

# TERMS AND CONDITIONS FOR WORKING MACHINES AND MEANS OF TRANSPORT

GJW Praha spol. s r.o., with its registered office at Mezitřaťová 137, 198 21 Prague 9, IČO: 411 92 869, dated 1.11.2022

## 1. Scope

- 1.1 These Terms and Conditions of the Provider (hereinafter referred to as "**Conditions**") govern, in the event that the Offer requires the **provision of one / more Working Machines** described below, some rights and obligations arising between the Provider and by the Customer on the basis of the concluded Contract for the Provision of a Working Machine further specified in these Terms and Conditions, and in cases where the Offer requires the **provision of one / more Means of transport** described below, the Terms govern certain rights and obligations arising between the Provider and the Customer on the basis of a concluded Contract for the provision of a crane or other means of transport further specified in these Terms and Conditions (hereinafter referred to as the "**Agreement**"), of which these Terms and Conditions form an integral part.
- 1.2 The working machines to which these Terms apply are always in particular the RM 79 purifier, machines for cleaning the rail bed, machines for adjusting the directional and height position of the track and switches, track bed compaction machines, track bed conditioning and replenishment machines, fastener and sleeper change machines, sleeper changing machines for the removal of snow, coal fallout and similar special machinery, road-rail laying equipment MPR-M (hereinafter referred to as "**Working machines**").
- 1.3 The means of transport to which these Terms apply are always in particular cranes, locomotives, railway wagons, trolleys and bogies (hereinafter referred to as "**Means of Transport**"). In particular, a rail crane, a track layer, a sleeper is always considered a crane and always means a machine designed to lift and move heavy or bulky loads on the railway line (hereinafter referred to as "**Crane**").
- 1.4 If the Terms in any of their provisions conflict with the provision contained in the Contract, the provision contained in the Contract shall prevail. If the Terms in any of their provisions conflict with their annexes, the Terms and Conditions take precedence in the relationship between the Customer and the Provider.
- 1.5 The Parties agree that the provisions of the Contract on the Operation and Appeal within the meaning of the relevant provisions of Act No. 89/2012 Coll., the Civil Code, or other similar legislation that will replace this Act (hereinafter referred to as the "**CC**"), on the operation of means of transport, both for transport Working machine to the Designated place and back, as well as to the operation of the Working Machine in the Designated Place, with the time of its provision for the needs of activity in the Designated place (time charter) or designated route for the needs of transport to the Designated place and back (trip charter), is always specified directly in the Contract. The Contract always applies to the operation of a specific Working Machine or Machines with crew expressly stated in the Offer. Crew means, always the crew as such. In the case of tamping ASP 400.1, the crew means the machine leader and three crew members, in the case of tamping ASP UST 78-U, the crew means the machine leader and three crew members. In the case of the RM 79 purifier, the crew means the machine leader and four crew members. In the case of MPR-M rail laying equipment, the machine is provided with a one-man crew. The Parties expressly agreed that the Customer is not entitled to assign to another person the right to require the agreed operation of the Working Machine, According to the agreement of the parties, the fulfilment of these prerequisites without further fulfilment of the obligations of the Provider as the operator of the given Working Machine constitutes an adequate measure within the meaning of the provisions of the CC on the operation of the means of transport.
- 1.6 The Provider's activities related to the transport of a Working Machine to the Designated Place by means of another means of transport deviating from the relevant Work Machine (i.e., otherwise than on its own axis) shall be fully subject to the provisions of the CC on the operation of the means of transport, unless the Contract and/or the Terms contain a different regulation for the given case. The Customer acknowledges that the Provider is a carrier only in the Czech Republic (CR). This means that, outside the territory of the Czech Republic, the Provider can only arrange the transportation of Work machines or Means of transport provided to the Customer, on the basis of the license of the Customer or on the basis of the license of its contractual partner. At the same time, the Customer acknowledges that the Provider is able to deliver the Work Machines or Means of Transport to the last railway station in the territory of the Czech Republic. Transport, however, means the handling of the Work Machine or Means of Transport from the starting point at the Provider to the specific place of employment as determined by the Customer. Transport of the Work Machine or Means of Transport in sections in which the Provider does not have a carrier's license will therefore be arranged by the Customer himself. The issue of the professional competence of the crew members is resolved by the Customer at his own risk according to the relevant legislation of the country in which are the Means of Transport or Work Machines specifically employed.
- 1.7 In the case of a requirement in the Contract for the provision of a Crane, for the provision of a locomotive and/or for the provision of a locomotive with a wagon or wagons, the Contract is always a contract for the operation of a Means of Transport within the meaning of the relevant provisions of the CC on the operation of a means of transport, with the time of their provision or a specified trip charter always being specified directly in the Contract. The Contract always relates to the operation of a specific means of transport or means with crew expressly stated in the Offer, or the lease of a specific vehicle or wagons and/or trolleys or chassis specified in the Offer. In the case of a rail crane, it is always the Crane Manager and the binders, unless it is expressly stated in the Offer that the Provider does not provide binders. In the case of a track layer, the Crane crew is always understood to be the crane leader – driver, crane operator and navigator, in the case of a sleeper the crew means two crane supervisors; binders are not the crew in these cases and are always provided directly by the Customer. In the case of the Kirow crane, the crew is the machine leader and two crew members. In the case of a locomotive or a locomotive with wagons, the crew is always understood to be the engine driver of the locomotive. The Parties expressly agreed that the

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Customer is not entitled to assign to another person the right to require the agreed operation of the Means of Transport. As far as the designation of the head of the means of transport is concerned, this shall always be determined by the Provider. According to the agreement of the parties, the fulfilment of these prerequisites represents the Provider's obligations as the operator of the given Means of Delivery within the meaning of the provisions of the CC on the operation of the means of transport without further fulfillment of the Provider's obligations.

- 1.8 In the event of a requirement in the Contract for the provision of a separate wagon or wagons without a locomotive or the provision of a trolley or trolleys or bogies, the Agreement is always a contract for the lease of the relevant wagon or wagons or trolley or chassis within the meaning of the relevant provisions of the CC, on the lease of a means of transport.
- 1.9 The provisions of the CC on the operation of a means of transport shall also apply to the Provider's activities related to the transport of the Crane by means of a locomotive to the Designated Place, insofar as the Crane is towed to the Designated Place by a locomotive and it is therefore the operation of the locomotive in this part.

## 2. Definitions of certain terms

- 2.1 For the purposes of these Terms, the following shall apply:
  - a) **Offer** means the Provider's proposal to conclude Contracts with the Customer;
  - b) **Provider** means company **GJW Praha s r.o.**, IČO: 411 92 869, registered office at Mezitřařová 137, 198 21 Praha 9 – Hloubětín, registered in the Commercial Register kept by the Municipal Court in Prague, Section C, Insert 4528;
- 2.2 If terms are stated in these Terms and Conditions in whole or approximately (and in context) identical to those specified in the Offer (e.g. Designated Place, Start of Provision, etc.), these terms are identical to those stated in the Offer.

## 3. Rights and obligations of the Provider

- 3.1 Obligation relationship between the Customer and the Provider is realized by individual written Offers made in the manner pursuant to Art. 3.2 Terms and Conditions sent to the Customer on the basis of its inquiries. Upon acceptance of the Offer by the Customer and its delivery to the Provider, the Contract is concluded. The Provider excludes the possibility of accepting the Offer by replying to it with an amendment or deviation, even if such a deviation does not substantially change the terms of the Offer. Any prior communication of the Provider prior to sending the Offer is only indicative and the Provider is not bound by it. Neither any prior communication or requirement of the Customer prior to the acceptance of the Offer is either a Contract, an offer for its conclusion or its acceptance and the Provider in any way does not bind.
- 3.2 The Provider's offer may be made in writing, by fax or electronically in the form of an e-mail; verbal communication of the Offer is excluded and such conduct does not bind the Provider in any way.
- 3.3 The Provider undertakes to:
  - (a) follow safe use procedures; Working machines and/or means of transport, including a system of safe work during driving, assembly, dismantling, operation and

maintenance of Working Machinery and/or Means of Transport;

- b) Working Machines and/or Means of Transport shall be in proper condition fit for operation on the railway in accordance with applicable regulations and laws. The crane will be in proper condition fit to handle loads;
- c) simultaneously with the provision of the Work Machine or Machinery and/or Means of Transport ensures a qualified crew of the Working Machine or Vehicle within the meaning of Article 1.4 or Article 1.6 of the Terms and Conditions; this does not apply in the case of railway wagons, trolleys and bogies;
- d) ensure that the crew of the Working Machine and/or Means of Transport provided by the Provider will follow the instructions of the Contact Person of the Customer at the place of their work, respectively. Contact persons giving instructions for the operation of a Working Machine and/or Means of Transport specified in the confirmed Offer (in the Contract) and also in the case of a Crane in its part relating to the operation of the Crane and in the case of Working Machines by a technological procedure processed by the Customer. In the event of apparent discrepancies between the instructions of the specified person of the Customer and the technological procedure, the Provider, respectively, the crew of the Working Machine and/or Crane, entitled to refuse to carry out the instructions of the relevant person of the Customer and to stop the operation of the Working Machine and/or Crane until the discrepancies are resolved by the Customer. The customer is obliged to remove the discrepancies immediately.
- e) with regard to the fact that it does not process the technological procedure and is not responsible for it, in any part thereof, if the Customer asks the Provider for assistance or support in the processing of the technological procedure, for the avoidance of doubt, the parties expressly confirm that the Provider will only supply the Customer with technical data about the relevant Working Machine and/or Crane (e.g. dimensions, weight, load capacity, etc.) and the Client shall always provide in writing (at least by e-mail) the necessary data on the execution of the work, the manner and procedure of its execution, etc. The provider may or may not then help to formulate the technical data in such a way that they comply with the terms and regulations of the respective operator tracks known to the Customer or submitted by the Customer; subsequently send them to the Client for approval and checking of the content correctness of the relevant procedure. The assistance or support described in this way does not oblige the Provider in any way to develop a technological procedure. Approval of the technological procedure in accordance with legal regulations, regulations of the railway operator and this Contract shall always be ensured by the Customer, who is also responsible for its content and correctness solely responsible. If the Provider participates in the creation of the technological procedure in the manner specified above, this does not relieve the Customer of the obligation to familiarize it with the final version of the technological procedure Crew. The working machine and/or crane for which the technological process is developed.

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- f) in the event of a requirement in the Contract for the provision of a Crane or other means of transport for the purpose of transporting the corresponding cargo, immediately upon receipt it shall send the Customer a permit for an extraordinary consignment issued by the Central Register of Extraordinary Consignments (authorisation hereinafter referred to as "CREC"), unless it concerns the provision of wagons without a locomotive or trolleys or bogies. The Customer is responsible for ensuring that the technological procedure is processed in accordance with the requirements of CREC; The Provider is not obliged to examine such compliance. However, in the event of an apparent conflict with the requirements of CREC and the technological procedure in its part relating to the operation of the Crane, the Provider, respectively. the Crane crew is entitled to stop the operation of the Crane until compliance is achieved by the Customer. The Client is obliged to immediately remove any discrepancies.
- 3.4 In the event that the Customer is in delay with the performance of the obligation under the Contract, the Provider is entitled to suspend the operation of the Work Machine and/or Means of Transport and/or not to provide any lease of the Means of Transport until the time chosen by the Provider, but no more than until the obligation in question is fulfilled; the date and time by which the provision of the given services in terms of the operation of the Working Machine and/or Transport is to be completed under the Contract is also automatically postponed by this time the means and/or lease of the Means of Transport (hereinafter referred to as the "Termination of Provision"). If the maturity of the Price is in any way tied to the Termination of the Provision, the original (not postponed) Termination of the Provision shall continue to apply for the purposes of the Maturity of the Price.
- 3.5 The Customer, in particular, but not exclusively, shall designate (indicate) in the Contract the supervisor and shall be responsible for the performance of his tasks. It is not possible to determine persons from among employees or entities otherwise active for the Provider as the supervisor. The full name and other information about the supervisor will be stated in the Offer, respectively. in the Treaty; unless expressly stated otherwise, the supervisor is the Contact Person giving instructions for the operation of the Work Machine and /or Means of Transport and if not this is stated in the Offer, as well as the Contact Person of the Customer at the place of work. Until such a person is explicitly designated by the Customer and/or until the corresponding and/or necessary instructions are given, the Provider is not obliged to: commence work/operation with the appropriate Working Machine and/or Means of Transport. It is expressly agreed that the supervisor is never, even if the Work Machine and/or Means of Transport work independently – without auxiliary employees, considered the head of the Working Machine and/or Means of Transport. The client shall also designate the person of the head of the machine workplace in cases where the railway operator's regulations determine that the head of the machine workplace is to be established. The customer shall designate the head of the machine workplace even in cases of: when the regulations of the railway operator do

not require it, but the Operator requests it.

## **4. Rights and obligations of the Customer, special arrangements in the case of lease**

4.1 The Customer undertakes and declares that:

- a) in the case of a requirement in the Contract for the provision of a Working Machine and/or Crane, prepare and submit to the Provider the technological procedure of operation (works) sufficiently in advance before the Commencement of Provision Working machine and/or crane. It expressly declares that such a technological procedure will always be fully compliant with the relevant requirements of URMIZA when it is issued.
- b) ensure the presence of the Contact Person giving instructions for the operation of the Work Machine and/or Means of Transport or, if not designated, the Contact Person at the place of operation(s) A working machine and /or vehicle fully capable of conducting work and giving appropriate instructions to the crew of the Working Machine and/or Means of Transport, as well as and otherwise its presence for the purpose of giving instructions for the operation (works) of the Work Machine and/or Means of Transport.
- c) upon request, pay all costs incurred by the Provider as a result of any change in the date and time of the Beginning or Termination of the Provision, change of the Designated Place, change in the parameters of the load or other costs Councilation of the Work Equipment and/or Crane as a result of a change in the environment of the construction site (place of work) from the original survey due to natural, checes;
- d) in the event of the Customer's withdrawal from the Contract pursuant to paragraph 7.2 of the Terms and Conditions, it shall pay to the Provider, inter alia, the actual costs incurred by the Provider in connection with the Contract (in particular the costs of preparation of the Working Machine and /or Means of Transport and Fuel). If the Customer withdraws from the Contract less than 48 hours before the Commencement of Provision, the Client shall pay the Provider, in addition to the costs referred to in the previous sentence, a severance payment of: CZK 20000,-.
- e) is responsible for sufficient load-bearing capacity and passability of the railway track at the places of operation and movement of the Working Machine and/or Means of Transport and otherwise the suitability of the railway line for operation (work) Working machine and/or means of transport both with a load, or. other cargo, as well as not; The Provider is not obliged to check or review this in any way;
- f) pay all costs, penalties (whether contractual or statutory) and penalties associated with non-compliance with these Terms and Conditions and/or the Contract, as well as non-compliance with the Act on Railways, rail operator regulations and conditions or other railway regulations and conditions;
- g) provide the Provider with all cooperation necessary for the operation (work) of the Work Machine and/or Vehicle and/or the hire of the Vehicle; if, for reasons on the part of the Customer, there is an obstacle due to which the Provider cannot ensure its operation (work), or. the lease, perform or continue to perform the Contract, shall be paid by the Customer all costs associated with this to the Provider and the amount corresponding to the amount of severance pay pursuant

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- to Art. 4.1 (a) and (b) (d) Conditions, as well as the damage caused;
- h) if the Provider does not raise justified objections to the invoice issued by the Provider within seven (7) calendar days of receipt of the invoice, it shall be deemed to accept the invoice in its entirety;
  - i) The Customer or a person authorized by the Customer shall immediately (on the same day) confirm, even without the Provider's request, after the Termination of the provision of the Work Machine and/or Means of Transport a written record of the provision of a Working Machine and/or Means of Transport. If he fails to do so or does not state in the record justified objections or disagreement with the filled in data, it is considered that the Working Machine and / or the Means of Transport were by the Provider provided in a timely and proper manner according to the Contract and that the record of the provision of the Working Machine and/or Means of Transport is in accordance with the performance of the Working Machine and/or Transport means, i.e. that the Customer accepts the record of the provision of the Work Machine and/or Means of Transport in full and complaints contrary to the record will not be recognized;
  - j) in the case of a requirement in the Contract for the provision of a Working Machine and/or Crane in the case of inspection of the Provider's technician at the Designated Location, the Customer must comply with the requirements of the technician for preparation for the correct provision of the Working Machine or Crane, which the Provider's technical employee shall hand over in writing. If the Customer fails to do so and an obstacle arises that prevents the proper provision of the Working Machine and/or Crane, the Customer undertakes to pay the Provider an amount of severance pay, in the amount of Article 4.1 letter d) of the Terms and Conditions, and to reimburse all costs incurred by the Provider;
  - k) inform the Provider in writing about the risks at the Designated Place, as well as otherwise at the place of operation (works) of the Work Machine and/or Means of Transport and ensure safety and occupational health protection at the Designated Place, as well as otherwise at the place of operation(s) of the Work Machine and/or Means of Transport. In particular, the Customer shall ensure that its activities and the work of its employees are organized and carried out in such a way that the Provider's employees are also protected at the same time, and The Customer shall ensure cooperation in ensuring a safe, safe and healthy working environment for all employees at the Designated Place and at the Place of Operation Working machine and/or means of transport. The Customer shall also coordinate the implementation of measures to protect the safety and health of all employees at the Designated Place and at the place of operation(s) of the Work machines and /or means of transport and procedures for securing them.
  - l) in accordance with the conditions set out in Article 1.6 of the Terms and Conditions, where the securing of binders is not subject to the Provider's obligation, ensure, at its own expense, persons qualified for binding work that will be responsible for the manner and quality of tethering loads when handling the Crane with loads, according to the occupational safety system and occupational safety regulations; in cases where binders are provided by the Provider, they proceed exclusively according to the instructions of the Contact Person giving instructions for the operation of the Means of Transport, unless otherwise stipulated by legal regulations or relevant internal regulations issued by the Railway Operator;
  - m) unless otherwise agreed, the Provider is not obliged to provide special slings or more persons present during handling (navigator; binder; changing of Crane operator, etc.);
- 4.2 In the case of hiring a means of transport or means, in addition to the other provisions of the Contract and the Terms and Conditions, the following shall apply in particular:
- a) from the moment of receipt of the Means of Transport by the Customer until the moment of its return to the Provider, the Customer is fully liable for the condition of the Means of Transport and any damage caused to it. The Customer is always liable for damage caused by theft, destruction or damage to the Means of Transport by third parties or its loss, as its basic obligations include the obligation to properly secure it against these risks.
  - b) the Customer is obliged to pay the damage incurred to the Provider in full, which will be determined on the basis of an agreement between the parties. If it is not possible to determine the amount of damage by agreement, the amount of damage will be determined by an expert opinion or expert opinion of an expert who is authorized to determine and ensure the Provider in this context. The costs of processing an expert opinion shall be borne by the Customer and will be increased by the invoice intended for damages.
  - c) the Provider is entitled to require that a designation of its ownership rights be placed on the Transport Means for the entire duration of the provision of the Transport Means or for the entire duration of the lease of the Transport Vehicle and to determine the manner of such designation.
  - d) The Customer is not entitled, without the written consent of the Provider, to lease the Means of Transport or otherwise allow use by a third party (except for its own employees for the performance of work for the Customer), nor may the Customer pledge the Vehicle to another and dispose of it in a manner that would lead to the exclusion or limitation of the Provider's exclusive ownership right.
  - e) The Customer is obliged to use the Means of Transport in the manner and to the extent given by the nature of the equipment, technical conditions, operating instructions and relevant standards and regulations applicable to its operation. The Provider is obliged to explain the method of operation and maintenance of the Vehicle only at the express request of the Customer. If the Customer does not require this explanation, it is considered that it is duly aware of these facts.
  - f) The Customer is obliged to immediately report theft, loss, intentional damage to the Means of Transport to the local department of the Police of the Czech Republic or the Police of the Slovak Republic, depending on where any of the above facts occurs. If the above fact occurs in countries other than the territory of the Czech Republic or the territory of the Slovak

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Republic, the Customer shall proceed similarly and the Customer shall be obliged to immediately inform the Provider of the fact and send it within 3 (three) calendar days written notification of the Police to the situation. If the notification of these facts is not delivered by the Customer to the Provider within 3 (three) calendar days of the occurrence of the facts, the Provider reserves the right to charge the rent (the relevant Price) until such notification is delivered to the Provider.

- g) in the event that the Customer does not return the means of transport in time, agrees that the Provider is entitled to take over the means of transport at the place of its storage or use at the Customer's expense.
- h) in the event that the Means of Transport cannot be used properly or can be used only with considerable difficulty, the Provider is not obliged to provide the Customer with another substitute means of transport.
- i) the costs of maintaining the means of transport are always paid by the Customer, the Provider is not obliged to compensate him.

## **5. Payment terms**

5.1 Payment for the provision of a Working Machine and/or Means of transport within the meaning of these Terms and Conditions is the Price for a Working Machine and/or Means of Transport under the Contract. The price for the provision of each of the Working Machines and/or Means of Transport (their lease or operation) required under the Contract is determined separately. All prices in the Offer do not include VAT, VAT is charged at the statutory rate. The Customer is obliged to pay the Price for Working Machines and/or Means of Transport in the manner and at the time specified in the Contract. The provisions of the CC on the maturity of rent for the hire of a means of transport shall not apply in cases where it is contrary to the price and payment conditions under the Contract. Unless expressly agreed otherwise in the Treaty:

- transport of the Working Machine to the place of work and back, either on its own or under the conditions of Art. 1.5, is charged separately as the Cost of Transport of the Working Machine
- transport of the Crane to the place of work and back within the meaning of Article 1.8 of the Terms and Conditions is charged separately as the Price for the transport of the Crane;
- hourly rates for the operation of a Work Machine at the Designated Place and/or for the operation of a Means of Transport and/or for the hire of a Means of Transport specified in the Contract in excess of the daily rate shall be charged hourly for each commenced hour;
- Invoices are due fourteen (14) days from their exposure by the Provider;
- Inspection of the site of technical work employees of the Provider is free of charge
- possible support of the Provider pursuant to Article 3.3 (e) The conditions are free of charge.

5.2 Any contractual penalties, severance payments or default interest is without prejudice to the Provider's right to compensation for damage in its full amount.

## **6. Liability**

6.1 The Provider is liable to the Customer for damage, as well as for defects that arise as a result of or in connection with the operation of the Working Machine, even in the

case of its operation at the Designated Place, only in cases where the damage or defect was caused by a breach of a legal obligation solely by the Provider and this breach arose from a culpable breach of the Provider's obligation to ensure the capability of the Working Machine and crew in accordance with the conditions of Art. 1.4 of the Terms and Conditions, mutatis mutandis within the meaning of § 2583 CC; The Provider is not expressly liable for damages arising from other reasons. For the avoidance of doubt, the parties have expressly agreed that the Provider's liability for damage shall not apply, even mutatis mutandis, to the provision on the carrier's liability for damage to the consignment, nor the legal regulation of general liability for damages. The Provider's liability shall be assessed exclusively in accordance with this provision of Article 6 of the Terms and Conditions and appropriately under Section 2583 of the CC, taking into account the modification under this Article 6 of the Terms and Conditions.

6.2 The Provider is liable to the Customer for damage, as well as for defects arising as a result of or in connection with the operation or lease of the Means of Transport only if the damage or a defect caused by a breach of a legal obligation solely on the part of the Provider and this breach arose, in the case of the operation of the Means of Transport, on the basis of a culpable breach of duty To ensure the eligibility of the Means of Transport for the agreed journey, or to ensure its usability for the agreed transport and to provide it with a qualified crew and fuel, or in the case of hiring a means of transport by breach of its obligations under § 2322 paragraph. 1 and 2 CC; the Provider is not expressly liable for damages incurred for other reasons. For the avoidance of doubt, the parties have expressly agreed that the Provider's liability for damages arising from the operation of the Means of Transport within the meaning of art. 1.4 and 1.6 of the Terms shall not apply, even mutatis mutandis, the provisions on the carrier's liability for damage to the consignment, nor the general legal regulation liability for damages. The Provider's liability in the event that the subject of his obligation is within the meaning of art. 1.6 and Article 1.8 of the Terms and Conditions shall assess the operation of the Means of Transport exclusively in accordance with this provision of Articles 6.2 to 6.9 of the Terms and Conditions and pursuant to Section 2583 of the CC when taking into account Adjustments pursuant to Art. 6.2 to Art. 6.9 of the Terms.

6.3 The Provider, respectively, the crew of the Working Machine and/or Crane follows the instructions of the Customer during the operation of the Working Machine at the Designated Place and during the operation of the Working Machine and/or Crane, respectively. persons authorized by him within the meaning of the relevant previous provisions of the Terms and Conditions. The correctness or suitability of these instructions is not the Provider, respectively, the crew of the Working Machine and/or Crane is obliged to investigate in any way, and in the event of damage or defects arising from such instructions or as a result of their incompleteness or insufficiency the Customer is liable for the damage. The Provider is also not liable for damages or defects caused by the fact that a visit to the Designated Place was not required before the Commencement of Provision.

6.4 The Provider shall not be liable for damages caused to the

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Customer as a result of poorly performed binding or navigator work, if binding or navigator work is provided by the Client, or if these works arose as a result of incorrect or incomplete instructions of the Client, respectively, persons authorised by him.

- 6.5 The Provider is not in default if the Customer: failed to provide the necessary synergy.
- 6.6 If the Provider is prevented from fulfilling the Contract for a period of longer than 48 hours any obstacle, whether the Provider is responsible for it or not, is not obliged in any case to provide any substitute performance, in particular, not exclusively, in the sense of providing any replacement Working Machine and/or Means of Transport. The moment when such an obstacle occurs, the Provider's obligation to perform the Contract expires upon expiry of the specified period of 48 hours, of which the Provider is obliged to inform the Customer without delay.
- 6.7 The Provider is not responsible for and does not pay for indirect, collateral or consequential damages or damages. The Parties agree that the Customer's claim for compensation as well as the claim for compensation for lost profits is excluded and the Customer expressly waives them.
- 6.8 The Provider and the Customer expressly agree that compensation for damage and other harm by the Provider to the Customer arising from the Contract using these Terms and Conditions shall be limited to a maximum amount corresponding to twice the sum of the individual Prices for each Working Machine and/or Means of Transport under the Contract for a Harmful Event. By a harmful event, the parties mean the fact from which the damage and/or other injury occurred.
- 6.9 Art. 6.7 and 6.8 of the Terms and Conditions shall not apply in the case of an obligation to compensate for damage caused to man by his natural rights, or caused intentionally or by gross negligence.

## **7. Withdrawal from the Contract**

- 7.1 In the event that the Customer breaches any obligation arising from the Contract, the Provider is entitled to withdraw from the Contract without providing the Customer with additional time to fulfill the breached obligation.
- 7.2 The Customer is entitled to withdraw from the Contract without the Provider substantially breaching its obligation under the Contract until the Commencement of Provision; however, if they do so less than 48 hours before the Commencement of Provision, they shall pay the Provider the severance payment set out in point 4.1 lit. (d) these Terms. Withdrawal under this point shall not prevent the Customer from paying the Provider the Price in whole or in part.
- 7.3 The withdrawal becomes effective on the date of receipt of the notice of withdrawal to the other party. Monetary performances received before the withdrawal become financial compensation in the event of termination of the Contract and the Provider is not obliged to return them to the Customer. This does not apply if the withdrawal from the Contract occurred due to a material breach of the Contract by the Provider. Financial compensation is not a requirement and the contracting parties expressly exclude the provisions of § 1808 and 1809 CC.
- 7.4 Withdrawal does not affect the right to compensation of the Price for the already provided time of the Working

Machine, claims for contractual penalties or other similar sanctions, claims for default interest, claims for damages and other rights and obligations stipulated by the Agreement, the Terms and the law.

## **8. Set-off and assignment**

- 8.1 The Customer is not entitled to the Provider's consent to set off its claim against the Provider under the Contract against the Provider's claim.
- 8.2 The Provider is entitled to assign a right or receivable under the Contract to a third party without the Customer's prior consent, with which the Customer expressly agrees.

## **9. Force majeure and insolvency of the Customer**

- 9.1 The Provider is not responsible for failure to comply with any your obligation under the Contract due to force majeure. Force majeure includes, in particular, war, fire, flood, serious natural anomalies, interruption of transport, embargo, governmental measures, modifications or restrictions, prohibition of import or export of goods and inability to procure supplies of material, equipment or means of production, accident, explosion, as well as strikes, lockouts of employees or other difficulties with employees that interfere with production or transport or operation, as well as the result of any other causes beyond the control of the Company.
- 9.2 The Provider is not obliged to provide its services under the Contract if insolvency proceedings are initiated against the Customer or if the Customer is unable to meet its financial obligations.

## **10. Dispute resolution, jurisdiction**

- 10.1 The Provider and the Customer undertake to resolve preferably amicably resolve any and any disputes or discrepancies arising out of or in connection with these Terms and Conditions or the Agreement and, if this is not possible, resolve them through mediation. The parties agree to choose the person of the mediator by mutual agreement on the basis of the persons entered in the list of mediators immediately after the dispute has arisen. If, despite all efforts, they fail to reach an agreement on such a person within a reasonable time and/or if, despite all efforts, the proceedings before the mediator do not lead to a settlement of the dispute within a reasonable time from the commencement of the mediator, either party is entitled to resolve the dispute in the manner described below.
- 10.2 Should the Provider and the Customer fail to resolve the disputes or discrepancies amicably or through mediation, either of these parties may apply to the court with subject-matter jurisdiction of the Czech Republic, whose international jurisdiction is hereby expressly agreed, unless the conditions of Article 10.3 are met. The territorial jurisdiction of such a court will be determined according to the registered office of the Provider (within the meaning of Section 89a of the Civil Code) registered in the Commercial Register in the initiation of litigation.
- 10.3 In the event of disputes arising from or in connection with the Contract where the amount of the defendant exceeds CZK 50,000, the disputes shall be final and non-competent ordinary courts decided by the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic according to its Rules by three arbitrators. The parties undertake to fulfil the obligations imposed on them by the arbitral award.

# TERMS AND CONDITIONS FOR WORKING MACHINES AND MEANS OF TRANSPORT

GJW Praha spol. s r.o., with its registered office at Mezitraf'ová 137, 198 21 Prague 9, IČO: 411 92 869, dated 1.11.2022

## **11. Final provisions**

- 11.1 Relations between the Customer and the Provider are governed by: generally binding legal regulations of the Czech Republic, in particular, but not exclusively, within their framework, the Civil Code, the Railway Act and the relevant conditions and regulations of the relevant railway operators, which are generally binding.
- 11.2 By concluding the Contract, the Client reports to professional performance as a member of a certain profession or status within the meaning of Section 5 of the Civil Code, thereby demonstrating that it is able to act with knowledge and the diligence associated with his profession or condition. Customer further expressly declares that it has been doing business in the field of railway activities and railway construction for a long time, the market is doing very well is very well and long-term acquainted with the conditions of activity on the track.
- 11.3 The Terms and Conditions are an integral part of the Contract if there is a requirement to provide the Work Machine or Machinery and/or Means of Transport. The Terms and Conditions come into force and effect on 1.11.2022 and fully replace all previous versions of the Terms and Conditions.
- 11.4 If any provision of the Terms or the Agreement is found to be invalid or unenforceable, such provision shall not be subject to the fullest extent to the extent permitted by Czech law shall have no effect and shall be considered a provision that is not part of the Terms or the Agreement, all without affecting the validity of the other provisions Terms or Contract. At the same time, the Provider and the Customer undertake to replace such invalid or unenforceable provision any other contractual arrangement within the meaning of the Terms or the Agreement that will be valid, effective and enforceable.
- 11.5 Capitalized terms contained in these Terms shall have the same meaning as that assigned to them in the Agreement and shall be interpreted in accordance with the Agreement.
- 11.6 The use of any terms and conditions of the Customer deviating in any way from the Contract and these Terms and Conditions is expressly excluded.
- 11.7 The parties expressly declare that the provisions of § 1798 to 1800 of the CC shall not apply to the Contract or the Terms in accordance with § 1801 CC.