

# GTC - General Terms and Conditions ALBIXON a.s.

## (Contract of Sale)

(Effective as of January 1, 2013)

These General Terms and Conditions of ALBIXON a.s. apply to all relations created on the basis of the purchase contracts entered into by ALBIXON a.s. and are an integral part of such contracts. A divergent stipulation in an individual contract takes precedence over these terms and conditions.

### I. Subject of the Contract

- 1.1. ALBIXON a.s. as the Seller (hereinafter also as the "Supplier") undertakes to deliver to the Buyer (hereinafter also as the "Client") an article, i.e. a Product or Goods (hereinafter also as the "Subject of the Contract") under the trademarks of IDEALCOVER, BRILIX, GLONG as defined in the Purchase Contract (hereinafter also as the "Contract") under the terms and conditions stipulated in the Contract and in these GTCs.
- 1.2. Having signed the Contract, the Client has confirmed that it is qualified for entering into the Contract; that it has sufficient funds to pay for the Subject of the Contract, and it undertakes to receive the Subject of the Contract and to pay the price as agreed in the Contract for completion or delivery of the Subject of the Contract. Notices, requests or acknowledgements of quotations, purchase orders and contracts sent by the Client to the Supplier shall be considered as properly delivered if they are sent to the Supplier in writing, via fax or e-mail to the contact addresses stated in the Supplier's promotional materials or to the addresses stated in the business cards of the sales representatives, and if such documents state a legible name, surname and signature of a person authorized to act in these matters on behalf of the Client.

### II. Delivery of the Subject of the Contract

- 2.1. Before signing the Contract and initiating the dispatch of the ordered Goods, the Supplier and the Customer shall agree on the method of transport of the Object of the Contract to the place of delivery. If the transport to the place of delivery is secured by the Supplier, the Customer is obliged to pay the Supplier the costs of transport of the Objects of the Contract at the latest one day before the dispatch is initiated, unless agreed otherwise in writing. If the Client is responsible for all transportation costs, the Supplier shall meet the obligation to deliver the Subject of the Contract when it enables the Client to handle the Subject of the Contract in the location notified to the Client.
- 2.2. The Client declares that it knows the properties of the Subject of the Contract and the conditions related to its loading, transportation, structure and site and installation preparation and installation completion in the location where the Client is going to locate the Subject of the Contract or to assemble it, and that the Client does not have any doubts about it.
- 2.3. The Supplier undertakes to deliver the Subject of the Contract to the Client within the period agreed in the Contract. The period for delivery shall not begin to run until the Client's obligations against the Supplier are fulfilled, particularly until the purchase price has been paid. If the Supplier delivers the Subject of the Contract before the specified time or date, the Client is obliged to receive the Subject of the Contract.
- 2.4. If the Client is not personally present when the Subject of the Contract is being received, it is obliged to ensure that there will be a qualified person in charge, and the Client is fully liable for the acts of that person in relation to the Supplier.
- 2.5. The Client or the person in charge shall expressly confirm the receipt of the Subject of the Contract by signing the CMR waybill and the delivery list (if the delivery list is the part of the delivery) with both the parties to a contract being entitled to put their objections down into the CMR waybill and the delivery list.
- 2.6. If the Client breaches the duty to receive the Subject of the Contract, it is obliged to pay the Supplier not only the purchase price but also other costs, particularly overhead, storage and freight costs. In such a case the Supplier is entitled to determine that the day of receipt of the Subject of the Contract is the day when the Subject of the Contract could have been delivered, but the delivery was made impossible for the reasons on the part of the Client. At the same time the Supplier may require the Client to pay all and any payments stipulated in the Contract prior to the delivery of the Subject of the Contract.
- 2.7. If it is not possible to deliver the Subject of the Contract on the agreed date due to the impediments which are unforeseeable, beyond Supplier's reasonable control and unavoidable, such as natural disasters, strikes, etc., the date of delivery will be postponed by the time of duration of such an impediment obstructing the Supplier to perform its obligations (force majeure).
- 2.8. The Supplier is not obliged to deliver the Subject of the Contract to the Client or to perform any contract made between it and the Client if the Client is in default in performance of any contractual liability based on any contract made between the Contractor and the Client. In such a case the Supplier is not in delay in the delivery (performance).

### III. Price and Payment Terms

- 3.1. The price for the delivery of the Subject of the Contract and the payment method shall be stipulated in the Contract. The price of the Subject of the Contract corresponds to its quality.
- 3.2. The purchase price has been fixed in the Supplier's price list effective on the date of entering into the Contract with the Client with respect to the EURO – CZK exchange rate trend. By entering into the Contract with the Supplier, the Client confirms that it has familiarized itself with the Supplier's price list in effect and that it agrees to the price, payment and other Supplier's terms and conditions published on [www.idealcover.com](http://www.idealcover.com) and [www.brilix.com](http://www.brilix.com). The Supplier is entitled to set the prices and discounts in compliance with its price policy. Client's discounts (if any) are provided on the prices of the Goods stated in the individual contracts. The discounts do not apply to the freight costs. The prices exclude VAT and assembly (installation). Unless agreed between the Supplier and the Client in writing otherwise, the purchase price of the Subject of the Contract shall always be payable before the Subject of the Contract has been forwarded to the carrier to be transported to the Client (shipping day). The shipping day is determined by the Supplier.
- 3.3. In the event the Client does not have a valid VAT number assigned in the respective EU member state for the VAT purposes on the date when the Goods are delivered or a service is rendered, the Client is obliged to pay the amount equal to VAT applicable in the Czech Republic on the date when the Goods are delivered or a service is rendered. The price for the delivery of the Subject of the Contract shall be increased by that amount.

#### IV. Title and Risk of Loss

- 4.1. Title to the Subject of the Contract shall transfer to the Client only upon full settlement of any and all debts to the Supplier, particularly upon full payment of the price agreed in the Contract (retention of title). Title to the Subject of the Contract shall transfer to the Client upon full payment of the price agreed. The Client shall bear risk of loss of the Subject of the Contract (Goods) since the moment it has been received by the Client or by a person authorized by the Client, or since the moment it has been forwarded to the carrier to be transported to the Client if the Client is responsible for transportation.
- 4.2. The Subject of the Contract is protected by the industrial property law as a utility model and industrial design. The Client may use the Supplier's trademarks, trade names and other materials only for the purposes of identification and promotion of the Subject of the Contract exclusively upon previous Supplier's approval in writing. Both parties to a contract undertake to guarantee security and confidentiality of all the provided data. This applies also to the utilization of the industrial property rights relating to the delivered Subject of the Contract. Infringement of these rights shall create Supplier's right to recover caused damages, as well as other rights and claims provided by the Act as a tool for protection of Supplier's rights.
- 4.3. The Subject of the Contract (the Product) bears the trademarks of IDEALCOVER, BRILIX, GLONG or possibly other protected designations of which the Supplier is a qualified user. The Client undertakes to use this trademark only on the products supplied to it by the Supplier
- 4.4. No provision of the Contract and GTC may be interpreted as transfer of the rights stated in par. 4.2 and 4.3 hereof to the Client or as granting a license to utilize the rights to the Client. The Client knows and is aware of the Supplier's outstanding position in the market and it undertakes to protect Supplier's goodwill in public. In case of negative media presentation the Supplier is entitled to damages.
- 4.5. In the event the Client fails to pay the agreed price duly and in time, then in compliance with par. 4.1 hereof the Supplier is entitled to remove the Subject of the Contract from the place of performance at the Client's expense, and the Client does hereby exclusively grant permission to the Supplier to enter the place of performance for the above mentioned purpose. In such a case the Client is not entitled to any performance from the part of the Supplier, particularly to compensation for the damage to the place of performance which was inevitable for execution of the Supplier's rights in accordance with the preceding clause.

#### V. Warranty Period – Liability for Defects

- 5.1. The Supplier warrants that the Subject of the Contract will be completed in accordance with a Contract and these GTCs as well as in compliance with the generally binding regulations effective in the Czech Republic. The Client warrants that it will fulfill all its obligations arising out of the Purchase Contract and these GTCs.
- 5.2. The Client has been informed about the construction method of the Subject of the Contract, about its technical data and its attention has been brought to pluses and minuses of the Subject of the Contract. The Client has also been informed about the production process and its results; about the materials used and their properties as well as about the properties of the Subject of the Contract and its attention has been brought to pluses and minuses of the Subject of the Contract and to the requirements for its maintenance, utilization (operation) and installation completion. With all enclosure models it is necessary to be extremely careful when handling the Product and its parts, particularly with respect to children's safety. The Client has also been informed about the scope, conditions and method of asserting liability of ALBIXON a.s. Comp. for defects of products and services (see the ALBIXON a.s. Warranty Guidelines). Changes to the shape or dimensions or properties caused by poor site and installation preparation or installation completion, by ground water or rain water action, by earth pressure or by action of another external effect are not reasons for a complaint. Changes to color or other changes to material surface or inside the material caused by biological, chemical, thermal or other physical phenomena and actions such as, in particular, by action of high temperature exceeding the permissible limit, water temperature in the swimming pool above 29°C; due to failure to keep the swimming pool water quality within the Ph value range (7.2 – 7.6) and Cl value range (0.3 – 0.7mg/l); by action of chemicals as well as by action of chemicals in the air; due to accumulation of rain water or swimming pool water in the enclosure trackage, algae presence and occurrence, water vapor condensation in the cells of the material used for sheathing, insect intrusion, etc. are not reasons for a complaint. The Client notes that materials designed for enclosure construction have been used for construction of the roofing (enclosure) frame (Al profiles, rails) and sheathing (polycarbonate, PMMA). The influence of the above mentioned phenomena and effects may cause deflection of sheathing (polycarbonate, PMMA). Such deflections are normal qualities of the materials used for construction and they are not reasons for complaints. Surface finish of the enclosure structural elements fully complies with the standards applicable to this manner of utilization; it is checked and certified on a regular basis. Hardware material and anchoring material (rivets, screws and bolts, threaded rods, locking elements, dowel pins, etc.) from special stainless steel alloys which are developed and designed for this manner of utilization, i.e. enclosure construction, are used for the enclosure construction. Special stainless steel alloys are also used for manufacture or construction of some parts of swimming pool equipment, such as swimming pool ladder, stainless steel covers (caps), etc. The Client has been acquainted with the method of maintenance of stainless steel components of the swimming pool equipment and with the method of maintenance of stainless steel components of the enclosure. If, despite of that, changes to color or other changes to structural, hardware and anchoring materials and elements of the enclosure or swimming pool equipment occur, those are not reasons for complaints and complaint procedure does not apply to such changes. Such changes, if any, may be caused only by other actions not mentioned above.
- 5.3. Measures and dimensions of the Subject of the Contract stipulated in the Contract are specified with space, shape and manufacturing tolerances and accuracy of +/- 3 cm.
- 5.4. Liability for defects is governed by the provisions of the Commercial Code effective in the Czech Republic unless otherwise stipulated or agreed in writing. The warranty claim has to be made in the Seller's place of business or using any written form (i.e. e-mail, letter). In case of finding any defects, the Client undertakes to proceed in the most economical way possible for the benefit of both parties to a contract. The Supplier recommends the Client to make the warranty claims after it has used up all its available possibilities of elimination of alleged defects.
- 5.5. The warranty period for the Subject of the Contract is 24 months. The warranty period commences on the shipping date stated in the international waybill (CMR) and in the warranty certificate. The Client has agreed to the fact that during repairs (if any) aesthetical changes may occur, which will not be considered a reason for further complaints. The Supplier is not liable for loss or changes to the Product caused by the fact that the Subject of the Contract has not been in operation or use during the warranty period. Warranty does not apply to normal wear and tear, damage and normal ageing of material and the Subject of the Contract.

- 5.6 The Supplier is not liable for the defects originating in improper use of the Subject of the Contract contrary to its purpose; in lack of maintenance and in failure to follow the Supplier's instructions which are obligatory for the client; in absence of any stipulations in the Contract; in failure to make use of offered adjustments and repairs by the Supplier; nor is the Supplier liable for any other loss caused by the defect of the Subject of the Contract associated with the failure to follow Supplier's instructions and recommendations. With respect to the enclosure the Supplier has explicitly recommended to use paint or silver elox for surface finish and has warned the Client of potential occurrence of changes to colors or shades of the aluminum frame in case the recommendation and offer are not followed and accepted. However, those changes present normal quality of aluminum which the enclosure frame is made of and do not obstruct proper use of the Article (Subject of the Contract). If the enclosure frame has no surface finish, the manufacturer forbids to use oxygen chemicals (ozone chemicals) on the basis of active oxygen. The Supplier has also recommended enclosure construction with three or more load bearing profiles of 50x70 mm section. It is exclusively the manufacturer who makes the decision on the engineering conception of the end walls and arrangement of their load bearing rods. Warranty does not cover replacement of the wear parts; mechanical damage, wear, scratches - particularly of mobile mechanical parts, components and elements (e.g. rails (slotted channels), guiding bars, hinges, doors, front walls, locking elements, sliding components, etc. of the enclosure); impossibility to move the individual enclosure modules in case of failure to meet the required conditions of installation preparation, particularly during installation of the low trackage of Elegance model; damage to the sealing elements between the modules; loosening of plastic caps (covers) and stop ends; nor the process of normal material and Goods ageing; changes to color and qualities of materials and Goods caused by chemical and mechanical actions; the Subject of the Contract or its parts which have been altered or modified by the Client; and damage caused by natural disasters and particularly the damage caused by wind, water, snow, hailstorm, etc. The Client is obliged to insure the Subject of the Contract against such events, particularly against the damage caused by wind. The repairs (if any) associated with the actions mentioned in this paragraph shall be paid by the Client (or an insurance company as applicable) and the repairs shall always be done as separate jobs only on the basis of the Contract for the Repair.
- 5.7 Where a complaint is filed in respect of Objects of the Contract and the Objects of the Contract are delivered to the complaint centre of the Supplier, the Customer is always obliged to pay the transport of the object in both directions (from the Customer to the Supplier and back). The Customer is always obliged to properly pack and mark the product under complaint to be sent by the Customer to the address of the Supplier in order to prevent further damage to the object under complaint or its mistaking.
- 5.8 The complaint procedure shall be initiated only on the basis of a properly completed Complaint Report having the form and the contents determined by the Supplier. An integral part of a Complaint Report shall be a set of identification photos and photos showing the kind and extent of damage of the Objects of the Contract.
- 5.9 By agreement with the Customer and based on the provided data about failure of the Object of the Contract, the Supplier may provide replacement parts necessary for the repair and the Customer shall secure professional repair of the Objects of the Contract. Upon the provision of replacement parts to the Customer by the Supplier the Complaint Procedure shall be deemed settled and completed.
- 5.10 Communication and handling of the Complaint Procedure may take place only between the Supplier and the Customer, not between the Supplier and a third party (a third party shall mean the customer that bought the Object of the Contract from the Customer subsequently).

## VI. Contractual Penalties

- 6.1 If the Supplier delivers the Subject of the Contract after the agreed date (deadline), it will pay the Client (after fulfillment of the Client's obligations against the Supplier) the contractual penalty in the amount of 0.1% of the Subject of the Contract price per each day of the delay, based on the tax document, i.e. the invoice, issued by the Client. The aforesaid does not apply if the Client is in delay in accordance with par. 2.7, 6.2 and 6.3 hereof.
- 6.2 If the Client is in default in fulfillment of its obligations as stipulated in Article II. hereof, it is obliged to pay the Supplier the contractual penalty in the amount of 0.5% of the Subject of the Contract price per each day of the delay and the storage fee for storing the completed product amounting to 100.00 CZK per each started day of the delay even in case it has not caused the breach of obligation. The Supplier has the right to extend the delivery period of the Subject of the Contract by this time of delay and due to postponement of the order in the production plan the Supplier may further extend the delivery period by another +30 days.
- 6.3 If the Client is in default in any payment under the Contract or these GTCs, it is obliged to pay the Supplier the contractual penalty in the amount of the agreed advance payments even in case it has not caused the breach of obligation. The Supplier's right to seek damages, i.e. including compensation for the loss of profits, shall not be affected even if it exceeds the contractual penalty. If the advance payments have not been agreed on, the Client is obliged, under the terms of the preceding clause, to pay the Supplier the contractual penalty in the amount of 0.1% of the Subject of the Contract price per each day of the delay. The Supplier may extend the delivery period of the Subject of the Contract by this time of delay and due to postponement of the order in the normal production plan the Supplier may further extend the delivery period by another +30 days. In such a case the Supplier is entitled, due to the lost confidence in the Client, to increase the initially agreed advance payments. All provisions and conditions applicable to the initially agreed advance payment apply to such an increase and all provisions of the Contract are affected by the increase.
- 6.4 If the Supplier employs another (third) person to demand and enforce its claims, the Client is obliged to pay not only the debt and contractual penalty (if any), but also the expenses associated with exacting the debt by a third person.
- 6.5 If it is found out that the Client has caused invalidity of this Contract, it is obliged to compensate the Supplier for the loss caused by it, i.e. including compensation for the loss of profit.

## VII. Withdrawal from the Contract

- 7.1 If the Client breaches its obligations to whose fulfillment it has committed itself, the Supplier is entitled to withdraw from the Contract one-sidedly.
- 7.2 The Supplier is entitled to withdraw from the Contract whenever the Client breaches its obligation to pay the purchase price of the Subject of the Contract or its agreed part (duly and in time) or if it does not receive (hand over) the Subject of the Contract. Breach of obligation under the preceding clause is also considered to be a substantial breach of the contractual obligations. The Contract is discharged at the moment when the withdrawal notice has been delivered to the other party and it does not make the Contract void from the very beginning.



7.3 If the Client breaches its obligation, for which the Supplier is entitled to withdraw from the Contract under par. 7.2 hereof, then the Client is obliged to pay the Supplier the contractual penalty in the amount of the agreed advance payments even in case it has not caused the breach of obligation. The Supplier's right to seek damages, i.e. including compensation for the loss of profit, shall not be affected even if it exceeds the contractual penalty. If the advance payments have not been agreed on, the Client is obliged, under the terms of the aforesaid two clauses, to pay the Supplier the contractual penalty in the amount of one half of the purchase price of the Subject of the Contract.

7.4 If the Contract discharges by Client's action, the Client is obliged to compensate the Supplier for the loss in business caused by the absence of the order where the Contract has been discharged, as well as to pay the amount (compensation) for the work already done by the Supplier and to compensate the Supplier's incurred costs even if the Client has not achieved any property gains. In such a case, the Client undertakes to pay the Supplier the amount which is ten (10) percent of the price of the Subject of the Contract if the Contract discharges within ten (10) days since it has been made; or thirty (30) percent of the price of the Subject of the Contract if the Contract discharges within the period between ten to thirty days since the execution (signature) of the Contract; or one hundred (100) percent of the price of the Subject of the Contract if the Contract discharges within the period longer than thirty (30) days since the execution (signature) of the Contract. This does not apply if the Contract has discharged by agreement of the parties in writing, or by withdrawal of the Supplier due to the breach of the Contract by the Client, or by withdrawal of the Client due to the breach of the Contract by the Supplier.

### VIII. General Provisions

8.1 Unenforceability, invalidity or ineffectiveness of any provision of the Contract or hereof shall not affect enforceability, validity or effectiveness of their other provisions. In case any provision of the Contract or hereof is invalid for any reason, particularly due to the conflict with legal rules in effect, the provision of the legal regulation whose contents best corresponds to the invalid provision shall apply.

8.2 Upon request of either party to a contract the parties hereto undertake to immediately replace the invalid provision by a new provision (stipulation) which shall regulate mutual rights and duties of the parties in a legally acceptable manner and shall express their initial will in the sense of the intentions included in such a provision of the Contract or hereof which have expired.

### IX. Final Provisions

9.1 Natural person(s) acting on behalf of the Client does/do hereby declare that they will satisfy any monetary claim of the Supplier which has arisen to the Supplier against the Client out of these GTCs. This surety shall be security for any obligation including the obligation which shall only be created in the future and which shall not be fulfilled by the Client as the debtor duly and in time.

9.2 If the Supplier, after the fulfillment of the contractual obligations, delivers or renders to the Client other articles, e.g. other goods, products, equipment, services, additional work, repairs, etc., provisions of these GTCs shall apply to the arisen rights and duties of the parties by analogy.

9.3 The Client declares that it gives consent for its personal data, whose correctness it guarantees, to be processed by the Supplier in compliance with Act No. 101/2000 of Coll. effective in the Czech Republic and to be used by the Supplier for potential offers of additional services, sending business messages, offers in a form of advertising via e-mails, and for internal records and statistics.

9.4 By affixing its signature to the Contract or to these GTCs the Client confirms that it has been acquainted with the technical data of the Subject of the Contract which complies with advertising expectations and description, and that it has been provided with sufficient technical information, also it has been acquainted with conditions for operation and maintenance, and with these GTCs of ALBIXON a.s. which it considers to be binding and obligatory, and which are published on [www.idealcover.com](http://www.idealcover.com).

9.5 The Client may use images which are the Supplier's property or which are used by the Supplier itself only if the Supplier explicitly designates or marks such images and grants the Client a written approval to use the images. In case of doubts it is held that the Client has not received approval to use the images. The Supplier will not be held liable for the use of other materials. The person authorised to act on behalf of the Supplier in this matter is only the Director of the company and the Director of the Export Department of the Supplier.

On behalf of Supplier:

On behalf of Client:

