

KUPNÍ SMLOUVA

Kupující:

Vysoká škola báňská – Technická univerzita Ostrava
Hornicko – geologická fakulta,

se sídlem: 17. listopadu 2172/15, 708 00 Ostrava - Poruba
IČ : 619 89 100
DIČ: CZ61989100
Zastoupená: prof. Ing. Vladimír Slivka, CSc., dr.h.c., děkan HGF VŠB-TUO
Bankovní spojení: ČSOB, a.s.
číslo účtu: 100954151/300
kontaktní osoba: [REDACTED]

(dále také jako „kupující“ nebo „HGF VŠB-TUO“)

a

Prodávající:

Obchodní firma /název/: NenoVision, s.r.o.
Sídlo/místo podnikání/: Purkyňova 649/127, 612 00 Brno
IČ: 04525671
DIČ: CZ04525671
Zastoupená: [REDACTED] jednatel
Bankovní spojení: Komerční banka
Číslo účtu: 115-1433490257/0100
kontaktní osoba: [REDACTED]

(dále také jako „prodávající“)

dnešního dne uzavřeli tuto smlouvu v souladu s ustanovením § 2079 a násl. zákona č. 89/2012 Sb., občanský zákoník (dále jen „**občanský zákoník**“)

(dále jen „**Smlouva**“)

Pro případ, že dojde ke změně kteréhokoli ze shora uvedených údajů, je smluvní strana, u které změna nastala, povinna informovat o této skutečnosti druhou smluvní stranu, a to průkazným způsobem (např. formou doporučeného dopisu) a bez zbytečného odkladu. V případě, že z důvodu porušení tohoto závazku vznikne druhé smluvní straně škoda, zavazuje se strana, která škodu způsobila, tuto v plné výši nahradit.

Článek I

Předmět smlouvy

1. Předmětem této smlouvy je koupě a prodej 20 kusů hrotů pro měření magnetických vlastností (Akiyama probe technology) - dále také jako „zboží“. Toto zboží je detailněji specifikováno v příloze č. 1 této smlouvy (Nabídka prodávajícího ze dne 21.10.2021 č. QUO-21-074, která je nedílnou součástí této smlouvy).
2. Touto smlouvou se prodávající zavazuje dodat za podmínek zde sjednaných kupujícímu zboží, jak je uvedeno v čl. I odst. 1 této smlouvy a převést na kupujícího vlastnické právo k tomuto zboží. Kupující se zavazuje zboží převzít a zaplatit sjednanou cenu podle článku IV. této smlouvy.
3. Podkladem pro uzavření této kupní smlouvy je nabídka prodávajícího ze dne 21.10.2021 (příloha č. 1).
4. Prodávající se zavazuje ke zboží doložit:
 - osvědčení, certifikáty a atesty, které jsou vydávány k tomu oprávněnými osobami pro jednotlivé specifické druhy výrobků dle zvláštních předpisů,
 - návod k obsluze a základní uživatelskou dokumentaci
 - příslušenství ke zboží definované přílohou č. 1.

Článek II.

Zboží, vady zboží

1. Vlastnické právo ke zboží přechází na kupujícího okamžikem převzetí zboží.
2. Kupující je oprávněn odmítnout převzetí zboží, pokud zboží nebude dodáno řádně v souladu s touto smlouvou a specifikací zboží, která je součástí přílohy č. 1 této smlouvy, přičemž v takovém případě kupující důvody odmítnutí převzetí zboží písemně prodávajícímu sdělí, a to nejpozději do pěti pracovních dnů od původního termínu předání zboží.

Článek III.

Doba a místo plnění, předání zboží

1. Prodávající se zavazuje dodat zboží ve lhůtě do 1 měsíce od doručení objednávky.
2. Místem plnění je VŠB-TUO, HGF na adrese 17. listopadu 15/2172, 708 00 Ostrava – Poruba.
3. Zboží bude dodáno kupujícímu soukromým dopravcem do místa plnění. Po převzetí zboží kupujícím je prodávající oprávněn vystavit fakturu na toto zboží.
4. Okamžikem převzetí zboží přechází nebezpečí škody na kupujícího.

Článek IV.

Kupní cena a platební podmínky

1. Kupní cena je stanovena ve výši:

Cena bez DPH:	78 000,- Kč
DPH 21%	16 380,- Kč

Smluvní strany se dohodly, že ke kupní ceně bude připočítáno DPH dle platných a účinných právních předpisů.

Celková kupní cena s 21% DPH: 94 380,- Kč

(Slovy: devadesát čtyři tisíc tři sta osmdesát korun českých s DPH)

2. Tato sjednaná kupní cena je konečná a zahrnuje veškeré náklady spojené s prodejem a koupí zboží včetně dopravy, balného, pojištění a ostatních nákladů.
3. Cena bude zaplacená na základě faktury vystavené prodávajícím po protokolárním doručení zboží. Faktura vystavená prodávajícím musí obsahovat náležitosti stanovené právními předpisy s tím, že zvlášť budou ve faktuře vyčíslena cena zboží bez DPH, zvlášť DPH a celková cena zboží s DPH.
4. Lhůta splatnosti faktury je 21 dnů ode dne doručení faktury kupujícím.
5. Kupní cena se považuje za uhrazenou okamžikem připsání fakturované kupní ceny na účet prodávajícího. Kupující nebude poskytovat prodávajícímu jakékoliv zálohy na úhradu ceny zboží nebo jeho části.
6. Kupující je oprávněn před uplynutím lhůty splatnosti faktury vrátit bez zaplacení fakturu, která neobsahuje náležitosti stanovené touto smlouvou nebo budou-li tyto údaje uvedeny chybně. Prodávající je povinen fakturu nově vyhotovit. V takovém případě není kupující v prodlení se zaplacením ceny zboží. Okamžikem doručení náležitě doplněné či opravené faktury začne běžet nová lhůta splatnosti faktury v délce 21 kalendářních dnů.
7. Veškeré platby dle této smlouvy budou kupujícím placeny na účet prodávajícího uvedený v záhlaví této smlouvy. Prodávající prohlašuje, že jeho bankovní účet uvedený v této smlouvě nebo ve faktuře je jeho účtem, který je správcem daně zveřejněn způsobem umožňujícím dálkový přístup v souladu s ust. § 96 zákona o DPH. Prodávající je povinen uvádět ve faktuře pouze účet, který je správcem daně zveřejněn v souladu se zákonem o DPH. Dojde-li během trvání této smlouvy ke změně identifikace zveřejněného účtu, zavazuje se prodávající bez zbytečného odkladu písemně informovat kupujícího o takové změně. Vzhledem k tomu, že dle ust. § 109 odst. 2 písm. c) zákona o DPH ručí příjemce zdanitelného plnění za nezaplacenou daň z tohoto plnění, pokud je úplata za toto plnění poskytnuta zcela nebo zčásti bezhotovostním převodem na jiný účet než účet poskytovatele zdanitelného plnění, který je správcem daně zveřejněn způsobem umožňujícím dálkový přístup, provede kupující úhradu ceny plnění pouze na účet, který je účtem zveřejněným ve smyslu ust. § 96 zákona o DPH. Pokud se kdykoliv ukáže, že účet prodávajícího, na který prodávající požaduje provést úhradu ceny plnění, není zveřejněným účtem, není kupující povinen úhradu ceny plnění na takový účet provést; v takovém případě se nejedná o prodlení se zaplacením ceny plnění na straně kupujícího.

Článek V.

Záruka za jakost, odpovědnost za vady

1. Smluvní strany se dohodly, že prodávající poskytuje záruku za jakost zboží po dobu 24 měsíců, která počíná běžet dnem doručení zboží kupujícím.
2. Prodávající dále odpovídá za vady zboží ve smyslu ustanovení § 1916 a násl. Občanského zákoníku.

Článek VI.

Smluvní pokuty a odstoupení od smlouvy

1. Nedodá-li prodávající kupujícím zboží ve lhůtě dle čl. III odst. 1 této smlouvy, zaplatí kupujícím smluvní pokutu ve výši 500,- Kč za každý den prodlení.
2. Bude-li kupující v prodlení s úhradou faktury, je povinen zaplatit prodávajícímu úrok z prodlení ve výši dle platného předpisu.

3. Smluvní pokuta a úrok z prodlení jsou splatné do třiceti kalendářních dní od data, kdy byla povinné straně doručena písemná výzva k jejich zaplacení oprávněnou stranou, a to na účet oprávněné strany uvedený v písemné výzvě.
4. Odstoupení od smlouvy se řídí příslušnými ustanoveními občanského zákoníku a touto smlouvou.
5. Kupující je dále oprávněn odstoupit od smlouvy, jestliže bylo s prodávajícím zahájeno insolvenční řízení.
6. Kupující je dále oprávněn odstoupit od smlouvy, pokud prodávající nedodá zboží ve lhůtě dle článku III. odst. 1 této smlouvy.

Článek VII. Ostatní ujednání

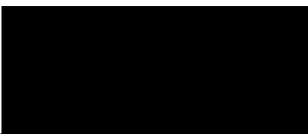
1. Prodávající není bez předchozího písemného souhlasu kupujícího oprávněn postoupit práva a povinnosti z této smlouvy na třetí osobu.
2. Otázky touto smlouvou neupravené se řídí příslušnými ustanoveními občanského zákoníku.
Prodávající bere na vědomí povinnosti kupujícího zveřejnit údaje uvedené v této smlouvě v souladu se zákonem č. 134/2016 Sb., o zadávání veřejných zakázek, se zákonem č. 106/1999 Sb., o svobodném přístupu k informacím, ve znění pozdějších předpisů, se zákonem č. 340/2015 Sb., o registru smluv a jinými obecně závaznými normami, a to způsobem, jenž vyplývá z uvedených předpisů či o němž rozhodne kupující.
Smluvní strany se zavazují udržovat v tajnosti a nezpřístupnit třetím osobám diskrétní informace – zachovat mlčenlivost – jak jsou vymezeny níže:
 - veškeré informace poskytnuté prodávajícímu ve smyslu ustanovení § 218 zákona č. 134/2016 Sb., o zadávání veřejných zakázek,
 - informace, na které se vztahuje zákonem uložená povinnost mlčenlivosti (např. osobní údaje, utajované skutečnosti),
 - obchodní tajemství prodávajícího či případně jiný údaj chráněný dle zvláštních právních předpisů s odůvodněním takového zařazení, a to písemně před podpisem této smlouvy. Prodávající bere na vědomí, že tento postup nelze uplatnit ve vztahu k výši skutečně uhrazené ceny za plnění této smlouvy a k seznamu subdodavatelů prodávajícího a dále u informací, jejichž sdělení se vyžaduje ze zákona. Prodávající prohlašuje, že žádná informace obsažená v této smlouvě není jeho obchodním tajemstvím.
4. Prodávající je povinen umožnit všem subjektům oprávněným k výkonu kontroly projektů, z jejichž prostředků je dodávka hrazena, provést kontrolu dokladů souvisejících s plněním zakázky, a to po dobu danou právními předpisy ČR k jejich archivaci (zákon č. 563/1991 Sb., o účetnictví, a zákon č. 235/2004 Sb., o dani z přidané hodnoty).
5. Prodávající je povinen uchovávat všechny doklady a účetní záznamy související s dodávkou předmětu plnění do roku 2025, pokud český právní řád nestanovuje lhůtu delší. Tyto dokumenty a účetní záznamy budou uchovávány způsobem stanoveným platnými právními předpisy.

Článek VIII.
Závěrečná ustanovení

1. Tato smlouva nabývá platnosti dnem podpisu oběma smluvními stranami. Účinnosti nabývá tato smlouva zveřejněním smlouvy dle následujícího ustanovení.
2. Zveřejnění této smlouvy dle ustanovení § 5 zákona č. 340/2015 Sb., o registru smluv provede na základě dohody smluvních stran kupující, a to tak, aby potvrzení o provedení registrace smlouvy bylo zasláno oběma smluvním stranám.
3. Případné spory obou smluvních stran budou řešeny přednostně dohodou. Nedojde-li k dohodě, budou spory řešeny příslušným soudem, nikoliv rozhodcem.
4. Veškerá korespondence mezi smluvními stranami, včetně jejich prohlášení, je ve vztahu k této smlouvě irelevantní, není-li ve smlouvě stanoveno jinak.
5. Tato smlouva je vyhotovena ve dvou vyhotoveních, z nichž jeden obdrží kupující a jeden prodávající.
6. V případě rozporu mezi ustanoveními obchodních podmínek prodávajícího, které jsou součástí přílohy č. 1 a touto smlouvou, platí ustanovení této smlouvy.
7. Každá ze smluvních stran prohlašuje, že tuto smlouvu uzavírá svobodně a vážně, že považuje obsah této smlouvy za určitý a srozumitelný a že jsou jí známy veškeré skutečnosti, jež jsou pro uzavření této smlouvy rozhodující, na důkaz čehož připojují smluvní strany k této smlouvě své podpisy.
8. Nedílnou součástí této smlouvy je:
Příloha č. 1: Nabídka prodávajícího ze dne 21.10.2021 č. QUO-21-074

V Ostravě, dne.....

Kupující:

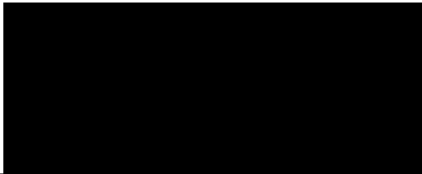
_____ 

za HGF VŠB-TUO

prof. Ing. Vladimír Slivka, CSc., dr.h.c.
děkan HGF, VŠB-TUO

V Brně, dne.....

Prodávající:

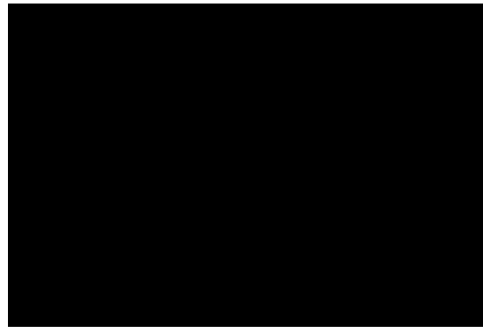
_____ 

za NenoVision, s.r.o.




jednatel

Magnetic measurement equipment

Firm Quote

**General Information:**

Issue date: 21.10.2021

Buyer:	Seller:
Univerzita Ostrava - VŠB	NenoVision s.r.o.
Centrum nanotechnologií, 17. listopadu 15/2172	Purkyňova 649/127
708 33 Ostrava – Poruba	61200 Brno
Česká republika	Czech Republic
Tax ID: CZ61989100	Tax ID: CZ04525671
	

VŠB TECHNICKÁ
 UNIVERZITA
OSTRAVA

1 Price Breakdown:

Code	Item	Unit Price[Kč]	Qty	Total incl. Discount[Kč]
NP80111	NenoProbe Magnetic set(20 pieces)	78 000,0	1set(s)	78 000,0

VAT Detail

VAT Rate %	Total Price w/o VAT	VAT
21%	78 000,0 Kč	16 380,0 Kč

Final Price: 78 000,0 Kč

Final Price with VAT: 94 380,0 Kč

The contract price does not include any taxes, custom duties, social and health insurance fees, other fees and duties, including ensuing costs connected thereto and costs connected with assessment whether or not there are any of the foresaid payments required for the Seller and or any of its personnel (hereinafter together as "Fees"). Should Fees be levied on the Sellers in the Buyers country in connection with the conclusion or performance of this contract, such Fees are to be borne by the Buyer by means of price adjustment.

The turnover tax (value added tax) is borne by the Buyer. The Buyer is obligated to pay the turnover tax, to be charged by the Sellers at the tax rate, applicable at the time of supply together with the corresponding invoice amount. Contract price is stated exclusive of turnover tax (value added tax).

2 Quote Specifications

Item	Description
NenoProbe Magnetic set(20 pieces)	20 pcs probes with capabilities for magnetic measurements based on Akiyama probe technology Recommended techniques: MFM Requires: NP70031 - Probe Holder Akiyama

3 Quote validity

This quote is valid until 20.1.2022

4 General Business Terms and Conditions

This quote includes the NenoVision Terms and conditions attached in Appendix No. 1

5 Delivery terms

DAP VSB Ostrava, Czech Republic according to Incoterms 2020

6 Terms of Payment

The Buyer will pay 100,0% of the total price plus the applicable VAT, which is due based on a proforma invoice issued by the Seller, as soon as this quote will be accepted. The due date of the proforma invoice shall be days from the issue date.

In case of any delay with the payment of any part of the price of the Delivery by the Buyer, the performance of further commitments by the Seller shall commence only after a due payment of the amounts owed.

7 Delivery Date

The delivery time is 1,0 months since technically and commercially clear PO is provided to Seller

8 Warranty and liability for defects

The Seller provides the Buyer with a quality warranty for the Delivery based on the commitment of the Seller to remove free of charge, any defects of the Delivery that will be reported properly and timely; the Seller will remove such defects, at its discretion, by repair or replacement. Defects mean that the Delivery, or any of its parts or individual components, including the incorporated components, is not eligible for use for the usual purposes or does not retain the usual properties over the warranty period. The above warranty represents the sole definition of the content of the warranty for the quality of the work provided by the Seller.

The warranty period commences on the date of handover and takeover of the Delivery and lasts for 12 months from the Delivery. There is no warranty for consumable parts, wear and tear parts.

NenoVision s.r.o.
Purkyňova 649/127
612 00 Brno, Czech Republic

VAT CZ04525671

info@nenovision.com
www.nenovision.com

Defects that can be detected upon the takeover of the Delivery will be recorded in the handover and takeover protocol. For other defects of the Delivery, the Buyer is obliged in order to preserve its entitlements and exercise its warranty rights to report such defects of the Delivery without any undue delay after their discovery, by a written notice sent to the address of the Seller.

The Buyer will not be able to claim defects resulting from improper or inappropriate use of the Delivery, in the event of any delay in notifying the Seller of the identified defects or any improper commissioning by the Buyer or any third person, in the case of normal wear and tear, defects resulting from unsuitable operating resources, negligent storage or other circumstances, for which the Buyer or a third party is responsible.

With the exception of defects undoubtedly caused by a defect of material, the warranty does not cover consumable materials subject to wear during normal operation, or parts with shortened warranty period, as specified in the handover documentation.

9 Final Provisions

Both Buyer and the Seller are aware of the outbreak of a Coronavirus SARS-CoV-2, causing COVID-19 disease, or any mutation of such virus (hereinafter "Epidemic"), which is impacting or may impact normal business. NenoVision hereby reserves the right to amend the delivery date, schedule, the price, the scope of supply or scope of works and the terms and conditions of contract set out in this offer in connection with the development of the Epidemic. Notwithstanding anything to the contrary, the forgoing paragraph is deemed to be incorporated into any subsequent concluded contract.

The following documents constitute the Contract between the Buyer and the Seller, and each must be read and construed as an integral part of the Contract:

- a) QUO-21-074
- b) NenoVision Terms and conditions

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence is the order in which the Contract Documents are listed above.

The Contract constitutes the entire agreement between the Customer and the Contractor with respect to the subject matter of Contract and supersedes all prior communications, negotiations and agreements (whether written or oral) of the Parties with respect thereto made prior to the date of Contract.

No amendment of the Contract is effective unless it is in writing, is dated, expressly refers to the Contract and is signed by a duly authorized representative of each Party.

Unless this quote specifies otherwise, the aforementioned NenoVision Terms and conditions, which form an integral part hereof, are applicable. By signing hereof or by accepting this Quote in any other way, the Buyer acknowledges that the Buyer received the General Terms and Conditions as an annex hereto and is familiar with those terms and conditions.

This contractual relationship is governed exclusively by the laws of the Czech Republic. Any disputes arising from this contractual relationship or in connection with it shall be finally settled under the arbitration clause in the business terms and conditions of the Seller.

All notices and other communications required hereunder or related to it will be served in writing and delivered in person, by e-mail or registered mail.

Without a written consent of the other party, neither the Seller nor the Buyer will be entitled to assign to any third party its rights and obligations under the contract concluded between both parties on the basis hereof.

If this Quote is signed or otherwise accepted by the Buyer, any and all prior oral or written agreements of the parties regarding the subject of Delivery, as defined above, become null and void. Any changes can only be valid if they were expressly agreed, in the form of an amendment, and were made by authorized representatives of both parties.

Any and all information notified or otherwise made available by one party to the other party in connection with the negotiation or the performance of the Delivery, may neither be disclosed by the other party to a third party nor used contrary to its purpose for the other party's own needs, or for the benefit of other persons.

Unenforceability or invalidity of any provision shall not affect the enforceability or validity of the remaining provisions, if such invalid or unenforceable provision may be severed from other provisions without making this Quote null and void. Under such circumstances, the parties shall take necessary steps in good faith to replace the invalid or unenforceable provision by a provision which is valid and enforceable, and corresponds as much as possible to the original purpose of such a provision and intent under the conditions hereof.

The legal relationship between the Seller and the Buyer is governed by the provisions hereof, regardless of what particular type of contract is concluded by and between them.

Annexes and drawing documentation

Annexe No. 1: NenoVision Terms and conditions

We believe this quote has met your expectations.

.....

Sales Manager

NenoVision s.r.o.

- 1.1. These Terms and Conditions shall apply to all legal relations arising from any sale or purchase of goods by NenoVision s.r.o. (hereinafter referred as "Terms and Conditions") if expressly agreed between the parties in the Purchase Agreement or Framework Purchase Agreement (hereinafter referred to as the "Agreement"). Terms and Conditions are available at the website www.nenovision.com. Such terms and Conditions shall be applied in their entirety unless otherwise agreed.
- 1.2. Divergent provisions in the Agreement shall prevail over these provisions. The Terms and Conditions shall prevail over legal provisions of a non-compulsory nature.
- 2.1. Agreement arises on the basis of a written order placed by the buyer and unreserved confirmation of the order by the seller delivered to the buyer within the period specified in the order, or in the alternative, within one (1) working day of seller's receipt of order unless agreed otherwise. Any change in the order made by the seller does not constitute an Agreement. In such a case it is only a proposal for conclusion of the Agreement submitted by a seller to the buyer and the Agreement only arises by the day of delivery of buyer's consent regarding this proposal to the seller.
- 2.2. Contractual parties, once the contract is concluded, agree to exclude section 1740 (3) and section 1751 (2) of the Civil Code, and stipulate that Agreement is concluded even where the expression of the will of the contractual parties is not fully consistent.
- 2.3. Contractual parties are obligated to ensure that all correspondence, invoices, bills of delivery and documents related to the order bears the Order reference number.
- 2.4. Buyer shall provide data relevant to the order, at least:
 - 2.4.1. Seller's and buyer's details, i.e. name of the company, its location and identification number,
 - 2.4.2. specification for required goods,
 - 2.4.3. quantity of good required,
 - 2.4.4. unit price or the total item price,
 - 2.4.5. Requested delivery date.
- 2.5. Only after written confirmation of order receipt, the buyer can seek, without charge, withdrawal of the order, in writing or by telephone, with subsequent written confirmation.
- 2.6. Deviations from, and additions to the order shall be valid only if, and to the extent that, they are expressly confirmed in writing by the buyer.
- 2.7. Subsequent amendments of, or additions to, the order shall be subject to written confirmation by both parties.
- 2.8. An order or order confirmation sent by email or fax is to be regarded as being valid, in the same manner as such an order or confirmation sent in hard copy.
- 3.1. Seller issues an invoice, which complies with the requirements of an accountable receipt, and contains elements of a tax document
- 3.2. The invoice will be due for payment within 30 days from the invoice date specified.
- 3.3. If an invoice is issued in a foreign currency, and the buyer is a natural person who is a Czech resident or a Czech domiciled legal entity, the invoice shall be issued in a foreign currency including VAT calculation. VAT shall be calculated also in CZK using the exchange rate declared by the Czech National Bank in force as at the date of the tax liability. Buyer shall pay VAT in CZK to the bank account stated on the invoice. Pro-forma invoice VAT vice-versa shall be paid in foreign currency.
- 3.4. The invoice shall be considered fully paid when the full amount is credited to the bank account of the seller.
- 3.5. The seller is entitled to charge interest on any late payment and the buyer is obliged to pay such an interest; the level of interest is established by the Government's regulation fixing the rate of interest under the Civil Code, as amended, or under the applicable law to substitute the aforementioned rate in a relevant range.
- 3.6. Seller is entitled after prior written notice to stop further deliveries or withdraw from the contract in case the Buyer is in default of payment. In such a case the seller shall not be rendered liable for damages for breach of contract.
- 3.7. One invoice may refer to five purchase orders.
- 4.1. Obligation of seller to deliver agreed amount of goods to the buyer and obligation of buyer to take over agreed amount of goods is considered fulfilled only if the actual amount of delivered / take over goods differs not more than 5% as agreed previously.
- 4.2. Purchase price means total price for complete products including accessories, packaging, palletization and packaging and labelling costs, transportation fees and cost of documentation unless otherwise agreed for every single case.
- 4.3. If seller delivers a smaller amount of goods than agreed by the purchase agreement reduced of tolerance according to article 1.4 hereof seller undertakes to pay, upon writer notice by the buyer, contractual penalty of 2% of the total value of the order reduced of tolerance according to article 4.1 of this Terms and Conditions.
- 4.4. If the buyer take over a smaller amount of goods than agreed by the purchase agreement reduced of tolerance according to article 4.1 hereof buyer undertakes to pay, upon writer notice by the seller, contractual penalty of 2% of the total value of the order reduced of tolerance according to article 4.1 of this Terms and Conditions. a smaller amount of goods than agreed by the purchase agreement.
- 4.5. Buyer is not obliged to take over the goods if not delivered in a timely and due manner. Buyer is entitled to take over whole delivery or to take over such delivery partially or have right to refuse completely. The costs of (repacking, storage, etc.) will be borne in such circumstances by the seller.
- 4.6. By settlement of contractual penalty according to prior provisions, the obligation to deliver / take over remaining above-mentioned goods is not terminated unless agreed otherwise in written between seller and buyer.
- 4.7. Obligation to pay penalty upon the prior provisions does not arise if the breach of obligations of any contractual party resulted from breach of obligations of the other party or the breach was due to a circumstances excluding liability, i.e. extraordinary, unpredictable and unavoidable external circumstances arising independently of the will of the infringing party.
- 5.1. Buyer acquires possessory title to goods by (i) takeover of the purchase, or, if not timely (ii) although it is for the buyer to take possession of the goods fails to do so.
- 5.2. Should the buyer process the goods prior to passage of title to the buyer, or prior to full payment of the purchase price of the goods to the seller, as the case may be, the seller shall become the owner of the buyer's products manufactured from the seller's goods. In a case that goods of other owners or goods owned by the buyer is involved in the processing of the buyer's goods resulting in a product, the seller shall not become the joint owner of the finished products.
- 5.3. Should the buyer be in default of payment of any obligations towards the seller, the seller may request surrendering of goods or products, to which he holds title hereunder, without such an act constituting withdrawal from the Agreement.
- 5.4. The buyer may not pledge the goods or products, the owner or joint owner of which is the seller, for the benefit of third persons or create any other right with respect to such goods or products which would in any way whatsoever restrict or exclude the seller's title, or to permit the creation of a charging lien to such goods or products, until the moment of full payment of the buyer's obligation to the seller. Buyer shall also not be entitled to pledge or encumber in any other way whatsoever the claims for payment of the purchase price, if any, towards third persons if the seller is the owner or a joint owner of the goods or products hereunder.

- 5.5. If seller is, according to sales agreement, obliged to pass goods over to a carrier at a certain place for transporting goods to buyer, any risk of damage to goods passes to buyer by passing goods over to the carrier at agreed place.
- 5.6. If seller is, according to sales agreement, obliged to send goods, but not obliged to pass goods over to a carrier at a certain place, any risk of damage to goods passes to buyer by the moment of passing goods over to the first carrier for transporting goods at a destination place.
- 5.7. Damage to goods, caused after passing risk of damage to goods to buyer, does not release buyer from liability to pay the purchase price to seller.
- 6.1. Deliveries before the agreed delivery date or partial deliveries shall require buyer's prior written consent. Where preterm deliveries occur without buyer's prior written consent, buyer shall be entitled to charge seller for storage of the goods. Seller is obliged to at its own expense ensure compliance with all quality measures, and delivery date.
- 6.2. Seller is obliged to deliver the goods at the place specified in the order with a corresponding delivery note. If a place of delivery is not specified in the order, it is agreed that the delivery term CPT buyer's enterprise INCOTERMS 2010 shall be applied.
- 6.3. In instances where there is a delay in delivering, buyer is entitled to charge a contractual penalty for undelivered goods according to the purchase agreement, in the amount of 0.5% of the purchase price including VAT for each day of the delay, or part thereof. The contractual penalty provision does not deprive consumers of compensation for damages due to failure to deliver agreed amount of goods. Delays in delivery periods longer than 30 days constitute a fundamental breach of contract. The application of the contractual penalty does not relieve the Purchaser of the right to compensation for all ancillary expense incurred by the Purchaser as a result of the delay of the delivery.
- 6.4. Seller is obliged to cover the insurance for goods throughout, including storage and shipment to the buyer.
- 7.1. The Seller provides the Buyer with a guarantee of the quality of goods for the period of 12 months since the delivery of the goods to the buyer. The warranty period begins with the delivery of the ready products. "Quality Guarantee" means that the goods will be eligible for a period of warranty, to be used for the agreed or usual purpose, or maintain agreed or usual characteristics.
- 7.2. If delivered goods do not meet conditions set in sales agreement as to amount, quality, make or packing, such goods are defective. In case of damage of the goods or other obvious damages, buyer is obliged to record the damage on the carrier shipping and to accept the delivery with reservation or not to accept the delivery as a whole. In case of visible damage on packaging or packaging tape, buyer is obliged make a notice to the transportation documents or to refuse the delivery as a whole. Buyer is obliged to prove defects of goods to seller in a verifiable way.
- 7.3. Buyer is obliged to inspect goods without unreasonable delay after passing risk of damage to goods or after their delivery on a destination place. The inspection must adequately reflect characteristics of goods. Buyer is obliged to inform seller of defects found in the course of goods inspection, in writing and within 7 calendar days after the inspection.
- 7.4. Within 3 days after the service of notification concerning the defects found by buyer, seller shall suggest next steps to resolve complaint, or refuse to resolve it. Seller is entitled to refuse complaint after this time limit as well if it proves to be wrongful.
- 7.5. Buyer is obliged to store defective goods that are cause of complaint, separately from other goods and is not allowed to handle them in a way that might make mitigation of alleged defects more difficult or not possible to seller. Seller is entitled to send its representatives to the buyer to check complaint, and buyer is obliged to allow the representatives of seller an inspection of defective goods.
- 7.6. If seller meets a claim and allows it in writing, buyer is entitled to ask delivery of missing or defective goods or discount of the purchase price. Buyer can withdraw from agreement only if sales agreement was broken by delivery of defective goods in a substantial way. By fundamental breach of the agreement is meant repeated delivery of defective goods.
- 7.7. In case of delivery of substituted goods or withdrawal of buyer from sales agreement, buyer is obliged to return goods to seller in the same condition as when taken over from seller. Buyer is not entitled, unless having an explicit written consent from seller, to return goods to seller before the conclusion of the complaint's procedure.
- 7.8. Buyer by takeover of the goods expressly consents to the Terms and Conditions; the current version is available at the website of the seller www.nenovision.com.
- 8.1. Seller and buyer are entitled to withdraw from sales agreement in circumstances other than those defined in these general terms and conditions, if the other contractual party commits substantial breach of obligation resulting for the party from sales agreement. Fundamental breach of contractual obligations is considered to encompass:
- 8.1.1. Buyer in default with coverage of purchase price, or any parts payable according to sales agreement or these general terms and conditions.
- 8.1.2. Delivery delay of the supplier exceeding the period of one month.
- 8.1.3. Buyer in default, whilst taking goods.
- 8.2. Contractual party is entitled to withdraw from the Agreement in the event that that the other contractual party as a debtor submits an insolvency petition in accordance to the article 98 of Act No. 182/2006 Coll. Bankruptcy and Settlement (Insolvency Act) as amended (hereinafter referred as "Insolvency Act"); insolvency court decide on bankruptcy petition within three (3) days from the commencement of insolvency proceedings; Insolvency court will make and Insolvency decision pursuant to the article 136 of Act on Bankruptcy and Settlement; Insolvency court rejects the insolvency petition for lack of assets of the opposing party; Insolvency court made other party bankrupt; or the decision on termination of a contractual party by both a voluntary and compulsory basis (except business transformation case).
- 8.3. If the additional period allotted by one of the contractual parties to the other contractual party to fulfil required contractual obligations, the other contractual party is in default with, vainly lapses, withdrawal from the agreement does not occur, even if the contractual party entitled to the fulfilment of such obligations informs the other contractual party that the additional period will not be prolonged.
- 8.4. Withdrawal from sales agreement comes into effect by service of a notice in writing from a contractual party about withdrawal from the sales agreement to the other contractual party. In case of doubts between parties concerning the date of service of notice about withdrawal from sales agreement, the day of service is considered the third day after mailing such a notice. Notice of withdrawal from sales agreement must contain the reason for withdrawal presented in specific, clearly enumerated terms.
- 8.5. All rights and obligations of parties resulting from a sales agreement terminated by withdrawal from sales agreement, besides right of damages and contractual penalty and provisions of sales agreement and these general terms and conditions, that concern choice of law, settlement of disputes between the parties and regulation of rights and duties of parties for the case of sales agreement termination.
- 9.1. Contractual party which breaches any obligation resulting from sales agreement, is obliged to pay such damages to the other contractual party that were caused by this breach of its obligations.
- 9.2. The Seller is responsible for the damage up to an amount equal to the purchase price. This provision does not apply in case the damage was caused by wilful act.
- 9.3. Obligations to pay damages do not arise if an obligation to pay contractual penalty was created, or if neglect of duty by the obligated party was caused by acts of an injured party, or by lack of cooperation, that an injured party was obliged to furnish. The

NenoVision s.r.o.

Purkyňova 649/127

612 00 Brno, Czech Republic

VAT CZ04525671

info@nenovision.com

www.nenovision.com

- contractual party which breached of the obligation, is not obliged to pay damages to the other contractual party if it proves that this breach of obligation resulted from operation of circumstances excluding responsibility, or by force majeure.
- 9.4 If breach of any obligation of sales agreement occurs by any contractual parties and damages arise to the other contractual party, or both contractual parties, as a result of such breach of obligation, contractual parties must use all effort and measures to reach an amicable settlement with regard to the damages.
- 9.5 If any of contractual parties withdraws from sales agreement, right for damages arisen as a result of breach of obligation remains preserved.
- 10.1 None of contractual parties is responsible for any neglect of duty from sales agreement besides obligation to pay the purchase price, if this neglect or delay was caused by an obstacle or impediment, that occurred independently of the obligated party's will, and impeded the party in the discharge of its duty, if it is not possible to expect reasonably the obligated party to be able to prevent or overcome this obstacle or its results, and further, that at the moment of obligation creation, this obstacle could not have been really expected by the obligated party (hereinafter referred to as "force majeure"). However the obstacle or impediment, created only at the time of the obligated party's default of discharge of a duty, or created as a result or product of their economic situation, does not exclude the responsibility for discharge of obligation.
- 10.2 For purposes of this agreement, if they satisfy presumptions stated in the previous paragraph, force majeure is considered to include: natural disasters, fires, earthquakes, landslides, floods, storms or other atmospheric disturbances and phenomenon of a considerable magnitude, or wars, rebellions, revolts, civil disturbances or strikes, or decisions or legal acts of organs of public authority, regulations, restrictions, prohibitions or other interventions of a state, organs of state administration or self-administration, or explosions or other damages or defects of relevant production or distribution facilities.
- 10.3 The contractual party that broke, breaks or with respect to all known facts expects to break its obligation from sales agreement, namely resulting from force majeure, is obliged to inform the other party of the breach or accident without any delay and exercise all possible effort to prevent and remove such accidents or their results.
- 11.1 Legal relations, with respect to rights and obligations of contractual parties from sales agreement, their securing, alterations and termination, follow exclusively legal order of the Czech Republic, namely Act No. 89/2012 Coll. the Civil Code as amended.
- 11.2 Contractual parties hereby exclude the application of the United Nations Convention on Contracts for the International Sale of Goods and rights and obligations arising from.
- 11.3 Contractual parties further agreed that ordinary commercial practice does not exceed any provisions of the law, even as regards law with no compulsory nature.
- 12.1 Buyer secures the fulfilment of obligation to use packing waste of packed products according to Section 12 of Act N 477/2001 Coll. to specify packaging as amended.
- 12.2 Buyer declares that packaging meets specifications of Act N 477/2001 Coll. to regulate packaging as amended.
- 13.1 Provisions of article 1799 and article 1800 of the Civil Code governing the Terms and Conditions of the form contracts which defines incomprehensible terms or clauses which are particularly onerous and impacts upon validity of same, does not apply.
- 13.2 Contractual parties declare that neither one nor other feels to be weaker party and had opportunity to get acquainted with the wording of the agreement and wording of the Terms and Condition, that they understood the content, it is they will to be bound by them, and that they have sufficiently discussed the contractual agreements between themselves. Furthermore, the parties to the agreement declare, that execution of the purchase agreement does not place one of the parties in a disproportionate position pursuant to § 1793 of the Civil Code.