

## **GENERAL TERMS AND CONDITIONS** **(in following text shortcut „GTC“)**

of trading and manufactory company

Martypet s.r.o.

Address: Rokytova 28, 615 00 Brno

ID number: 26303833

Registered in trade register by Regional court in Brno, under code C42404

For selling the goods using wholesale and manufactory placed at Blanenská 10, Areál TOS, Hala 14,  
664 34 Kuřim, Czech Republic

### **GENERAL CONDITIONS**

- 1.1. Following general terms and conditions (in following text shortened to GTC) of Trading and Manufacturing company Martypet s.r.o., Rokytova 28, 615 00 Brno, CZ, ID number 26303833, registered in Trading register by Regional court of Brno, under code C42404 (in following text as a seller) regulate in coordination with § 1751 par. 1 law nr. 89/2012 Sb., občanský zákoník, and further issues (in next text „**občanský zákoník**“) and for this particular business relation other relevant legal requirements of the Czech republic mutual rights and obligations which appeared based on a purchase contract (in following text „**purchase contract**“) made between a seller and another party, decribed as a physical or juridical entity (in following text „**buyer**“), using the wholesale and manufactory of the seller. These GTC will be used for any trading relationship between seller and any buyer who is based out of the Czech Republic.
- 1.2. If there was no written purchase contract signed, the purchase contract is considered to appear and to be agreed by both parties when seller sends the order confirmation to the buyer based on the order placed by the buyer or by accepting the delivery of the goods (signing CMR or delivery note or invoice) by the buyer.
- 1.3. Declarations different from what is written in these GTC can be agreed in separate written purchase contract. Different declarations signed in the written purchase contract are stronger than declarations set by these GTC. If some of the points is not explicitly declared in written purchase contract, suitable point from these GTC will be applied.
- 1.4. Declarations of GTC are part of purchase contract. Purchae contract and GTC are expressed in English which is also a communication language of the parties.
- 1.5. GTC can be edited by the seller which does not affect the rights and obligations which appeared based on previous version of GTC.

### **PURCHASE CONTRACT**

- 2.1. All online presentation of goods on webpage of the seller is just of an informative character and seller has no obligation to accept purchase contract (neither spoken no written) on this kind of goods. Declaration § 1732 par. 2 občanského zákoníku will not be used.
- 2.2. For ordering the goods, will buyer send particular specification of the ordered goods which must include product code, product name, number of ordered pieces. Orders will be accepted

if delivered via e-mail, telephone or EDI.

- 2.3. Seller keeps the right to deliver the goods only in quantities equal to whole packaging units (Pus). If the buyer sends an order to a quantity not fitting the whole amount of PU's, seller has the right to round up the ordered quantity to whole number of PU's.
- 2.4. Purchase contract is considered to be confirmed by both parties by sending the order confirmation to the buyer by seller or by receiving and taking the goods by the buyer.
- 2.5. Seller always has the right to ask the buyer for additional confirmation of edited order if the seller needs to edit the order (based on quantity, purchase price, other costs etc.) by e-mail or telephone. After such a confirmation, the purchase contract is considered to be edited and agreed.
- 2.6. If seller delivers the different amount than what was declared in order confirmation, the seller is obliged to deliver the missing pieces to the buyer and accept return delivery of pieces delivered extra, if the parties do not agree on a different solution. In case that parties agree on a different kind of solution (charging extra delivered pieces, credit note for underdeliveries,...), will be this agreement considered to be a valid annex to original purchase contract and by realisation of the agreed steps will be all obligations from purchase contract fulfilled.
- 2.7. Buyer agrees with using the remote communication tools such as e-mail, during all communication and closing the purchase contract. Buyer claims that he/she accepts an e-mail as a relevant way of communication, even for delivering invoices, delivery notes and other documents. All the costs which might appear to the buyer for using remote communication tools will be paid by the buyer himself/herself and the buyer has no right to demand any participation on these costs from side of seller.

## **PURCHASE PRICE AND PAYMENT CONDITIONS**

- 3.1. If not agreed differently, all of the goods must be always paid in advance – after receiving the order confirmation – from seller on following bank accounts:

On account: 284067695/0300 by ČSOB, if it is sales in the Czech Republic in currency CZK

On account IBAN: CZ51 0300 0000 0002 8416 7848 by ČSOB, if it concerns foreign trade operations in currency EUR

On account IBAN: SK64 1100 0000 0026 2886 0566 by Tatra Banka, if it concerns Slovak trade operations in currency EUR

On account IBAN: CZ93 0100 0001 0789 7015 0217 by Komerční banka, if it concerns foreign trade operations in currency USD

On account IBAN: CZ02 0100 0001 1502 8055 0217 by Komerční banka, if it concerns foreign trade operations in currency PLN

Purchase price is due on the day of receiving the order confirmation or proforma-invoice or tax-invoice with whole due amount expressed together with the currency from seller (first case is the relevant). Bank details do not need to be on the document or even separately delivered

as long as they are present in these GTC. Number of paid document must be shown in the message for receipt of the payment.

- 3.2. Unless the purchase price was not agreed before, an agreed purchase price will be concerned price shown on order confirmation sent by seller or price shown on Proforma Invoice (in case that there would be no price on order confirmation) or price shown on invoice – tax document (only shown total price of order is considered also as an agreed price of purchase contract). Unless there is no price shown on any of above mentioned documents, prices from actual sellers pricelist are considered to be an agreed purchase prices.
- 3.3. If buyer and seller agreed before on purchase price which is different from purchase price shown on order confirmation or proforma invoice, both parties are obliged to agree on correcting the purchase price on order confirmation or proforma invoice, so it would be same as before agreed price.
- 3.4. In case that seller refuses to correct the prices according to point 3.3. of these GTC (for example because of rise of prices of raw materials etc.) can buyer cancel the purchase contract without the consent of seller. The buyer must apply for cancelling of the purchase contract in written form (can be sent per email) within 48 hours from receiving the statement of seller, that the seller refuses to correct the prices. In case that the buyer cancels the purchase contract later, he/she is obliged to pay the costs of already started preparations of buyers order to the seller or to immediately discard application for cancelling the purchase contract.
- 3.5. In case, that the seller would accidentally charge lower purchase price than what was agreed before, is buyer obliged to pay the difference in purchase prices to the seller within 30 days from sending the invoice for a price difference from seller to a buyer.
- 3.6. In case, that purchase price is not paid within 30 days from sending the order confirmation or proforma invoice or tax invoice from seller to buyer (date of first real case is valid), is purchase contract cancelled automatically. In case that buyer pays the purchase price later (up to 1 year from original order placement), the original purchase contract would be renewed. In case that seller would meantime change the purchase prices, is the seller obliged to inform buyer about new purchase prices within 48 hours from receiving the full payment of purchase price. If the seller does not inform buyer about new purchase prices, the seller is obliged to deliver the goods to buyer for purchase price shown on original order confirmation / proforma / tax-invoice. In case that the seller announces new purchase prices to the buyer in time but buyer does not agree with them and announces his/her disagreement within 48 hours from receiving an information about new prices and the parties do not reach any other written agreement, is seller obliged to return the paid purchase price to the buyer within 14 days from receiving the written request for returning the payment and cancelling the purchase order from the buyer. Sending the purchase price back to the buyer cancels the purchase contract. In case that the buyer does not apply for cancelling the purchase contract and returning the paid purchase price within 48 hours from sending the information about the new prices by the seller, the purchase contract is valid and can be cancelled only according to chapter 4 of these GTC.

## **WITHDRAWING THE PURCHASE CONTRACT**

- 4.1. The buyer accepts that according to § 1837 občanského zákoníku it is besides other impossible

to cancel the purchase contract for goods which were anyhow adjusted to the needs or wishes of customer, which can get spoiled quickly (meat, vegetables,...), which was unreturnably mixed with other goods, which was unpacked and from hygienical reasons can not be safely returned to original packaging, which are voice or software records and the buyer has damaged or opened the original packaging.

- 4.2. The purchase contract can not be withdrawn if the goods were labelled with the stickers / labels with language version suitable for buyers market.
- 4.3. The purchase contract can not be withdrawn by the goods which were unpacked from original foil packaging.
- 4.4. The purchase contract can be partially withdrawn in case that the goods were claimed at least twice in the facility of the seller and that they even after second claim are significantly faulty in such a scale which makes it impossible to use the goods for the purpose which they were designed for.
- 4.5. A Best Before Date with less than 30 days left at the moment of fulfilling the sellers obligations from purchase contract, is considered to be significant defect of the goods according to point 4.4. of these GTC.
- 4.6. The purchase contract can not be withdrawn from any other reasons than these described in points 4.4. and 4.5. in these GTC.
- 4.7. The withdrawing or partial withdrawing of purchase contract can apply only on provable faulty part of delivery and on particular defective pieces which meet the criteria described in point 4.4. of these GTC. The withdrawal or partial withdrawal of purchase contract can not apply on unfaulty goods or on goods which at the moment of delivering the application for withdrawing the purchase contract, did not show any signs of defective goods according to point 4.4. of these GTC. By the goods, pieces and items which do not fulfil the criteria defined in point 4.4. of these GTC is no withdrawal of purchase contract possible.
- 4.8. It is not possible to withdraw the purchase contract even if points 4.4. and 4.5. are met later than 6 months after buyer takes the goods from seller.
- 4.9. In case of withdrawal or partial withdrawal of purchase contract according to point 4.7. of these GTC is purchase contract (or its relevant part) cancelled from the beginning. The goods must be returned to the seller within 14 days from delivering the written withdrawal of the purchase contract to the seller. The withdrawal must be delivered to the seller in written form, including the product codes, product numbers, quantities, batches and best before dates photos and photos showing the defects proving meeting the criteria described in point 4.4. of these GTC. If the goods are not returned to the seller in time, the withdrawal of the purchase contract is not valid. The withdrawal is not valid also if it does not include all obligatory information. If the buyer withdraws the purchase contract, all costs connected with returning the goods to the seller will be carried by the buyer, even if it can not be returned by common used services.
- 4.10. In case of late return delivery of the goods to the seller and therefore discarded withdrawal of purchase contract, can not be the purchase contract withdrawn again from the same reason as before.
- 4.11. In case of withdrawing the purchase contract according to point 4.7. of these GTC will the seller

return purchase price to the buyer within one hundred and twenty (120) days from receiving and checking the returned goods. Checking of the goods will be proved by seller to a buyer by sending a form per mail showing quantity of accepted partial withdrawal with a reason and quantity of not accepted partial withdrawal with described reason. The seller has a right to return the purchase price to the buyer also when he receives the goods or by other method than by direct payment, if the buyer agrees and if it would not cause any extra expenses to the buyer. In case that the buyer withdraws the purchase contract, seller is not obliged to return the payment before he receives the goods.

4.12. The seller has a right to counter-charge the costs of damaged goods returned by the buyer against his right to get returned the purchase price.

4.13. In cases when the buyer has a right to withdraw the purchase contract according to point 4.4. of these GTC, has the seller same right to withdraw the purchase contract until the goods are delivered to the buyer and accepted by the buyer by signing delivery note, invoice or other document. In such a case the seller will return the paid purchase price to the buyer without unnecessary delay on the bank account entitled by the buyer. After returning the paid purchase price, no additional rights can be applied from the side of the buyer.

4.14. The buyer agrees, that in case that he/she/it withdraws the purchase contract, they are obliged to return also the items which were delivered to them as a present or free of charge together with the original purchase contract.

4.15. In case, that full or partial withdrawal of purchase contract takes part and it concerns the goods which have lost already some part of its value because of at least 20 % of expiry term has passed already, seller has a right to reduce the returned payment price of the same amount of % (percents) as how many percents of the whole expiry term has passed already.

## **FREIGHT AND DELIVERY CONDITIONS**

5.1. Term of delivery to official distributors presented on [www.martypet.com](http://www.martypet.com) website and which order per whole pallet quantities is 14 days from receiving the payment. In case of the Private Label production, will the seller do its best to supply the goods within 14 days from receiving the payment and all necessary customized materials but the seller has a right to extend the deadline to 30 days.

5.2. Term of delivery to any other customers than mentioned in point 5.1. of this GTC is maximum sixty (60) days from receiving the payment.

5.3. All the transport conditions are INCOTERMS EXW, Kuřim, 664 34, Martypet s.r.o., Blanenska 10, Areal TOS, Hall 14, Czech Republic.

5.4. Price of palletes and other packing materials will be added and charged to the price of goods.

5.5. In case, that the costs according to point 5.4. are not part of the original payment, buyer is obliged to pay it up to 14 days Nejsou-li náklady ve smyslu bodu 5.4. hrazeny s původní kupní cenou, je kupující povinen je uhradit na základě dodatečného prodávajícím vystaveného daňového dokladu, a to do 14 dní od odeslání tohoto dokladu prodávajícím na email kupujícího.

- 5.6. In case that seller voluntarily helps buyer with arranging the transport by its agents, the responsibility for the shipment, claims and generally INCOTERMS are still EXW. It can not be changed even if the seller charges the transport costs to the buyer. Any such a service is considered to be an extra service, not a change of INCOTERMS conditions which are fixed as an EXW. If the seller should have charged the transport costs to the buyer and did not do that, it can charge it up to 2 years after delivery with the maturity date 14 days after issuing the invoice. V případě, že by prodávající ve smyslu bodu 5.6. těchto VOP jako doplňkovou službu navíc chtěl zboží kupujícímu doručit a ten by zboží nepřevzal nebo by nebyl k zastížení na doručovací adrese, je kupující povinen prodávajícímu uhradit náklady na každý takový pokus o doručení, které budou v případě navrácení zboží do prostor prodávajícího navýšeny i o přepravu zpět k prodávajícímu. V případě, že během tohoto dojde k poškození zboží, za škodu odpovídá kupující.
- 5.7. Any claims can be solved and must be delivered by the buyer on address Blanenská 10, Areál TOS, Hala 14, Kuřim, 664 34 Czech republic. Time to solve the claim starts day after receiving the goods and confirming it by stamp and signature on a delivery note. Time to solve the claim is 30 days.
- 5.8. The commitment of the seller is fulfilled when it prepares and packs the shipment for the buyer and informs the buyer in written form about the possibility to pick up the shipment at buyers facility.
- 5.9. The buyer can pick up the shipment at the facility of seller every working day on address Blanenská 10, Areál TOS, Hala 14, 664 34 Kuřim, CZ from 10:00 to 15:30, if the closing of warehouse is not announced in advance.
- 5.10. The purchase contract is not cancelled if the buyer does not pick up the goods. It is also not the reason for withdrawing the purchase contract.
- 5.11. In case that buyer does not pick up the prepared goods within 30 days after getting the announcement that the goods are ready, is seller allowed to charge buyer 10 CZK + VAT for each pallet place for 31st and each next day for storing the goods of buyer. The seller can charge these costs at once or gradually and buyer is obliged to pay them within 14 days from sending the invoice on buyers email (or sending by any other relevant mean of communication).
- 5.12. In case that buyer does not pick up the goods even after 18 months from announcement about prepared shipment, the buyer is considered to give up on any owners rights to the shipment in benefit of the seller who becomes the new owner of the shipment. In such a case buyer has no right to get any part of the purchase price back. (Also – but not exclusively – because of the reason, that the goods lost large part of its value due to its shelf life.) In such a case buyer has no right to get back the payments for storage of the goods by seller or to cancel the sellers right to charge the storage costs. Mainly – but not exclusively – because the goods really physically occupy the warehouse for the whole time.
- 5.13. Point 5.12. of this GTC is applied also for a goods returned to the seller or for the goods returned for a claim.
- 5.14. As a time of delivery is considered the date when the goods are ready to be picked up according to sellers announcement. This date is valid also for claim judgements etc.

- 5.15. In case of return delivery of goods back from seller to buyer after claim procedure, is seller approved to exchange the faulty goods by unfaulty goods with approximately (+-1 month) same shelf life expiry date as the replaced pieces – or younger. It is applicable only in case, that the reason of claim procedure is not too short shelf life on delivery (smaller than 5 months).
- 5.16. All the goods are considered to be delivered by confirming delivery note or CMR by the driver at the facility of buyer, which can work also as a confirmation of purchase contract if it has not been confirmed before.

## **RIGHTS ARISING FROM DEFFECTIVE FULLFILMENT**

6.1. Rights and obligations of parties concerning the rights arising from defective fulfillment are depended on particular laws and directions (part of the Czech law), especially by § 1914 to 1925, § 2099 to 2117 and § 2161 to 2174 občanského zákoníku and law nr. 634/1992 Sb., o ochraně spotřebitele, in actual version.

6.2. Seller is responsible to a buyer that the product is not faulty at the moment of delivery of the goods and buyer is obliged to check the goods right after delivery. Any claims placed later than 1 month after delivery can be refused. If the claim is not refused it does not mean that seller admits that the product was faulty when delivered and the seller still has the right to refuse the claim because of late placement of the claim. It means specifically that the goods at the moment of delivery must fulfill following:

6.2.1. The goods are of the approximately (+-10 %) same quality and consist of same features as was agreed by the samples. If no samples were agreed, the standard quality of the goods is set by the seller. The goods must be of an appropriate quality and of appropriate features which serve to the purpose which it was made for and which could the buyer expect or which has the seller described in advertisement, product presentation etc.

6.2.2. The goods are fit to be used for the purpose which they were made (sold) for.

6.2.3. The goods refer to the supplied sample (max. +-10 %) or benchmark sample if they have been provided before purchase contract was placed. It concerns also a net weight of the product.

6.2.4. The goods meet the legal demands of an EU.

6.3. If the hidden failure – such a failure which could not have been found during goods check by delivery – shows up within one month, it is to be considered that the failure was present already by the delivery. Such a failure must be claimed within 48 hours after finding it. Any claim for the „hidden failure“ claimed later than 30 days + 48 hours will be refused as long as the symptoms similar to hidden failures can be caused also by inappropriate storage conditions and handling. Therefore any later on placed claims will be considered as a result of incorrect handling and storage conditions (6.3.).

6.4. The buyer is obliged to keep all the products delivered by seller in dry (humidity below 30 %), dark conditions in temperature between 5-25 dg. C. The goods must not be unpacked from the foil package which protects it from the air humidity. The goods must be placed away from the sunlight and must be protected from any kind of impact (even if they could hit each other).

- 6.5. Seller has obligations arising from defective fulfillment in such a scale as the obligations arising from defective fulfillment of the manufacturer.
- 6.6. Obligations from point 6.5. are not used by the goods sold for discounted price because of specified failure on the product (for example short shelf life), for used goods or others.
- 6.7. Buyer can cause the failure of the product by itself. For example by inappropriate storage condition or handling (described in 6.4.). Buyer is fully responsible for such a failure as well as for possible consequences of such a failure.
- 6.8. Rights arising from defective fulfillment can be demanded exclusively by the seller on address Blanenská 10, Areal TOS, Hall 14, 664 34 Kuřim, Czech Republic. If the buyer claims the goods, it must be claimed exclusively on before mentioned address together with the list of the claimed goods, quantity of each item, batch numbers for each piece, description of the defect by each claimed piece and photos of the defects or suspiciously defective goods with description of the problem on the photo. The seller has a right to refuse the claim which would not be placed on instructed address or which would not include the list of all required information. If the seller does not refuse the claim not containing all the necessary data, the seller reserves its right to do it within following 60 days after delivery of the claim or in case that the buyer does not accept the solution of the claim suggested by the seller, the seller can state the claim invalid because not all necessary information was provided. In such a case the buyer needs to pick up the goods from seller's facility and claim the goods again with all the requested data. If the seller refuses the reclamation, the buyer has 7 days to pick up the claimed goods from seller's facility after which the seller can charge the buyer with storage fee for each pallet place according to this GTC. The seller must confirm the delivery note for the claimed goods either to the freight company or to the buyer directly at the place of delivery. After solving the reclamation the seller will issue a written notice about the way of fulfilling the rights of the buyer and the date of it, which is considered to be the date of fulfilling the rights arising from the defective fulfillment.
- 6.9. The seller checks the quality of each sold piece before the shipment manually and makes the product quality assurance before each delivery, which costs remarkable resources. The buyer is obliged to control the goods by the delivery as well. Therefore only provably suspicious or faulty pieces from the shipment can be claimed. The buyer is obliged to sort and check the received goods and if there is any sign of defect to claim only provably suspicious part of the shipment. If the buyer ships the goods for a reclamation in quantity of at least 25 % from the claimed shipment, out of which less than 5 % of the products will be claimed suspicious or faulty (at least 95 % will show no relevant sign of defect), the seller reserves its right to charge the buyer with „sorting labour costs“ which is 50 EUR per each started hour of labour.
- 6.10. The rights arising from defective fulfillment can be placed only on each delivered faulty piece. It is not possible for buyer to reserve any rights arising from defective fulfillment on a whole shipment or significant part of the shipment based on some particular part of goods which would be really faulty or suspiciously faulty.
- 6.11. The seller can satisfy claims of the buyer by following possibilities: if the product is not faulty – explain the misunderstanding and show why it is not faulty. If the product is faulty: repair it / exchange it / withdraw the purchase contract. The choice how will be the reclamation solved is an exclusive right of the seller. The withdrawal of purchase contract can not take place unless the seller did not decide for it or if the conditions outlined in chapter „WITHDRAWING THE PURCHASE CONTRACT“ of this GTC were met.

6.12. Party which will be stated right to get its fullfilments according to § 1923 občanského zákoníku, has also right to get the the costs paid for getting its rights reimbursed. If the party does not apply for those costs within 30 days, it is considered to be off the date and the right is no longer valid.

6.13. Any other specifications can be shown in possible claim procedure guide of the seller.

## **ANOTHER RIGHTS AND OBLIGATIONS OF PARTIES**

7.1. The buyer becomes an owner of the goods at the moment of pick up.

7.2. The seller is not obliqued to follow any codexes of behaviour in the relationship with buyer according to § 1826 par. 1 letter e) občanského zákoníku.

7.3. Questions and complaints shall be applied in written form on [info@martypet.com](mailto:info@martypet.com). Information about solving the complaint will be sent to an email of buyer.

7.4. The buyer accepts the risk of changing the circumstances according to § 1765 par. 2 občanského zákoníku.

7.5. Law of the Czech Republic is relevant for all relationships between the buyer and the seller. All possible disputes will be solved by relevant courts of the Czech republic.

7.6. In case that General Terms and conditions of the buyer are different from those GTC, GTC of the seller will be used.

## **CORRESPONDENCE**

8.1. The buyer agrees with an e-mail communication as a relevant way of correspondence.

## **FINAL PROVISIONS**

9.1. If the relationship between buyer and seller include any international part, then the parties agree, that for all the cases is law of the Czech republic relevant.

9.2. If some of the statements of this GTC is or becomes not valid, it will be automatically replaced by valid statement which has the closest possible meaning to the original statement. Invalid statements do not affect the validity of whole GTC.

9.3. Contact information on the seller: Martypet s.r.o., Blanenská 10, Areál TOS, Hala 14, 664 34 Kuřim, tel.: +420604619513, email: [info@martypet.com](mailto:info@martypet.com)

In Kuřim, dated 1.8.2018