid transport in order to meet the deadline of the Supply shall be borne by the Supplier.

4.4. **Other Arrangements regarding the Contract Price.** The Contract Price may be adjusted only in the manner according to Article 3.2 of these Terms and Conditions of Purchase.

5. Payment Terms

5.1. **Supplier's Authorization to Invoice the Contract Price.** Unless the Contract states otherwise, the Supplier is authorized to issue an Invoice only for the entire Contract Price, as of the date of Take-Over of Products by KBA-Grafitec at the earliest.

5.2. **Requirements of the Invoice.** The payment of the Contract Price shall be made by KBA-Grafitec by wire transfer to the Supplier's account specified in the respective Invoice. The Invoice must include all requirements of a tax certificate and an accounting document pursuant to the applicable regulations of the Czech Republic, as well as requirements pursuant to these Terms and Conditions of Purchase, in particular:

- a) the number of the Invoice, date of the issuance thereof, date of taxable supply and payment deadline of the Invoice;
- b) the identification data of the Contracting Parties (including the Tax-ID no. of the Supplier) and the bank details of the Supplier (including the data of IBAN/SWIFT in case of foreign payments), whereby the specified bank account of the Supplier must be duly entered in the register of bank accounts of VAT payers;
- c) the number of the Contract (or the order of KBA-Grafitec);
- d) the place of the Supply of Products;
- e) the designation and specification of Products, including the serial number of Products, if available;
- f) the quantity of Products;
- g) the unit price of Products in segmentation the price excluding VAT, the amount of VAT and the price including VAT;
- h) the total price of Products in segmentation the price excluding VAT, the amount of VAT and the price including VAT;
- i) the code of Products pursuant to the EU Commons Customs Tariff;
- j) the information whether the Products are dual-use items or technologies pursuant to Council Regulation (EC) no. 1334/2000, as amended.

5.3. **Delivery of the Invoice.** The original of the Invoice must be delivered to KBA-Grafitec either in writing by mail to the address of the registered office, or in a form of an electronic invoice (meeting the requirements of the legal regulations for electronic invoicing) delivered to the email address of KBA-Grafitec specified in the proposal of the Contract (order). A copy of Invoices must be identified as duplicates.

5.4. **Return of the Invoice.** If an Invoice issued by the Supplier does not include the prescribed requirements or data pursuant to the applicable legal regulations, the Contract or these Terms and Conditions of Purchase, this Invoice shall be returned to the Supplier to be corrected or amended anytime before the payment deadline, without KBA-Grafitec is thus in default with payment of the Contract Price. In case of any correction or amendment, the payment deadline shall start to run newly at the moment of the delivery of the Invoice corrected to KBA-Grafitec.

5.5. **Payment Deadline.** KBA-Grafitec shall pay the Contract Price based on the duly issued Invoice at its own

discretion either (i) within a period of thirty (30) calendar days from the Take-Over of the Invoice after deducting the discount amounting to four percentage (4%) of the Contract Price (excl. VAT), or (ii) within a period of sixty (60) calendar days from the Take-Over of the Invoice in full. The deduction of the discount shall be possible even if KBA-Grafitec makes the payment in a form of a set-off. A moment of payment of the Contract Price shall be considered the moment when the respective amount is debited from the bank account of KBA-Grafitec.

5.6. **Interruption of the Payment Deadline.** If KBA-Grafitec identifies any defect in case of any of supplies of Products made based on the Contract, the payment deadline of the Contract Price for such Products or the remaining part thereof shall be interrupted. The payment deadline of the Contract Price or the remaining part thereof, interrupted in such a way, however, at least the period of fifteen (15) calendar days, shall start to run again from the date on which, in accordance with the choice of KBA-Grafitec pursuant to these Terms and Conditions of Purchase:

- a) the Supplier rectifies the respective defects of Products and enables KBA-Grafitec to use them properly; or
- b) KBA-Grafitec delivers to the Supplier a notice that it claims an appropriate discount of the Contract Price for the defective Products.

5.7. **Unreliable Payer and Guarantee of KBA-Grafitec.** The Supplier declares that it is not an unreliable payer within a meaning of section 106a of Act on VAT and that there are no reasons for which KBA-Grafitec might be obliged, in connection with the supply of Products, to pay for the Supplier any fulfilment due to a guarantee of KBA-Grafitec as a recipient of the taxable supply for the outstanding tax. If KBA-Grafitec learns about the facts which might result in the occurrence of the guarantee of KBA-Grafitec for the outstanding tax on the supply of Products made by the Supplier, KBA-Grafitec is authorized to retain an amount of the tax specified in the Invoice of the Supplier and to pay it for the Supplier directly to its personal deposit account within a meaning of section 109a of Act on VAT, without KBA-Grafitec is in default with payment of the respective part of the Contract Price.

6. Terms of Delivery

6.1. **Quality, Workmanship and Quantity of Products.** The Supplier is obliged to supply to KBA-Grafitec the Products in a proper and timely manner in accordance with the Contract, the possible Framework Contract and these Terms and Conditions of Purchase, whereby it is obliged to meet the requirements relating to the quality of Products specified in the technical documentation relating to the agreed Products (handed over to the Supplier by KBA-Grafitec or worked out by the Supplier for the purposes of the supply of Products to KBA-Grafitec). Furthermore, the Products must be in accordance with all technical, safety and quality requirements and standards related to the type of Products in question; for the purposes of performance of the Contract, the recommending provisions of such standards are binding. The Products must be new, unused, undamaged and made of the material of a good quality, they must be capable to show, at least for the warranty period, the standard performance and fully meet the purpose for which they are supplied. The Products may not be encumbered with any legal defects. The Supplier is obliged to supply complete Products, including all parts needed for the proper operation of Products and in compliance with the guaranteed data, even if individual parts needed are not explicitly specified in the Contract.

6.2. **Instructions and Supporting Documents of KBA-Grafitec.** The Products shall be supplied, as standard, based on the choice of KBA-Grafitec from the product catalogue of the Supplier issued in a written or electronic

form. If the Products are manufactured and supplied based on the supporting documents or instructions of KBA-Grafitec, the Supplier is obliged, with diligent professional care in writing without undue delay, to notify KBA-Grafitec of the inappropriate nature of these supporting documents or instructions. If the Supplier fails to notify KBA-Grafitec of the fact that its instructions or supporting documents are inappropriate, the Supplier shall be responsible for all possible defects and damage caused by following these instructions or by using these supporting documents.

- 6.3. **Compliance with Legal Regulations.** The Supplier shall be responsible for, when providing the Products, that no legal regulations are breached (including the regulations on treatment of hazardous and toxic substances, environmental protection, safety and sanitary standards, technical standards, etc.) and that the Products meet all requirements set forth by the respective legal regulations applicable at the place of the Supply of Products and at the place where the Products are supplied by KBA-Grafitec within the Main Relationship (if KBA-Grafitec informs the Supplier of such place in advance).
- 6.4. **Social Liability and the so called Conflict Minerals.** Within the social liability, KBA-Grafitec assumed an obligation not to consciously purchase the so called conflict minerals (known as „3TG“ – tantalum – *Ta*, tin – *Sn*, tungsten – *W* and gold – *Au*) and the products containing conflict minerals from the region of the Democratic Republic of Congo and neighbouring countries („DRC region“) within a meaning of section 1502 of the so called Dodd-Frank Wall Street Reform and Consumer Protection Act, which was adopted in the year 2010 in the United States of America („Dodd-Frank Act“). In this context, the Supplier undertakes to take such measures and management systems concerning the conflict minerals to ensure, within the whole supplier chain, that the named minerals/metals contained in the Products are acquired only from mines and steelworks outside the DRC region, or, where appropriate, from mines and steelworks from the DRC region, however, only from ones which were certified by the independent third party as „non-conflict“ in accordance with the Dodd-Frank Act.
- 6.5. **Subcontractors.** The Supplier is authorized to use Subcontractors in the course of manufacturing and supplying Products. The Supplier is obliged to enable KBA-Grafitec, upon its request, to perform a control of Subcontractors. The Supplier shall be liable towards KBA-Grafitec for the Products provided by the Subcontractor, as it would provide the Products itself. The Supplier shall be further liable for the proper payment of receivables of its Subcontractors incurred in connection with the supply of Products; the Subcontractors are not authorized, in this regard, to claim any fulfilment towards KBA-Grafitec.
- 6.6. **Packaging and Security of Products.** The Supplier is obliged to pack the Products at its costs for transport and to secure them in an appropriate manner so that, during the transport, including loading and unloading, they are not damaged, depreciated or stolen, and that packaging allows the safe and long-term storage of Products without losing the quality. KBA-Grafitec is authorized to determine the conditions of the packaging method in more details. A legible identification of the Supplier, KBA-Grafitec, the number of the Contract (order) and further requirements pursuant to the Contract must be at a visible place on packaging of Products and in the delivery note. If packaging is identified by the Supplier as reusable, the Supplier is obliged to pick up the packaging at its own costs at KBA-Grafitec, within fourteen (14) calendar days from the date of Take-Over of Products by KBA-Grafitec. The respective provisions of the legal regulations of the Czech Republic shall relate to management of packaging.
- 6.7. **Documents relating to the Products.** The Supplier is obliged to deliver to KBA-Grafitec (without claiming any additional remuneration), along with the Products, all documents which are needed for Take-Over of Products, treatment, customs clearance and use of Products, as well as documents required by the binding legal regulations or technical regulations. This shall apply, in particular, to documents specifying the technical conditions of the installation, operation and maintenance of Products, certificates of conformity, attests, safety sheets, certificates or instructions for use (even at the final customer) including, inter alia, also a warning, if the Products require special treatment, mounting, maintenance etc. The Supplier is obliged to inform KBA-Grafitec whether the Products to be supplied by it require declarations of the producer or certificates of conformity pursuant to the EU Regulation and, if needed, to hand them over to KBA-Grafitec. All documents must be delivered by the Supplier in an original, legible, in a written form and, upon request of KBA-Grafitec, also in an electronic form. The Supplier is obliged to hand over all documents, in full wording, to KBA-Grafitec translated to the Czech language; upon request of KBA-Grafitec, the Supplier shall also procure, at its costs, a translation of these documents to another official language of the European Union. The Supplier is further obliged to provide KBA-Grafitec, upon its request, with any assistance and co-operation when obtaining documents or adequate electronic messages made or issued in the Czech Republic and/or in the country of origin, which KBA-Grafitec may require for export a/or import of Products for the territory of a third state. If, due to the Supplier's default with the hand-over of perfect and complete documents, any additional costs (such as customs, storage or other charges) incur by KBA-Grafitec, the Supplier is obliged to bear these costs.
- 6.8. **Place of the Supply of Products.** Unless the Contract states otherwise, Products shall be supplied by the Supplier in delivery parity DAP, registered office KBA-Grafitec, Dobruška, pursuant to INCOTERMS 2010.
- 6.9. **Date of the Supply of Products.** The Supplier is obliged to supply the Products to KBA-Grafitec within the deadline agreed by the Contract or the possible Framework Contract, otherwise within twenty-five (25) calendar days from delivery of the order of KBA-Grafitec to the Supplier at the latest. Unless KBA-Grafitec determines otherwise, the Supplier is obliged to supply the Products on Business Days from 6:00 a.m. to 02:00 p.m. The Supplier is obliged to notify KBA-Grafitec, in writing, of the Supply of Products at least three (3) Business Days in advance. If the Products are forwarded by a transport company, the Supplier is obliged to immediately inform KBA-Grafitec of the hand-over of the Products for transport.
- 6.10. **Supplies to Customers of KBA-Grafitec.** If the Products shall be supplied by the Supplier to the customer of KBA-Grafitec directly within the Main Relationship, the Supplier is obliged to inform KBA-Grafitec of the readiness of Products for dispatching. All relevant transport data, such as mode of transport, packaging method, designation, number of packaging, gross weight, net weight etc., as well as customs invoices attached to the supply must be sent to KBA-Grafitec by facsimile or electronic mail at least one (1) week before dispatching Products. The Hand-over of Products to customers of KBA-Grafitec or other third parties may be only realized with written consent of KBA-Grafitec.
- 6.11. **Partial Supplies of Products.** Partial supplies of Products are possible only if this is stipulated in the Contract or KBA-Grafitec agrees to that in writing.
- 6.12. **Passage of Ownership Title and Risk of Damage.** Unless the Contract states otherwise, KBA-Grafitec shall acquire ownership title to the Products at the moment of

the Supply thereof within a meaning of Article 7.2 of these Terms and Conditions of Purchase, with the condition subsequent for the case that KBA-Grafitec returns the Products to the Supplier without the Take-Over; in case of supplies of Products with the installation or mounting, ownership title shall only pass at the moment of the Take-Over thereof pursuant to Article 7.5 of Terms and Conditions of Purchase. Risk of damage to the Products shall pass to KBA-Grafitec at the same moment.

7. Provisions for Foreign Trade ("FT") Products

- 7.1. **Compliance with the Legal Requirements for FT Deliveries.** The Supplier is obliged to observe and comply with all national, Community and international import and export regulations that are relevant to the fulfilment of a delivery of FT Products and to provide, at its own expense, all related declarations and information, as well as to obtain the necessary transport, import and export permits, unless KBA-Grafitec or a third party is required to apply for such permits according to applicable legal regulations. The Supplier is also obliged to enable customs and other official inspections and to provide the necessary official confirmations.
- 7.2. **Clearance of FT Products.** Unless agreed otherwise, FT Products must be delivered to KBA-Grafitec as duty unpaid. The Supplier is obliged to notify KBA-Grafitec of such deliveries in good time so that they can be properly customs cleared; in particular, the Supplier must notify KBA-Grafitec, sufficiently in advance before the Supply of Products, of all necessary transport data and provide KBA-Grafitec with documents necessary for customs clearance (particularly EORI number, consignment note, Invoice, bill of lading, etc.).
- 7.3. **List of Embargoes and Declarations.** The Supplier is obliged to immediately notify KBA-Grafitec of the fact that the Products to be supplied are included in the list of goods being subject to an export or import permit or preferential trade. The Supplier is also obliged to notify KBA-Grafitec of the country of origin, of the possible dangerous material and the Product code according to the EU Common Customs Tariff.
- 7.4. **Products related to the USA.** In all documents concerning Products related to the USA, the Supplier is obliged to identify Products requiring an export licence or which are subject to (re-)export regulations with corresponding classification (e.g. European Dual-Use List number, Export Control Classification Number [ECCN], ECCN EAR99, etc.), as well as the applicable EU Common Customs Tariff code (HS Code), the country of origin, and whether the Products were transported through the USA, manufactured or stored in the USA, or manufactured using US technology.
- 7.5. **Supplier's Declaration on FT Products.** Upon request of KBA-Grafitec, the Supplier is obliged to issue and hand over to KBA-Grafitec a declaration pursuant to Commission Regulation (EC) No. 2015/2447, as amended, declaration pursuant to Czech Gov. Regulation No. 481/2012 Sb., as amended (according to Directive 2011/65/EU of the European Parliament and of the Council – RoHS declaration) and other necessary information and documents concerning FT Products.
- 7.6. **Supplier's Contact Person.** The Supplier is obliged to name a contact person to clarify any questions regarding technical details and export control issues.
- 7.7. **VAT ID.** The Supplier is obliged to state its VAT Identification Number on its Invoices for Intrastat purposes.
- 7.8. **Condition for Take-Over of FT Products.** KBA-Grafitec is obliged to accept the Products only after presentation

of the declarations and information required under Articles 7.1 to 7.5 of these Terms and Conditions of Purchase and after receipt of any required licences or approvals, or after fulfilling and demonstrating the prerequisites for exemptions from any licences or permits in accordance with the applicable regulations.

- 7.9. **Failure to Obtain a Licence or Permit.** Should any necessary licences, permits or approvals be rejected, revoked or otherwise not granted, or should changes occur in connection with the applicable legal regulations which prohibit KBA-Grafitec from fulfilling the Contract or expose KBA-Grafitec and/or any of the KBA Group members to any risks, KBA-Grafitec shall be released from all obligations arising from the Contract and any other obligations and liabilities associated with the Products in question.
- 7.10. **Non-binding Nature of the Contract.** KBA-Grafitec shall be under no obligation under the Contract if the Supply of Products (or their manufacture) is contrary to applicable legal regulations or administrative regulations relating to import or export controls, including relevant embargo provisions and US sanction laws, or if any official approvals, licences, or permits needed by KBA-Grafitec, its customer, or a third party authorised by KBA-Grafitec are not granted or are revoked. The same shall apply if applicable legal regulations or administrative regulations should change and KBA-Grafitec, its customer or a third party authorised by KBA-Grafitec is therefore prevented from fulfilling a related contract concluded by them, or if an unacceptable, disproportionate or unforeseeable public or private risk, obligation or restriction would arise for them as a result of such contract fulfilment.
- 7.11. **Claim for Damages.** The Supplier shall be liable for any damage, losses and liabilities incurred by KBA-Grafitec as a result of the Supplier's failure to fulfil any of its obligations under this Article 7 of the Terms and Conditions of Purchase. The Supplier's claims for damages or any agreed contractual penalties shall be excluded insofar as KBA-Grafitec cannot be held exclusively responsible for the hindrances to Supply of Products stated in this Article 7.

8. Tests, Inspections, Acceptances

- 8.1. **Inspections in the course of the Performance of the Contract.** The Supplier undertakes to carry out all respective inspections and tests of Products in order, in particular, to ascertain whether the requirements of the Contract, the possible Framework Contract and these Terms and Conditions of Purchase are complied with. These inspections and tests shall be carried out by the Supplier pursuant to its quality assurance programme and in accordance with the legal regulations and technical standards, or, where appropriate, pursuant to technical and quality requirements for Products.
- 8.2. **Supply of Products.** The Supplier is obliged to realize the Supply of Products within a period and at a place stipulated in the Contract, the possible Framework Contract or pursuant to these Terms and Conditions of Purchase. **A delivery note with the data relating to the composition of the supply and the complete identification of the order of KBA-Grafitec (number and item of the order) must be attached to every supply.** Various Products must be packed and identified separately. The Supply of Products shall be confirmed by KBA-Grafitec in the delivery note or another adequate document. The Products shall be considered supplied in time, if the following conditions are fulfilled within the agreed deadline:
 - a) Products are duly supplied by the Supplier to the agreed place of supply; if the supply includes the

installation or mounting by the Supplier, the moment of the completion of such activities and the Take-Over thereof by KBA-Grafitec shall be decisive for a timely realization of the Supply;

- b) together with the Products, complete and perfect documents, which are related to them, shall be delivered.

8.3. **Default with the Supply of Products.** In case of anticipated delay of the supply of Products, the Supplier must inform KBA-Grafitec forthwith in writing with stating the reasons and the probable period of the occurrence of the delay. In case of Supplier's default with the Supply of Products, KBA-Grafitec shall be entitled to request, in addition to other legal claims, for payment of the contractual penalty for the late Supply pursuant to Article 10.1 of these Terms and Conditions of Purchase and compensation for extra costs and other damages incurred due to the late Supply in the amount exceeding the contractual penalty paid. If the Supplier's default with the Supply lasts for three (3) weeks in comparison with the stipulated deadline, KBA-Grafitec shall be further authorized to withdraw from the Contract in accordance with Article 12.2 of these Terms and Conditions of Purchase, to obtain a substitute supply from a third party and to request the Supplier for compensation for damage incurred due to failure to fulfil. The above-mentioned rights shall pertain to KBA-Grafitec even if the deadline of the Supply was identified by the Supplier as „non-binding“ etc. The acceptance of the late supply of Products shall not constitute a waiver of any claims of KBA-Grafitec incurred in connection with the Supplier's default.

8.4. **Input Inspection.** Within ten (10) Business Days from the Supply of Products at the latest, KBA-Grafitec shall carry out an input inspection. Within the scope of the input inspection, KBA-Grafitec shall carry out, as standard, the inspection of Products with regard to apparent defects and visible deviations from conformity and quantity; in addition to this, KBA-Grafitec shall, at its own discretion, inspect and test Products in order to ascertain whether other requirements according to the Contract, the possible Framework Contract and these Terms and Conditions of Purchase were complied with. If the Products fails to meet the requirements and properties laid down in the Contract, the possible Framework Contract and/or in these Terms and Conditions of Purchase, KBA-Grafitec shall make out a report on the input inspection in which the defects discovered shall be listed; in such a case, KBA-Grafitec is authorized to return all Products to the Supplier without the Take-Over thereof. Costs for customs clearance and transport of the Products returned in such a way shall be borne by the Supplier. If the Supplier fails to ensure, without undue delay after returning the Products, that the substitute Products are supplied, KBA-Grafitec shall be authorized to withdraw from the Contract within a meaning of Article 12.2 of these Terms and Conditions of Purchase. At the same time, the Supplier is obliged to reimburse KBA-Grafitec for all costs and expenses incurred therefrom.

8.5. **Take-Over of Products.** The Take-Over of Products by KBA-Grafitec shall occur by expiry of ten (10) Business Days from the Supply of Products within a meaning of Article 8.2 of these Terms and Conditions of Purchase, unless, within this period, KBA-Grafitec delivers to the Supplier a record on the input inspection in which it states that it does not take over the Products for the defects discovered from the Supplier.

9. Warranty and Liability for Defects

9.1. **Defects.** A Product has defects, if it is not supplied in the quantity, quality and/or workmanship stipulated in the Contract, the possible Framework Contract or these Terms and Conditions of Purchase or the Product does not correspond to the purpose arising from the Contract,

otherwise the usual purpose. Defects shall be further considered any legal defects of Products and any defects in documents with which the Supplier is obliged to provide KBA-Grafitec along with the Product.

9.2. **Defects of Products Discovered before the Take-Over.** If KBA-Grafitec discovers any defects during the inspection of Products before the Take-Over thereof, KBA-Grafitec is authorized:

- a) to require that the Supplier carry out an inspection of Products at a place and within a period specified by KBA-Grafitec; for the period from the notification of the defect to the end of the inspection carried out by the Supplier, the period stipulated in Article 8.5 of these Terms and Conditions of Purchase for the Take-Over of Products shall not run;
- b) to refuse the Take-Over of defective Products and to return them at the costs of the Supplier, without KBA-Grafitec is into default with the Take-Over of Products; or
- c) to realize the Take-Over of defective Products, whereby KBA-Grafitec shall be entitled to receive an appropriate discount of the Contract Price or to claim the rectification of these defects. Other provisions of these Terms and Conditions of Purchase specifying claims arising from the liability for defects shall apply to the procedure pursuant to this point c) accordingly.

9.3. **Warranty.** The Supplier shall be liable for all defects which occur by the Products within the warranty period starting to run at the moment of the Take-Over of Products by KBA-Grafitec and ending (i) thirty-six (36) months from the Take-Over of Products by KBA-Grafitec, or (ii) twenty-four (24) months from the supply of Products to the customer of KBA-Grafitec according to the Main Relationship, whichever is the later. The Supplier undertakes to ensure that the Products supplied according to the Contract are, within the warranty period, capable to be used for the purpose stipulated in the Contract, otherwise for the usual purpose, and that they keep the properties stipulated by the Contract. If the Contract fails to specify some properties of Products, the Supplier undertakes to ensure that the Products, within the warranty period, keep at least usual properties. The warranty period shall not run for a period for which KBA-Grafitec or its customers, within the scope of the Main Relationship, cannot use the Products for defects for which the Supplier shall be liable, i.e. starting on the date on which KBA-Grafitec notifies the Supplier of the defect. In case of the replacement of the defective Product or a part thereof, the warranty period for the Product or the respective part thereof shall run from the start to the full extent. The Supplier acknowledges that the Products may be supplied within the scope of the Main Relationship to the final customer to any country worldwide and it hereby guarantees, towards KBA-Grafitec, an international warranty without any territorial restriction.

9.4. **Defects being Subject to a Complaint.** Products shall be inspected with regard to the occurrence of defects according to usages applicable at KBA-Grafitec. KBA-Grafitec shall make a complaint related to apparent defects and visible deviations from conformity and quantity without undue delay after the discovery thereof, however, within ten (10) Business Days from the Supply of Products at the latest. KBA-Grafitec shall make a complaint related to the hidden defects of Products without undue delay after it discovers them, however, before the expiry of the warranty period pursuant to Article 9.3 of these Terms and Conditions of Purchase or pursuant to the Contract at the latest. In case of a late notification of a defect, the Supplier is obliged to settle the complaint as made in time, if such defect is subject to a complaint due to a fact of which the Supplier was or had to be aware at the moment of the Supply of Products.

9.5. **Claims arising from the Liability for Defects of Products.** In case of the occurrence of defects of Products after the Take-Over thereof, KBA-Grafitec is authorized:

- a) to require the rectification of defects through the supply of a substitute or missing Product; or
- b) to require the rectification of defects through the repair of the Product, if defects are repairable; or
- c) to require an appropriate discount of the Contract Price.

KBA-Grafitec is authorized to change its claims based on the Supplier's liability for defects up to the moment of the complete rectification of the respective defect. The Supplier is obliged to ensure that the defect is rectified according to the requirement of KBA-Grafitec. Costs for mounting and demounting in the course of the rectification of defects or the new supply of Products as well as costs for the determination of the defect shall be borne by the Supplier.

9.6. **Duty to Rectify Defects.** Unless the Contract or KBA-Grafitec states otherwise within the complaint procedure, the Supplier is obliged to rectify the defects being subject to a complaint within an appropriate period determined by KBA-Grafitec, otherwise without undue delay, even if it questions its liability for the defect being subject to a complaint. If it is subsequently proved that the Supplier is not liable for the defect, KBA-Grafitec shall reimburse the Supplier for the purposely expended and well-documented costs for the rectification of this defect.

9.7. **Failure to Rectify Defects.** If (i) the Supplier fails to rectify defects of Products in the manner and within the period pursuant to Article 9.5 and 9.6 of these Terms and Conditions of Purchase, or (ii) the Supplier informs KBA-Grafitec that it will not rectify defects, or (iii) it is obvious that the Supplier will not be able or willing to rectify defects in time, then KBA-Grafitec is authorized:

- a) to withdraw, in full or partially, from the Contract; or
- b) to require an appropriate discount of the Contract Price; or
- c) itself or through another person at the costs and risk of the Supplier, to repair the Products or to provide a substitute supply. In such a case, the Supplier is obliged to cover costs incurred by KBA-Grafitec in full.

Neither of the above-mentioned procedures shall affect the Supplier's warranty for the Products and the Supplier's liability for damage caused by defective Products or caused or incurred in the course of the rectification of defects of Products.

9.8. **Repeated Defective Supply.** If defective Products are repeatedly supplied to KBA-Grafitec, KBA-Grafitec is authorized to withdraw from the Contract, even in case of Contracts on the basis of which gradual supplies of Products shall occur. If, due to a defective supply of Products, a general inspection exceeding the usual course of the input inspection is needed, the costs incurred in such a way shall be borne by the Supplier.

10. **Contractual Penalty and Liability for Damage**

10.1. **Contractual Penalty for late Supply.** If the Supplier fails to fulfil its duty to realize the Supply of Products in time, KBA-Grafitec shall be entitled to require that the Supplier pays a contractual penalty amounting to five tenths of a percentage point (0,5%) of the Contract Price (incl. VAT) of the Products being not supplied per every initiated period of seven (7) calendar days of default, however, the maximum contractual penalty amounting to 5% of the Contract Price (incl. VAT) of the Products being not supplied.

10.2. **General Provisions relating to the Contractual Penalties.** The Supplier's duty to pay the contractual penalty shall also apply to cases when the Supplier's default occurred due to the Subcontractor's default. The contractual penalty shall be due and payable within fourteen (14) days from delivery of the settlement of the contractual penalty to the Supplier. The payment of the contractual penalty shall not affect the entitlement of KBA-Grafitec to compensation for damage in the amount exceeding the contractual penalty paid.

10.3. **Payment of Interests of Advance Payments in Case of a Late Supply.** If the Supplier's default with the supply of (a part of) Products lasts for more than ten (10) weeks, payments of the Contract Price for such Products made by KBA-Grafitec until that time shall be subject to interest amounting to 8% p.a., for the entire period from the date of transferring the respective amount from the account of KBA-Grafitec up to the date of the Supply of Products.

10.4. **Liability for Damage.** The Supplier shall be liable for all damage incurred by KBA-Grafitec, customers of KBA-Grafitec or other persons in connection with the breach of the legal regulations or its duties according to the Contract, the possible Framework Contract and/or these Terms and Conditions of Purchase. The Supplier is obliged to compensate KBA-Grafitec for all damages, in particular, all amounts which KBA-Grafitec purposely expends in connection with the breach of the duty of the Supplier, the costs of proceedings of KBA-Grafitec initiated in connection with the breach of such duties, as well as all costs incurred in connection with defects of Products, including the costs for demounting and new mounting of Products (also at the customer of KBA-Grafitec), the costs for removal of the final product in which defective Products were installed. The Supplier undertakes to compensate KBA-Grafitec for damage in full, within thirty (30) days from the date of delivery of a written request of KBA-Grafitec which shall include an amount of the damage incurred and supporting documents for proving it.

10.5. **Liability for Damage incurred by Customers of KBA-Grafitec.** KBA-Grafitec notifies the Supplier and the Supplier acknowledges and is aware of the fact that its Products may be integral parts of machines which are difficult with regard to the highly technical aspect and the manufacture and which are to be supplied by KBA-Grafitec to its customers within the scope of the Main Relationships. The market value of the supply provided by KBA-Grafitec within the scope of the Main Relationships may reach several dozens to hundreds millions CZK, whereby the supply of KBA-Grafitec within the scope of Main Relationships in a proper and timely manner is secured in the contract with considerable sanctions in monies in a form of contractual penalties and damage compensations, including loss profit for late putting of a machine according to the Main Relationships into operation. With regard to the foregoing clauses, the Supplier is aware of the fact and agrees that possible damage associated with the Supplier's default with the Supply of Products according to the Contract includes also all fulfilments (in particular, the duty of KBA-Grafitec to pay a contractual penalty) and damage which KBA-Grafitec is obliged to pay in the Main Relationships in connection with the Supplier's default according to the Contract, for instance for the reason that, due to the Supplier's default, KBA-Grafitec is not capable to supply its fulfilment in the Main Relationships in a proper and timely manner. The Supplier declares that it takes all necessary measures to prevent damages according to this Article and for the case that damage incurs due to its default, it declares that it is aware of the fact that such damage may exceed the total price of the Contract Price, whereby it undertakes to compensate for such damage.

- 10.6. **Insurance.** The Contractor is obliged to arrange appropriate insurance for the case of its liability for damage incurred by KBA-Grafitec in connection with the supply of Products.
11. **Other arrangements**
- 11.1. **Technical Documentation.** Tools, samples as well as any technical and other documentation with which KBA-Grafitec provides the Supplier in connection with the supply of Products or which the Supplier manufactures on behalf of KBA-Grafitec for the purposes of the supply of Products according to the Contract (e.g. prototypes, designs, profiles, drawings, lists of regulations, print sheets, calibres and software, other specifications), shall remain to be exclusive ownership of KBA-Grafitec, or, where appropriate, customers of KBA-Grafitec and they shall form the confidential information of KBA-Grafitec. The Supplier is not authorized to release or make accessible the technical and other documentation within a meaning of this Article to any third party or to use it in favour of any third party, unless KBA-Grafitec grants the Supplier a prior written consent to it. The Supplier is obliged to secure this documentation against an unauthorized access or use and to indicate the ownership of KBA-Grafitec in a recognizable manner. The Supplier is authorized to use the said documentation only in connection with the fulfilment of its duties according to the Contract. At the same time, the Products manufactured according to such documentation or samples may not be, without written consent of KBA-Grafitec, handed over to third parties, used for purposes other than in favour of KBA-Grafitec.
- 11.2. **Material Provided.** Any material with which KBA-Grafitec provides the Supplier in connection with the supply of Products shall remain to be exclusive ownership of KBA-Grafitec and must be, free of charge, separately stored, identified and managed. This material may be used only for orders of KBA-Grafitec. The risk of damage to the material handed over shall be borne by the Supplier. Right of retention to the material handed over shall not pertain to the Supplier. Processing or transforming of material is realized for KBA-Grafitec which shall immediately become an owner of the new or transformed thing. The Supplier is obliged to deposit the new thing for KBA-Grafitec free of charge with a care of a diligent businessman and at its own risk.
- 11.3. **Copyrights to Products.** If copyrights are related to Products, the Supplier shall grant to KBA-Grafitec, without another consideration, a non-exclusive, transferable licence to these Products, which is applicable with regard to the territory worldwide and with regard to the time for the term of copyrights; if Products are manufactured based on the documentation provided by KBA-Grafitec or manufactured by the Supplier on behalf of KBA-Grafitec for the purposes of the supply of Products according to the Contract, the possible licence shall be provided as exclusive. This licence includes the right to reproduction, dissemination, modification, adjustment, transfer and merchandising in any form whatsoever. The licence is granted at the moment of the Supply of Products to KBA-Grafitec.
- 11.4. **Availability of Spare Parts.** The Supplier shall guarantee the availability of spare parts for Products supplied for the period of 20 years for mechanical, 10 year for electrical and 5 let for electronic parts of Products, whereby comparable and/or compatible solutions are admissible. Any necessary costs for the reconstruction shall be borne by the Supplier. Prices of spare parts may be, for the period of guarantee of the availability thereof, increased in comparison to the price applicable at the moment of the conclusion of the Contract, for the respective Product only by the amount of the yearly inflation expressed with the increase of the average yearly consumer price index which is annually announced by the Czech Statistical Office.
- 11.5. **Activities to be carried out by the Supplier at KBA-Grafitec.** If the Supplier realizes (a part of) the fulfilment of the subject-matter of the Contract at the premises of KBA-Grafitec or at a place designated by KBA-Grafitec, the Supplier is obliged, for this purpose, to move only at those premises or handling areas specified to it by KBA-Grafitec and to comply with all regulations on safety and health protection at work, in particular, regulations specifying the rules of conduct at the premises of KBA-Grafitec. In these cases, KBA-Grafitec shall not be liable for injuries of workers of the Supplier and damage associated therewith except for wilful breach of duties by KBA-Grafitec or from gross negligence.
- 11.6. **Set-Off of Receivables.** KBA-Grafitec is authorized to unilaterally set off any receivables, owned by it or acquired by assignment, whether due and payable, or not, against receivables of the Supplier from the Contract, the possible Framework Contract or these Terms and Conditions of Purchase or in connection therewith.
- 11.7. **Assignment and Pledging of Receivables.** The Supplier is authorized to assign or pledge its receivables which it has as of the date of the conclusion of the Contract towards KBA-Grafitec or which incur by it towards KBA-Grafitec in the future based on the Contract, the possible Framework Contract or the Terms and Conditions of Purchase or in connection therewith, only with prior written consent of KBA-Grafitec.
- 11.8. **Transfer of Rights and Duties from the Contract.** KBA-Grafitec is authorized to transfer its rights and duties from the Contract to a third party. KBA-Grafitec is obliged to notify the Supplier of the transfer of rights and duties from the Contract to any third party in writing. For the case of the transfer of rights and duties from the Contract, the Supplier grants its consent to the transfer and undertakes, in such a case, to fulfil its duties from the Contract to the legal successor of KBA-Grafitec specified in the notice pursuant to this Article. The transfer of rights and duties from the Contract shall take effects at the moment of delivery of the notice pursuant to this Article to the Supplier.
12. **Termination of the Contract**
- 12.1. **Termination of the Contract.** The Contract may be earlier terminated only based on an agreement of both Contracting Parties or withdrawal of one of the Contracting Parties in accordance with the Contract, the possible Framework Contract and these Terms and Conditions of Purchase.
- 12.2. **Withdrawal by KBA-Grafitec.** KBA-Grafitec is authorized to withdraw in accordance with the Civil Code and, furthermore, in following cases:
- a) the Supplier's default with Supply of Products pursuant to Article 8.3 of these Terms and Conditions of Purchase lasts for three (3) weeks contrary to the stipulated deadline; or
 - b) the Supplier fails to ensure, without undue delay after the return of Products pursuant to Article 8.4 of these Terms and Conditions of Purchase, that the supply of substitute Products is realized;
 - c) the conditions stipulated in Article 9.7 of these Terms and Conditions of Purchase are fulfilled;
 - d) the Supplier breaches, in a substantial manner, any of its duties laid down by the legal regulations, the Contract, the possible Framework Contract or these Terms and Conditions of Purchase;
 - e) the Supplier breaches any of its duties laid down by the legal regulations, the Contract, the possible Framework Contract or these Terms and Conditions of Purchase in a non-substantial

manner, whereby it fails to fulfil this duty even within an additional appropriate period provided to it by KBA-Grafitec;

- f) a Vis Majeure event pursuant to Article 13.3 of these Terms and Conditions of Purchase hindering the fulfilment of duties pursuant to the Contract lasts for a period longer than one (1) month;
- g) the Supplier enters into liquidation or enforcement proceedings (execution) by the sale of enterprise is initiated against it or an insolvency petition is filed against it, insolvency or bankruptcy for its property is declared, reorganisation, debt relief or another method of resolution of insolvency is permitted or an insolvency petition is refused for the lack of property of the Supplier.

12.3. Settlement after Withdrawal by KBA-Grafitec. In case of withdrawal from the Contract pursuant to Article 12.2 of these Terms and Conditions of Purchase, KBA-Grafitec is authorized, at its own discretion, to decide whether it withdraws from the whole Contract or only regarding a part of the Contract (as a rule to the extent of Products being not supplied or of Products supplied, but defective). If KBA-Grafitec withdraws only from a part of the Contract, KBA-Grafitec shall pay to the Supplier a part of the Contract Price corresponding to the value of Products which it keeps; if KBA-Grafitec paid to the Supplier an amount exceeding the Contract Price of these Products before withdrawal from the Contract, KBA-Grafitec is entitled to require that the Supplier settles and returns the amount exceeding the Contract Price of the Products taken over in such a way. In case of withdrawal from the Contract, the Supplier is obliged, upon request of KBA-Grafitec, to transfer its rights and duties arising from contracts with Subcontractors, which it concluded with regard to the Products with them, from the Supplier to KBA-Grafitec.

12.4. Withdrawal by the Supplier. The Supplier is authorized to withdraw from the Contract only in the case of

- a) a substantial breach of duties of KBA-Grafitec. A substantial breach of duties of KBA-Grafitec shall be considered only the default of KBA-Grafitec with payment of the Contract Price for a period longer than sixty (60) Business Days after the payment deadline, of which KBA-Grafitec is notified by the Supplier in writing, whereby KBA-Grafitec fails to pay the respective amount due to the Supplier even within an additional appropriate period determined by the Supplier; or
- b) KBA-Grafitec enters into liquidation or enforcement proceedings (execution) by the sale of enterprise is initiated against it or an insolvency petition is filed against it, insolvency or bankruptcy for its property is declared, reorganisation, debt relief or another method of resolution of insolvency is permitted or an insolvency petition is refused for the lack of property of KBA-Grafitec.

12.5. Withdrawal without Stating any Reason. Notwithstanding any provision of these Terms and Conditions of Purchase, KBA-Grafitec is authorized to withdraw from the Contract without stating any reason, anytime before the Supply of the Products is realized. Unless the Contracting Parties agree otherwise, the following procedure shall apply in such case:

- a) KBA-Grafitec shall take over the Products which were duly manufactured by the Supplier at the moment when the withdrawal took effects, and it shall pay, for the Products taken over in such a way, a part of the Contract Price corresponding to the value of these Products. If KBA-Grafitec paid to the Supplier before the withdrawal from the Contract an amount exceeding the Contract Price of the Products taken over in such a way, KBA-

Grafitec is entitled to require that the Supplier settles and returns the amount exceeding the Contract Price of the Products taken over in such a way.

- b) regarding the Products which are not manufactured, the Supplier is only entitled to receive compensation for demonstrated and purposely expended costs for the existing manufacture of Products in progress and costs associated with the termination of the Contract; however, the total amount of compensation pursuant to this point b) shall be ten percentage (10%) of the Contract Price (excl. VAT) of Products being not supplied at the most. In this regard, KBA-Grafitec is not obliged to pay compensation for margin or loss profit to the Supplier.

12.6. Form and Effects of Withdrawal. Withdrawal must be made in a written form (including email or facsimile) and must be duly delivered to the other Contracting Party. Withdrawal shall take effects from the date on which the notice of withdrawal was delivered to the respective Contracting Party.

12.7. Continuing Claims and Arrangements. The Contract shall cease to exist due to withdrawal. However, the withdrawal shall not affect the following provisions of the Contract, the possible Framework Contract and the Terms and Conditions of Purchase and claims of the Contracting Parties:

- a) claims concerning compensation for damage incurred by the breach of the Contract, the possible Framework Contract and the Terms and Conditions of Purchase;
- b) claims arising from the liability for defects of Products;
- c) claims concerning the payment of contractual penalties incurred by the breach of the Contract, the possible Framework Contract and the Terms and Conditions of Purchase;
- d) provisions laying down the warranty and liability for defects of Products;
- e) provisions laying down the settlement of Contracting Parties in case of withdrawal;
- f) provisions laying down the duty of secrecy, confidentiality and confidentiality of documents;
- g) provisions laying down the choice of law and dispute resolution
- h) provisions concerning such rights and duties which shall, with regard to the nature thereof, last also after the termination of the Contract.

13. Final Provisions

13.1. Suspension of Supply according to the Contract.

Anytime before the Supply of Products, KBA-Grafitec is authorized to suspend the fulfilment of the Supplier according to the Contract. For the period of the suspension, the Supplier is obliged to duly care for Products manufactured or being in progress and to realize the Supply thereof without undue delay after the cancellation of the respective suspension. For the reason of the suspension of the supply, the Supplier is authorized to require that only appropriate and well-documented costs for storage are covered; however it may charge these costs only (i) from the forty-fifth (45.) day of the suspension in general, or (ii) from the ninetieth (90.) day of the suspension if the suspension occurred due to the suspension or cancellation of the Main Relationship between KBA-Grafitec and the customer KBA-Grafitec. For the reason of the suspension of the supply according to the Contract, the Supplier is not authorized to increase the Contract Price.

13.2. Duty of Secrecy and Confidentiality. The Supplier and KBA-Grafitec undertake, without prior consent of the other

Contracting Party, not to present to any third parties, except for those who must be informed based on the legal regulations and/or decisions of public authorities and/or for the purpose of the performance of the Contract (e.g. Subcontractors, or business partners) or activities associated generally with activities of the respective Contracting Party (e.g. auditors or attorneys), any information relating to the existence of the Contract and the context thereof and any information or documents which the Contracting Parties take over mutually and which relates to the Contract or Products and is not accessible to the public. All persons pursuant to the previous sentence to whom any confidential information of the other Contracting Party was made available, must be instructed in the duty to keep the secrecy according to these Terms and Conditions of Purchase; if such person breaches the duty of secrecy and makes available any confidential information to a third party, that Contracting Party which provided it with the confidential information shall be liable for such disclosure of the confidential information. Upon request of the authorized Contracting Party, the other Contracting Party is obliged to forthwith return the obtained confidential information, to delete it from all files of it and to ensure that also all persons to whom it made available the confidential information in accordance with these Terms and Conditions of Purchase conduct in the same manner. The Supplier and KBA-Grafitec shall be mutually liable for any damage which incurs by the other Contracting Party due to the breach of the duty of secrecy and confidentiality. The duty of secrecy and confidentiality shall last for the period of ten (10) years from the moment at which the confidential information was made available to the other Contracting Party. If the Contracting Parties have concluded a special agreement regarding the duty of secrecy and confidentiality, such agreement shall remain to be in force and its provisions shall take precedence over these Terms and Conditions of Purchase.

13.3. **Vis Majeure.** Vis Majeure shall mean an obstacle which occurred beyond the control of the Contracting Party and it hinders it in fulfilment of its duty, if it cannot be reasonably presumed that the Contracting Party would avert or overcome this obstacle or consequences thereof, and furthermore, that it would foresee this obstacle at the time of the conclusion of the Contract. For the purposes of these Terms and Conditions of Purchase, such obstacle shall be considered, in particular, natural disasters, terroristic attacks, wars, civil disturbances, riots or revolutions being of not local nature. A Vis Majeure event shall not be considered those events, such as lockout, delay of supplies of Subcontractors (unless caused by Vis Majeure events), insolvency, lack of labour or material. In case of the occurrence of the Vis Majeure event, the periods of the affected Contracting Party for fulfilment of its duties stipulated by the Contract or these Terms and Conditions of Purchase shall be prolonged by the period for which the Vis Majeure event occurs. The Supplier is obliged to inform KBA-Grafitec of the occurrence and termination of Vis Majeure without undue delay in writing, however, within five (5) Business Days at the latest; otherwise, the Supplier may not refer to the circumstances of Vis Majeure. However, the liability shall not be excluded by the obstacle which occurred at the time when the Contracting Party in obligation was already in default with fulfilment of its duty, or it occurred due to its economic situation. If intervention or circumstances of Vis Majeure do not last for more than one (1) month, the fulfilment in question shall be prolonged by the period for which such intervention lasted. If the Vis Majeure event lasts for more than one (1) month, KBA-Grafitec is authorized to withdraw from the Contract pursuant to Article 12.2 of these Terms and Conditions of Purchase.

13.4. **Governing Law.** Rights and duties of Contracting Parties including the conclusion of the Contract, validity and effectiveness thereof shall be governed by laws of the

Czech Republic. Other matters not adjusted by the Contract, the possible Framework Contract and these Terms and Conditions of Purchase shall be governed, in particular, by the provisions of the Civil Code. If these Terms and Conditions of Purchase or the Contract include a reference to a specific clause of INCOTERMS 2010, the provisions included for this clause in INCOTERMS 2010 shall become a part of the Terms and Conditions of Purchase and/or the Contract. The use of UN Convention on contracts for international purchase of goods shall be excluded.

13.5. **Dispute Resolution.** All possible disputes arising between the Contracting Parties from legal relations established by this Contract or in connection therewith shall be decided at the ordinary court competent according to the registered office of KBA-Grafitec. However, besides this, KBA-Grafitec is authorized to make its claims also at a court competent with regard to the place according to the registered office of the Supplier.

13.6. **Severability Clause.** If any provision of these Terms and Conditions of Purchase is or becomes or is found invalid, ineffective or unenforceable, this fact shall not affect (to the maximum extent permitted by the respective legal regulations) the validity, effectiveness or enforceability of the remaining provisions of these Terms and Conditions of Purchase. In such a case, the Contracting Parties shall agree, to the extent of invalid, ineffective or unenforceable provision, on new conditions, which shall have, as most as possible, the same sense and effect as the provision has which is to be replaced.

13.7. **Alterations of Terms and Conditions of Purchase.** KBA-Grafitec is authorized to make any alterations of Terms and Conditions of Purchase and to inform the Supplier of these alterations in a form of sending a new wording by electronic mail and/or publicizing the new wording at the web site of KBA-Grafitec: **www.kba-grafitec.cz**. Newly concluded Contracts shall be governed always by the current wording of the Terms and Conditions of Purchase. The new wording of the Terms and Conditions of Purchase shall apply to Contracts already concluded, if both Contracting Parties agree to it in a written form.

13.8. **Period of Limitation.** The Contracting Parties hereby explicitly agree, within a meaning of the provision of section 630 Civil Code, the period of limitation of ten (10) years for rights of KBA-Grafitec arising from the Contract, the possible Framework Contract or these Terms and Conditions of Purchase.

13.9. **Effective Date.** This version of the Terms and Conditions of Purchase shall become effective from 1 September 2019.